

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF UNITED WATER IDAHO INC. TO)	CASE NO. UWI-W-07-02
AMEND AND REVISE CERTIFICATE OF)	
CONVENIENCE AND NECESSITY NO. 143)	ORDER NO. 30445
)	

On January 31, 2007, United Water Idaho Inc. (United Water; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting authority to amend and revise its Certificate of Public Convenience and Necessity No. 143, as amended, to include an area in Ada County, Idaho identified as Lanewood Estates (Lanewood). *Idaho Code* § 61-526; IDAPA 31.01.01.112. The proposed Lanewood Estates development lies adjacent to the City of Eagle, north of Floating Feather Road, south of Beacon Light Road and west of north Linder Road in Ada County in an area more particularly described as a 190-acre parcel of land located in the East 1/2 of Section 2, Township 4 North, Range 1 West, Boise-Meridian Ada County, Idaho. The Application of the Company includes a complete legal description and a map of the Lanewood Estates area. The Commission in this Order approves the Company's Application to amend its certificated area of service and authorizes the Company to provide water service to Lanewood Estates.

PROCEDURAL BACKGROUND

On February 9, 2007, the Commission issued a Notice of Application in Case No. UWI-W-07-02 and established a deadline for comments. On March 1, 2007, the City of Eagle filed letter comments with the Commission apprising the Commission of the City's intent to serve Lanewood Estates, objecting to United Water's Certificate Application and requesting a hearing.

Pursuant to Commission Notice, a prehearing conference in Case No. UWI-W-07-02 was held in Boise on March 22, 2007. This matter was originally set for hearing on May 24, 2007. As reflected in the transcript of proceedings on that date, the City of Eagle and Capital Development requested "that the Commission stay this matter and notice it for a hearing after [the Commission's] first available date occurring after August 24, 2007." Tr. p. 9. On August 30, 2007, the Commission issued Notice of Additional Scheduling and Second Notice of

Hearing. The Commission established a September 17, 2007, simultaneous prefile date for supplemental testimony (i.e., changes that have occurred subsequent to May 24, 2007). The Commission also established a September 24, 2007 public hearing date.

On September 13, 2007, the City of Eagle filed a Motion with the Commission requesting that the September 17, 2007 prefile date and the September 24, 2007 hearing date be vacated. On September 14, 2007, initial replies were filed by United Water and Capital Development.

On September 19, 2007, the Commission in Order No. 30432 established a September 19, 2007 reply deadline to the City of Eagle's Motion to Vacate Hearing and set the matter for oral argument on September 24, 2007 immediately preceding the scheduled hearing. In its Order the Commission, finding that United Water, Capital Development and the City of Eagle had all filed supplemental testimony on September 17, 2007 pursuant to the Commission's prior Notice of Scheduling, determined that portion of the City's Motion to Vacate to be moot.

ORAL ARGUMENT, HEARING AND COMMISSION FINDINGS

On September 24, 2007, oral argument on the City of Eagle's Motion to Vacate Hearing was heard and then followed by a public hearing. The following parties appeared by and through their respective counsel of record:

United Water Idaho Inc.	Dean J. Miller
City of Eagle	Bruce M. Smith Susan E. Buxton
Capital Development, Inc.	Robert B. Burns
Commission Staff	Scott D. Woodbury

The Commission has reviewed the filings of record in Case No. UWI-W-07-02 including the City of Eagle's Motion to Vacate, and the initial and additional reply comments of Capital Development and United Water. The Commission has also reviewed and considered the prefiled testimony and exhibits of the parties and those additional exhibits and amendments submitted at hearing. The Commission has further considered the arguments and statements of the parties and the cross-examination testimony of witnesses. We base our decision on the established record, Title 61 of the Idaho Code, and the Commission's related Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

Motion to Vacate – City of Eagle

The Commission at the conclusion of oral argument on September 24, 2007, found the City's Motion to Vacate arguments to be unpersuasive in light of the Commission's responsibilities and found it reasonable to proceed to hearing. Our responsibility is to determine whether United Water is fit, willing and able to serve the requested area and whether the public interest is served by requiring it to do so. As we indicated at the conclusion of oral argument – this Commission will not adjudicate rights of the parties under the May 23, 2007 City of Eagle/Capital Development, Inc. Annexation and Cooperation Agreement; will not determine whether the City has water rights to serve Lanewood; and will not determine the City's right to serve a particular geographic area.

Hearing

In considering the Application of United Water for an expansion of its authorized service territory to serve Lanewood Estates, the Commission has reviewed the statutory requirements of *Idaho Code* § 61-526 (Certificate of Convenience and Necessity), *Idaho Code* § 61-528 (Certificate of Convenience and Necessity – Conditions) and the Commission's related Rules of Procedure, Rule 112 (Application for Certificates of Convenience and Necessity – Form and Contents – Existing Utility).

The positions of the parties and Commission findings in this case can be summarized as follows:

The Commission is presented in this case with two water providers that desire to serve Lanewood Estates, United Water and the City of Eagle. The record reflects that the proposed Lanewood Estates subdivision lies within the City's designated Area of Impact. Of the two water providers, only one is regulated by this Commission, i.e., United Water. The City of Eagle is a municipal water provider and is not subject to the Commission's jurisdiction. *Idaho Code* § 61-104. We find that United Water has demonstrated that it has the present and immediate ability to serve Lanewood. No party, we find, disputes United Water's capability to provide service to Lanewood.

We find that Capital Development has completed the Ada County approval process for the Lanewood Estates development and has an immediate need for water. Capital Development has requested that United Water provide water service to Lanewood. We find that United Water is able to provide the developer the certainty in water supply and service that it

seeks and is able to meet the timeframe for development requested. We find that United Water has an integrated water system, and adequate sources of supply and water rights to provide safe, reliable and continuous service to Lanewood. We find that Lanewood is contiguous to United Water's existing service territory and integrated water delivery system. United Water witness Scott Rhead estimates that at build-out an additional 380 Lanewood customers using alternate irrigation would be added to the United Water system. We find that service to Lanewood by United Water will be in the public interest and that service can be provided without adversely affecting the Company's other water customers.

CONCLUSIONS OF LAW

The Commission has jurisdiction over United Water Idaho Inc., a water utility, the issues raised in Case No. UWI-W-07-02 pursuant to the authority granted under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the Motion of the City of Eagle to vacate the September 24, 2007 hearing and to continue proceedings in this case is denied.

IT IS FURTHER ORDERED and the Commission does hereby approve United Water's Application to amend its certificated area of service and authorizes the Company to provide water service to Lanewood Estates. The Company is directed to file an amended Certificate No. 143 conforming with the Commission's Order.

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


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 26th
day of September 2007.



PAUL KJELLANDER, PRESIDENT

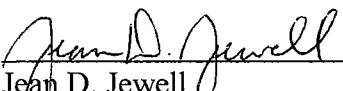


MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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