

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF UNITED WATER IDAHO)
INC.'S AND BRIAN SUBDIVISION WATER) CASE NO. UWI-W-14-01
USERS ASSOCIATION'S APPLICATION TO)
ALLOW UNITED WATER TO TAKE OVER)
BRIAN WATER'S DOMESTIC WATER) ORDER NO. 33195
SYSTEM.)**

On September 29, 2014, United Water Idaho Inc. ("United Water") and Brian Subdivision Water Users Association ("Brian Water") applied to the Idaho Public Utilities Commission for an Order authorizing United Water to connect to, and take over the operation of, Brian Water's domestic water system. The Applicants asked the Commission to process the case by Modified Procedure.

On October 17, 2014, the Commission issued a Notice of Application and Notice of Modified Procedure setting a November 28, 2014 comment deadline and a December 12, 2014 reply deadline. *See* Order No. 33154. The Idaho Department of Environmental Quality ("IDEQ"), the Boise Fire Department, and 38 of Brian Water's 46 customers filed comments supporting the Application. Commission Staff submitted comments recommending that the Commission approve the Application with several modifications. Applicant United Water then submitted a reply stating that the Applicants concurred with Staff's comments, with a few exceptions, and that the parties had met and resolved the few disputed points as specified in the reply. Staff has notified the Commission that United Water's reply accurately reflects the resolution of issues discussed by the parties.

Having reviewed the record, including the Application, the comments, and the reply, the Commission finds that the proposed transaction is in the public interest and that the Application should be approved. The Commission's decision is set forth in further detail below.

THE APPLICATION

In their Application, United Water and Brian Water explain that the Idaho Department of Environmental Quality ("IDEQ") has required Brian Water to eliminate contaminants from its domestic water system, and that the most feasible way for Brian Water to do this is to connect its system to United Water. The Applicants have entered into an

“Agreement for Connection and Transfer of Water Systems” (“Agreement”) to facilitate this transaction. *See* Application, Section IV, Exhibit C.

The Applicants estimate it would cost \$1,340,209 for United Water to connect to Brian Water’s system. This amount would include about \$1,215,184 in pipeline costs and \$125,026 in service and meter costs. The Applicants propose that Brian Water’s customers pay for 10% of the trued-up pipeline costs and 100% of the trued-up costs for services and meters, and that United Water’s customers pay 90% of the trued-up pipeline costs.

The Applicants propose that Brian Water customers cover this amount by paying United Water an extra \$124.86 on their water bill every two months for ten years or, at a customer’s option, by making a one-time payment. The Applicants propose that the Commission approve this surcharge to Brian Water customers under the “contract standard” – as opposed to a “tariff standard” – so the surcharge will not change in a general rate case unless the Commission decides that the surcharge adversely affects the public interest.

With respect to the costs allocated to United Water’s customers, the Applicants propose that United Water would: (1) defer recovery of those costs and continue to accrue allowance for funds used during construction (“AFUDC”) until included in rates; and (2) include those costs in the base rates it seeks in its next general rate case (including a return on the investment amount as calculated at the end of the year and not as a 13-month average).

The Applicants state that upon the Commission’s approval of the Application, United Water will file a conforming tariff specifying the terms of service for customers in the Brian Subdivision.

The Applicants state that Brian Water has notified its members about the proposals and this Application.

The Applicants request that the Commission:

- approve a change to United Water’s Certificate of Public Convenience and Necessity (“CPCN”) to add Brian Subdivision;
- confirm that United Water shall serve Brian Subdivision after the closing date of the parties’ agreement;
- approve the Applicants’ surcharge and rate proposals; and

- confirm that United Water’s contemplated investments are prudent for ratemaking purposes, and approve the Applicants’ cost recovery proposals.

THE COMMENTS

Brian Water customers, IDEQ, the Boise Fire Department, and Commission Staff filed written comments, and United Water filed reply comments. These comments are summarized below.

A. Customer Comments

As noted above, 38 of Brian Water’s 46 customers submitted joint comments supporting the Application. The customers’ comments state, in pertinent part:

We ... are owners and/or residents of the Brian Subdivision and receive drinking water through the Brian Subdivision Water Users Association. Our board has worked long and hard to identify appropriate methods to eliminate nitrate contamination from our water and has concluded the only reliable and cost effective way is to connect to United Water’s distribution system. Our system (like our subdivision) is older and upgrading the various components is neither cost effective nor likely to produce safe drinking water for the long-term. While we might prefer to keep our independent water source and distribution system, we believe interconnection with United Water is the only reliable option to protect our health. We love our subdivision and hope to enjoy many more years of healthy living if only we can gain access to reliably healthy drinking water. Please rule favorably and quickly for our subdivision. We have been tolerating contaminated water for over two years. The prior owner could not afford to fix the problem. The solution at hand will create hardship for some of us, but we have no choice. We need you to help us make safe drinking water a reality soon.

In addition, at least one customer commented that the exiting situation negatively impacts the property values in the Brian Subdivision.

B. IDEQ and Boise Fire Department Comments

IDEQ and the Boise Fire Department submitted comments supporting the Application.

IDEQ explained the history of Brian Subdivision’s nitrate problems and that nitrate is an acute drinking water contaminant that can have serious, negative impacts in a relatively short time. Nitrate levels like those in the Brian Subdivision, which exceed 10 mg/L, are particularly serious for infants and can cause methemoglobinemia or “blue baby syndrome.” IDEQ recounted that IDEQ has required Brian Water to routinely notify its customers not to drink the

water or use it to make baby formula. IDEQ explained the Brian Water homeowners' diligent—but to date unsuccessful—efforts to resolve the nitrate problems, and concludes: “DEQ fully supports Brian Water in their pursuit of interconnection with United Water as it will provide their customers with a very reliable source of drinking water that meets all health based standards.”

The Boise Fire Department also supports the Application. The Boise Fire Department explains that it responds to any service calls in the Subdivision, but that the Subdivision currently lacks fire hydrants, which places residents and their property in jeopardy. The Boise Fire Department supports the Application because if it is granted, United Water will install four fire hydrants in the Subdivision.

C. Staff Comments and Applicant Reply

Staff filed comments that generally support the Applicant's proposal, with several modifications. United Water then filed reply comments explaining that it met with Staff and resolved any concerns it or Staff had about the proposal. Staff filed a short supplemental comment indicating that United Water's reply correctly states the parties' resolution of these outstanding issues.

Staff's comments, and the resolution of issues expressed through the Company's reply, including a discussion of: (1) the nitrate problem and proposed solution; (2) cost allocation proposal; (3) modification of United Water's CPCN; (4) rate impacts, actual cost, true-up and surcharge; (5) accounting; (6) customer billing; and (7) a summary of Staff's recommendations as concurred in by the Applicants, are set forth below:

1. The Nitrate Problem and Proposed Solution

Staff explained that IDEQ detected significant nitrate levels in Brian Water's system in 2007. These ultimately exceeded the maximum allowable contaminant level of 10 mg/L, and IDEQ disapproved the system in 2011. According to Staff, the Applicants and IDEQ have determined that the nitrate problem cannot realistically be resolved through: (1) point-of-use in-home treatment; (2) centralized treatment; or (3) drilling a new well. Rather, the only viable solution is to connect Brian Water's system to United Water's system.

Staff supports the Applicant's proposal to connect Brian Water's system to United Water. *Id.* Staff evaluated the Applicant's proposal to connect the two systems. In summary, the Applicants propose to extend the water main from the south side of the Boise River and New

York Canal (i.e., Highway 21 River Crossing). Staff says this option is superior to alternatives, such as extending the main down Warm Springs Avenue, and explains:

1. United Water serves the Warm Springs corridor west of Brian Water through the Barber Service Level. This service level has experienced significant growth, especially towards the east. At this time, the Barber Service Level water supply is limited, with 25% of its maximum day supply needs being imported at the western boundary.
2. United Water's Master Plan (2009-2015) contemplates a potential water-main connection under the Boise River just east of Brian Water (i.e., downstream of the Highway 21 bridge) to serve customer growth along the north side of Warm Springs;
3. A water main has been installed downstream of the East Park Center Bridge, near the east-central portion of the Barber Service Level; at this time, the area served by this main is not served from the Harris Ranch reservoir;¹
4. A water main connection into the Barber Service Level on the eastern boundary (i.e., under the Boise River and New York Canal) ensures United Water can provide adequate water service to existing customers;
5. Extending the water main along Warm Springs to the Brian Subdivision would lengthen an un-looped line, which increases risks of water supply system disruptions; and
6. The booster station and auxiliary power generation unit built under the Warm Springs alternative would have become obsolete when the Boise River option main line connection is eventually built.

Id. at 5. In addition, Staff relays the Applicants' belief that this connection route has engineering and customer service benefits including: adding a direct water supply connection to Barber's highest growth area; reducing stress on the Federal Way Pipeline; eliminating the need for a new booster station, auxiliary power generator, and the associated operating costs that were associated with other potential connection options; eliminating a two-mile long dead-end mainline;² improving service and reliability to 7,000 Barber Service Level customers; and

¹ United Water expects that as development south of East Warm Springs Avenue continues, United Water will connect with the transmission main in Eckert Road that currently supplies the easterly Harris Ranch area and the Harris Ranch Booster Station. See United Water's Response to Staff Production Request No.18.

² IDEQ encourages the elimination of dead-end mains to provide: "increased reliability of service and reduced head loss." See IDAPA 58.01.08.542.08.a.

providing adequate flow and pressure for fire protection service to Brian Water customers. *Id.* at 4. Staff found the estimated construction costs for extending United Water's system under the river to be complete and reasonable. *Id.* at 4-5.

2. Cost-Allocation Proposal

Staff notes that 11 of Brian Water's customers are in arrears, that Brian Water's residences have modest annual incomes, and that most Brian Water customers could not afford water service if they were required to bear all the costs of connecting Brian Water to United Water's system. Staff thus concurs with the Applicants' proposal that Brian Water customers pay all costs to upgrade Brian Water's system and 10 percent of the amount to connect their system to United Water's system, with United Water's customers covering the remaining costs. *Id.* at 6. Staff notes that Brian Water customers would pay a \$125 surcharge every other month (i.e., about \$750 per year), and that the general body of United Water customers could see an increase of about \$2.16 per year when project costs are finally included in rates. Staff believes that this cost-allocation proposal is reasonable. *See id.* at 7.

3. Modifying United Water's CPCN

Staff concurs that United Water should be allowed to modify its CPCN (No. 143) to add the Brian Subdivision. Staff explains that adding Brian Subdivision to United Water's service area will not interfere with another water utility's operations, and is consistent with the public convenience and necessity as required by *Idaho Code* § 61-526. *Id.* at 7.

4. Rate Impacts, Actual Cost, True-Up, and Surcharge

Staff and the Applicants concur that United Water should bill customers for service at rates contained in United Water Rate Schedule No. 1. They also concur that Brian Water customers should pay a fixed surcharge to United Water every other month for 10 years once interconnection with United Water's system is complete and final costs are determined, and that in lieu of making payments every other month the customers should be allowed to make a one-time, lump sum payment equal to the net present value of the surcharge payments over the 10 years. *Id.* at 7-8; Reply at 1.

Staff disagrees, however, that Brian Water customers should not be allowed to change their payment option after they make their initial selection. Staff recommended, instead, that the customers be allowed to pay a lump sum at any time. *Id.* at 8. In its reply, United Water notes that it initially proposed a limited election period out of concern that unlimited election options

would potentially allow 46 different customers each choosing a different payment plan. However, while United Water remains concerned about the administrative burden that an unlimited election period may impose, United Water does not object to allowing former Brian Water customers to make a lump sum payment at any time. United Water and Staff concur that Brian Water customers should initially elect to pay the surcharge or a lump sum within 30 days of connection to United Water's system. *Id.* at 3-4.

Staff notes that two homes in Brian Subdivision are not connected to the Brian Water system. United Water proposed that if these customers later want to connect to the system as operated by United Water, the customers would pay any interconnection costs per United Water's Rules and Regulations, but not pay the surcharge amount. Staff's comments, however, recommended that these customers should pay the surcharge for the remainder of the surcharge period or a lump sum for the remaining payments. *See* Staff Comments at 8. In its reply, United Water clarifies that the parties now concur in United Water's view that the surcharge should not be assessed against these two potential future customers. United Water explains that it will calculate the surcharge amount to be assessed against existing Brian Water customers so as to fully support the portion of the costs allocated to them. *See* Reply at 4.

5. Accounting

Staff generally supports allowing United Water to continue recording an allowance for funds used during construction ("AFUDC") after completion of the project. Further, in United Water's next general rate case the investment should be included in rates at its full amount and not subject to the 13-month averaging method. *See* Staff Comments at 9. In its reply, United Water clarifies that the parties concur that the Commission's Order should describe this accounting treatment as follows:

- United Water will record capitalized plant investments subject to audit in a separate subaccount. To the extent they occur, non-capital related expenses associated with the project are to be recorded in a separate deferred account for future consideration by the Commission;
- All capitalized project construction expenditures not supported through revenue collected from the surcharge will continue to be subject to AFUDC until included in rates. This portion of the expenditures refers to the 90% of the true-up costs of the main line installation to connect to the system; and

- When this project is included in rates, it will not be subject to the 13-month average methodology but will be included in rates for the full year.

See Reply at 2-3.

To expedite Staff's audit of the project, Staff recommended United Water provide quarterly construction reports to the Commission, including a discussion of progress made and expenditures for the project. Staff notes that the reports will enable Staff to audit the project as it is built, will reduce the time required to finalize the audit, and will minimize the time between the project's completion and the implementation of the surcharge. *See Staff Comments at 8.* The Company concurs with this recommendation. Reply at 1.

6. Customer Billing

United Water's proposed draft Schedule 1C, Brian Subdivision Surcharge, describes the conditions under which United Water would charge customers for the system improvements and the main extension. Staff recommended that Schedule 1C, Brian Subdivision Surcharge be revised to reflect the expiration date of the surcharge (10 years from the closing date of the transaction), and that customers may pay the net present value (NPV) lump sum at any time during the 10-year period. Staff submitted its recommended revision to proposed tariff Schedule 1C as Attachment 3 to Staff's Comments. *See Staff Comments at 9.* In its reply, United Water concurs that the Commission should approve Schedule 1C as revised by Staff, and that the Commission should direct United Water to file that revised Schedule 1C at the appropriate time. *See Reply at 5.*

Staff and the Applicants concur that customers should be allowed to sign up for United Water's Residential Budget Bill Plan, which allows customers to be billed monthly instead of every other month based on the customer's previous 12 months usage. Staff initially recommended that the Budget Bill amount should be based on usage calculations from Brian Water's records. *See Staff Comments at 9-10.* But after meeting with United Water, Staff concurs that this aspect of its recommendation is not practical because a customer's consumption pattern under Brian Water rates may not accurately predict the customer's consumption patterns under United Water rates. *See Reply at 4-5.* Accordingly, the parties now concur that former Brian Water customers should be allowed to enroll in the Budget Bill program on the same terms as all other United Water customers. These terms are specified in United Water's Rule No. 41,

which requires that a customer have a least 12 months consecutive service, and that the budget pay amount be the 12-month average of the most current 6-month bi-monthly bills. *Id.* at 5.

The parties concur that United Water should contact all customers in writing before initial billing to allow them to choose a payment option. Staff Comments at 10; Reply at 1.

7. Summary of Staff Recommendations, as Concurred in by the Applicants

In summary, Staff comments and United Water's reply combine to recommend that the Commission:

1. Let United Water connect its system to the Brian Subdivision;
2. Approve the proposed Highway 21 River Crossing main line extension;
3. Modify United Water's CPCN (No. 143) to include the Brian Subdivision;
4. Require United Water to provide Staff with quarterly construction reports, including construction progress made with associated costs;
5. Once connected to United Water, require United Water to charge Brian Water customers United Water rates as contained in United Water's Rate Schedule No. 1;
6. After an audit of the project is completed, apply a 10-year surcharge to Brian Water customers that covers the entire trued-up costs of updating their system to United Water standards and 10% of the trued-up costs of the main line installation to connect the systems;
7. Let Brian Water customers opt to pay the present value of the remaining surcharge payments in a lump sum at any time during the surcharge time frame. Brian Water customers must make their initial payment option election (surcharge or present value lump sum) within 30 days of connecting to United Water's system;
8. Direct that if a currently unconnected Brian Subdivision resident wants to connect to the system, that resident will not be subject to the surcharge for the remaining surcharge period, including the option of a lump sum payment. The surcharge amount assessed against the existing Brian Water customers will be calculated to fully support the portion of costs allocated to Brian Water customers;
9. Require that United Water use the following accounting treatment for this project:
 - United Water will record capitalized plant investments subject to audit in a separate subaccount. To the extent they occur, non-

capital related expenses associated with the project are to be recorded in a separate deferred account for future consideration by the Commission;

- All capitalized project construction expenditures not supported through revenue collected from the surcharge will continue to be subject to AFUDC until included in rates. This portion of the expenditures refers to the 90% of the true-up costs of the main line installation to connect to the system; and
- When this project is included in rates, it will not be subject to the 13-month average methodology but will be included in rates for the full year.

10. That United Water offer Budget Billing to former Brian Water customers on the same terms as all other United Water customers, as reflected in United Water's Rule No. 41; and

11. That all former Brian Water customers be sent a letter defining the surcharge amount and payment terms as well as the available payment options once the final terms and conditions of the surcharge have been approved, and before initial billing.

FINDINGS AND DISCUSSION

The Commission has reviewed the record, including the Application and its supporting testimonies, and all comments received in the case. Based on what we have been provided, we find that all commenters support connecting the Brian Subdivision to United Water's water system. Further, we find there is no dispute in this matter, and that all parties concur that the connection should be allowed as specified in recommendation Nos. 1-11 from the immediately preceding section. We thus find it is in the public interest to authorize United Water to connect its water system to Brian Subdivision's water system as specified in recommendation Nos. 1-11.

We find that the public interest requires all persons have access to safe drinking water, that Brian Subdivision's water is presently unsafe, and that approving the proposed transaction, as specified in items Nos. 1-11, is a just, fair, and reasonable way to enable United Water to provide safe and reliable water service to Brian Subdivision's residents at a relatively reasonable cost. We also note that United Water will install fire hydrants in the Brian Subdivision that will provide critical fire protection that the subdivision's residents presently lack. Further, at least one Brian Water resident commented that the current nitrate levels

diminish property values in the Brian Subdivision. We believe allowing United Water to serve the Brian Subdivision will rectify this problem.

We recognize the burden that the connection may impose on existing United Water customers. However, the potential subsidy by United Water's existing customers will be relatively minor and is justified to remedy the current, unhealthy water service in the Brian Subdivision.

We also recognize the financial burden that the approved transaction will place on existing Brian Water customers going forward. We find it reasonable for Commission Staff to monitor this situation and, to facilitate Staff's ability to do so, we direct United Water to provide the Commission with semi-annual reports discussing any arrearages and the status of payment plans that may exist for former Brian Water customers.

In light of all the circumstances, we find that the present and future public interest will be served by allowing United Water to amend its CPCN No. 143 to include the area presently served by Brian Water and authorizing United Water to provide water service to existing and future customers in that area. *See Idaho Code* § 61-526, 61-528.

The Commission thanks the Brian Subdivision residents and Brian Subdivision Water User's Association for submitting the history and documentation of their long problems with the water system, and for their diligent efforts in working with United Water, IDEQ, and Commission Staff to resolve those problems.

ORDER

IT IS HEREBY ORDERED that United Water is authorized to connect to the Brian Subdivision and provide service to former Brian Water customers as discussed in Nos. 1-11 on pages 9-10, above. United Water shall also submit semi-annual reports to the Commission discussing the status of arrearages and payment plans for former Brian Water customers. Prior to charging any former Brian Water customers for service, United Water shall file conforming tariffs, including a revised form of tariff Schedule 1C, as reflected in Attachment 3 to Staff's comments.

IT IS FURTHER ORDERED that United Water's CPCN No. 143 shall be amended to include Brian Subdivision within United Water's service territory.

THIS IS A FINAL ORDER. Any person interested in the Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any

THIS IS A FINAL ORDER. Any person interested in the Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in 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 17th day of December 2014.



PAUL KJELLANDER, PRESIDENT

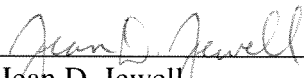


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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