

ORIGINAL

Dean J. Miller (ISB No. 1968)
McDevitt & Miller LLP
420 West Bannock Street
P.O. Box 2564-83701
Boise, Idaho 83702
208-343-7500 (T)
208-336-6912 (F)
joe@mcdevitt-miller.com

RECEIVED
FILED

2003 DEC 18 AM 10:10

IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for United Water Idaho Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF UNITED WATER)	Case No. UWI-W-03-1
IDAHO'S TARIFF ADVICE TO INCREASE)	
CUSTOMER RATES TO RECOVER THE CITY)	MOTION TO ALTER ORDER NO.
OF BOISE'S 4% FRANCHISE FEE)	29359 AND TO GRANT OTHER
_____)	RELIEF

Pursuant to Idaho Code 61-624 United Water Idaho Inc., (United) respectfully requests that the Commission enter its order altering Order No. 29359, and in support therefore shows as follows, to wit:

I.

In Order No. 29359 the Commission ordered that "United Water seek a Court Decision to determine whether the City's Ordinance No. 56234 and the 1% franchise fee increase are legally valid." (Order, Pg. 13).

II.

On December 16, 2003 the City of Boise adopted Resolution No. 17959, the effect of which is to eliminate the 4% franchise fee adopted by Resolution No. 17692 by repealing said Resolution and to re-set the franchise fee at 3%. A true copy of Resolution No. 17959 is attached hereto as Exhibit A.

III.

The requirement of Order No. 29359, set forth above, has become moot by the adoption of Boise City Resolution No. 17959. An issue is moot if it “presents no justiciable controversy and a judicial determination will have no practical effect upon the outcome.” *Goodson v. Nez Perce County Board of County Commissioners*, 133 Idaho 851 (1999). Because the 4% fee has been rescinded a judicial determination as to its validity would have no practical effect on the outcome.

IV.

Commencing October 1, 2003 United collected from its customers revenues based on the 4% franchise fee. The amount collected representing the difference between a 3% fee and a 4% fee is approximately Fifty Thousand Dollars (\$50,000.00). Those funds have been held in suspense, either by United or the City, pending resolution of this matter.

V.

United is prepared to return those funds to its customers in the form of a bill credit against future franchise fee collections and requests an Order permitting it to do so. United estimates that the average refund per customer will be less than one dollar. The cost of preparing and delivering physical checks would be greater than the amount of the refund; accordingly refund by bill credit is appropriate.

VI.

United has prepared, and submits herewith, a new Tariff Schedule No. 8 allowing for the collection of a 3% franchise fee collection from customers residing within the City of Boise. United requests that the same be accepted for filing with an effective date of December 17, 2003. A true copy is attached as Exhibit B.

WHEREFORE, United respectfully requests that the Commission enter its order:

1. Eliminating from Order No. 29359 the requirement that United seek a court determination;
2. Approving refunds to customers by way of bill credits against future franchise fee collections; and
3. Accepting for filing the attached Tariff Schedule No. 8.

Respectfully submitted this 18th day of December, 2003.

UNITED WATER IDAHO INC.



Dean J. Miller
Attorney for United Water Idaho Inc.

RESOLUTION 17959

BY THE COUNCIL:

BISTERFELDT, FORNEY, JORDAN, MAPP,
MASON AND SHEALY

A RESOLUTION REPEALING BOISE CITY RESOLUTION NO. 17692 WHICH PROVIDED FOR AN INCREASE OF THE UNITED WATER IDAHO FRANCHISE FEE FROM 3% TO 4%; AFFIRMING THAT THE FRANCHISE FEE RATE SET FORTH IN THE UNITED WATER FRANCHISE AGREEMENT REMAIN AT 3%; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 22, 2003, pursuant to Resolution No. 17692, the Boise City Council authorized an increase to the United Water Franchise Fee from 3% to 4%; and

WHEREAS, the fee increase was accepted by United Water and became effective October 1, 2003 but no collected funds have been remitted to Boise City; and

WHEREAS, on November 3, 2003 the Idaho Public Utilities Commission required United Water to obtain judicial approval of the fee increase; and

WHEREAS, the City of Boise and United Water have determined the potential costs associated with continuing to collect the franchise fee increase warrant the repeal of the fee increase.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:

Section 1. That the Resolution No. 17692, approved by the Boise City Council on July 22, 2003, is hereby repealed.

Section 2. That the franchise fee rate established and set forth in the United Water Franchise Agreement approved by Ordinance No. 5623 remain at 3%.

Section 3. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

ADOPTED by the Council of the City of Boise City, Idaho, this 16th day of _____
December, 2003.

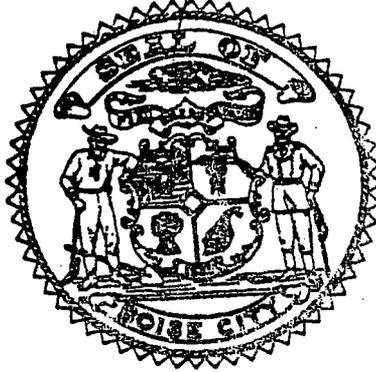
APPROVED by the Mayor of the City of Boise City, this 16th day of
December, 2003.

ATTEST:

Annette P. Mooney
CITY CLERK

APPROVED:

Lawrence S. Payne
MAYOR



UNITED WATER IDAHO INC.

SCHEDULE NO. 8
MUNICIPAL FRANCHISE FEES

Purpose:

The purpose of this schedule is to set forth the charges such as license, franchise, business occupation, operating, excise, use of street taxes or other charges that are imposed on the Company by municipal corporations and billed separately by the Company to its Customers within the corporate limits of a municipality.

Applicability:

This schedule is applicable to the gross operating revenues received by the Company from the sale of water and water services within the corporate limits of the city.

Rate:

The rates and charges for the sale of water and water services provided under the Company's schedules will be proportionately increased by the following charge within the municipality on and after the effective date of the applicable municipal ordinance. The charges will be shown as a separate item on the customer's billing.

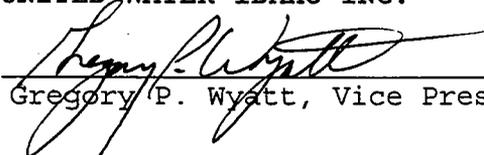
<u>Municipality</u>	<u>Ordinance No.</u>	<u>Effective Date</u>	<u>Charge</u>
City of Boise	5623	December 17, 2003	3.0%
City of Eagle	414	May 15, 2003	1.0%

Issued:

Effective:

Issued by: UNITED WATER IDAHO INC.

By:


 Gregory P. Wyatt, Vice President