

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

FROM: DONOVAN E. WALKER

DATE: JANUARY 13, 2005

**SUBJECT: APPLICATION OF UNITED WATER IDAHO INC. FOR AUTHORITY
TO INCREASE ITS RATES AND CHARGES FOR WATER SERVICE IN
THE STATE OF IDAHO – CASE NO. UWI-W-04-4 – PETITIONS TO
INTERVENE**

On November 30, 2004, United Water Idaho Inc. filed an Application with the Commission for authority to increase its rates and charges for water service in the State of Idaho. On December 2, 2004, the Commission issued a Notice of Application, suspended the requested effective date, and established December 22, 2004 as the deadline for Petitions to Intervene. Order No. 29654. The Commission received timely petitions to intervene from five potential parties. The Commission also received a timely response/objection to the intervention petitions from United Water. One party, Idaho Rivers United, submitted a reply to United Water's response.

PETITIONS TO INTERVENE

City of Boise

The City of Boise filed a Petition to Intervene on December 17, 2004. The City states it is a large municipal water user that receives service from United Water, and that this proceeding could have significant impacts on the rates paid by the City. The City further states without the opportunity to intervene, it would be unable to participate. The nature and quality of evidence the City will introduce depends on the nature and effect of other evidence in this proceeding.

Community Action Partnership Association of Idaho

The Community Action Partnership Association of Idaho (CAPAI) filed a Petition to Intervene on December 22, 2004. CAPAI states its members have a direct and substantial

interest in this proceeding in their fight against the causes and conditions of poverty. CAPAI submits that its involvement and participation in this proceeding is essential to a full and meaningful consideration of United Water's proposal to consider and discuss a low-income assistance program.

Idaho Rivers United

Idaho Rivers United (IRU) filed a Petition to Intervene on December 22, 2004. IRU states that its mission is to protect Idaho's rivers and advocate for the conservation of Idaho's water resources, and that many of its members are residential customers of United Water. IRU states its direct and substantial interest as ensuring that customers have viable options to conserve water and take shelter from the requested rate increases, and ensuring that United Water provides efficient services at the lowest possible costs.

Scott L. Campbell

Scott L. Campbell filed a Petition to Intervene on December 22, 2004, "in his individual capacity and on behalf [of] all residential rate payers of United Water Idaho, Inc." *Petition of Scott L. Campbell*, p. 1. Mr. Campbell further states he resides in the City of Boise, is a United Water ratepayer, and receives water service from and pays charges to United Water. His Petition states United Water is not entitled to a rate increase, and the Commission should decrease United Water's rates.

Sharon Ullman

Sharon Ullman filed a Petition to Intervene on December 22, 2004. Her Petition states she is a United Water ratepayer, she has been an intervenor in previous United Water rate cases, she has a broad knowledge of various related and relevant community issues, such as growth and taxes, that has proven to have a direct and positive impact for United Water's ratepayers in prior rate cases, and granting her Petition will not unduly broaden the issues in this case.

United Water's Response to Petitions

United Water does not object to the Petitions of the City of Boise and CAPAI. United Water states if Idaho Rivers United's Petition is granted that its participation should be limited to the issues involving United Water's conservation policies and practices. United Water objects to the Petitions of Sharon Ullman and Scott L. Campbell.

With regard to Ms. Ullman, the Company states her petition alleges that her claim of direct and substantial interest is based on her status as an individual ratepayer, and not as an

authorized representative of some larger group or sub-set of ratepayers. The Company states a “direct and substantial interest” implies some interest over and above a person’s status as a ratepayer, particularly when the interests of the residential class are adequately represented by Staff.

With regard to Mr. Campbell, United Water states the same objection to his claim of a direct and substantial interest based upon his status as an individual ratepayer. Additionally, the Company states Mr. Campbell’s assertion that he is acting on behalf of all residential ratepayers is not accompanied by any evidence he is authorized to do so or any identifiable group of customers has requested his representation.

United Water suggests a party’s level of participation be calibrated by that person’s demonstrated degree of interest in the proceeding. The Company points out that persons desiring to communicate their view to the Commission, but whose degree of interest does not rise to the level of “direct and substantial” may be designated as public witnesses pursuant to IDAPA 31.01.01.076. Additionally, persons who desire to monitor the proceeding by receiving copies of pleadings and papers may ask to be included on the Commission’s interested parties list pursuant to IDAPA 31.01.01.039.

Idaho Rivers United’s Reply

IRU is the only party to file a reply to United Water’s response/objection. IRU, while not objecting to limited intervention, states United Water’s suggestion to limit their participation is too narrow, and it intends to participate in this proceeding with regard to United Water’s rate design proposals as well as the Company’s conservation practices and policies, including its funding and execution of conservation programs.

DISCUSSION

Persons not original parties to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the Commission granting intervention to become a party. IDAPA 31.01.01.071. The petition must concisely state the direct and substantial interest of the petitioner in the proceeding. IDAPA 31.01.01.072. If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the Commission or the presiding officer will grant intervention, subject to reasonable conditions. IDAPA 31.01.01.074. If it later appears that an intervenor has no direct or substantial interest in the proceeding, or that the intervention is not in the public interest, the

Commission may dismiss the intervenor from the proceeding. *Id.* Any party opposing a petition to intervene must do so by motion in opposition. IDAPA 31.01.01.075. The party answering to or responding to the motion will have fourteen days from the time of filing of the last motion in which to respond. IDAPA 31.01.01.256.

All parties filed timely Petitions to Intervene by December 22, 2004. United Water filed a timely objection to the Petitions of Sharon Ullman, Scott L. Campbell, and Idaho Rivers United by December 29, 2004. The only party to reply to United Water's response was Idaho Rivers United.

COMMISSION DECISION

For each of the Petitions for Intervention: City of Boise; Community Action Partnership Association of Idaho; Idaho Rivers United, Scott L. Campbell; and Sharon Ullman, does the Commission wish to grant or deny the Petition to Intervene?

If a Petition is granted, does the Commission wish to impose any conditions or limitations at this time?

Donovan E. Walker

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