DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

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DAVID SCOTT

WORKING FILE

FROM:SCOTT WOODBURY

DATE:MARCH 26, 1998

RE:CASE NO. UWI-W-97-6

MOTION TO COMPEL—SHARON ULLMAN

RESPONSE—UNITED WATER

On March 17, 1998, Sharon Ullman filed a Motion to Compel Disclosure in Case No. UWI-W-97-6.  Reference IDAPA 31.01.01.221, .222, .225 and IRCP 26(b)(1).  Specifically, Ms. Ullman seeks full response by United Water Idaho (United Water; Company) to the following production request:

Request No. 5:Please provide copies of any and all salary surveys in which UW Idaho has participated since rate case UWI-W-96-3 to include not only the portion of these surveys completed by UW Idaho, but the comparable data as provided in return by the survey sponsor(s) as well.

The Company made the following response:

Attached is the information we provided in response to participating in the  1997 Idaho Cross-Industry Salary and Benefit Survey; however, the results of this survey are confidential.  The survey results stipulate:

“copies of the survey are distributed to and intended for the internal use of participants.  We and your fellow participants request that you respect this trust and not provide copies to unauthorized persons or those who have not taken the time or effort to provide data to the survey.  Any such unauthorized disclosure may result in liabilities for violation and infringement of copyright protection.”  (emphasis in original).

Noting that fees were paid by United Water for participating in the survey, Ms. Ullman contends that United Water, and therefore she as a ratepayer, paid for the Company’s privilege of participating in and receiving reports from the subject salary survey.  As an intervenor, Ms. Ullman believes that she is entitled to examine all of the information received by United Water from the 1997 Idaho Cross-Industry Salary and Benefits Survey because the reasonableness of the salaries that United Water pays its employees has a direct bearing on the outcome of this case.

United Water in response to Ms. Ullman’s Motion to Compel reiterates its initial response to the production request and stresses that United Water is prohibited from disclosing the survey results to Ms. Ullman, or any other third party.  Contrary to her assertions, the Company states that neither Ms. Ullman’s status as a ratepayer nor her status as an intervenor entitle her to obtain the property of Western Management Group, the disclosure of which is prohibited by Western Management Group.  United Water requests that the Motion to Compel Disclosure be denied.

Commission Decision

Staff notes that the parties are exploring whether there exists an opportunity for accommodation and compromise.  Assuming that they are unable to reach same, how does the Commission wish to process this Motion to Compel?

Scott D. Woodbury

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