DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVE SCHUNKE

RANDY LOBB

TERRI CARLOCK

BOB SMITH

DAVID SCOTT

WORKING FILE

FROM:SCOTT WOODBURY

DATE:APRIL 6, 1998

RE:CASE NO. UWI-W-97-6

UWI—MOTION TO STRIKE

SHARON ULLMAN—ANSWER

IDAHO CITIZENS COALITION—ANSWER

On March 19, 1998, United Water Idaho Inc.  (United Water; Company) in Case No. UWI-W-97-6 filed a Motion to Strike (attached).  The Company seeks to strike identified portions of the prefiled testimonies of Thomas Power and Sharon Ullman.  Specifically, United Water wishes to strike the testimonies of each that propose to defer the rate adjustment and recovery of any determined revenue deficiency until after the Company completes the cost of service and rate design phase of its rate case.

United Water contends that the issue has been decided, that in authorizing the bifurcation of the case the Commission implicitly accepted the Company’s proposal to begin recovery of any revenue deficiency found to exist in the revenue requirement phase of its rate case through an immediate uniform percentage increase.  United Water contends that the Commission is without authority to extend the suspension period and that to delay any recovery would be to deny the Company its opportunity to earn its authorized rate of return, and would require it to perform its public service obligation without adequate compensation.  Citing Idaho Code 61-622.  The Company contends that the intervenors raising of the issue at this late date is at best opportunistic and that their arguments are unfounded and unfair.

The intervenors argue that the statutory suspension period preproposes that the Company  has filed a complete rate case, i.e., a case including “appropriate cost of service studies.”  Reference IDAPA 31.01.01.121.01.e.  Dr. Power asserts that the bifurcated approach is merely a strategy of the utility to hold down public outcry and thereby enhance the possibility of a larger recovery.  The Idaho Citizens Coalition contends that moving to strike testimony with which one disagrees is not an appropriate way to seek to affect the outcome of this case.  The Company contends that United Water can argue its position regarding the timing of a rate increase (if any) in its rebuttal testimony, through its witnesses at the public hearings, through cross-examination of opposing witnesses, or it can make those arguments in brief.  It also has the opportunity, it states, to call for reconsideration if it does not like the Commission’s decision about the size and timing of any rate increase that is approved.

Commission Decision

How does the Commission wish to process and/or address United Water’s Motion to Strike?

Scott Woodbury

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