(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF UNITED WATER IDAHO INC. FOR APPROVAL OF AN AGREEMENT TO EXCHANGE SERVICE AREAS AND TO AMEND AND REVISE CERTIFICATE OF CONVENIENCE AND NECESSITY NO.  143. | )  )  )  )  )  )  ) | CASE NO. UWI-W-95-2  ORDER NO.  26646 |

On August 13, 1996, the Idaho Public Utilities Commission (Commission) issued its final Order on Reconsideration (Order No. 26562) in Case No. UWI-W-95-2.  The Commission’s Order is now final and non-appealable.

On September 27, 1996, United Water Idaho Inc. (UWI; Company) filed a Petition for Clarification of the Commission’s Order on Reconsideration.  Reference IDAPA 31.01.01.325.  In its Petition, the Company frames its request for clarification as follows:

The Commission made the following finding on page 10 of its Order:

United Water has failed to convince us, however, that we should preapprove the amount of the purchase price for rate base purposes outside of a general rate case.  The Company has the burden of demonstrating the prudence of its investment in these facilities when it seeks to include them in rate base.

The Commission also found and authorized a two-year transition or phase-in of rates for existing and new customers in the North State Area following the tie-in of the area to the Company’s system.

The Company respectfully requests that the Commission clarify its Order to assure the Company that it would be allowed to book its entire investment as rate base, at least to the extent supported by general operating revenues of the North State Area after the full rate phase-in is completed.  This assurance is necessary in order for the Company and Garden City to promptly proceed with finalizing and consummating the Service Area Exchange Agreement.

Commission Findings

The Commission has reviewed and considered the Company’s Petition for Clarification in Case UWI-W-95-2.  We have also reviewed and considered the Company’s underlying Application, the Company’s Petition for Reconsideration and our final Orders in Case No. UWI-W-95-2 .  The Commission initially denied the Company’s Application.  Reference Order No. 26367.  On Reconsideration we approved the exchange, but not precisely in the manner requested by United Water.  Reference Order No. 26562.

In the underlying Application in this case (as amended) United Water  in its prayer for relief  requested that the Commission authorize it to include in its rate base the consideration payable to Garden City under the Exchange Agreement.  The Exchange Agreement itself is contingent upon Commission authorized recovery of the purchase price by United Water.  As recounted in our Order No. 26367, United Water contended that the fact that facilities were contributed by developers to Garden City should have no bearing on the Company’s proposed rate base treatment.  The Company acknowledged, however, that its proposal was contrary to established regulatory policy.  It was Staff’s contention that the entirety of North State Area facilities had been contributed, and that in accordance with established regulatory policy, the purchase price is an “acquisition premium” that the Company should not be permitted to recover from its customers.  Conflicting evidence was presented as to whether operating revenues from the North State Area customers would be sufficient to support the level of investment required by the exchange.

The Commission in its Order denying the Company’s Application did not address the issues of “acquisition premium” or rate base treatment of the purchase price.  We did indicate that although the Company maintained that its existing customers would not be adversely affected by the exchange, it was clear from the record that the Company is not inclined to absorb any revenue shortfall or calculated subsidy requirement based on exchange-related costs.  On reconsideration, we noted that United Water expressed a commitment to hold harmless the Company’s other customers, both from the consequences of the interim rates proposed and from the exchange transaction as a whole.

United Water in its Petition for Clarification accurately states the Commission’s Reconsideration Order No. 26562 language.  The language itself, as set out above, is clear and not ambiguous.  The regulatory treatment of the acquisition adjustment and the authorized rate base amount of the purchase price are not preapproved and must be addressed in the Company’s next rate case.  Beyond the assurance that a majority of the Commission found the transaction to be in the public interest, there is little more the Commission can say at this time.  The clarification requested seems to be more than a mere clarification.  We find that our previous Orders clearly express the Commission’s decision on this issue.  No clarification or change in our Order is required.

CONCLUSION OF LAW

The Idaho Public Utilities Commission has jurisdiction over United Water Idaho Inc., a water utility, and the Company’s Petition for Clarification in Case No. UWI-W-95-2, pursuant to the authority and power granted the Commission under Title 61 of the Idaho Code and pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the Company’s requested clarification is denied.

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                  day of November 1996.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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SEPARATE CONCURRENCE OF

COMMISSIONER DENNIS S. HANSEN

CASE NO.  UWI-W-95-2

The underlying record in this case reflects my views and opposition to the requested exchange of service territories.  The Company now requests clarification of the Commission’s language in Order No. 26562.  I have reviewed that Order and the Company’s Petition for Clarification.  I agree with Commissioner Smith that the Commission’s language was clear and unambiguous and needs no further clarification.  I agree that the Company’s Petition for Clarification should be denied.

Dennis S.  Hansen, Commissioner

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DISSENT OF

COMMISSIONER RALPH NELSON

CASE NO. UWI-W-95-2

The underlying decision in this case was reached only after much thoughtful discussion, and was supported by the majority members perhaps for different reasons.  Therefore, it is not surprising that it is difficult to clarify the Order in any meaningful manner.

I would prefer to clarify the Order to say that in considering rate base treatment of the purchase price, the revenue stream from the North State Area customers would be the determining factor.  I would allow the acquisition price into rate base to the extent it is supported by the revenue stream and the Company’s other customers’ rates are not increased because of the exchange.

Ralph Nelson, Commissioner

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

November 7, 1996