(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 AMEND AND REVISE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 143. | )  )  )  )  )  ) | CASE NO. UWI-W-98-5  ORDER NO. 27899 |

On November 4, 1998, United Water Idaho Inc. (United Water; Company) filed an Application in Case No. UWI-W-98-5 with the Idaho Public Utilities Commission (Commission) requesting authorization to amend and revise its Certificate of Public Convenience and Necessity No. 143 (as amended) by enlarging and extending its certification service area boundaries to include the Ada County residential subdivisions of Spurwing and Foxtail and immediately surrounding areas in close proximity thereto, an area noncontiguous to its present system and certificated territory.  Ref. Application-Exhibit C legal description; Idaho Code 61-526; Commission Rules of Procedure, IDAPA 31.01.01.112.

United Water states that the area requested is not within the authorized territories of any other public utility water corporation under the jurisdiction of the Commission and will not interfere with the operation of any water utility corporation under the Commission’s jurisdiction.  The Company also states that there are no known public utilities, persons or corporations with whom the expansion is likely to compete.

United Water represents that the developers of Spurwing and Foxtail Subdivisions have requested that United Water provide water service.  A copy of the developers’ request is attached to the Company’s Application.  United Water represents that it has an adequate source of supply to serve the area.  Construction of facilities will be pursuant to the Company’s Rules and Regulations covering non-contiguous expansion and pursuant to Rules 74 through 78 of the Company’s Rules relating to Water Main Extensions.  United Water contends that the requested expansion is consistent with the public convenience and necessity.

Commission Notices of Application and Modified Procedure issued on November 20, 1998.  The deadline for filing written comments was December 11, 1998.  The Commission Staff was the only party to file comments.  Reply comments were filed by the Company on January 6, 1999.

Staff

Staff notes that the Company’s Application for certificate expansion includes three distinct areas of development and approximately 1500 acres of currently undeveloped land.  The first area is contiguous to United Water’s existing territory and includes about 320 acres west of Eagle Road between Chinden Boulevard and McMillan Road.  Approximately 40 acres consist of a development generally known as Bristol Heights Subdivision.  The other two areas known as Spurwing and Foxtail Subdivision are approximately two miles west of United Water’s existing certificated service territory.

The 70 lot Spurwing residential subdivision currently has 20 existing customers with unmetered potable water service provided by a Homeowners Association.  The water facilities consist of a distribution system and a single well and variable speed pump rated at 2,000 gallons per minute (gpm).  Irrigation water is provided through a separate pressurized system.

The 15 lot Foxtail Subdivision, located approximately one and one-half miles east of Spurwing along Chinden Boulevard, currently has five existing residences served by individual private wells.  The central potable water system is also unmetered and consists of distribution facilities and a single well and pump with a rated capacity of 900 gpm.

United Water contends in its Application that it is acquiring Spurwing and Foxtail pursuant to its recently approved non-contiguous expansion tariff.  Staff disputes the Company’s contention, concluding that the proposed service arrangements represent a significant deviation from the tariffs.

The Company’s non-contiguous tariffs require that all distribution facilities be contributed by the developer to the Company and all supply facilities be advanced to the Company subject to refund.  When a customer commits and utilizes the supply facilities within or without the subdivision, the Company pays $800 to the developer until the advanced supply costs are fully refunded.  That way, Staff contends, the Company makes no investment until there are customers generating revenue.  As part of the agreement to provide service to Spurwing, the Company has agreed to interconnect the two subdivisions with a 12" main line to provide a redundant source of supply for both developments.  The cost of this 7100 foot main line is $276,901 of which $150,000 will be contributed by the Spurwing developer.  The remaining $127,000 will be borne by the Company.  In explaining its deviation from tariff, the Company indicates that the investment will be made by the Company rather than the developer in exchange for future refunds that the developer would have received for the advanced cost of supply facilities.  The Company also indicates that a portion of the main line cost is for oversizing to meet future demand

Connecting the Spurwing and Foxtail wells will satisfy DEQ’s requirement that Spurwing have a second well.  Foxtail, with no customers at the time of the agreement, was not required to contribute to the main line cost.  Staff notes that according to the non-contiguous tariffs and the agreement, Foxtail can receive refunds from “late comers” (customers outside the subdivision) that utilize its water supply.  Although Staff interprets the language as capable of requiring refunds to Foxtail for all of the current and future Spurwing customers, at least up to the cost or capacity of the advanced Foxtail well, the Company assures Staff that Foxtail agrees that no refunds will be required for Spurwing customers.

Staff contends that the Spurwing and Foxtail agreements deviate so significantly from the Company’s existing non-contiguous expansion tariff, that they should be viewed as untariffed special contracts.  By interconnecting the two subdivisions and significantly deviating from existing tariffs, Staff contends that serious questions arise regarding the economic impact of the acquisition on existing customers, the appropriate cost recovery of Company investment and the equitable application of Company tariffs in the future.

Staff believes the requested certificate expansion for area of service is needed and recom­mends approval.  Service has been requested, no other public water corporations under the jurisdiction of the Commission are providing service in the area, and the requested area is within the county served by the Company.

Staff does not believe that the Company’s proposal to serve Spurwing and Foxtail is pursuant to existing non-contiguous expansion tariffs.  Staff recommends that the Company make application to acquire these non-contiguous systems under special agreement.

United Water

In reply United Water explains the rationale underlying the agreements and provides additional information to demonstrate that approval of the requested expansion of service territory is appropriate.  The Company states that “while there are arguably minor deviations from the formula contained in the non-contiguous rules, the end result is reasonable and does not result in harm to existing customers.”  Stating that it “understands Staff’s concern about agreements that are not in strict conformance with the tariffs”, the Company pledges to present such agreements in the future for approval as special agreements.

COMMISSION FINDINGS

The Commission has reviewed the Company Application and proposed Certificate amendment.  We have also reviewed and considered Staff’s analysis and recommendation in this matter and the Company’s reply.  The Commission continues to find that the issues presented in Case No. UWI-W-98-5 are suitable for processing under Modified Procedure, i.e., by written submission rather than by hearing.  Reference IDAPA 31.01.01.204.

The Commission finds that the underlying Company agreements with Spurwing and Foxtail should be approved as special contracts.  The Company’s non-contiguous rules require that all distribution facilities be contributed by the developer to the Company and that all supply facilities be advanced to the Company subject to refund.  In this case the Company is providing a portion of the cost of interconnecting Spurwing with Foxtail.  Spurwing has 70 platted lots and 20 existing customers.  Foxtail has 15 platted lots, five customers on private well and possibly two customers connected to the system since the date of the Foxtail agreement.  At this level of development there is risk that related revenues will not cover costs.

Under these agreements Spurwing contributes $150,000 and waives refund for additional hook-ups.  Foxtail pays nothing and receives refund for additional hook-ups.  The Commission understands that Foxtail refunds will only be for Foxtail development customers and not Spurwing customers.

The Company contends that there will be no harm to its general body of existing ratepayers should the agreement be approved.  We accordingly find it reasonable to defer any decision regarding rate base treatment and/or prudence of Foxtail/Spurwing investment until the Company requests it.

We have also considered the relevant statutory authority (Idaho Code § 61-526) and Commission Rules (IDAPA 31.01.01.112) regarding amendments to Certificate of Public Convenience and Necessity for existing utilities.  We find that the Company’s filing satisfies the underlying statutory and procedural requirements for Certificate applications.  We find that there are no known public utilities, persons or corporations with whom the expansion is likely to compete.  We find that the present and future public interest will be served by issuance of a Certificate of Public Convenience and Necessity to United Water for the requested area.  We find it reasonable, as qualified above, to authorize extension of service to Spurwing and Foxtail subdivisions under the submitted agreements.

CONCLUSION OF LAW

The Commission has jurisdiction over United Water Idaho Inc., a water utility, and its Application in Case No. UWI-W-98-5 pursuant to the authority and power granted under Title 61 of the Idaho Code and the 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 and qualified above, IT IS HEREBY ORDERED that the Certificate of Public Convenience and Necessity No. 143 of United Water Idaho Inc. be amended to reflect the addition of the particular areas described and reflected in UWI-W-98-5 Application Exhibit A Map of Proposed Boundary Expansion, Exhibit B related Spurwing and Foxtail legal descriptions, and Exhibits C (“legislative format”) and D (“clean format”) amended Certificate service area boundary description.  United Water Idaho Inc. is directed to prepare and file an amended Certificate for Commission approval.

As further and more particularly described and qualified above, IT IS FURTHER ORDERED and the Commission hereby approves extension of water service and construction of related facilities to the Spurwing and Foxtail subdivisions in accordance with the submitted agreements which we find to be special contracts.

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 January 1999.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:UWI-W-98-5.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

February 5, 1999