

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF TETON SPRINGS WATER AND SEWER) CASE NO. TTS-W-08-01
COMPANY, LLC FOR THE ISSUANCE OF A)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY, FOR APPROVAL OF RATES)
AND CHARGES FOR WATER SERVICE,)
AND FOR APPROVAL OF RULES AND) ORDER NO. 30718
REGULATIONS GOVERNING THE)
RENDERING OF WATER SERVICE)
)

On May 20, 2008, Teton Springs Water and Sewer Company, LLC (Teton Springs; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting a Certificate of Convenience and Necessity (Certificate) to provide domestic, culinary water service in Teton County, Idaho to customers within the Teton Springs Golf and Casting Club planned unit development – *Idaho Code* § 61-526; IDAPA 31.01.11. The Company also requested that the Commission approve a change in existing rates and charges for water service, approve an annual revenue requirement of \$298,082 and approve the Company’s proposed Rules and Regulations Governing the Rendering of Water Service. The Company serves approximately 278 customers.

On June 12, 2008, the Commission in interlocutory Order No. 30571 issued Certificate of Convenience and Necessity No. 475 to Teton Springs, authorized continued water service under the existing flat rates, and suspended the remainder of the Company’s Application.

The Commission Staff was the only other party of record in this case. After performing its audit, Staff filed its comments on September 5, 2008. Staff recommended an annual revenue requirement for Teton Springs of \$127,505. The Company filed reply comments on October 10, 2008 agreeing with some Staff adjustments and disputing others. On rebuttal the Company requested oral argument and proposed an amended revenue requirement of \$259,256.

After reviewing the filings of record, comments of the parties, the testimony at oral argument and the comments of customers, the Commission reaffirms its Order granting a Certificate to Teton Springs, directs the Company to submit a plan to meter all customers, approves a number of non-recurring charges and fees (including a reconnect fee for seasonal

disconnects), authorizes an emergency reserve fund, establishes an annual revenue requirement for Teton Springs of \$146,309, an overall decrease of 33.3% in revenue generated by current rates, and approves a change in quarterly rates for service rendered on or after February 1, 2009.

BACKGROUND

In its Application, Teton Springs in addition to requesting a Certificate and other relief common to a start-up utility, made two requests of a unique nature, i.e., (1) recovery of depreciation/amortization on contributed capital (\$89,140/year) and (2) an "availability charge" applicable to unimproved residential and commercial lots and seasonal disconnects. Neither request was approved. The Commission's subsequent interlocutory Order issuing a Certificate and approving interim rates included a Notice of Application that established a June 27, 2008 intervention deadline. No petitions for intervention were filed. On July 18, 2008, the Commission issued a Notice of Public Workshop scheduling an August 12 workshop at Teton Springs Lodge in Victor, Idaho. As stated in the Notice, the purpose of the workshop was for Commission Staff to dispense information to customers concerning the Company's Application and to obtain input from the public prior to filing Staff comments or testimony. No customers attended the workshop.

On August 6, 2008, the Commission issued a Notice of Modified Procedure and Scheduling in Case No. TTS-W-08-01. The established deadline for filing comments was September 5, 2008. The Commission received comments from Staff and five of the Company's customers. Pursuant to Amended Notice of Scheduling and subsequent informal agreement, the reply comment deadline for Teton Springs was extended from September 19, 2008 to October 10, 2008. In its reply comments, Teton Springs requested the opportunity for oral argument. Oral argument was held in Boise on November 7, 2008.

The Company's Application was supported by filings in testimony form from Jon Pinardi, the Director and Manager of Teton Springs, and from Larry A. Crowley, Director and President of Energy Strategies Institute, and Exhibits 1-9. The Company's reply comments (filed on October 10, 2008) were accompanied by the affidavits of Jon Pinardi and Larry Crowley, and Exhibits 10 and 11.

At oral argument, the Company submitted the supplemental affidavit of Jon Pinardi. The transcript of proceedings at oral argument was filed with the Commission on November 13,

2008. Following oral argument, the Company on November 21, 2008, filed direct supplemental testimonies of Jon Pinardi (with Exhibits 12-15) and Larry A. Crowley.

Certificate of Convenience and Necessity

As reflected in the Company's Application, Teton Springs requested a Certificate of Convenience and Necessity to provide domestic, culinary water service in Teton County, Idaho, to customers within the Teton Springs Golf and Casting Club planned unit development (Teton Springs Resort Community). *Idaho Code* §§ 61-125 (Water Corporation); 61-129 (Public Utility) and 61-526 (Certificate of Convenience and Necessity) and Rule 111 of the Commission's Rules of Procedure, IDAPA 31.01.01.111. The Teton Springs development consists of 581 single-family building lots, 14 commercial lots, and 2 multi-family dwellings which will contain 143 residential units at full build-out. The development is an all-season resort community. Teton Springs currently serves 194 residential customers, 5 commercial customers and 73 multi-family unit customers. The Teton Springs water system consists of two wells, a water storage reservoir, water mains, hydrants, and service lines. The legal description and map of the proposed service area are set out in Application Exhibits B and C (and are attached to the Company's Certificate No. 475).

In interlocutory Order No. 30571 we found that Teton Springs Water and Sewer Company, LLC was being operated in such a manner as to bring it within the jurisdiction of the Commission under Title 61, Idaho Code; *Idaho Code* §§ 61-124, 61-125, 61-129. We further found that the present and/or future public convenience and necessity required issuance of Certificate of Convenience and Necessity No. 475 to Teton Springs Water and Sewer Company, LLC. Reference *Idaho Code* §§ 61-526, 61-528; IDAPA 31.01.01.111. Continued water service was authorized under the existing flat rate and proposed changes in rates and charges were suspended until such time as the Commission issued an Order accepting, rejecting, or modifying the Application in this case.

Proposed Rates and Charges

As reflected in the Company's Application, Teton Springs charges active residential and commercial customers an unmetered flat rate of \$240 per quarter. Active residents of multi-family units are presently assessed a flat rate of \$80 per quarter. Teton Springs Exh. 9. These are the rates the Commission authorized in its Order granting certification. Teton Springs proposes to change rates for existing customers and to assess a new "Availability Charge" for

inactive residential and commercial customers whose property fronts an existing main, but who have not connected to the system, as reflected below.

Description	Number of Active Customers	Current Rates/Quarter	Company Proposed Quarterly Rates
Unmetered Residential: Total No. of Single-family lots: 581 Total No. of Inactive Lots: 387	194 --	\$240.00 --	Flat rate service: \$150.00 Availability charge: \$75.00
Unmetered Commercial: Total No. of Commercial Lots: 19 Total No. of Inactive Lots: 14	5 --	\$240.00 --	Flat rate service: \$450.00 Availability charge: \$225.00
Unmetered Multi-Family: Total No. of Multi-Family Units: 143	73	\$80.00	Flat rate service: \$150.00 Availability charge: -0-

Stating that it does not presently have sufficient water consumption data, the Company proposes to charge customers initially under a flat rate rather than a metered rate.

Pending further investigation, in Order No. 30571 Teton Springs was directed to continue providing culinary water service at the Company's present flat rates and to file conforming tariffs. The Company was apprised that as a regulated utility all rates and charges of the utility must be approved by the Commission and set forth in tariff schedules on file with the Commission. *Idaho Code* § 61-313. No other charges are permitted.

Additional Fees and Charges

As reflected in the Company's Application, the following additional charges and fees were proposed:

Schedule No. 1A: *DEQ Fee* (recovered in tariff water rates)

Schedule No. 2: *Miscellaneous Fees and Charges*

- 1) Returned check charge: \$20.00 each occurrence
- 2) Reconnection charge for non-payment terminations:
 - During normal business hours \$ 50.00
 - Other than normal business hours \$100.00

- 3) Field collection trip charge – applicable to customers who pay outstanding bills for service at the time Company personnel arrive at customer’s premises to terminate service: \$50.00

Schedule No. 3: *Bulk water sold to contractors.*

- 1) Backflow Prevention Device Rental Charge – \$25.00 per day
- 2) Bulk Water Charge – \$25.00 per day.

Schedule No. 4:

- 1) Base Hookup Fee: \$1,500
- 2) Uncollected Availability Charge
In the event any customer fails to pay the Availability Charge as required by Schedule No. 1 . . .

Proposed Rules and Regulations Governing the Rendering of Service

Included with the Company’s Application are proposed Rules and Regulations governing the rendering of service. The following subject areas are addressed in the Rules and Regulations: Application for Service; Service Connection; Meters; Bills; Discontinuance of Service; Customer Deposits; Service for Construction Purposes; Application and Rules Are Contract; Fire Protection; and Miscellaneous.

In Order No. 30571, Teton Springs was directed to adopt and implement the Commission’s Customer Relations Rules (IDAPA 31.21.01.000 *et seq.*), Utility Customer Information Rules (IDAPA 31.21.02.000 *et seq.*), and an accounting system consistent with the information required by the Commission’s annual report for small water companies (*Idaho Code* § 61-405).

REVENUE REQUIREMENT

Teton Springs in its Application proposed an annual revenue requirement of \$298,082. App. Exh. 5, p. 2. Staff calculated a total revenue requirement of \$127,505. Staff Comments, Atch. C. The Company in reply comments proposed an amended revenue requirement of \$259,256. Reply Exh. 10, p. 2. As detailed below, we find it reasonable to approve an annual revenue requirement for Teton Springs of \$146,309.

Test Year

For rate case test year Teton Springs proposes the 12 months ending December 31, 2007, adjusted for known and measurable changes. App., Crowley, p. 3. Staff accepts a 2007

test year. Staff Comments, p. 2. We find the proposed use of a 2007 test year adjusted for known and measurable changes to be reasonable for the purposes of this case.

Rate Base

Commission Staff proposes a rate base of \$59,194 for Teton Springs. Staff Comments, pp. 2-5; Atch. B. The Company in reply/rebuttal proposes a rate base of \$75,350. Rebuttal Exh. 10, p. 2. As detailed below, the comparable rate base we find reasonable to approve (total rate base less accumulated depreciation) is \$57,763.

The \$16,157 difference between Company and Staff proposed rate base (total rate base minus accumulated depreciation) is the difference in the “working capital allowance.” Both parties agree that an acceptable formula for calculating a working capital allowance is “1/8 of total operating expenses (O&M).” The difference in Staff’s operating expense (\$118,461 – Staff Comments, Atch. A.) and the Company’s operating expense (\$247,714 – Teton Springs Rebuttal Exh. 10, p. 1) proposals are \$129,254. One-eighth of that difference is \$16,157.

Commission Findings:

The Commission finds it reasonable to include a working capital allowance as an addition to rate base and to use one-eighth of the Company’s annual operating and maintenance expenses as the working capital amount. Except for the working capital allowance portion of rate base, which is the arithmetic calculation based on one-eighth of the total Commission-approved operating expense, there is no dispute in rate base proposed by Staff and the Company. As detailed below, the total operating expense we find reasonable to approve for the Company is \$107,027. The calculated working capital allowance for rate base is \$13,378. The total rate base adjusted for depreciation we approve is \$57,763. Order No. 30718, Appendix, pp. 1-4.

Return on Rate Base/ Gross-Up Multiplier (Tax)

Teton Springs and Staff both recommend a 12% return on rate base. Teton Springs Reply p. 2; Staff Comments p. 5.

Commission Findings:

The Commission has allowed other small water utilities a 12% rate of return and finds a 12% return on rate base to be fair and reasonable for Teton Springs. Staff contends, and we agree, that the calculated return on rate base must be grossed-up for tax purposes in the calculation of the revenue requirement. Staff Comments p. 5; Atch. C. The Company accepts Staff’s Attachment C gross-up multiplier. Reply p. 2. We utilize the same gross-up multiplier

(Order No. 30718, Appendix, pp. 1-4) and calculate a revenue requirement for return on rate base of \$6,932. (Order No. 30718, Appendix, pp. 1-4.)

Expenses

In its Application, the Company proposed total annual expenses of \$285,166. App. Exh. 5, p. 2. Staff recommends total annual expenses of \$118,461. Staff Comments p. 5, Atch. A. The Company in reply accepts a number of Staff's adjustments, opposes all others, (including Staff adjustments for non-recurring legal and engineering fees and for rate case expense) and recommends an amended annual expense amount of \$247, 714. Exh. 10, p. 1. The difference in Staff and Company recommended expense amounts is \$129,254. (Exh. 10, p. 1.) Included in the difference is Staff's rejection of the Company's proposal to recover \$89,140 per year for amortization of contributed capital.

Commission Findings:

As detailed below, we find it reasonable to approve for Teton Springs total annual expenses in the amount of \$137,483. (Order No. 30718, Appendix, pp. 1-4.)

Disputed Adjustments:

Legal Fees (Contract Services – Professional)

Staff

Staff removed \$24,640 in professional legal services performed in the 2007 test year. Staff reviewed all the legal invoices for these services and concluded that most of the legal fees included by the Company were incurred for matters that were either not related to the ongoing operation of the water company or were of a non-recurring nature, e.g., fees related to the creation of a water district that was ultimately abandoned; and fees related to an action against the City of Driggs. Staff Comments p. 6. Staff's adjusted amount for annual legal expense is \$1,332.

Teton Springs

In reply/rebuttal, the Company proposes annual legal expenses of \$14,442. Exh. 10, p. 1; Rebuttal Workpapers; Reply p. 16. The Company contends the \$24,640 in legal fees removed by Staff, it states, were incurred by the Company in response to its normal business requirements, including preparation of its Application for a Commission Certificate. In Pinardi's Affidavit, the Company comments on the current economic times and anticipates limited customer growth, or possibly a decline in the number of active customers, in the immediate

future. Given these circumstances, Pinardi contends it is likely that the Company will be required to incur legal expenses to collect delinquent customer accounts and possibly represent its interests in foreclosure or bankruptcy proceedings. Staff's recommended allowance for ongoing legal expenses of \$1,332, Mr. Pinardi states, would provide for less than seven hours of legal services. Pinardi Affidavit p. 3. In a supplemental affidavit, Mr. Pinardi states he has been advised of 47 lots located within Teton Springs Resort scheduled for foreclosure in the months of January and February 2009.

In rebuttal, the Company proposes to restore water utility-related legal fees that it expects to incur as annual expense on a regular basis. The Company proposes restoring \$13,090 in legal fees for a total annual legal expense of \$14,442 (\$13,090 + \$1,332). Reply p. 16; Rebuttal Workpapers (\$7,052 directly allocated to water; \$6,038 unallocated/allocated to water).

Commission Findings:

The Company makes a persuasive argument that annual legal services will exceed the \$1,332 proposed by Staff. However, we find the Company's argument is based mostly on speculation. We expect the Company to be judicious in its use of contract professional services. While it is important for the Company to protect its interests in foreclosure, bankruptcy and collection matters, those types of services are rather routine and formulaic and should not require time amounting to \$14,442. We find it reasonable to approve \$3,000 for annual legal expense.

Engineering Fees (Contract Services – Professional)

Teton Springs

Total engineering expenses included by the Company in its Application were \$8,672. These fees (of the engineering firm CH₂M Hill), the Company contends, covered the work required to classify the water and sewer assets of the Company.

Staff

Staff contends that the engineering activities described in an engineering statement provided to Staff “. . . represents work completed over the last year; include updates to the rate model to accommodate the ‘availability fee’; define billing units by customer class; and project revised operating requirements of the system” that do not appear to be of a recurring nature, but are instead rate case expenses. Staff Comments p. 6. Staff excludes all \$8,672 from the annual expenses. Staff Comments, Atch. A.

On rebuttal, the Company states that it inadvertently allocated all the engineering fees to the water utility rather than splitting the fees between the water and sewer operations. The Company proposes that one-half of these expenses be allocated to Teton Springs (\$4,336) and that these fees be included as part of the Company's rate case application expense. Crowley Affidavit, p. 2.

Commission Findings:

The Commission finds the \$4,336 in engineering expense requested by the Company is not an annual expense but, on the facts of this case, is a reasonable rate case expense. As detailed and discussed below, we add the engineering expense amount to rate case expense and amortize it over five years.

Rate Case Expense

Teton Springs in its Application identified \$35,000 in rate case expense, an amount the Company increased to \$45,461 in reply comments. Staff in its comments and oral argument expressed its opposition to the Company's "amortization of contributed capital" proposal, stated its opposition to recovery of costs for developing and advancing such a proposal, expressed its belief that the amount requested was excessive for a company of this size and proposed the complete disallowance of rate case related expenses. Staff Comments pp. 6-7; Atch. A; Tr. pp. 28-29. The Commission for reasons discussed below disagrees with Staff and finds it reasonable to approve total rate case expense of \$49,797 amortized over five years. Order No. 30718, Appendix, pp. 1-4.

Teton Springs

Teton Springs in its Application stated it had incurred a total of \$35,000 in rate case expense and proposed amortizing the sum over a three-year period (\$11,667 per year). Exh. 6, p. 8; Exh. 7, pp. 1, 8 (Adj. 7). The Company in reply/rebuttal claims total rate case expense of \$45,461, with a three-year amortization of \$15,154 per year. TTS Rebuttal Workpapers. The Company contends that Staff's disallowance of rate case expense is unreasonable and unprecedented. Reply p. 13. The Commission, the Company contends, has never conditioned recovery on whether positions taken by the utility were meritorious. Reply p. 14. Further, the Company's advocacy on the amortization of contributed capital issue, it contends, was only a small part of the effort required to assemble and present its rate case. Reply p. 14.

Commission Findings:

The Commission finds the Company's argument persuasive and Staff's total disallowance unreasonable. While the rate case expense claimed by Teton Springs is large for a company of its size, we find that the magnitude of expenses incurred was related to the accounting, engineering and legal services required to organize and establish appropriate accounting protocols and to separate its regulated water from its unregulated sewer operations. Much of this expense we find to be a singular occurrence. The effort put into this case by the Company we find benefitted the Commission in its analysis, Staff in its audit, and as a result the Company and its customers. Adding engineering expense from above to the \$45,461 in rate case expense requested by the Company on rebuttal, we find it reasonable to allow the Company to recover total rate case expense of \$49,797 amortized over a five-year period, i.e., \$9,959 per year. Order No. 30718, Appendix, pp. 1-4. Our expectation is that future rate case expense will be much less because of the foundation established in this case.

Amortization of Contributed Capital

Teton Springs proposes an annual expense for amortization of contributed capital (\$89,140) to provide financial stability and to establish a fund that would enable the Company to quickly make emergency system repairs. Staff opposes the Company's request contending that the Company is asking customers to pay a second time for plant-in-service that was contributed by customers and recovered by the developer in the sale of resort lots. For reasons detailed below, we decline to accept the Company's proposal and methodology but find it reasonable to approve the establishment of an emergency reserve fund.

Teton Springs

The Company calculates and recommends recovery of an annual amortization of contributed capital amount of \$89,140 per year for its total installed water system. This amount represents the annual depreciation of water system investment that would accrue if the investment (\$3.1 million in water infrastructure) were included in rate base. App. Crowley, p. 8; see Rebuttal Workpapers. The Company does not contest that almost the entirety of its plant-in-service is contributed. The Company also concedes that its proposal differs from prior Commission precedent. Reply p. 4. The Company contends that a different form of rate of return regulation should apply in instances of utilities that finance themselves not with investor-supplied capital but with capital provided by customers or developers, i.e., contributed capital

utilities. Reply pp. 5-6. Because contributed capital utilities have little or no annual depreciation expense, they are in effect allowed only to recover their annual operating expense and not much more. Teton Springs contends that this result leads to the creation of utilities that are continually under-capitalized and perpetually teetering on the brink of non-viability. Teton Springs Reply p. 6.

What Teton Springs proposes, it states, is a modification to strict rate of return regulation that would allow an annual amortization expense of contributed capital. Much like depreciation expense of investor-supplied capital, this revenue would provide a source of funds aimed at both providing financial stability and providing an ability to respond to contingencies such as unexpected and necessary repairs or improvements. Reply pp. 6-7. Although its water system is only five years old, the Company argues that need for repairs still arises. In a four-month period from December 2006 through March 2007 the Company incurred \$24,944 in repair expense. Pinaridi Supplemental p. 9. To guard against misuse, Teton Springs proposes to treat revenues generated by the amortization expense much like a depreciation reserve account. *Idaho Code* § 61-525 (Depreciation Account). Reply p. 7. Revenues and expenses associated with such an account would be subject to Commission oversight, Staff audit, and Commission adjustment. Reply p. 7. The proposed annual expense amount, the Company states, is not arbitrary but is tied to the standard depreciation lives of the various categories of plant-in-service. Reply p. 7.

Teton Springs contends its proposal is an alternative to the practice of granting emergency surcharges when unexpected needs arise. Reply p. 7. The proposal is not dissimilar to a “sinking fund,” – an amount of money or fund, set aside and dedicated solely for system repairs, improvements and contingencies. Reply p. 9. The Company argues that its proposal entails less regulatory intervention while preserving accountability, assuring maintenance of adequate service to customers and maintaining a reliable and consistent revenue stream that should allow the Company to remain a financially viable service provider. Reply p. 8.

Staff

Staff is opposed to the Company being allowed to recover any depreciation/amortization on the initial investment costs of the water system. Staff Comments p. 3. The Commission has consistently held that a developer’s capital investments in a water system are considered contributed capital and are not to be included in rate base. IDAPA

31.36.01.103 (Presumption of Contributed Capital). Staff Comments p. 4. If the initial capital investment is considered contributed capital, and is not included in rate base, Staff contends the cost should not be recaptured by the collection of a depreciation/amortization expense included in rates. Staff Comments p. 4.

The Company, Staff notes, has not identified any specific water system need that would necessitate the collection of this additional \$89,140 in customer rates. If there is a need in the future that would require additional funding, Staff contends that the Company at that time should petition the Commission with a specific request associated with those expenditures. Staff Comments p. 4. The Company by way of rebuttal states that a public drinking water system is obligated to provide continuous service and does not have the luxury of waiting to make system repairs while an emergency surcharge application is processed. Pinaridi Supplemental p. 10.

Commission Findings:

While the Company has not persuaded us that it should be permitted to depart from precedent and recover depreciation/amortization on contributed capital, the Company raises an under-capitalization issue that is common to many small water companies. This issue arises when small water systems are developed using lot sales to recover water system infrastructure costs. Recovering the costs of water system infrastructure from the sale of lots (contributed capital), the utility has no plant-in-service investment that qualifies for rate base treatment. With no allowed return, a small water utility has no earnings to tap for emergencies. In times of emergency, it is relegated to accessing the financial market at perhaps inopportune times and then is required to make application to the Commission to secure approval for a surcharge and a dedicated revenue stream for lender security. We find this situation presents challenges to a small water utility's economic viability and often compromises its capability to satisfy its statutory duty to maintain adequate service. *Idaho Code* § 61-302.

We address this identified and acknowledged under-capitalization dilemma for Teton Springs by authorizing in this case the establishment of an emergency reserve fund. We also establish what we find to be necessary emergency reserve fund parameters. The reserve fund is to be used only for emergencies and major unplanned capital expenditures (plant repair, maintenance and replacement). It is not intended to be a mechanism to fund capital expenditures that should have been planned. It can be used only for capital expenditures greater than 10% of the Company's annual revenue requirement. While the Company in emergencies may have

immediate access to the fund, it will be required to establish an auditable paper trail and provide the Commission with contemporaneous written notice of the Company's use of the fund for an allegedly permitted purpose with emergency details and related invoices. The eligibility determination of specific withdrawals will be determined by the Commission in after-the-fact applications by the Company for Commission approval. The reserve fund corpus will be funded as part of the Company's annual non-O&M expense revenue requirement in the amount equivalent to 5% of the Company's otherwise determined total revenue requirement. In this case, we calculate and authorize the Company to accrue annual emergency reserve funding in the amount of \$6,967. The fund is to be separately accounted for in accordance with Commission-approved accounting principles and may accumulate over years to an amount approximating, but not exceeding without express Commission approval, the Company's active authorized annual revenue requirement.

Annual Regulatory Expenses

Teton Springs

The Company in reply/rebuttal recommends recovery of an additional annual allowance for ongoing regulatory expenses – estimated to be approximately \$2,500 per year. Crowley Affidavit p. 3. These costs, it states, will include the Company's auditor expenses for preparation of the annual report, other expenses associated with customer issues, additional legal fees and time required to respond to Commission reporting requirements. Reply p. 16.

Staff

The Company's request was not part of its original Application and as a result was not addressed by Staff in its comments.

Commission Findings:

In this case, the Commission finds that the Company requested and was authorized an annual expense amount of \$31,000 for "other contract services." Order No. 30718, Appendix, pp. 1-4. There was no accounting breakdown of the services included. The services the Company requests on rebuttal for additional recompense are of a general regulatory nature that are part and parcel of operating as a regulated water company. We do not dispute that the identified services must be performed and that there are related costs. We are simply not persuaded that the related expense recovery has not already been provided to the Company in other expense categories. We find it reasonable to deny the Company's request.

Metering Expense

Staff

The first 50 residential homes connected to the TTS water system and all commercial customers are unmetered. For better system management and future rate design, Staff recommends that the Company install customer meters for all new connections and also install meters in previously connected service lines without meters. Staff Comments p. 12. No expense adjustment for meter installation was identified by Staff or included in its recommendation.

Teton Springs

Teton Springs estimates the cost of installing meters for all service lines previously connected to be \$37,000. Jon Pinarði Affidavit p. 2; Reply p. 13. It is a fundamental principle of public utility law, the Company states, that a private company cannot be compelled to devote property to public service or incur expense without adequate compensation. Any attempt to compel investments or expenses without compensation constitutes an impermissible taking. [Citing *Hayden Pines*, 122 Idaho 356, 834 P.2d 873 (1992) – Court held that requiring a company to employ an accountant without providing a funding source constituted a “taking.”] Teton Springs recommends that the Commission reject Staff’s recommendation.

The Company contends that if Staff recommendations in this case are accepted, it will not have adequate cash flow to fund such a metering project and may be unable to obtain funds from a commercial lender. Pinarði Affidavit p. 2.

Commission Findings:

Apart from cost recovery concerns, the Company rebuttal presents no reason to not complete the metering of its customer base. The Company did not ask that it be permitted to recover its estimated costs, it only requested to be excused from completing the metering. On the facts of this case, the Commission finds it reasonable that the Company be required to meter all previously connected service lines without meters. The Company estimates the cost to meter to be \$37,000. We find that metering should occur and direct the Company to submit an implementation plan and financing proposal.

Meter Reading Expense

Staff

Teton Springs does not have consumption data from metered customers that would permit calculation of a metered rate. Staff Comments p. 11. The Company indicated to Staff

that after it has monitored consumption for a period of time, it intends to apply to the Commission for authority to convert rates from flat to metered. Staff Comments pp. 11-12. Staff recommends that the Company regularly read and record the flow from production of all wells and customer meters. Staff Comments pp. 10, 15, 22. No expense adjustment for meter reading was identified by Staff or included in its recommendation.

In addition, Staff notes that there is also one special three-inch service line with a two-inch meter serving the Quickwater Ranch property which is not part of the resort. The Company has an agreement with Quickwater Ranch to receive free water in exchange for use of its property for the installation of the storage reservoir and for the mainline from the reservoir to the Company's main and distribution system. Staff believes the allowance for water provided to Quickwater Ranch is generally equivalent to a lease payment. Staff recommends that the Company record on its books all metered water provided to Quickwater Ranch.

Teton Springs

Teton Springs calculates the annual cost of reading meters four times per year using its current operating contractor to be \$9,333. (200 homes @ 10 minutes/home x 4 readings/year = 8,000 minutes = 133 hours @ \$70/hour = \$9,310.) Rebuttal Workpapers; Pinardi Affidavit p. 2.

Commission Findings:

Staff recommends that the Company read and record all well production flow and customer meters. The Company in reply/rebuttal includes \$9,333 for the annual cost of meter reading. We find that the number of meters that need to be read to facilitate "Monitored Consumption" consists of only 10 meters, i.e., Quickwater Ranch, the two production wells, the two multi-family units and the five commercial customers with 2-inch, 3-inch, 4-inch and 6-inch services. We find it reasonable to reduce the Company's expense proposal by the proportionate reduction in required metered readings, and authorize an annual meter reading expense in the amount of \$466 (\$9,333/20). We also accept as reasonable Staff's recommendation to treat water provided to the Quickwater Ranch as a lease payment for the use of Ranch property for reservoir and mainline easements. The Company is directed to record on its books as a separate accounting entry all metered water provided to Quickwater Ranch.

Based upon the record developed in this case, the Commission finds the undisputed expense adjustments to the test year to be reasonable and resolves the disputed adjustments as set

forth above. As reflected and set out in the Appendix to this Order, the total operating expense used for calculating the working capital allowance included in rate base is \$107,027. The total annual expense we approve is \$137,483. The total annual revenue requirement we approve as just and reasonable is shown in the Appendix to this Order and is \$146,309.

RATE DESIGN

The interim rates approved by the Commission in Order No. 30571 are \$240 per quarter for residential single-family, \$80 per quarter for multi-family unit customers and \$240 per quarter for commercial customers. The present Teton Springs customer base is only approximately one-third of expected total customer build-out. The Company proposes to recover the revenue requirement in this case by spreading costs over active customers with developed lots and by assessing an “availability charge” against owners of undeveloped lots otherwise eligible for service. Also subject to the availability charge under the Company’s proposal would be all seasonal disconnects. Staff objects to the Company’s proposed availability charge for undeveloped lots and calculates a tariff flat rate based on size of service lines. For reasons detailed below, we find it reasonable to reject the Company availability charge proposal and approve flat rates based on size of service. In addressing the revenue consequences of seasonal disconnects approved elsewhere in this Order, we approve a reconnect charge for seasonal customers.

Teton Springs

Both the Company and Staff’s recommended rate designs for recurring quarterly rates are based upon their respective annual revenue requirements. The Company proposes to recover its revenue requirement by spreading the costs across both active customers and owners with undeveloped lots. The tariffs proposed by the Company for active customers are as follows:

Active Customers – flat rate service:
Residential \$150 per quarter
Commercial \$450 per quarter
Multi-family \$150 per quarter

The Company defines active customers as those who have built permanent structures on their lots, who are physically connected to the system and who are actively taking water service from the Company.

The Company is also proposing another class of customers for rate design who would be subject to an “availability charge.” The charge would be applicable to unimproved residential and commercial lots within the Teton Springs Resort community that can be connected to the Company’s water system but which have not yet been connected to the system. The availability charge would not be applicable to multi-family unit buildings.

Availability Charge:

Residential Lots \$75 per quarter

Commercial Lots \$225 per quarter

In proposing an availability charge, the Company notes that the Teton Springs Resort development is only at 35% build-out. The entire main and distribution water system infrastructure for the resort has been constructed. The O&M costs associated with a water system, the Company states, are largely fixed. The Company contends that there is no direct proportionality between the size and operating cost of its system and the number of “active” users. The Company proposes an “availability fee” to be paid by property owners who have not yet built homes so that the full operating cost burden does not fall only on active customers. The Company’s proposal, it states, is one of fairness and equality. Having readily available water service, the Company contends, is a benefit to all lot owners, irrespective of whether or not they are currently receiving water service. Once full or substantially full occupancy of the Teton Springs Resort PUD has been achieved, the Company anticipates that the availability charge can be substantially reduced or eliminated.

Staff

Staff agrees with the reasonableness of the Company’s proposal to use a uniform flat charge for both single-family residential customers and multi-family unit customers. None of the single and multi-family units use water from the Company’s domestic water system for lawn irrigation. Outdoor water is provided by a separate pressurized irrigation system. Staff therefore believes that the water usage in single-family homes and multi-family units is similar. Staff Comments p. 12.

The Company also proposes to apply uniform flat rates for all types of commercial customers regardless of the size of customer supply lines. Staff disagrees with this proposal. Commercial customers are not currently metered and the size of their service lines range from 1-inch to 6 inches. Staff believes that the various sizes of supply lines correspond to different

