

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
 OF UNITED WATER IDAHO INC. FOR) CASE NO. UWI-W-09-01
 AUTHORITY TO INCREASE ITS RATES)
 AND CHARGES IN THE STATE OF IDAHO.) ORDER NO. 31016
)**

On September 3, 2009, United Water Idaho Inc. filed a general rate case Application requesting authority to increase its rates by 15.21%, to be applied equally to all classes of customers.¹ United Water currently provides water service to approximately 83,900 customers in Ada County, Idaho, and has been providing service to the public in Boise City and the surrounding area for more than 100 years. Application at 2. The Company last increased its basic rates and charges in August 2006. Order No. 30104. United Water claims it has made necessary, major capital investments since the last rate case in order to maintain a high level of service to its customers. The Company's Application states that it has invested \$2 million in treatment facilities, more than \$12 million in replacing aging infrastructure, almost \$1.4 million in booster station improvements, and over \$700,000 in auxiliary power generators at various sites throughout the water system. If United Water's Application were approved, the Company's revenues would increase by \$5.6 million annually.² The Company's Application states that the proposed changes in rates and charges would produce a rate of return of 8.49%. *Id.* The Company requested that its proposed new rates become effective October 3, 2009.

On September 17, 2009, the Commission issued a Notice of Application, setting an October 8, 2009, deadline for intervention and Order suspending the Company's proposed October 3, 2009, effective date for new rates. Order No. 30901. Community Action Partnership Association of Idaho (CAPAI) requested and was granted intervention. On October 27, 2009, the Commission issued a Notice of Scheduling and Notice of Hearing establishing dates for Staff and Intervenors to prefile testimony, and a technical hearing to convene on March 4, 2010. Order No. 30934.

¹ On July 2, 2009, the Company filed a Motion for Order Waiving Requirement for Cost of Service Study asserting there was no compelling need for a study to be included with its anticipated rate case Application. The Commission granted the Company's request in Order No. 30865.

² With updated figures, the Company's revenue request became \$6.14 million, or 16.6%.

On January 6, 2010, Staff filed with the Commission a Notice of Intent to Engage in Settlement Discussions. Commission Rule of Procedure 272; IDAPA 31.01.01.272. Settlement discussions subsequently began on January 11, 2010, between all parties. In addition, a public workshop for United Water customers was held on January 19, 2010, to explain the Company's Application to customers and provide an opportunity for customers to ask questions of Commission Staff. On January 13, 2010, Staff filed a Motion to Vacate the prefiled testimony filing dates while the parties continued their settlement negotiations.

On January 21, 2010, the Commission issued a Notice vacating the dates for prefiled testimony and exhibits (January 22 and February 19, 2010), but reserved the March 4, 2010, technical hearing date in the event live testimony is needed. The Commission directed the parties to propose a new schedule for completing the case.

The settlement discussions resulted in a Stipulation, and on January 27, 2010, the parties filed a Stipulation and negotiated settlement that proposes resolution of all issues raised by United Water's Application. The parties assert that the Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable, and they urge the Commission to approve it in its entirety. United Water, Commission Staff and CAPAI all filed testimony in support of the Settlement Stipulation.

On February 5, 2010, the Commission issued a Notice of Settlement Stipulation, Notice of Modified Procedure, and Notice of Public Hearing. The Notice established a deadline of February 22, 2010, for interested parties to file comments regarding the proposed Stipulation, and also announced the convening of a public hearing on that date for customers to present live testimony. The Notice additionally stated the Commission's preliminary determination that "the public interest may not require a technical hearing to consider the issues presented and that issues raised by the Settlement Stipulation may be processed by Modified Procedure. Reference Commission Rules of Procedure 201-204, IDAPA 31.01.01.201-204." Interested parties were invited to file written comments "in support or opposition to the Settlement Stipulation and the use of Modified Procedure in this case." Order No. 30998, p. 3.

TERMS OF SETTLEMENT

Under the terms of the Stipulation, United Water would be authorized to recover \$3.6 million in additional revenue effective March 1, 2010, an overall increase of 9.9% in the Company's annual revenue, and an additional \$640,000 effective February 1, 2011, an additional

increase of 1.7%. The parties agreed to a uniform percentage increase applied equally to the customer charge and volume charge in United Water's tariffs. A uniform percentage increase of 9.9% applied to existing rates results in an increase in the bi-monthly customer charge for most customers of \$1.60, or \$.80 per month. The volume charge would increase from \$1.2112 to \$1.3311 per cubic foot of water used during the non-summer months. During the summer, the cubic foot volume charge would increase to \$1.6640 for consumption in excess of three cubic feet (equal to 2,244 gallons). These rates would increase by 1.7% in February 2011.

The Stipulation proposes to implement a Budget Bill Plan for residential customers. Any customer with at least 12 months of service would be able to enroll in Budget Bill to levelize payments for water service. Customers enrolled in the Plan will receive a statement each month for 12 equal billing amounts, representing a 12-month average of the most recent 6 bi-monthly bills, although their meters will continue to be read on a bi-monthly schedule. The customer's Budget Bill amount will be recalculated annually at the 12-month anniversary of the date the customer began paying the level monthly amount.

The Stipulation also addresses accounting treatment for specific operational costs. United Water currently is deferring electricity payments incurred under Idaho Power Company's annual Power Cost Adjustment (PCA). The Stipulation provides that amounts deferred through March 2, 2010, will be amortized over a three-year period. PCA charges incurred after March 1, 2010, will be deferred for later amortization. Amortization of rate case expenses and water storage tank painting costs are also addressed. Regarding costs relating to water conservation programs, the Stipulation states that United Water "shall continue to defer expenses associated with implementation of its Commission approved Conservation Plan and may thereafter amortize the deferred balance over a three year period." Stipulation, p. 5. Other issues addressed by the parties in the Stipulation are private fire service line connections and participation in an informal workshop to discuss the Company's UW Cares Program and improving customer participation in conservation programs.

Finally, as part of the settlement agreement, the Company agreed to not file a general rate case application prior to June 1, 2011. As a practical matter, a moratorium that precludes a rate case application before June 1, 2011, will prevent the effective date of any new rate increase until at least January 2012.

WRITTEN COMMENTS

The written comments filed by United Water, Commission Staff and CAPAI, all in support of the Stipulation, are in the form of prefiled direct testimony. The Company noted that the stipulated revenue increase of \$4.3 million is a significant concession from the Company's original request of \$5.6 million. The amount was agreed to in settlement discussions that were undertaken only after Staff conducted a thorough audit and the Company had responded to nearly 250 specific written discovery requests. Wyatt Supplemental Direct, p. 4. Accordingly, United Water asserted that the Stipulation results from arms-length negotiations between all parties to the case after they had access to and evaluated all relevant facts. Wyatt Supplemental Direct, pp. 8-9.

The Company testified that a uniform percentage increase to both the volume and customer charge without a change in the rate design is a material term of the Settlement Stipulation for the Company. Wyatt Supplemental Direct, p. 5. In addition, maintaining the current rate design was a consideration in the Commission's waiver of a cost-of-service study, and also "preserves the rate relationships the Commission found to be reasonable in the Company's prior cases." *Id.*

The Company also addressed the Stipulation's language regarding accounting methods, specifically the Idaho Power PCA. While none of the deferred expense items alter the revenue increase in this case, the Stipulation presents agreement on how the accounting issues will be handled prospectively, eliminating the potential for disagreements on accounting methods in subsequent cases. *Id.* at 6.

According to its written testimony, United Water considered the effect of rate increases on its customers when agreeing to the terms of the Stipulation. For example, the Company believes the full \$4.3 million increase in revenue is justified for immediate implementation, based on the Company's investments and operational costs. The Company nonetheless agreed to a two-phase approach to mitigate the impact on customers. Wyatt Supplemental Direct, p. 7. In addition, it was recognition of the difficult economic conditions that compelled the Company to agree to a rate moratorium, preventing it from filing any rate case application prior to June 1, 2011. *Id.* The Company also explained that the proposed Budget Bill Plan was created in response to customer requests for "level pay," and to ease the burden of large bills during the summer months, especially for those with limited resources.

Wyatt Supplemental Direct, p. 8. The level pay plan will enable customers to budget predictable monthly water bills, “[i]nstead of being faced with larger summer bills that may be extremely burdensome, especially for those with limited economic resources.” *Id.*

Commission Staff also filed testimony in support of the Settlement Stipulation and urged the Commission to approve it. Staff testimony states that it conducted a comprehensive audit of test year results and concluded that the proposed settlement is in the public interest and should be approved by the Commission. Lobb Direct, p. 2. Staff further concluded that the Company’s increased revenue request was driven primarily by necessary replacement of aging infrastructure and increased costs.

Staff asserted that, in light of local economic conditions, Staff’s review of potential revenue and expense adjustments was “more aggressive and creative than usual.” Lobb Direct, p. 7. For example, Staff considered recommending removal of all proposed salary increases, as well as all actual test-year salary increases and incentive pay. Staff identified all previously unadjusted expense accounts and considered an across-the-board 3% growth limit from 2008 through 2009. Lobb Direct, pp. 7-8. In addition, Staff considered a 10% across-the-board reduction in affiliated Management and Services contracts. Staff’s testimony states that if all of its possible adjustments had been accepted by the Commission, the resulting revenue requirement increase would have been higher than the 11.63% increase stated in the Stipulation. Lobb Direct, p. 9. Staff believes the stipulated increase constitutes a significantly better outcome for customers than what would have been achieved at hearing. Lobb Direct, p. 10.

Staff testified that the deferred accounting identified in the Stipulation provides relief to customers. For example, the Company will defer Idaho Power PCA (Power Cost Adjustment) costs rather than including the costs in the Company’s base rates at this time. Lobb Direct, p. 13. Staff recognizes that these costs are legitimate operating expenses and fully subject to recovery through amortization. Lobb Direct, p. 13. The Stipulation also allows for deferral of rate case expenses, tank painting, and conservation plan and implementation expenses.

Staff supports the Budget Bill Plan that allows customers to pay equal monthly payments throughout the year. Under the terms of the settlement, the cost of the program will be borne by the Company within the stipulated revenue requirement. Lobb Direct, p. 15. Finally, Staff supports convening informal workshops to discuss low-income issues and demand-side management programs. Staff will participate in the workshops and believes that any programs

designed to help customers manage their water bills are particularly important at this time and should be addressed. Lobb Direct, p. 16.

CAPAI filed testimony in support of the Settlement Stipulation. “CAPAI believed that the agreement was very reasonable and though we are in the midst of extremely difficult economic times, the settlement reached was likely the best that could be achieved from all customers’ points of view.” Chant Direct, p. 6. During settlement negotiations CAPAI expressed interest in expanding the UW Cares Program and reaching more customers with water conservation information. CAPAI thus identified the Company’s agreement to informal workshops to discuss maximizing the benefits of the UW Cares Program as a “prerequisite to settlement.” *Id.* at 7. CAPAI believes that United Water will cooperate and participate in good faith and that meaningful discussions will help address the harsh conditions that low-income customers are experiencing in a difficult economic climate. Chant Direct, p. 7. United Water stated its support and agreed to participate in informal discussions regarding enhancements to its low-income and conservation programs. Wyatt Supplemental Direct, pp. 7, 8. CAPAI testified that the Stipulation “is fair, just and reasonable and is in the best interest of United Water’s general body of rate payers.” Chant Direct, p. 4.

Approximately 50 customers of United Water filed written comments with the Commission. One customer appeared at the public hearing to provide a statement on the record. The majority of customers cited strained budgets and poor economic conditions in their opposition to the Company’s request for a rate increase. Some customers questioned whether the Company may be guilty of irresponsible management, and some complained of poor water quality. Several customers advocated for a budget bill payment program, more comprehensive low-income programs and, following the filing of the Stipulation, a longer moratorium prior to the Company’s next rate case. The sole customer to testify during the public hearing urged the Commission to deny any increase in both the customer charge and current consumption rates. This customer noted that United Water’s usage rates are higher than another water company providing service in Boise, that the Company’s customer charge is higher than other utilities’, and that the bad economy is a good reason to deny United Water’s rate request. Tr. pp. 3-4.

COMMISSION DISCUSSION

At the outset it should be noted that the Commission is not bound by a settlement stipulation reached by the parties to a case. As stated in Commission Rule of Procedure 276, the

Commission will independently review the settlement proposal to determine whether the settlement is just, fair and reasonable, and in the public interest, or otherwise in accordance with law and regulatory policy. The Commission may accept the settlement, reject the settlement, or add additional conditions under which the settlement will be accepted. IDAPA 31.01.01.276. After reviewing the evidence and filings of record including the Application, proposed Settlement Stipulation, supporting testimony and public comments, the Commission finds the terms of the settlement negotiated by the Company, Staff and CAPAI to be supported by the record and to be in the best interest of the Company and its customers.

The Company's Application and evidence proves, and Staff's comprehensive audit confirms, that the Company's revenue request was driven primarily by necessary replacement of aging infrastructure and increased power costs. United Water invested more than \$13 million in capital improvements since its rates were last adjusted in August 2006, and the record indicates these plant investments and increased power costs made up 71% of the requested increase. Wyatt Supplemental Direct, p. 3; Lobb Direct, p. 5. When the Company's estimated test-year costs were adjusted by actual costs incurred, the Company's revenue shortfall would have increased from 15.21% to approximately 16.6%. Lobb Direct, p. 5. The Stipulation provides for an overall increase of 11.63% phased in over a two-year period. Given the Company's capital investments, higher power costs and increases in operation and maintenance expenses, the Stipulation provides a result to United Water's rate Application that is just, fair and reasonable. The primary components of the Stipulation – a substantial reduction in the Company's requested rate increase, the phasing in of the increase, and the rate case moratorium – support the conclusion that “the settlement reached was likely the best that could be achieved from all customers' points of view.” Chant Direct, p. 6.

The increase in revenue will be recovered by implementing a uniform percentage increase to be applied equally to the customer charge and volume charge. A uniform percentage increase maintains the current tariff structure that the Commission has already reviewed and found to be reasonable. To minimize the immediate effect on rates, the Stipulation provides for deferral and amortization of all amounts billed by Idaho Power Company under its PCA; rate case expense incurred by the present Application; tank painting expenses for the Ustick, Crestline and Steelhead water storage reservoirs; and expenses associated with implementation of the Company's conservation plan.

In response to customer requests and a growing need to assist customers in paying their water bills, the Company will implement a Budget Bill Plan that allows its customers to make 12 equal monthly payments. The parties also agreed to convene a workshop to discuss the UW Cares Program and related issues that affect the low-income customers. The workshop will also address additional efforts that might be undertaken to improve customer participation in the Company's conservation programs. The Company implemented a conservation program as previously ordered by the Commission, and we find that the expenses associated with such implementation were reasonably incurred.

The Commission appreciates the United Water customers who took the time to file written comments with the Commission, as well as the customer who testified at the public hearing. A request for a rate increase filed by a utility in strained economic times, when many customers may be struggling to pay existing bills, presents a challenging responsibility for the Commission. The Application triggers a duty to fully and carefully scrutinize the operations of the utility to ensure the expenditures behind the requested rate increase are prudent, appropriate, and reasonable. The record demonstrates the parties were mindful of current economic conditions in reaching a settlement. Staff testified the magnitude of United Water's request coupled with harsh local economic conditions made Staff's review of Company operations somewhat unusual with respect to the type and magnitude of possible revenue requirement adjustments. Specifically, "with local economic conditions in mind, Staff's review of potential adjustments was more aggressive and creative than usual." Lobb Direct p. 7.

Some customers noted that United Water's customer charge is higher than that of other utility companies, and recommended no increase in the customer charge. Tr. p. 3-4. A customer charge recognizes that some utility costs are fixed and do not vary from month to month based on customers' consumption. Staff supported the uniform increase in rates, including to the customer charge, because of "increasing cost of fixed charges associated with customer services and as a concession to further reduce revenue requirement specified in the comprehensive settlement." Lobb Direct p. 15. The customer charge also helps even out monthly billing amounts by reducing the amount of revenue collected by the Company from consumption rates.

By law the Company is entitled to recover its reasonable expenses and receive a reasonable return on investments, and some rate increases may be necessary to ensure the

Company is financially sound and remains able to provide clean, safe water to its customers. The Commission is required to establish, if existing rates are insufficient to support the reasonable and necessary expenditures of the utility, those rates that are just, reasonable and sufficient. *Idaho Code* § 61-502. The rates the Commission approves for United Water must be based on the actual investments and expenditures made by that Company, and are not affected by the investments and expenditures of other companies that are operating in different circumstances, and whose rates will be different than those for United Water.

After reviewing the evidence in this case, the Commission finds that United Water's existing rates are insufficient, and that the revenue increase and resulting rates set forth in the Stipulation are just, reasonable and sufficient. The Settlement Stipulation represents a reasonable compromise of the positions held by the parties in the case, it will allow the Company to earn a fair and reasonable return, and it is in the public interest.

ORDER

IT IS HEREBY ORDERED that the Settlement Stipulation signed by the parties and filed January 27, 2010, is approved without modification. United Water's authorized revenue requirement is increased \$3,660,000 effective for service on and after the date the Company files new tariffs consistent with this Order, and is further increased \$640,000 effective February 1, 2011. The increase will be implemented by a uniform increase in United Water's rates and charges, as shown in Exhibit A to the Stipulation.

IT IS FURTHER ORDERED that United Water will continue its current method to account for Idaho Power Company electricity charges reflected in Idaho Power's annual Power Cost Adjustment. Amounts deferred as of March 1, 2010, will be amortized over a three-year period.

IT IS FURTHER ORDERED that United Water shall defer and amortize expenses for its rate case, tank painting, and conservation programs as specified in the Settlement Stipulation.

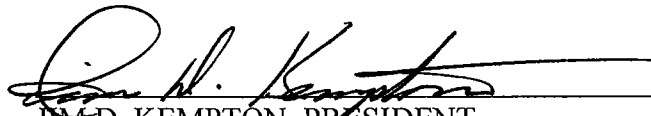
IT IS FURTHER ORDERED that United Water will implement a Budget Bill Plan, as specified in the Settlement Stipulation, to enable customers to make level payments for water service over a 12-month period.

IT IS FURTHER ORDERED that United Water may amend its tariff on Private Fire Service Connections, Paragraph 44, Sheet 18, as set forth in Exhibit C to the Settlement Stipulation.

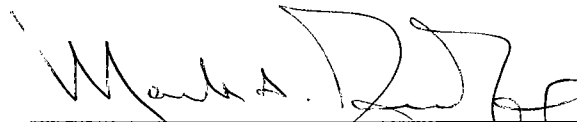
IT IS FURTHER ORDERED that the parties are directed to convene an informal workshop to review possible changes to United Water Cares Program, and to discuss additional efforts to improve participation in the Company's water conservation programs.

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.

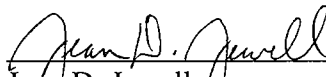
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4th day of March 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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