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IDAHO PUBLIC UTILITIES COMMISSION
Chas. F. McDevitt
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September 15, 2008

VIA HAND DELIVERY

Jean Jewell, Secretary
Idaho Public Utilities Commission
472 W. Washington St.
Boise, Idaho 83720

Re: UWI-W-08-01

Dear Ms. Jewell:

Enclosed for filing in the above matter, please find the original and seven (7) copies of United Water's Answer to Petition for Reconsideration.

An additional copy of the documents and this letter is included for return to me with your file stamp thereon.

Very Truly Yours,

McDevitt & Miller LLP



Dean J. Miller

DJM/hh
Encls.

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for United Water Idaho Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

McKAY CONSTRUCTION CO., INC.,
COMPLAINANT
and
SCHMIDT CONSTRUCTION CO., INC.,
COMPLAINANT
vs.
UNITED WATER IDAHO INC.
RESPONDENT

Case No. UWI-W-08-01
**ANSWER TO PETITION FOR
RECONSIDERATION**

COMES NOW United Water Idaho Inc., (“United Water”) and Answers the “Petition for Reconsideration” (“Petition”) of McKay Construction dated September 10, 2008 as follows, to wit:

Argument

As a procedural matter, it may fairly be observed that the Petition fails to comply with the Commission’s procedural Rule 331. Relevant portions of that Rule are:

“Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in the conformity with the law, and a statement of the nature

and quantity of evidence or argument the petitioner will offer if reconsideration is granted.”

“The petition or cross-petition must state whether the petitioner or cross-petitioner requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories.”

As a substantive matter, the Petition does not allege any grounds that should cause the Commission to alter its conclusions contained in Order No. 30624. The Petition relies on an August 22, 2005 letter from United Water to McKay that stated in part, “When you are able to meet the required insurance coverage minimums you will be allowed to perform work on United Water Idaho Projects.” The Petition then states, “We strongly feel that they are not honoring their stated position of placing us back on the approved contractors list at this time.”

As United Water pointed out in its Reply and Motion dated July 31, 2008, McKay in response to the 2005 letter, for a period of almost two and one half years, did not take any steps to up-grade its insurance. It is unreasonable to expect that United Water intended the offer contained in the 2005 letter to live in perpetuity, regardless of a change in circumstances.

In essence, the Petition asserts it would be somehow unfair to relieve United Water of its offer made in 2005. The legal doctrine for such a claim is known as promissory estoppel. Under that doctrine, a promise which is otherwise not supported by consideration may be made enforceable under these circumstances:

The elements of promissory estoppel are as follows: "(1) the detriment suffered in reliance [on the promise] was substantial in an economic sense; (2) substantial loss to the promisee acting in reliance was or should have been foreseeable by the promisor; and (3) the promisee must have acted reasonably in justifiable reliance on the promise as made. *Gillespie v. Mountain Parks Estates* 138 Idaho 27, 59 P.3d 1227 (2002).

Here, the Petition does not allege any facts demonstrating that McKay justifiably relied on the 2005 offer from United Water or that McKay suffered a detriment as a result of that reliance that was substantial in an economic sense. McKay, for example, did not purchase additional equipment or incur other expense in anticipation of inclusion on the approved contractor's list.

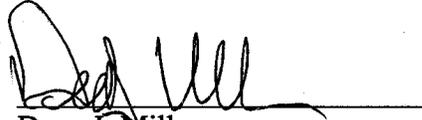
Conclusion

The Petition is procedurally defective and it does not allege any substantive grounds to reconsider Order No. 30624. Accordingly, it should be denied.

DATED this 15 day of September, 2008.

Respectfully submitted,

MCDEVITT & MILLER LLP



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Counsel for United Water Idaho Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2008, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

Jean Jewell, Secretary
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Heather Hule
McDevitt & Miller LLP