

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: SCOTT WOODBURY
DON HOWELL

DATE: APRIL 6, 2007

SUBJECT: CAPITAL DEVELOPMENT'S MOTION TO FILE BRIEF IN THE
UNITED WATER – LANEWOOD ESTATES PROCEEDING, CASE NO.
UWI-W-07-02

On April 2, 2007, Capital Development filed a Motion seeking permission to file a brief addressing the relevant legal issues in this case. Capital Development is an intervenor and the developer of Lanewood Estates. On April 3, 2007, United Water filed a "Reply Motion" supporting Capital Development's request to file a brief. United Water stated that the "Commission's consideration of this matter would be aided by Capital Development's analysis of those [legal] issues." On April 6, 2007, the City of Eagle filed a Reply to Capital Development's Motion objecting to the Motion, or in the alternative, requesting that the hearing schedule in this "matter be adjusted so as not to prejudice the City." Reply at 1.

BACKGROUND

In January 2007, United Water filed an Application requesting authority to amend and revise its Certificate of Public Convenience and Necessity to include a new subdivision known as Lanewood Estates. Lanewood Estates lies adjacent to the City of Eagle, north of Floating Feather Road, south of Beacon Light and west of north Linder Road in Ada County. Following the City of Eagle's objection to United Water providing service to Lanewood Estates, the Commission scheduled a prehearing conference that was held on March 22, 2007. On March 26, 2007, the Commission issued a Notice of Hearing scheduling this matter for a public hearing. The Notice also included a schedule that set deadlines for discovery and the filing of testimony

by United Water, the City of Eagle, Staff, and Capital Development. The Notice included the following partial prefilng schedule:

May 4, 2007	Prefile deadline – direct testimony – United Water Idaho/City of Eagle/Capital Development, Inc.
May 11, 2007	Prefile deadline – direct testimony – Commission Staff
May 18, 2007	Prefile deadline – rebuttal testimony – United Water Idaho/City of Eagle

The public hearing in this matter is scheduled for May 24, 2007.

Capital Development desires to lay out “the relevant legal issues” arising from the City of Eagle’s intention to provide “water service to an area outside of the [City] boundaries.” Motion at 2. Procedural Rule 255 provides that “any party may move to file briefs . . .” in any proceeding. IDAPA 31.01.01.255. Capital Development’s counsel indicates that he can file his brief by April 16, 2007.

THE CITY’S OBJECTION

In its reply the City requests that the Commission deny the Motion to File a Legal Brief, or in the alternative, adjust the hearing schedule. The City maintains that at the prehearing conference, the parties agreed on the present schedule because Capital Development indicated that its only filing would be the previously submitted testimony of Ramon Yorgason. The City asserts that the exact legal issues have not been identified and Capital Development has not indicated whether the “legal issues” it seeks to brief may be dispositive. Reply at 1. The City’s agreement with the schedule was based upon the representations that Capital Development and United Water would have no further filings, other than their rebuttal testimonies. Granting the briefing Motion, given the expedited scheduling of this matter and the Trailhead Community case (Case No. UWI-W-06-04), will impair the City’s ability to adequately prepare for both hearings.¹

If the Commission grants the Motion to allow the filing of Capital Development’s legal brief, then the City requests that the hearing schedule in this case be amended. *Id.* at 2. The City is willing to confer with the other parties to modify the schedule as appropriate.

¹ The Lanewood hearing is set for May 24 and the Trailhead hearing is set for May 30, 2007.

COMMISSION DECISION

What does the Commission wish to do about Capital Development's Motion to File a Brief? Does the Commission wish to set the deadline for filing such brief no later than April 16, 2007? Does the Commission wish to adjust the hearing schedule? Anything else?



Scott Woodbury
Don Howell

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