

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF SCHWEITZER BASIN)	
WATER LLC'S APPLICATION FOR A)	CASE NO. SCH-W-15-01
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY)	ORDER NO. 33580
)	

In February 2015, Schweitzer Basin Water LLC filed an Application asking the Commission for a Certificate of Public Convenience and Necessity (CPCN), pursuant to *Idaho Code* § 61-526. Schweitzer is a privately-owned community water system serving full-time and part-time residential customers at the Schweitzer Mountain Resort in Bonner County. The Commission issued a Notice of Application and Notice of Modified Procedure regarding the CPCN and the Company's proposed rates. Order No. 33308. In June 2016, after considering the record, including Staff's comments and the Company's reply, the Commission granted Schweitzer a CPCN and approved rates for delivery of water services. Order No. 33543. The Order also addressed various non-recurring fees, including a fee for insufficient funds of \$30. *Id.* at 13.

The Company has worked with Commission Staff to draft a tariff that complies with Order No. 33543. The Company requests an effective date for its proposed tariff of July 1, 2016. Staff recommended the Commission approve the proposed effective date, and also raised an issue for our consideration regarding the Company's insufficient funds fee, which we now amend to \$20 as discussed below. With this change, we order that the Company's tariff is approved and effective as of July 1, 2016.

INSUFFICIENT FUNDS FEE

1. Staff Comments and Company Reply. In Staff's comments in this case, Staff noted that a charge for insufficient funds "is allowable under [*Idaho Code* § 28-22-105]," and that the Commission has [previously] allowed utility tariffs to identify this type of charge. . . ." Comments at 13, *citing* Order Nos. 32152 (Case No. TRH-W-10-01) and 30938 (Case No. SPL-W-09-01). Staff recommended a charge of \$20.

The Company indicated that it "has never had a customer check returned due to insufficient funds." *See* Order No. 33543 at 12. But according to the Company, if a customer pays a water bill with a check drawn on insufficient funds that the Company then deposits, the

Company's bank would charge a fee of \$29.85 for the returned check." *Id.*; Reply at 5, 7 (Schedule of Fees from Mountain West Bank). The Company would then need to "send a second invoice, process a second check, and enter it into the billing system again," thus the Company proposed that it be allowed to charge customers a \$40 fee for a returned check, to cover bank charges and administrative expenses. *Id.*

Citing the Company's \$29.85 bank charge, the Commission found that allowing the Company to charge a \$30 insufficient funds fee is "fair, just and reasonable." Order No. 33543 at 13. The Commission also found that such a fee is "consistent with the Commission's prior rulings in similar cases involving 'returned check charges' utilized by other small water utilities in Idaho," citing Order Nos. 32152 at 10 and 30938 at 3. *Id.*

2. Staff Clarification and the Company's Agreement. Since Order No. 33543 was issued, Staff has been working with the Company to ensure the tariff complies with the Order and with applicable law. Staff noted that the \$29.85 bank charge, according to the Company's attached bank fee schedule, is for a "Return Item Fee" or "Overdraft" by a debit or check paid. *See* Reply at 5. The fee for a "deposited item returned" – e.g., a check from a water customer, deposited by Schweitzer and returned for insufficient funds – is only \$4.00. *Id.* On a recent inquiry, Staff reported that the bank's current fee for a deposited item returned has been reduced to only \$2.00.

Staff contacted the Company and clarified the difference between the bank's return item fee and deposited item returned fee. As a result of these communications, Staff also noted that *Idaho Code* § 28-22-105 not only allows a charge for insufficient funds, but also limits the charge to no more than \$20. Accordingly, the Company has agreed that a \$20 fee is appropriate for customers whose checks are returned due to insufficient funds.

COMMISSION FINDINGS AND DISCUSSION

Pursuant to *Idaho Code* § 61-624, the "commission may at any time, upon notice to the public utility affected . . . rescind, alter or amend any order or decision made by it."

Under Idaho law, the drawer of a check is liable to the holder when the check "has been dishonored by nonacceptance or nonpayment" and the holder has notified the drawer of that fact. *Idaho Code* § 28-22-105. The drawer's liability to the holder includes interest and the cost of collection, but such amount shall "not exceed [\$20] or the face amount of the check,

whichever is the lesser.” *Id.* Our finding in Order No. 33543 regarding an insufficient funds fee was based on incomplete information regarding the application of this statute.

Based on a full reading of the applicable statute, we must amend our prior finding allowing the Company to recover \$30 as an insufficient funds fee. Consistent with *Idaho Code* § 28-22-105, we find it reasonable to allow the Company to charge its customers a \$20 fee for checks returned due to insufficient funds. All other findings and conclusions of the Commission in Order No. 33543 remain unchanged. We therefore approve the Company’s proposed tariff, which includes a \$20 insufficient funds fee, with an effective date of July 1, 2016.

ORDER

IT IS HEREBY ORDERED that Order No. 33543 is amended to reflect that the Company is allowed to charge an insufficient funds fee of \$20.00, as discussed herein.

IT IS FURTHER ORDERED that the Company’s proposed tariff, already submitted and on file with the Commission, is approved, with an effective date of July 1, 2016.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st
day of August 2016.



PAUL KJELLANDER, PRESIDENT

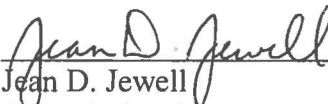


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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