DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

MYRNA WALTERS

FROM:SCOTT WOODBURY

DATE:OCTOBER 29, 1996

RE:CASE NO.  UWI-W-96-3

APPLICATION

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.  The overall increase in annual revenue requested is $1,116,352, or an increase of 5.3% over current rates.

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 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 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.  E.g., 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 UllmanBuilding Contractors Association of Southwestern Idaho:Coalition of United Water CustomersCommission Staff: | Dean J. Miller, Esq.Richard McCaugheyPeter 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.  (Attached).

The respective positions of the participating parties can be summarized as follows (see attachment):

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 .  The issue addressed by both parties is 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 challenges the Company’s cost/benefit analysis in 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.  (Staff eliminates the Company’s $197,170 adjustment, restores 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 legalrole 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 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).

Commissioner Smith in her cross-examination discussed the concept of matching, i.e., the appropriate matching of revenues and expenses in the same time frame.  The Commissioner posits that what the Commission is presented with is an accounting issue of whether the expenses and adjustments have been appropriately matched as opposed to one of confiscation.  In response to a question as to whether ratepayers get an advantage from leasing if the savings are not reflected in the make whole case, the Company responded that it was not convinced that there are any savings.  Tr. pp.  120, 195, 204.

Addressing the Commission’s duty in matters of this sort Commissioner Smith noted “as I read the statute, our job is to set fair, just and reasonable and non-discriminatory rates and make sure that utilities offer services that are adequate, safe and reasonable and the companies have the job of managing themselves, and then it is our job to make sure that in the management you aren’t spending more and thus, causing rates to be higher than they should reasonably be.”

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 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.

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).

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.

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, it seems, has a number of wells which 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, it is noted, 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 Decision

Scott Woodbury

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