(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 AUTHO­RITY TO REVISE AND INCREASE RATES CHARGED FOR WATER SERVICE. | )  )  )  )  ) | CASE NO.  UWI-W-96-3  ORDER NO.  26671 |

On June 19, 1996, United Water Idaho Inc. (United Water; Company) filed an Application with the Idaho Public Utilities Commission (Commission) for authority to increase its rates and charges for water service.  By this Order the Commission approves an overall increase in annual revenue of $763,941, or an increase of 3.6% over current rates.

APPLICATION

United Water serves approximately 55,000 residential, commercial and other classes of customers in the City of Boise and surrounding areas.  The Company sources of water supply consist of the Marden Water Treatment Plant and 62 deep wells.  The combined 1995 capacity of all wells and the Treatment Plant is approximately 78 million gallons per day.

United Water states that it seeks additional revenues to recover increased operating expenses and costs associated with plant additions.  The Company characterizes its Application as a “make whole” rate filing.  The overall increase in annual revenue requested is $1,116,352, or an increase of 5.3% over current rates.  The Company requests recognition of certain adjustments based on known and measurable changes occurring since its last rate filing.  The Company has based its request on the revenue requirement approved by the Commission in Order No. 25460 dated July 14, 1994 in Case No. BOI-W-93-3, which employed a calendar 1993 test year.  The Company proposes limited adjustments to certain rate base and operations accounts, including increases in operating and maintenance expenses, payroll and associated taxes, post-retirement medical benefits, operating costs such as the amortization of the Company’s contribution to the Treasure Valley Hydrologic Project (ground water study) and leases pertaining to vehicles and communication equipment, as well as ad valorem taxes, depreciation and amortization of plant and a growth adjustment.  The Company also proposes to make adjustments for decreases in purchased power and chemical costs, pension expense and payroll overheads charged to construction.  The Company proposes a total make whole rate base of $74,591,966, which represents an increase in Company investment of $7,373,961 over the rate base of $67,218,005 granted per Order No. 25640.  The Company proposes use of the previously approved capital structure, cost of capital and weather normalization methodologies.  The Company contends that a substantially higher revenue requirement could be supported based on proforma adjustments to a test year ended March 31, 1996.  The Company contends its Application, requesting recognition of limited adjustments, is in the public interest because it will expeditiously provide the Company with necessary rate relief while at the same time avoid substantial regulatory expenses associated with a fully litigated proceeding.

HEARING

A public hearing in Case No. UWI-W-96-3 was held in Boise, Idaho on October 2, 1996.  The following parties appeared by and through their respective counsel, individually or in a representative capacity:

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| United Water Idaho, Inc.  Sharon Ullman  Building Contractors Association of Southwestern Idaho:  Coalition of United Water Customers  Commission Staff: | Dean J. Miller, Esq.  Richard McCaughey  Peter J. Richardson, Esq.  Scott D. Woodbury, Esq. |

The Building Contractors and Coalition of United Water Customers, although entering appearances at the hearing did not actively participate or offer testimony.  Post hearing memorandums were filed by United Water and Commission Staff.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. UWI-W-96-3 including the Application, testimony and exhibits.  We have further reviewed and considered the post-hearing memorandums of United Water and Staff.  We have also reviewed our Orders in the Company’s prior general rate case proceeding, Case No. BOI-W-93-3.  The Commission has prepared two attachments to this Order, Attachment No. 1 Income Statement, and Attachment No. 2 Rate Base and Revenue Requirement.  We find the uncontested adjustments of the Company as reflected in said attachments to be fair, just and reasonable.  We find that the Company has acquiesced to the ad valorem adjustment of Ms. Ullman and to those adjustments of Staff not otherwise countered in its rebuttal testimony. We find the non-contested adjustments of Staff and Ms. Ullman as reflected in Attachments 1 and 2 to be fair, just and reasonable.

The following issues vis-à-vis the parties remain contested and/or unresolved:

Leased Vehicles

Post hearing memorandums were filed by United Water and Staff discussing the Company’s proposed “make whole” adjustment for vehicle leases.  United Water states that since its last rate case (BOI-W-93-3), the Company has increased the size of its overall fleet of vehicles from 45 vehicles to 58 vehicles.  Tr. p. 94.  At the same time, the Company has increased its fleet of leased vehicles from 8 vehicles to 38 vehicles and is incurring $197,170 additional annual operating expense.  The lessor is American Leasing Corporation, an unaffiliated company.  UWI contends that it expanded its vehicle leasing program in reliance on the Commission’s Order No. 25640 in BOI-W-93-3 wherein the Commission states: “The leased vehicle expense, as evidenced by documentation, is now known and measurable and will be allowed.”  United Water contends that the vehicle leasing program is not an uncommon practice and provides economic benefits to the Company and its customers.  Tr. pp. 42, 105.

Staff acknowledges that the 30 additional leased vehicles do exist in fact and are used and useful in the service of the public.  Staff, however, challenges the Company’s cost/benefit analysis and assertion that leasing is cheaper than owning.  The Company in testimony states “leasing is the most cost-effective method of providing vehicles.”  Healy rebuttal Tr. p. 33.  Arguing that it has demonstrated the Company’s logic to be based on flawed analysis and reasoning, Staff proposes to simply reverse the Company’s adjustment by eliminating the Company’s $197,170 adjustment and restoring to rate base the depreciated value of 16 vehicles retired in 1996 along with the associated depreciation expense.  Staff contends the burden of demonstrating what expense is otherwise allowable should remain with the Company.

Although disputed by Staff, UWI contends that its financial analysis (Exhibit 6) demonstrates the cost-effectiveness of leasing in comparison to ownership.  Even if its revenue requirement comparison is thought to be uncertain, the Company contends the record in this case establishes that leasing has other undisputed economic benefits that may not be reflected in a simple revenue requirement comparison, including savings in purchase price, financing, vehicle loaners,   Tr. pp. 38-41.  decal inventory, standard body equipment, vehicle registration, and maximization of resale value.  The Company also notes that for the purpose of the present case, it has kept its other transportation-related O&M expenses at the same level as approved in the prior case even though it alleges that its expenses have increased.  Tr. pp. 205, 206.

United Water argues that Staff’s residual value analysis is flawed, because Staff used NADA values that were based on resale or salvage values of non-commercial vehicles, and not commercial utility fleet vehicles; and because Staff failed to take into account the increased maintenance expense associated with ownership.  Staff counters that the NADA commercial truck guide is probably for more heavier equipment and contends that because the Company has not provided persuasive analysis, Staff’s numbers are the best information that is on the table.  Tr. pp. 170, 174.  The Company contends that UWI’s historical experience indicates that resale values obtained in the real world of sales of fleet vehicles are much lower than NADA values. Tr. pp. 44, 95, 96, 97.  Staff contends that the Company’s own historical experience as provided in a production response (See Staff Exh. Nos. 112, 114) demonstrate that the Company has grossly underestimated the residual (resale) value of its vehicles (Tr. p. 210), and concludes that leasing is more expensive than owning.  (Staff Exh. No. 113).  Compare UWI Exh. No. 7 Total Revenue Requirement— Own $264,857, Lease $243,000; Staff Exh. No. 113 Revenue Requirement Own $207,325, Lease $243,000.  Company Exh. No. 7 assumes no residual value and zero depreciation.  Tr. pp. 103, 104.  Staff Exh. No. 113 assumes 40% residual value and two year average accumulated depreciation.

United Water does not ask, it states, that the Commission decide this case based on a legal technicality, but nonetheless contends that in this circumstance, the applicable legal rule is well settled, citing Boise Water Corp v. IPUC, 97 Idaho 832, 838 (1976); General Telephone Co. v. IPUC, 109 Idaho 942 (1986).  Based on its reading of the cases, United Water contends, a utility makes a prima facie case for inclusion of an expense by proving that the expense was actually made to a non-affiliate in connection with property that is used and useful in the utility business.  The burden then shifts to the party opposing the expense to prove it was imprudent.  United Water contends that the record taken as a whole establishes that the Company’s proposed adjustment for leasing expense is reasonable and that Staff has not carried its burden of proving imprudence.  The Company contends that Staff seeks to turn the applicable rule on its head when it states “it is the Company’s responsibility to present proof that this decision was prudent and in the best interest of its customers.”

The Company contends that Staff’s proposed adjustment (i.e., simply reversing the Company’s adjustment) is the equivalent of confiscation.  A company that devotes property to service of the public, UWI contends, is entitled to reasonable compensation for their property.  Stated differently, United Water contends that “Government cannot confiscate private property for public use without just compensation.”  Citing Boise Artesian Water Co. v. IPUC, 40 Idaho 690 (1925).  Staff contends that “the Commission has the authority and jurisdiction under Idaho Code §§ 61-501-503 to investigate company contracts or practices, particularly the determination of what business expenses may be classified as “operating expenses” and thus passed on to the utility’s ratepayers.  Citing WWP v. Kootenai Environmental Alliance, 99 Idaho 875, 591 P.2d 122 (1979).  The Commission, Staff contends, also has a duty to ensure that established rates are not simply just to the utility, but also reasonable to the consumer, and equitable.  IPCo v. Blumquist, 26 Idaho 222, 141 P.2d 1083 (1917).

Commission Findings

The Commission has reviewed and considered the Company and Staff filings and testimony regarding leased vehicle expense.  In Case No. BOI-W-93-3, Order No. 24560, the Commission authorized a limited leasing expense, a relatively small item in what was a much larger case.  The Company in that case presented no cost/benefit or lease vs. own analysis, nor was there any substantive discussion of leasing apart from whether the identified expense was otherwise “known and measurable.”  For the Company to then interpret the Commission’s Order as authorization for a complete change-out of the Company’s fleet from ownership to leasing is surprising.

Based on our review of the underlying record in this case, we are unable to find that the Company has presented the Commission with the complete picture.  What the Company fails to present are the enumerated and related savings attendant from the switch to leasing.  For the Company to speculate on cross-examination that there may be no articulable savings, rings hollow when one examines the record and exhibits and realizes that the Company has not seriously attempted to identify any savings.  To speculate that there are no actual savings, further discounts the Company’s own prefiled testimony when it alludes to savings in not having to maintain a separate purchasing or selling unit thus eliminating local administrative time in procuring bids and analyzing bids on new vehicles and disposing of old vehicles (Tr. p. 39), and the Company’s ability under the lease program to obtain free loaner vehicles during maintenance down time (Tr. pp. 38, 39).  We acknowledge that the Company is incurring increased out-of-pocket expense related to leasing.  The Company does its customers a disservice however when it seeks to recover that expense without identifying and matching related and contemporaneous savings.  We accordingly find the Company’s case on this ground alone to be deficient.  We are not disposed however to simply reverse the adjustment as Staff has done.  Neither are we disposed to deny recovery because of other deficiencies in the Company’s cost/benefit analysis, the nature of which we find presents inconsistencies and raises doubts, but which we also find to be otherwise non-critical from the standpoint of whether the Company should be allowed to recover a reasonable level of vehicle expense.  We therefore find it fair and reasonable to attribute a level of offsetting savings to the Company’s vehicle lease decision and in so doing we reduce the Company’s requested $197,170 adjustment for vehicle lease expense to $175,000.

Treasure Valley Hydrologic Project

United Water in this case seeks to recover and amortize over four years its $100,000 cash contribution (investment) in the Treasure Valley Hydrologic Project, a regional ground water study.  Tr. pp. 53, 74.  Pursuant to agreement, UWI has pledged $303,200 in cash and in-kind services.  The Company has paid out $200,000 in cash, $100,000 of which it reports was non-company funds.  Tr. pp. 107, 108.  The total estimated cost of the study will exceed $3 million.  Tr. p. 58.  Ms. Ullman contends that the cost of the study should be borne by all who benefit, not just UWI customers.  Arguing that other water users are not being charged, Ms. Ullman opposes the Company’s recovery.  Tr. p. 83.  Ms. Ullman also notes that the Company in its public pronouncements has misrepresented its participation as being a contribution, when in fact it has always apparently intended to recover its cash outlay from its customers.  Ms. Ullman also points out that the Company’s participation in the ground water study was voluntary and therefore should not be included in a “make whole” case.

The Company responds that because it is the largest purveyor of domestic water in the affected area, its participation is prudent.  Tr. p. 76.  The Company notes that the Urban Land Institute in its “Growth Management Strategies for Boise Area” concluded “little is known about the quality of water sources in the Boise region and the effects on groundwater of current withdrawal practices.”  Tr. p. 53.  A regional groundwater study, the Company contends, is badly overdue.

Commission Findings

We commend United Water for its participation in the water study and find the conducting of such a study to be beneficial to the Company’s customers.  We agree with Ms. Ullman that all water users in the valley should pay for the study.  We believe that will ulitmately be the case for the remaining cost of the study.  We find however that United Water’s $100,000 contribution to the study is reasonable in light of the number of customers served and the total cost of the study.  Although the Company was not ordered to participate in the study and voluntarily participated, it is an expense that should be allowed and recovered.

Management Incentive Plan (MIP)

Staff proposes to eliminate $20,835 of the Company’s proposed payroll adjustment asserting that the figure represents bonuses or management incentive payments that are a discretionary expenditure.  Staff contends that a “make whole” application is intended to recognize pressures on the Company’s earnings that are entirely outside the control of management.  Tr. p. 160.  The Company responds that it is a reasonable business practice to link some portion of compensation to performance.  Under the Company’s Management Incentive Plan, MIP is part of an employee’s base pay, although considered at risk and variable since no portion of the MIP compensation is guaranteed.  The amount is not a bonus and is earned when the employee achieves a specific plan objective.  Tr. p. 59.  The Company contends that the objectives are well defined and written and can be measured.  Tr. pp.  109, 110.  The purpose of MIP is to support implementation of the Company’s goals and objectives and is aimed to increase continual orientation toward customer satisfaction, matching or exceeding financial goals, and reducing cost.”  Tr. p. 59.  The program, the Company contends, reinforces efforts to improve “planning and goal setting”, and assists recruitment and retention of outstanding management employees.  Tr. p. 59.  In this case, the Company notes the payments were actually made; there is no reason to believe the program was imprudent; and management is obligated to fulfill its promise.  The record fails to disclose what specific accomplishments were awarded or what benefit or advantage the ratepayer received from the incentive payments.  There were three management incentive payments awarded: (1) $6,885 (7.3% base salary), (2) $3,927 (5.8% base salary), and (3) $11,610 (19.2% base salary).

Commission Findings

We find that the Company should be permitted to recover its Management Incentive Plan payments.  We find it reasonable that a portion of an employee’s base pay be linked to performance.  We further find that other changes in the employee expense were allowed in this case and these amounts do not appear unreasonable in light of the total salaries paid.  Employee compensation is a matter for Company management to determine.  The fact that a portion of some employees’ salaries were put at risk based on job performance is a legitimate management tool.  These amounts would never have been questioned if total salaries had merely been included without reference to the MIP.

Litigation Expense

United Water seeks to recover $7,340 expense related to its appeal of the State Tax Commission’s valuation assessment of Company property.  Reference Idaho State Tax Commission Docket No. 11430, Tr. pp. 52, 68; Exhibit No. 11.  The Company was successful in reducing the 1996 property valuation from $69,323,951 to $62,000,000.  Tr. p. 63.  Coupled with the 1996 levy rate (1.749345 mil), which the Company concedes is known and measurable, the Company contends that the reduced  valuation resulted in $128,000 in tax savings to its customers.  Tr. p. 66.

Commission Findings

We find it reasonable to allow the Company to recover the expense incurred by it in challenging the valuation assessment of the Idaho State Tax Commission.  We approve recovery by amortizing the amount over three years.  The challenge was prudent and successful, and has proved to be of significant benefit to the Company’s customers.  The Company is encouraged to continue pursuing means to reduce expenses its customers ultimately pay.

Water Quality

An issue raised in the evening public hearing by customers was the Company’s ability to provide adequate service and water quality.  United Water has a number of wells that produce water containing high levels of iron and manganese.  The water is rust colored, stains appliances, smells and tastes poor.  Some customers are afraid to drink the water.  The problem ironically is more prevalent in summer periods of high water use when customers pay a 25% higher seasonal price for water.  The Commission has recognized in a separate Capitol Water investigation (CAP-W-96-1) that the Idaho Division of Environmental Quality (DEQ) reports that iron and manganese is regarded as an aesthetic problem which under EPA guidelines poses no health threat.

Commission Findings

Based on the public testimony in this hearing, the complaint records of the Commission’s Consumer Staff, and the Company’s own records regarding water quality complaints, the Commission finds it reasonable to initiate a separate docket to investigate United Water and its ability to provide adequate service and water quality.  While the iron and manganese problem is not threatening to health, it certainly is a cause for concern and dissatisfaction for customers.  They should have the assurance that the Company has investigated and implemented all reasonable means of reducing or eliminating the problem.  The proceeding we initiate with this Order will be conducted to provide that assurance to customers.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over United Water Idaho Inc., a water utility, pursuant to authority and power granted it under Title 61 of the Idaho Code and 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 and calculated in Attachments 1 and 2 of this Order, IT IS HEREBY ORDERED and the Commission hereby authorizes an annual gross revenue increase for United Water Idaho Inc. of $763,941, an across the board increase of 3.6% over current rates for all customers not otherwise excepted.  The Company is directed to file revised tariff schedules with the Commission Secretary reflecting this increase in rates and such rates will be effective one day after said filing.

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

bls/O:UWI-W-96-3.sw2

DISSENT OF

COMMISSIONER DENNIS S. HANSEN

CASE NO.  UWI-W-96-3

I must respectfully dissent.  I was most troubled in this case by the testimony of Company customers regarding poor quality water, high levels of iron and manganese, and the seeming indifference of the Company to their plight.  I was also troubled by the Company’s reluctance to accept responsibility and inform affected customers that the Company has problem wells.  It is not acceptable to dismiss the problem by saying it is only an aesthetic problem and is not health threatening.  These customers pay the same rates as those with good water quality.  They should receive water that doesn’t discolor clothes, and smell or taste bad.  They should receive water that doesn’t frighten them.  If the Company is unable to address the problem and provide quality water to customers then the rates it receives for such water should be discounted. Furthermore, I would not authorize Management Incentive Plan payments.  It makes no sense to award top management incentive bonuses when they cannot provide all their customers with water of the same good quality, when they are not being entirely truthful to those with problem water.  I support the Commission’s decision to initiate an investigation.

I am also unable to find that the developed record supports an increase in vehicle leasing expense.  I found the Company’s case to be poorly presented, misleading and unpersuasive.  It would be imprudent for a utility such as United Water to make a management move from ownership to leasing of its fleet without conducting a full cost/benefit analysis.  For whatever reason, we were not presented with that analysis.  I do not understand why.  The Company appeared to be just throwing data at us without thoughtfully assessing the source, its accuracy or its relevance.  Of concern, was the inconsistency between the Company’s actual historical resale values provided in Staff Exhibit and the resale values the Company included in its own exhibits.  This misleading information causes me to regard the remainder of their vehicle lease case with suspicion.  The Company in three years has increased the size of its fleet by 30%.  This is a company that is experiencing only 3% growth per year.  There may be some logic to growing a fleet in such a fashion, but they have not communicated it.  Also, as my fellow Commissioners expressed, I am concerned that the Company has failed in this case to present the saving part of the equation regarding leasing.  I would have required the Company to present a better case before providing them with any additional leasing expense.

Dennis S. Hansen, Commissioner

vld/O/p 11:UWI-W-96-3.sw2

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF UNITED WATER IDAHO INC.  FOR AUTHORITY TO REVISE AND INCREASE RATES CHARGED FOR WATER SERVICE. | )  )  )  )  ) | CASE NO.  UWI-W-96-3  ORDER NO.  26671  ERRATUM |

On November 4, 1996, the Idaho Public Utilities Commission issued Order No. 26671 in Case No. UWI-W-96-3.  The Commission’s Order was a final Order and should have been designated as such.  Reference Idaho Code 61-626, IDAPA 31.01.01.323.  It is only by error and oversight that the final Order language was excluded.  We accordingly find it reasonable to correct Order No. 26671 by adding the following language.

“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

vld/O/p 12:UWI-W-96-3.sw2

(text box: 2)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF UNITED WATER IDAHO INC.  FOR AUTHO­RITY TO REVISE AND INCREASE RATES CHARGED FOR WATER SERVICE. | )  )  )  )  ) | CASE NO.  UWI-W-96-3  ERRATA TO ORDER NO. 26671 |

On November 4, 1996, the Commission issued Order No. 26671 in Case No. UWI-W-96-3, the following changes should be made to the Attachments of that Order.  The corrected Attachments are attached to this Errata.

On Attachment 1 and 2 where it reads:

“Case No. UWI-W-93-3”

Should read:

“Case No. UWI-W-96-3”

On Attachment 1 where it reads:

“Amortize Marden Excess Capacity (4 yrs)”

Should read:

“Amortize Marden Excess Capacity”

Dated at Boise, Idaho this        day of December 1996.

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

Text Box 2:

**TEXT BOXES**

Office of the Secretary

Service Date

November 4, 1996

Office of the Secretary

Service Date

December 26, 1996