Office of the Secretary
Service Date

AUG 4- 1993

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF BOISE WATER CORPORATION TO REVISE AND INCREASE RATES CHARGED FOR WATER SERVICE.	CASE NO. BOI-W-93-1 ORDER NO. 25062

SYNOPSIS

This is a final Order determining the revenue requirement and setting new rates for Boise Water Corporation (Boise Water; Company). By this Order, we authorize Boise Water to increase its revenues by $1,573,366 or approximately 11.18%.

SUMMARY

On January 6, 1993, Boise Water filed an Application for authority to increase its rates and charges for water service by $3,663,599 or approximately 27.36%. The Company proposed to recover this additional revenue by an equal percentage increase to the commodity charge.

On January 26, 1993, the Commission issued Order No. 24678 suspending Boise Water's proposed rates for a period of thirty (30) days plus five (5) months from the proposed effective date of February 6, 1993. On June 2-3, 1993 the Commission conducted an evidentiary hearing in this case.

Appearances were made by the following parties:

BOISE WATER CORPORATION:	Bruce H. Burcat, Esq. Walton F. Hill, Esq. General Water Works and Management Service Company 2004 Renaissance Blvd. King of Prussia, PA 19406
	Kenneth G. Bergquist, Esq. Box 1775 Boise, ID 83701
COMMISSION STAFF:	Lori Mann Deputy Attorney General Idaho Public Utilities Commission Statehouse Boise, ID 83720-6000

EXHIBIT A

COALITION OF BOISE WATER CUSTOMERS: (CBWC)	Peter J. Richardson, Esq. John J. McFadden, Esq. Davis Wright Tremaine 702 W. Idaho Street, Suite 700 Boise, ID 83702
IDAHO CITIZENS COALITION: (ICC)	Alfred A. Fothergill Box 1591 Boise, ID 83701
SHARON M. ULLMAN:	Appearing pro se 9687 W Desert Ave. Boise, ID

Boise Water proposes a rate base of $49,197,286. By this Order, we make three adjustments to that proposed rate base: [1] the elimination of all construction work in progress; [2] the revision of the Company's calculation of working capital, and; [3] the elimination of the Company's investment in the Pierce Park Lane line extension. We approve a total rate base for Boise Water of $45,692,874.

Adjustments to the Company's proposed, allowable operating results include the elimination of lost revenues due to conservation, the elimination of Marden Street plant depreciation expense, a reduction to payroll expense, an adjustment to electricity expense and elimination of an inflation adjustment.

We adopt a return on equity for Boise Water of 11.25% and an overall rate of return of 10.28% with a revenue deficiency of $1,573,366, which we allocate, by equal percent increase, to the Company's commodity charges for all customers.

The current minimum customer bill for the first 1,000 cubic feet of water will remain unchanged. We adopt a seasonal rate structure that sets the summer commodity price 25% above the non-summer price. We revise the Company's residential escrow program changing the method used by the Company to calculate developer contributions. We decline to adopt Staff's suggestion that the Company's hook-up fees be increased by the rate of inflation. We approve numerous changes to the Company's connection and reconnection charges. We direct the Company to commence the planning stages of a dual water system. Finally, we award intervenor funding to ICC in the amount of $11,639.25 and to CBWC in the amount of $13,360.75.

FINDINGS

I. TEST YEAR

Boise Water proposes, and the parties accept, a test year ending September 30, 1992 with operating results adjusted, pro forma, through March 31, 1993.

We Find:

The use of a test year ending September 30, 1992, adjusted for changes through March 31, 1993 is reasonable for the purposes of this rate case.

II. RATE BASE

Calculation

Boise Water calculates its rate base as of September 30, 1992. Although in the last two general rate cases (see Case Nos. U-1025-51 and BOI-W-90-1), the Company's rate base was calculated using a 13 month average, no party opposes the Company's use of a year end calculation in this case.

We Find:

Because we were not presented with the information necessary to determine whether an average rate base calculation is appropriate in this case, we are compelled to adopt a year end calculation. Considering that we selected a 13 month average in Boise Water's last two general rate cases, we believe that methodology should have, at the least, been presented to us as an option in this proceeding. In any event, we note that Boise Water indicates that it intends to file another general rate case in approximately one year. In the interim, therefore, we find that a year end calculation of rate base is reasonable. The Company is instructed to present, as an option, a 13 month average calculation of rate base in its next general rate case.

Amount

Boise Water originally proposed a rate base of $49,197,286. The Company, in rebuttal, agrees to a reduction in its proposed rate base of $214,398 relating to future water rights for the Marden Street treatment plant, as discussed below.

The other parties to the case make the following rate base recommendations: Commission Staff-$45,692,374; CBWC-$47,300,781; ICC-$49,197,287, and; Sharon Ullman-$30,662,125. Sharon M. Ullman's recommendation is based on what she believes Boise Water's parent corporation, General Waterworks, has invested in Boise Water. *Tr. pp. 810, 819.*

Staff and CBWC propose several adjustments to rate base relating to the Company's Marden Street plant. Staff also proposes a reduction related to Boise Water's Pierce Park Lane line extension and the working capital component of rate base.

Marden Street Plant

The Marden Street plant is being constructed east of downtown Boise. The plant will not be completed until sometime in 1994. Staff and CBWC oppose the inclusion in rate base of any investment in Marden on the basis that the plant constitutes construction work in progress and is not yet used and useful. Staff recommends reducing Boise Water's proposed rate base by $2,072,578 which, it contends, is all related to the Company's investment in Marden or to other construction work in progress. CBWC recommends a reduction of $1,896,505.

In rebuttal testimony, Company witness Falasco agreed that Boise Water would not contest Staff's proposed elimination from rate base of future water rights related to Marden. *Tr. p. 292.* This item amounts to $214,398. CBWC does not have a recommendation with respect to this specific rate base item which explains the bulk of the difference between its overall rate base recommendation, and Staff's.

We Find:

The issue of whether rate base should include utility plant still under construction is not new. The long standing principle is that a regulated utility should not be allowed a return on plant that is not yet serving the utility's ratepayers. The risks associated with constructing new plant clearly should be assumed by the utility's shareholders. They are compensated for those risks with rates that allow the utility to earn a reasonable return on investment. To allow a utility to include in rates its investment in plant not yet in service would place ratepayers in the position of a financial lender and risk taker; a role for which they would not be compensated.

Idaho Code § 61-502A prohibits the inclusion of construction work in progress from revenue requirement as follows:

> Except upon its finding of extreme emergency, the Commission is hereby prohibited ... from setting rates for any utility that grants a return on construction work in progress (except short-term construction work in progress) or property held for future use and which is not currently used and useful in providing utility service. As used in this section, short-term construction work in progress means construction work that has begun and will be completed in not more than 12 months. . . .

The evidence presented during the hearing indicates that the Marden plant will not be completed within 12 months from the date construction commenced. Furthermore, Boise Water has never suggested in this case that the plant is operational. The Company argues, however, that as individual phases of the project are completed, they should be included in rate base to avoid the rate shock that will ultimately occur if the entire plant is included in rate base all at once. *Tr. pp. 292-293.*

We appreciate Boise Water's efforts to minimize the impact that Marden will have on rates if ultimately approved by this Commission for rate base inclusion. Our desire to avoid rate shock, however, is outweighed by the basis underlying the used and useful doctrine which is to avoid transferring the risk of investment from shareholders, who are compensated for taking that risk, to ratepayers, who are not.

We find, therefore, that all investment in Marden, as well as all construction work in progress included in the Company's proposed rate base, will not be included in revenue requirement until Boise Water has proven to this Commission that the plant is used and useful and the investment was prudently incurred.

<u>**Pierce Park Lane Line Extension**</u>

Staff proposes reducing rate base by $279,943 to eliminate the inclusion of the Company's investment in a water main running from Pierce Park Lane to Gary Lane. Staff argues that Boise Water is under a prior Order to submit a special facilities contract to the Commission relating to the project. Staff contends that because of the probability that Boise Water would be competing with the Garden City municipal water system for service of this area, coupled with the high cost of the extension, there was a risk that existing Boise Water ratepayers would be required to provide a portion of the revenue requirement associated with the line extension. *Tr. pp. 940-941, 1044-1045.*

Staff does not argue that the Pierce Park line extension is not used and useful. The issue is whether Boise Water has taken adequate measures to protect its general body of ratepayers from costs incurred in head-to-head competition with Garden City. Staff argues that until the Company submits and receives approval by the Commission of such a contract, the Company's investment in the project should be eliminated from rates. Staff witness Smith testified that the line extension was installed for the benefit of future customers and should be classified as plant held for future use. *Tr. p. 941.*

Boise Water responds that the line extension was used and useful immediately upon installation. Furthermore, Company witness Hepler contends that, to date, fees generated by connection to the line extension have been sufficient to provide the Company with its authorized rate of return. Hepler estimates that revenues from future connection fees will provide sufficient capital to fully reimburse the Company for the cost of the project in approximately six years. Hepler concedes that the Company has not submitted a special facilities contract to the Commission relating to the line extension. *Tr. pp. 324-235.*

<u>We Find</u>:

In Order No. 24109, Case No. BOI-W-91-2, we ruled on Boise Water's Application to expand its service territory to include, among other things, an area bordered by Pierce Park Lane. In our final Order issued in that case, we made several findings of fact including:

> 21. The probability of competition between Boise Water Corporation and Garden City, coupled with the high cost of this main line extension, increases the risk that existing Boise Water ratepayers may be required to provide a portion of the revenue requirement associated with this extension.
>
> 22. Boise Water indicated, through the testimony of Ben Hepler, that the cost recovery for this project would be different than the Company's tariff line extension rules. It

> proposed that costs of this project be recovered through a special facilities contract. Boise Water should submit, as soon as feasible, its proposed special facilities contract for this area for Commission review.

Order No. 24109 at p 5.

Furthermore, in Case No. BOI-W-91-2, Company witness Hepler testified:

> . . . [T]he Company proposes to submit to this Commission for approval a special facilities contract under which customers connecting to this water main, including developments, would reimburse the Company the cost of the facility.

In spite of our explicit mandate, issued January 24, 1992, Boise Water has failed, without explanation, to submit a special facilities contract relating to the Pierce Park line extension project. We reject Staff's contention that this project should be classified as plant held for future use or is in any manner not used and useful. Moreover, the fact that future customers may be served by the plant is not justification for keeping it out of rate base. This is always the case when new plant is placed into service. The fact is simply that, as we stated in BOI-W-91-2, we have a valid concern whether the Company's ratepayers have been adequately protected from costs Boise Water has incurred in competing with Garden City. We find, therefore, that the Company's investment in the Gary Lane project should not be included in rate base until the special facilities contract previously required for the project has been submitted. Supporting documentation for the contract should include a demonstration that all costs of serving new customers, including the costs of new resources, will be recovered.

Working Capital

Boise Water proposes an allowance for working capital in its rate base in the amount of $1,402,285. Staff contends that the Company's calculation of working capital does not follow the "balance sheet" method normally used by the Commission. *Tr. pp. 941-942.* Staff alleges that the Company was selective in its choice of accounts used and has commingled account balances at September 30, 1992 with estimated balances at March 31, 1993, which, Staff asserts, violates accounting principles of debits equalling credits and destroys the integrity of the balance sheet.

Staff calculates a working capital allowance for Boise Water of $387,023. In making its calculations, Staff uses the entire balance sheet as of December 31, 1992. Staff chooses this date because it is the date at which the Company made a diligent effort to ensure that all accounts in the balance sheet were trued up, corrected for errors and closed out. Staff has a higher degree of confidence in the Company's balance sheet at year end as opposed to a future date, which necessarily relies upon estimates. *Tr. pp. 944-945.* Staff notes that it did not oppose the Company's method of calculating working capital in the last general rate case because of a lack of time and the fact that there were more pressing issues in that case. *Tr. p. 943.*

In rebuttal, Boise Water disputes Staff's characterization that the Company's proposed method of calculating working capital is out of the norm. Company witness Falasco argues that the method proposed by Boise Water has been consistently used by the Company and Staff and approved by the Commission for Boise Water in a prior case. *Tr. p. 293.*

In addition, Falasco argues that Staff's method of calculating working capital is defective because it assigns various deferred credit accounts to Other Capital Sources as opposed to long-term investments as a contra account. These accounts, Falasco contends, are all long-term in nature. *Tr. p. 294.*

We Find:

Both Staff and Boise Water use a balance sheet method of calculating working capital. Boise Water is correct that this general method has received prior Commission approval. The debate is over how exactly the calculation should be made.

Staff's approach of calculating balance sheet accounts as of December 31, 1992 is appealing for two reasons. First, it uses data that is known and measurable as opposed to Boise Water's pro forma approach. Second, it constitutes somewhat of a compromise because it relies on data taken at roughly the mid-point between the test year ending date of September 30, 1992 and Boise Water's selected pro forma date of March 31, 1993.

We find, therefore, that Staff's calculation of working capital is appropriate for this case.

III. OPERATING RESULTS

Staff and the Intervenors propose numerous changes to Boise Water's operating results, only one of which (relating to payroll expense) is agreed to by Boise Water.

Conservation Adjustment

Boise Water claims lost revenues in the amount of $683,543 related to its conservation program. The Company's method for calculating lost revenues uses a linear regression analysis that compares water use to precipitation for estimating the amount of water that Boise Water believes would have been used by its customers in 1992 if there had been no conservation program in place. The Company then subtracts actual 1992 consumption from its estimate to determine "lost sales" for 1992. These lost sales are multiplied by the 1992 commodity rate to determine "lost revenues."

Staff recommends eliminating Boise Water's claim for lost revenues on the basis that the Company has failed to present verifiable evidence that its conservation efforts have resulted in lost revenues and/or to what extent.

Staff argues that the linear regression methodology used by the Company to predict water usage inaccurately calculates the reduction in annual water usage per customer for three reasons:

1. It is inappropriate to rely exclusively on rainfall to predict annual water usage per customer;
2. It is inappropriate to assume that all predicted reduction in water usage is the result of Boise Water's conservation plan, and;
3. Boise Water's calculations fail to account for the loss of Micron as a customer. The Company's reliance on its engineering/market assessment analysis is also flawed.

Tr. pp. 1046-1057.

We Find:

We reject Boise Water's claim for lost revenues due to conservation at this time for several reasons. First, we are hesitant to allow the Company credit for lost revenues when it has yet to submit its conservation plan. In Order No. 24732 issued on March 8, 1993 in Case No. BOI-W-90-1, we granted Boise Water's request for an extension of time in which to file its conservation plan.

We stated:

> We are, however, disappointed that the Company put itself in a position to request this delay given the fact that it has been on notice since June 1991 to file its conservation plan by April 1993. We are also disappointed that the Commission Staff and others will not be able to review this plan in the Company's current rate case filing.

Order No. 24732 at p. 2.

It is incongruous that Boise Water contends that it has spent more than $60,000 on conservation and is entitled to almost $700,000 in lost revenues before it has even submitted a comprehensive plan identifying the Company's conservation goals and means of accomplishing those goals.

Second, we did not find the statistical theory presented by witness Jacobson convincing. Her assumption that all variation in water usage not related to rainfall was due to conservation, challenges logic. Clearly, factors such as temperature affect water usage significantly. Those of us who have lived in southern Idaho for any length of time know full well that summer weather patterns can vary dramatically from year-to-year in terms of temperature as well as rainfall. Furthermore, the Company overlooks the fact that the vast majority of its customers have been painfully aware of the drought experienced over the last several years. The voluntary efforts of members of this community to conserve water in light of that drought are not taken into account by the Company.

Finally, Ms. Jacobson's use of an unidentified source at Idaho Power for her household population estimates, as opposed to data that could have been obtained from the U.S. Census Bureau, also diminishes the reliability of her calculations.

In short, Boise Water's analysis left far too many questions unanswered and failed to present quantifiable, verifiable evidence to convince us that the Company's conservation efforts are responsible for lost revenues of the magnitude claimed by Boise Water or, for that matter, any lost revenues at all.

In addition, we do not believe that a retrospective approach to calculating lost revenues is appropriate. We do agree, philosophically, that to the extent Boise Water can sufficiently prove that its conservation efforts cause it to be financially worse off than investment in new supply side resources, then the Company should be compensated in some manner. To do so, however, we believe that it is necessary to establish an explicit, forward looking methodology as opposed to an after the fact, ad hoc decision.

The Energy Policy Act of 1992 requires this Commission to review the adequacy of its policies relative to demand side management programs (DSM, conservation) for electric and gas utilities. As a result, we are well aware of the issues relating to incentives and lost revenues for DSM programs. We already permit electric utilities to capitalize and defer reasonable DSM investments. We have also advised our electric utilities that their implementation of aggressive, cost effective DSM programs will be reflected in a higher return on equity in general rate cases. The water industry can expect the same consideration.

However, to receive such treatment, programs must be identified and approved in advance of implementation. They must also be capable of yielding reasonably measurable results. We do not believe that linear regression methods such as those presented in this case provide the measurement needed.

We also recognize that the treatment currently being afforded the electric industry may not provide adequate parity between demand and supply side resources. Therefore, we are interested in seeing the issue of incentives explored further.

ICC, through its witness Thomas Power, was the only party other than Boise Water to propose methods for calculating lost revenues due to conservation. We do not believe that the record is sufficient in this case to allow us to establish a definitive method for calculating lost revenues. The parties are directed to fully analyze and present this issue to us in Boise Water's next general rate case. The parties are further instructed that we do not, at this time, find the concept of "decoupling" appealing. We are interested in seeing more discussion of the LRAM approach addressed by ICC witness Powers in his testimony. We are also interested in reviewing the possible appropriateness of providing additional incentives such as recovery of lost margins (the difference between the revenue that would have been received from a conserved unit and the costs avoided by conserving that unit) that result from DSM programs between rate cases. Staff and the Company are therefore directed to explore these and other potential incentive mechanisms that might reasonably be applied to Boise Water Company's conservation programs. We emphasize that such mechanisms should apply only on a prospective basis and only to programs that have measurable costs and benefits.

While we are inclined not to grant Boise Water the type of rate relief requested for its conservation efforts until it has submitted its conservation plan, we note that included in test year expenses is the $60,137 it spent on the program.

Elimination of Marden Street Plant Depreciation Expense

Staff recommends that if the Marden Plant is disallowed from rate base, then a corresponding amount of depreciation expense claimed by the Company should also be disallowed. Staff calculates its adjustment by multiplying the $1,905,825 in Marden plant investment by the 5% depreciation rate used by the Company for an adjustment of $95,291. *Tr. p. 953.*

We Find:

Because we excluded the entirety of the Marden Street plant from rate base, it is necessary to reduce depreciation expense by $95,291.

Reduction of Payroll Expense

Boise Water annualizes its payroll expense based on salaries effective January 1, 1993 for non-union employees and April 1, 1993 for union personnel. The Company's calculations also include four new positions to be filled in the near future. The Company includes separate adjustments to health care and payroll taxes for an increase in payroll positions. The Company's adjustment totals $339,359.

Staff recommends decreasing the Company's adjustment by $129,855 on the basis that actual salary increases for non-union employees and the number of employees for 1993 are now known. In fact, the four new positions were not filled. Based on actual numbers, a decrease in the Company's estimate was made. Staff's adjustment includes health care costs and payroll taxes rather than breaking these out as separate line items. *Tr. p. 948.*

CBWC also recommends decreasing the Company's adjustment. It notes that the four positions referenced as vacant on the Company's revised workpapers indicate zero wages because these positions will not be filled. *Tr. p. 768.*

In rebuttal, Boise Water conceded that Staff's proposal is in fact based upon updated information and is appropriate. *Tr. p. 573.*

We Find:

We find, based upon a review of the record and the consensus of the parties, that Boise Water's payroll expense adjustment should be reduced by the amount of $129,855.

Adjustment to Electricity Expense

Staff recommends reducing Boise Water's estimated electricity expense by an additional $31,850 on the basis that the Company used the wrong Idaho Power tariff sheets in estimating power costs. Staff suggests that Boise Water used the tariff that included the drought surcharge and has since expired. The Company also fails to factor in the new rates under Idaho Power's recently approved PCA, Staff contends. Staff's proposed adjustments take both of these changes into account. *Tr. pp. 948-949.*

In rebuttal, Boise Water agreed with Staff's proposed adjustment due to changes in the tariff rates. The Company recommends, however, that the Commission permit it to retroactively recover the drought adjustment surcharge as an amortizable expense because the Company did in fact incur this expense but has no mechanism to recover it except through the rate process. Boise Water argues that because it incurred the cost of the surcharge, which is billed by another regulated utility, the Company should be allowed to recover this cost over one year. *Tr. p. 574.*

We Find:

We agree that Boise Water's electricity expense should be reduced by an additional $31,850 due to changes in Idaho Power's rates. We reject, however, Boise Water's contention that it be allowed to recover the drought adjustment surcharge as an amortizable expense. Such a recovery would constitute retroactive ratemaking. Idaho Power's surcharge was set as a result of the normal regulatory process. Boise Water chose not to participate in that process. Nor did it request implementing a surcharge of its own at the time its rates were raised. To ask future ratepayers to pay for prior expenses is contrary to good public policy. There is no adequate justification to separately treat this one item of expense differently from all others that may have increased between rate cases.

Rate Case Expense

Boise Water claims that it incurred $206,750 in rate case expenses for this proceeding.

Staff contends that Boise Water's alleged expenses are excessive and should be analyzed under the same standards as requests for intervenor funding. *Tr. p. 951.* Staff notes that the costs for the 1993 rate case were twice as much as the 1990 rate case. Staff asserts that it is unjustified that the Company spent twice as much in 1993 as it did in 1990 to put on what, in essence, was the same case.

In response, Boise Water contends that there are many differences between this proceeding and the last general rate case that contribute to the Company's increased expense. The Company notes that in the last case rate base was averaged and there was no controversy relating to plant projections past the test year or to long-term construction projects such as the Marden Street plant. Also, in the last case, revenue was based on book revenue and there was no need for a customer billing analysis and no adjustment for customer growth was made. Also, there was no need to perform extensive analysis to develop revenue from guaranteed revenue contracts. The present proceeding, the Company notes, involved the active participation of three intervenors. In the last case, only one intervenor participated. In addition, the Company had to respond to 122 interrogatories, nearly five times the number in the last case. Finally, this case involved more issues of greater complexity than the last case including the Marden Street plant engineering costs, dual irrigation systems, the Pierce Park line extension and the conservation impact adjustment.

We Find:

We reject Staff's recommendation to apply the intervenor funding standards set forth in *Idaho Code* § 61-617A and Rule 16 of the Commission's Rules of Practice and Procedure to rate case expenses incurred by a utility. The scope and magnitude of preparation required of a utility in a general rate case is, to say the least, not the same as that of an intervenor. Intervenors, by necessity, represent finite customer groups and their approach to a general rate case is typically more narrowly focused. The utility, on the other hand, must address every issue in detail and, therefore, incurs significantly greater expense than intervenors.

We agree with Staff that a utility should not be given *carte blanche* authority to commit unlimited resources to a rate case. As with any other expense or investment that we analyze in the course of a general rate proceeding, we will continue to review utility rate case expenses on the basis of whether they were prudently incurred. In the present proceeding, there is nothing in the record to prove that any of Boise Water's rate case expenses were imprudently incurred. This case was significantly more complicated and involved more issues than the last general rate case. We find, therefore, that Boise Water's requested rate case expense of $206,750 should be allowed. We believe that, under the circumstances, it is appropriate to amortize this expense over two years. This is our best estimate of how long the rates resulting from this Order will be in effect before the rates from Boise Water's next general rate case become effective. Boise Water's ratepayers will also realize less of an impact on their rates by amortizing this expense over two years. The Company is instructed that if rates resulting from the next general rate proceeding become effective before the expiration of the two-year amortization period, then the remainder of the unamortized expense will be included in the Company's rates in that proceeding.

Inflation Adjustment

The Company includes an adjustment to operation and maintenance costs for inflation in the amount of $57,496. It argues that because its test year ends September 30, 1992, by the time the Commission issues its rate order, at least seven months will have passed from the date of filing and, during that period, the Company will have absorbed from earnings the impact of inflation. *Tr. pp. 566-567.*

Staff proposes eliminating the entire inflation adjustment proposed by the Company on the basis that the issue of such an adjustment was resolved in the Company's last rate case and was rejected by the Commission. Staff believes that the issue has not changed and the Commission's reasoning in the last case is as persuasive today as it was then. *Tr. pp. 952-953.*

CBWC also recommends eliminating the inflation adjustment on the same basis as relied upon by Staff. *Tr. pp. 766-767.*

We Find:

In Order No. 23420, Case No. BOI-W-90-1, we ruled:

> We find: The Company's inflation adjustment should be disallowed. Not only is the adjustment not known and not measurable, there is no way to determine with any degree of certainty what increased costs are due solely to inflation. Both Company and Staff witnesses testified that growth in customer base has caused increases in some costs. Such increases then are not due to inflation. Because of this uncertainty, we find that an inflation adjustment is not reasonable in this proceeding.

Order No. 23420 at p. 13.

We agree with Staff that the issue of an inflation adjustment has not changed and our reasoning for previously rejecting such an adjustment is valid today. In addition, we note that the Company plans within a year to file another rate case. Its exposure to inflation for the interim, therefore, is limited.

IV. RATE OF RETURN

Capital Structure

The Company uses the capital structure of its parent, General Waterworks Corporation (GWC). GWC's capital structure consists of 50.25% long-term debt, .29% minority interest and 49.46% common equity, including GWC's subsidiaries.

Staff concurs with Boise Water's proposal to utilize the capital structure of GWC. Staff notes that the common equity portion of this structure is significantly higher than the average common equity ratio for the water utility group which is 45% for the year ending December 31, 1992. Because Boise Water is currently investing capital to comply with the Safe Drinking Water Act (SDWA), Staff believes that it is reasonable to allow a higher equity ratio to compensate for the increased capital requirements. By utilizing the actual capital structure, the benefits of the higher equity ratio offset any additional risk associated with the revenue investments. Staff believes that it is reasonable to expect the common equity ratio for GWC to be closer to the average common equity ratio for the water utility group when permanent financing is completed for the SDWA required investments. *Tr. pp. 996-998.*

CBWC recommends using a capital structure based upon an analysis of eleven other water companies as opposed to imputing the structure of GWC. CBWC's proposed capital structure is 52.07% debt, 2.9% minority interest and 47.64% return on equity. Increasing the equity ratio, CBWC notes, raises the Company's overall revenue requirement. *Tr. pp. 726-731.*

<u>We Find</u>:

It has been the customary practice of this Commission to adopt the capital structure of the parent corporation for a utility that is a wholly-owned subsidiary. For example, this Commission has imputed the capital structure of Continental Telephone's parent corporation, CONTEL and imputed the capital structure of GTE for its subsidiary, GTE Northwest, Inc.

Furthermore, we have previously imputed the capital structure of GWC for Boise Water. In Order No. 24320, issued in Boise Water's last general rate case, we found "that Staff's use of GWC Corporation as a surrogate for Company market data is reasonable and can be used again in future rate cases." *Order No. 24320 at p. 24.* There was no compelling argument presented in this case for departing from GWC's imputed capital structure. We find, therefore, that it is appropriate to continue to use the capital structure of GWC for Boise Water.

<u>Cost of Capital</u>

Boise Water proposes the following cost of capital and rate of return:

	Capital Structure	Cost Rate	Weighted Cost Rate
Long-term debt	50.25%	9.36%	4.71%
Minority interest	0.29%	5.00%	0.01%
Common equity	49.46%	12.75%	6.31%
Overall Rate of Return	100.00%		11.03%

In calculating its proposed return on common equity Boise Water uses a discounted cash flow approach: an analysis using premium estimates of utility stocks relative to bonds, a comparison of actually earned returns of industrial firms and a comparable earnings analysis based on <u>Value Line</u> similar risk companies. Boise Water contends that the uncertainty of capital and risk associated with the SDWA have had and will continue to have an impact on shareholders' earnings. The Company proposes compounding the average annual dividend yield for the water company group. The total dividend yield is compounded. The Company proposes an issuance cost rate of 8% applied to the water group growth adjusted dividend yield. Boise Water proposes a 3% price pressure applied to water group growth adjusted dividend yield. *See, generally, Testimony of David Brooks.*

Staff recommends the following cost of capital and rate of return:

	Capital Structure	Cost Rate	Weighted Cost Rate
Long-term debt	50.25%	9.36%	4.71%
Minority interest	0.29%	5.00%	0.01%
Common equity	49.46%	10 - 11.0%	4.95 - 5.44%
Overall Rate of Return	100.00%		9.67 - 10.16%

Staff notes that three standards have evolved for determining a fair and reasonable rate of return for a regulated utility: [1] the financial integrity or credit maintenance standards; [2] the capital attraction standard, and; [3] the comparable earning standard. If the comparable earning standard is met, the financial integrity and capital attraction standards will also be met as they are an integral part of the comparable earnings standard. *Tr. 976-977.* Staff also recognizes that the rate of return should be sufficient to allow the utility to maintain its financial integrity and to attract capital assuming efficient, economical management. *Tr. p. 977.* Staff notes that Boise Water is wholly-owned by General Waterworks which, in turn, is owned by GWC. GWC is owned 82% by Lyonnaise and 18% by investors purchasing the stock on the market. There is no direct market data available for Boise Water. The only market information available is the cost of equity capital for GWC. *Tr. pp. 977-978.*

Staff presented two methods for determining the cost of equity for Boise Water: the discounted cash flow method and the comparable earnings method for industrials and utilities.

The comparable earnings method determines the cost of equity based upon the premise that a given investment should earn its opportunity costs. For a utility to be competitive in the market, it must be allowed to earn a return on equity equal to the average return earned by other firms of similar risk. Taking into account the risk differentials between industrials and utilities, and those differentials as they specifically relate to Boise Water, Staff estimates a return on equity range of 10.0%-11.0% for Boise Water utilizing the comparable earnings approach. Based upon a review of the actual earned returns on equity for industrials, the decline and start of improvement in the economy and changing inflation and stock market conditions, Staff estimates the near future equity capital returns for industrials in the range of 11%-12%. The average return on common equity for water utilities for the period ending December 31, 1992 is 10.1%. Staff notes that regulated utilities encounter much less risk than industrials. Furthermore, competitive risks are limited for Boise Water compared to small companies that have certificated areas near areas served by Boise Water.

Staff estimates that the current cost of equity capital for Boise Water under the discounted cash flow method over the most recent six-month period is in the range of 9.1%-10.1%. This assumes a growth rate of 2%-3%.

Staff recommends a cost of equity range of 10.0%-11.0% with a point estimate of 10.5% based on: (1) a review of the market data and comparable companies and (2) GWC Corporation's stock price and risk characteristics. *Tr. p. 996.*

CBWC recommends the following cost of capital and rate of return for Boise Water:

	Capital Structure	Cost Rate	Weighted Cost Rate
Debt	52.07%	9.36%	4.87%
Minority interest	0.29%	5.00%	0.01%
Common equity	47.64%	10.40%	4.95%
Overall Rate of Return	100.00%		9.83%

CBWC contends that Boise Water's requested cost of capital is too high under today's market conditions. *Tr. pp. 730-731.* Its recommended 10.4% return on equity is derived from comparable earnings and market approaches. CBWC relies on Standard and Poor's index of 400 industrials, the Federal Trade Commission's "all manufacturers" group and the industries monitored by Business Week. The Coalition contends that the risk factor is low for water utilities. *Tr. pp. 731-755.*

Intervenor Sharon M. Ullman recommended an overall rate of return of 11.03%.

We Find:

A fair and reasonable return on equity for Boise Water is 11.25%. This return is roughly the midpoint between the lower end of Staff's recommended range and the recommendation of Boise Water; what we consider to be the two extremes.

Boise Water is currently experiencing rapid growth which, we believe, reduces its business risk. Because we expect to reexamine the Company's rates within the next 12 months, this further diminishes its risk. Finally, we are not convinced that the capital investment required under the SDWA poses as great a risk as Boise Water suggests. Factored into the rate of return is the 7.2% issuance expense factor used by Staff to calculate the dividend yield in its DCS calculation. As we stated in Boise Water's last general rate case, we do not recognize market pressure costs in our calculation of return on equity. *See Order No. 23620 at p. 24.*

We find Staff's analysis, methodology and computations to be persuasive. Under this circumstance, we would not normally be inclined to adopt a return on equity exceeding the upper end of Staff's recommended range. Our decision to do so in this case is premised upon the general business risk and potential increase of revenue instability associated with our implementation of seasonal rates as discussed later in this Order.

In summary, we find that there is no significant financial risk for Boise Water on the short-term horizon justifying the return on equity recommended by the Company. Boise Water's regulatory environment is relatively stable. Moreover, the Company does not face the threat of significant competition from other water utilities. We find that a return of 11.25% fairly compensates shareholders for the risks they assume by investing in a company that is operating in a stable environment.

V. REVENUE REQUIREMENT

To summarize, the Company's approved capital structure and overall rate of return are represented in the table below:

	Actual Capital Structure	Cost Rate	Weighted Cost Rate
Debt	50.25%	9.36%	4.70%
Minority Interest	0.29%	5.00%	0.01%
Equity	49.46%	11.25%	5.57%
Overall Rate of Return			10.28%

The Company's additional revenue requirement is $1,573,366 as calculated below:

1.	Rate Base	$45,692,874
2.	Rate of Return	.1028
3.	Required Return on Rate Base	4,698,210
4.	Less: Operating Income	3,747,628*
5.	Additional Income Needed	950,582
6.	Gross-up Factor	1.65516
	Revenue Increase Required	$1,573,366

*The tax consequences of every adjustment made to operating results, as well as the Company's requested synchronization of interest, have been factored in.

VI. MISCELLANEOUS ISSUES

Rate Design

Boise Water proposes spreading its rate increase "across the board" (i.e., an equal percent increase to customer and commodity charges).

Staff agrees that any additional revenue requirement should be recovered by an equal percentage increase. Staff does not recommend implementing any rate design changes until the Company has filed its cost of service study as promised later this year. *Tr. pp. 1029-1030.*

We Find:

An across the board rate increase is appropriate until we have had the benefit of reviewing the Company's cost of service study that the Company will prepare and submit with its next general rate case. Except for our decision to adopt seasonal rates, as discussed below, we will consider changes in Boise Water's rate structure at that time.

Elimination of "Free" Water Provided Under Company's Minimum Bill

Included in Boise Water's current minimum customer bill is an allowance for the use of 1,000 cubic feet of water. In other words, customers are charged for this usage, at a minimum, regardless of whether they use any water or not. Staff notes that many of Boise Water's customers have questioned the fairness of this and the fact that it does not promote water conservation. Staff states that the general consensus of customers who have commented on this issue is that the monthly minimum usage amount should be lowered and the rates for commodity usage above that minimum should be increased. *Tr. pp. 1006-1007.*

ICC also objects to the 1,000 cubic foot minimum because it effectively assigns a zero price to the consumption of a significant number of customers and, therefore, encourages the inefficient use of water. ICC contends that 17% of residential bills and 23% of commercial bills are bills for consumption less than the amount of water provided free within the minimum bill. ICC recommends that Boise Water's minimum bill be restructured so that customers are charged for all water used regardless of the amount. *Tr. pp. 869-873.*

We Find:

ICC has raised a legitimate issue regarding the price signal sent to ratepayers by the minimum bill. As noted above, we have decided to retain the minimum bill at this time. We will reassess its appropriate level when we review rate design in Boise Water's next general rate case.

Seasonal Rates

ICC recommends that a seasonal rate structure be adopted that sets the summer commodity price 50% above the non-summer price. *Tr. p. 869.* ICC believes that 50% of Boise Water's revenue requirement is peak related in the sense of fixed investments designed to meet peak load that occurs during the summer. ICC contends it is counter-intuitive for Boise Water to have a flat rate throughout the year when the cost of providing water service is clearly not correspondingly flat. *Tr. pp. 865-866.*

In rebuttal, Boise Water states that it is not necessarily opposed to the concept of seasonal rates but believes that it would be premature to implement them in this case without further study. The Company further contends that there is no evidence that increasing the summer commodity rate will decrease usage. *Tr. pp. 586-588.*

We Find:

The continuing rapid growth of Boise Water's customer base and service territory make it increasingly important to implement a rate structure that reflects the relative seasonal cost of providing water service. Moreover, we believe that immediate implementation of a correct price signal is necessary. Ratepayers need to be aware that the cost of providing water service is higher in summer months. Once they understand the higher cost of summer water service, they may reduce their water usage, if they desire, through such measures as xeriscape landscaping or reduction of lawn size.

We reject Boise Water's argument that the record is insufficient to implement a seasonal rate structure at this time. Even without the benefit of a cost of service study, the testimony of ICC witness Power convinces us that the cost of providing water service during summer months is higher than non-summer months. At the same time, the Commission is aware that many customers using Boise Water's service for summer irrigation do not have access to alternative irrigation water sources. Thus, a gradual transition is needed so that customers who wish to take steps to reduce their summer water usage may do so. We retain the 1,000 cubic foot minimum block for the time being and find that, initially, a seasonal differential of 25% is conservative and reasonable. This will send a definite signal to ratepayers that the cost of providing water is greater during summer months but will not unreasonably penalize those who have not had an opportunity to institute changes to reduce their summer water usage.

We are aware that implementing seasonal rates creates new challenges. For example, we note that the Company's policy of reading meters bi-monthly for half its customers provides laudable savings to ratepayers, but makes it impossible to designate a single "season" that will not require the Company to implement an extra reading twice a year for half its customers. We note, however, from the usage data of the test year that consumption in June appears to be remarkably similar to that in October. We find, therefore, that no customer will be unduly disadvantaged if, until the issue is reviewed in more detail, the Company implements two "summer seasons." For those customers whose meters are read on or around the beginning of June, the summer billing season shall be June through September. For those customers whose meters are read on or around the beginning of July, the summer billing season shall be July through October. We expect the Company to address this issue in detail in its upcoming cost of service study. We are especially interested in the long term usage patterns of June relative to October, and in other potential solutions to this situation.

Another problem presented by seasonal rates is maintaining equity in the minimum billing between customers with different size meters. Mr. Powers solved this problem by eliminating the minimum allowances. We reject that solution. Usage allowances permitted under minimum billings shall remain unchanged for all sizes of meters. The amount of the minimum bill for customers with meters larger than 3/4 inch, however, shall be determined by adding to the 3/4 inch minimum bill amount (which shall remain unchanged) an amount equal to the minimum allowance less 1000 cubic feet times a non-seasonalized rate.

Therefore, the Company is directed to determine commodity rates as follows. First, all anticipated non-commodity revenues (including the 1000 cubic foot minimum charge) are to be subtracted from the approved revenue requirement. The Company shall then compute the commodity rate that would be required to recover the balance of the revenue requirement if no seasonal rates were to be implemented. These rates are to be used to determine minimum bills for meters larger than 3/4 inch. Then, all anticipated non-commodity revenues (including all minimum bill revenues) are to be subtracted from the approved revenue requirement. The remainder is the revenue to be recovered from seasonal rates. Seasonal rates are to be designed so that the remainder is recovered with summer commodity rates 25% higher than winter commodity rates. The Company is directed to submit workpapers and monthly billing analyses to substantiate its rates when it submits its new tariffs.

The billing data provided in the Company's case is inadequate to precisely calculate seasonal rates. Nonetheless, preliminary estimates are accurate enough to convince us that the seasonal rate differential we are adopting will not impose a significant financial burden on anyone. Those customers whose usage is relatively flat or who have a relatively modest summer usage should benefit.

The customers who will see the largest increase under this rate structure will be those who have extremely high summer usage. It is these customers who contribute most to Boise Water's peak load and, therefore, should contribute correspondingly to the cost recovery of that peak.

We will reassess our seasonal rate structure in Boise Water's next general rate case. We expect to see considerable discussion of the issue in conjunction with the anticipated cost of service study.

It is possible that we will increase the summer commodity charge, relative to the non-summer charge, even further in the future. We believe that our decision is fair not only to ratepayers but to the Company as well and is an important step in recognizing seasonal variations in costs.

Escrow Program

Staff contends that Boise Water's existing customers are subsidizing the costs of growth on the Company's system. Boise Water currently has in place an escrow program under which the Company provides the up-front line extension investment necessary to serve new developments. A revenue requirement is then calculated for that particular development. Because individual customers will not hook up all at once to the line extension, there is a lag period during which Boise Water does not recover all of its revenue requirement for the development. Under the escrow program, this deficiency is calculated and the developer pays that amount into escrow during the first year the development comes on line. Staff notes that, in recent years, the Company has been under-recovering its revenue requirement under this escrow program. *Tr. pp. 1030-1038.*

To remedy this problem, Staff recommends that, before Boise Water establishes a residential escrow, it calculate the Company's return on investment at buildout (in the sixth year) based upon the same criteria it uses to establish escrow contributions. If insufficient revenue is generated from customers from within the subdivision to allow the Company to earn its authorized return on on-site investment at buildout, then a portion of the on-site cost must be contributed up front by the subdivision developer. This will effectively "cap" the Company's on-site investment per customer. *Tr. p. 1038.*

In addition, Staff recommends that the backbone plant investment portion of the escrow calculation be increased by the consumer price index to reflect the increased cost of constructing backbone facilities such as main lines, services, meters, etc. *Tr. p. 1039.*

On a technically unrelated issue, Staff recommends that hook-up fees be increased by the rate of inflation to cover inflation related increases in supply costs.

Staff argues that its recommendations will reduce the cost of serving new customers which, to a large extent, is driven by inflation. *Tr. p. 1039.*

In rebuttal testimony, Boise Water witness Hepler argues that the residential escrow program is, on the average, providing a rate of return close to the Company's authorized rate of return. Hepler argues that the escrow program should not be revised as proposed by Staff until the Company has had the opportunity to study the matter further. He indicates that the Company intends to file a case in the near future for the purpose of addressing this issue. *Tr. pp. 315-320.*

Hepler also argues that hook-up fees should be increased to include the Company's cost of backbone plant, including storage, reservoirs, associated booster pumping facilities and source of supply. This would increase hook-up fees to $465 per customer, as opposed to the current fee of $190 (for a 3/4" meter). *Tr. pp. 320-323.*

We Find:

One could conclude, by looking at Mr. Hepler's Exhibit No. 13, that the Company's residential escrows, taken as a composite average, are earning the Company close to its authorized rate of return. Exhibit No. 14, however, shows that in year six when the developer no longer contributes to the escrow, the return earned by the Company tends to drop off, in some cases significantly. This is evidence that the Company is not earning its authorized return under its residential escrow program.

The only solutions to this problem are to either increase Boise Water's overall rates so that all customers pay for the costs of growth or to limit the per customer investment that Boise Water will make under the escrow program. We believe that the latter is the preferable alternative. The Company is instructed to adopt Staff's recommendation that the Company's return on investment at buildout (in the sixth year) be calculated based upon the same criteria Boise Water uses to establish escrow contributions. If insufficient revenue will be generated from the development to allow the Company to earn its authorized return on on-site investment at buildout, then the developer must contribute a portion of the cost up front.

We reject Boise Water's proposal to increase hook-up fees to include the cost of constructing backbone facilities at this time. If Boise Water was serious about this proposal, it should have made it in its direct case, as opposed to rebuttal testimony, so that all parties would have had a reasonable opportunity to respond. By our ruling, we are not indicating whether the Company's proposal has merit. We simply believe that an issue of such importance should have been raised earlier. The Company is free to raise this issue in its next general rate case or in a separate proceeding.

We also decline to accept, for now, Staff's suggestion that the backbone plant investment portion of the escrow calculation be increased by the consumer price index along with a similar suggestion that hook-up fees be adjusted for inflation. Also, we are not pursuaded that the consumer price index is the best index for reflecting changes in construction costs. However, we ask Staff to further explore this issue in the next general rate proceeding.

Customer Billing Charges

Non-Sufficient Fund Fee

Boise Water requests that it be allowed to charge $10 for each customer check that has been returned due to non-sufficient funds (NSF). Staff recommends that the Commission accept, as a tariff rate, the $10 fee for NSF checks. The $10 fee is comparable to similar charges of other utilities. Staff recommends that it be included in Boise Water's tariff books to assist Staff in its efforts to verify charges assessed by the Company. Staff recommends that the billing statement separately itemize the NSF fee and that if the fee is the only charge owed by the customer, the customer cannot be disconnected for failure to pay the charge. *Tr. pp. 1009-1011.*

We Find:

We hereby approve Boise Water's request to implement a $10 NSF fee. We note that *Idaho Code* § 28-3-510A provides for collection costs for checks dishonored by non-acceptance or non-payment. Statutorily, the fee may not exceed $15. It appears that Boise Water's requested $10 fee is reasonable in relation to the statute and to similar charges of other utilities. The Company is instructed to separately itemize the fee for NSF checks on billing statements. Pursuant to IDAPA 3.10d, the utility may not disconnect customers for failure to pay the charge.

Reconnection Charges During Working Hours

Boise Water proposes to increase its reconnection charges from $10 to $20 during working hours. Staff objects to the proposed increase noting that, for other water utilities, the reconnection fees range from $10 to $15. Staff believes, therefore, that a $15 reconnection fee is more consistent with other utilities. *Tr. p. 1011.*

We Find:

We hereby approve an increase in Boise Water's reconnection charges during working hours from $10 to $15 on the basis that, as indicated by Staff, this amount is more consistent with other water utilities.

Reconnection Charges After Hours

Boise Water seeks approval to increase its fees for after hours reconnections from $15 to $25.

Staff recommends approval of this increase based upon a review of similar charges by other utilities and upon a review of the costs incurred by Boise Water in reconnecting customers. *Tr. p. 1011-1013.*

We Find:

We hereby grant Boise Water's request to increase reconnection charges for after hours reconnection from $15 to $25.

Connection Fees for After Hours

Boise Water requests approval to increase its fees for after hours connections from $15 to $25. The Company currently does not charge customers to connect during normal business hours. It does charge customers $15 if they request connection of service on a weekend, holiday or evening. Boise Water requests an increase in this fee from $15 to $25.

Staff recommends approval of Boise Water's requested increase. *Tr. p. 1014.*

We Find:

Boise Water's request to increase its fees for after hours connections from $15 to $25 is hereby approved.

Fees for Requested Temporary Termination

Boise Water requests authority to increase its fees for customers who request a temporary termination of their service from $10 to $20 during work hours and $15 to $25 after hours.

Consistent with its earlier recommendations, Staff recommends that the temporary termination fee during hours be set at $15 and after hours at $25. *Tr. p. 1014.*

We Find:

We hereby approve an increase in Boise Water's fee for requested temporary termination during hours from $10 to $15 and after hours from $15 to $25.

Dual Water System

Currently, all the water provided by Boise Water is potable, whether used for culinary or irrigation purposes. CBWC charges that it is unnecessary for the Company to provide drinkable water to new developments for irrigation. It recommends that the Company undertake efforts to begin installing dual water systems in all new developments. CBWC recommends that before any of Boise Water's investment in the Marden plant is included in rates, an investigation be initiated to determine if the failure to use dual water systems was the "least cost path" and is the cause of the need for the Marden plant. CBWC recommends that Boise Water not be allowed to include in rate base any portion of its investment in new plant sized to provide irrigation water to new subdivisions where dual systems are available and feasible. CBWC further recommends that Boise Water not be permitted expand its service territory into areas in which dual systems are available and feasible unless such dual systems are installed.

Finally, CBWC recommends that Boise Water's hook-up fees for new customers who do not take advantage of dual irrigation systems where available and feasible be designed to reflect the cost of depleting the aquifer. By the same token, those new customers who take advantage of available dual systems should pay a hook-up fee that does not include the marginal cost of depleting the aquifer.

CBWC argues that Boise Water has, for many years, supported the concept of a dual water system but has failed to actively pursue it. CBWC argues that the life of the Boise Valley aquifer is limited and that once it is depleted, the Company will rely increasingly upon surface water with a need for additional treatment facilities. CBWC contends that Boise Water has neglected its legal duty to protect the interests of its ratepayers and the public at large by not pursuing a dual water systems.

Boise Water states that it supports the concept of dual water systems but argues that before such systems are required, a comprehensive plan addressing their feasibility should be undertaken. The Company asserts that the authority to require developers or property owners to install these systems rests with the city and county governments which enact ordinances and not with Boise Water or the Commission. Boise Water argues that the Commission does not have the jurisdiction to force the Company to implement dual systems.

We Find:

CBWC raises a legitimate concern about the future of Boise's aquifer. Rapid growth is placing increasing pressure on the aquifer, and its ability to adequately serve that growth indefinitely is far from certain. For the same reasons that we pursue conservation, therefore, we are compelled to investigate the advisability of using untreated surface water for non-culinary purposes such as irrigation in new development. Irrigation during the hot, arid summer months of southern Idaho constitutes a significant usage of water. The economic rational for pursuing dual water systems is that the need for expensive treatment facilities, such as the Marden Street plant, may be deferred.

We reject Boise Water's contention that we are without jurisdiction and authority to require the Company to take the necessary steps to see that dual water systems become a reality. Overseeing the terms and conditions of service are a statutory obligation of this Commission.

We also reject, however, CBWC's claim that Boise Water has neglected civic duties to protect the interests of its customers and the members of this community. To the contrary, Boise Water has been an active participant in addressing the problems the community of Boise City faces in securing an adequate and safe supply of water.

It is our decision, therefore, to instruct the Company to begin to work, in earnest, with relevant state and local entities, including CBWC, who are by necessity involved in planning requirements for new development within Boise Water's service territory. The Commission will also designate a member of Staff to actively represent the Commission in that process. We expect the Company to make significant progress toward making the installation of dual water systems in new developments practicable by the next general rate case.

As noted above, we believe the Commission has the legal authority to enter coercive orders mandating dual water systems in the manner suggested by CBWC. Before exercising that authority we think all interested parties should have an opportunity to explore implementation of dual water systems in a collaborative way.

Boise Water's Bidding Practices

Sharon Ullman notes that Boise Water has only recently been bidding out its contracts for materials and labor. Furthermore, she contends, the Company only retains the current and previous year's bid results in contrast to what she perceives to be normal practices within the industry. *Tr. pp. 821-822.* Ms. Ullman contends that Boise Water is overly selective in its use of contractors. *Tr. p. 822.* She recommends that Boise Water be required to retain bids for at least five years. *Tr. p. 823.* She also recommends that Boise Water be required to bid all contracts in excess of a predetermined amount and that the Company be required to revise its competitive bid practices to insure that a larger number of contractors qualified to submit bids. *ID.*

We Find:

While Ms. Ullman raises what are ostensibly legitimate concerns regarding Boise Water's bidding practices, we do not believe that sufficient evidence was presented in this hearing regarding the appropriate industry standards by which to compare Boise Water's methods. We agree, for the time being, that it is reasonable to require Boise Water to retain all bids for a minimum of five years. We further direct Staff to review Boise Water's procurement practices and to determine industry standards and present its recommendations to us in the Company's next general rate case.

Intervenor Funding

Applications for intervenor funding were timely filed by ICC and CBWC.

ICC alleges the following expenses:

Consulting fees, Power:	133 hrs @ $75/hr =	$9,975.00
Research, Fothergill:	22 hrs @ 40/hr =	880.00
Subtotal		$10,855.00

Expenses, Power:	Federal Express	$46.50
	Telephone	23.75
	Meals	40.00
	Taxi	20.00
	Subtotal	$130.25
Other Expenses:	RT Air Travel Missoula/Boise	$509.00
	Hotel - one night	56.00
	Copying	52.25
	Postage	21.75
	Telephone	15.00
	Subtotal	$654.00
	TOTAL	$11,639.00

CBWC alleges the following expenses:

Legal Fees and Expenses:

Peter Richardson - 133.5 hours @ $115/hour	$15,352.50
Scott Campbell - 8.2 hours @ $125/hour	$1,025.00
Total Legal Expenses:	$3890.50
	$20,268.00
Total Legal Fees and Expenses:	

Expert Witness Fees and Expenses:

Economist Johnson - 7.6 hours @ $135/hour	$ 1,026.00
Economist Reading - 148.4 hours @ $135/hour	$20,034.00
Research Consultant - 35.3 hours @ $105/hour	$ 3,706.50
Senior Research Associate - 36.2 hours @ $95/hour	$ 3,439.00
Research Associate - 20.2 hours @ $80/hour	$ 1,616.00
Senior Research Assistant - 18.2 hours @ $35/hour	$ 637.00
Research Assistant Anderson - 4.5 hours @ $25/hour	$ 112.50
Research Assistant Kuhlman - 35.4 hours @ $25/hour	$ 885.00
Senior Technical Assistant - 22.2 hours @ $20/hour	$ 444.00
Commissioner Swisher - 6.0 hours @ $40/hour	$ 240.00
Commissioner Swisher - Out-of-Pocket Expenses	$ 10.00
Total Expert Fees and Expenses	$32,150.00
Total All Fees and Expenses:	$52,418.00

Boise Water filed motions in objection to the applications of both ICC and CBWC for intervenor funding. The Company objects to ICC's application for suggesting that the Commission exceed the statutory maximum allowable funding award of $20,000. Furthermore, Boise Water contends, there was a great deal of overlap between the testimony of ICC witness Power and that of the Commission Staff witnesses. Boise Water also objects to that portion of costs relating to ICC witness Power's testimony dealing with seasonal rates on the basis that that issue was litigated in the Company's previous rate case. Finally, Boise Water opposes any funding relating to the charges for Mr. Fothergill's time because of the "voluntary nature of his participation in this proceeding" and because he has not provided the basis for his $40 an hour charge.

Boise Water objects to the application of CBWC for the following three reasons:

1. The majority of CBWC's case related to the issue of dual water systems which, Boise Water argues, should have been addressed in another forum in which the Commission has no jurisdiction to act.

2. Significant portions of CBWC's case addressed the conservation and rate of return issues thereby duplicating the efforts of Staff and ICC.

3. CBWC's total alleged expenses exceed the statutory maximum funding available of $20,000.

We Find:

Initially, we note that Boise Water is apparently unaware that recent legislation increased the statutory maximum award of intervenor funding in any one proceeding from $20,000 to $25,000.

Second, Boise Water is also apparently unfamiliar with the manner in which this Commission processes applications for intervenor funding. Intervenors are expected to list all of their reasonable fees and costs incurred in participating in a proceeding before this Commission regardless of whether those costs, by themselves or in combination with other intervenors, exceed the statutory maximum.

Finally, we are not convinced by Boise Water's arguments that the presentation of evidence by either ICC or CBWC was overly duplicative. To the contrary, both intervenors presented unique and helpful perspectives of the many complex issues involved in this case. Obviously, we were persuaded by ICC's arguments on the issue of seasonal rates and by CBWC with respect to the issue of dual water systems. Neither of these issues were discussed in any detail by the Commission Staff. The Company's suggestion that the intervenor's advocacy of these positions was unwarranted, lacks credibility. In short, both ICC and CBWC contributed materially to the decision reached by the Commission in this case. We further find that both Applications for intervenor funding apply with all of the other technical and substantive requirements of Idaho Code 61-617A and Rule 16 of the Commission's Rules of Practice and Procedure.

In dividing the available funding between the two intervenors, we find, initially, that it is reasonable to pay each intervenor its out-of-pocket costs with the exception of CBWC's hearing transcript expense which we do not believe is a reasonable and necessary expense for the purposes of intervenor funding. We therefore award CBWC costs in the amount of $2,132.80 and ICC costs in the amount of $784.25.

Regarding the remaining funding available, we believe it is reasonable to fully fund ICC's requested fees in the amount of $10,855.00. We believe that ICC was able to cover a wide range of issues with only one witness and at very reasonable rates. Mr. Powers' testimony on the issues of seasonal rates and removing economic disincentives to conservation were helpful and will continue to assist us in our future deliberations of these issues. Mr. Fothergill's modest hourly rate is very reasonable given the value of his contribution to this proceeding.

CBWC also provided valuable testimony on issues of rate of return and dual water systems. In addition, we note that CBWC's application for intervenor funding provided a desirable level of detail in its alleged fees and costs. We award CBWC the remaining available funding of $11,227.95.

Boise Water is instructed to pay these amounts within 28 days from the date of this Order. The Company is further directed that these costs, like the rate case expense, should be amortized over two years.

We would like to note that, although she chose not to request intervenor funding, Ms. Ullman's participation in this case was insightful, well prepared and helpful to this Commission. Her effectiveness and knowledge of an arcane subject were impressive. We appreciate her involvement.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Boise Water Corporation and its Application pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Commission's Rules of Practice and Procedure, IDAPA 31.01.01000 *et seq.*

ORDER

IT IS HEREBY ORDERED that Boise Water Corporation be and hereby is authorized to file tariffs of rates and charges in compliance with the terms of this Order, to be effective for bills rendered on and after three working days after receipt by the Commission.

IT IS FURTHER ORDERED that the Company shall make substantial progress on making practicable the implementation of dual water systems prior to the filing of its next general rate case.

IT IS FURTHER ORDERED that the Company shall complete and submit its cost of service study on or before the filing of its next general rate case.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in Case No. BOI-W-93-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in Case No. BOI-W-93-1. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 4th day of ~~July~~ August 1993.

Marsha H. Smith

MARSHA H. SMITH, PRESIDENT

Dean J. Miller

DEAN J. MILLER, COMMISSIONER

Ralph Nelson

RALPH NELSON, COMMISSIONER

ATTEST:

Myrna J. Walters

MYRNA J. WALTERS
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