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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  COMMENTS OF THE  COMMISSION STAFF |

COMES NOW  the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application, Notice of Modified Procedure and Notice of Comment/Protest Deadline dated November 20, 1998, submits the following comments.

On November 4, 1998, United Water Idaho (UWI; Company) filed an Application with the Commission to amend and revise its Certificate of Public Convenience and Necessity

No. 143, as amended.  The Company requests that its existing certificated boundary be enlarged and extended to include areas known as the Spurwing and Foxtail subdivisions and immediately surrounding areas generally located on the north side of Chinden Blvd (Hwy 20/26) between Eagle Road and Meridian Road in Ada County.

In its Application, the Company states that the area is not within the authorized territory of any other public utility water corporation under the jurisdiction of the Commission nor will it interfere with the operations of any other water utility corporation under the jurisdiction of the Commission.  The Company also provides copies of letters from the subdivision developers requesting that service be provided by United Water.  UWI states that acquisition of existing facilities and construction of new facilities will be pursuant to the Company’s Rules and Regulations governing Non-Contiguous Expansion and rules 74 through 78 relating to Water Main Extensions.

STAFF INVESTIGATION

The Certificate expansion requested by the Company actually includes three distinct areas of development and approximately 1500 acres of currently undeveloped land.  The first area is  contiguous to UWI’s existing territory and includes about 320 acres west of Eagle Road between Chinden Blvd and McMillan Road.  Approximately 40 acres consist of a development generally know as Bristol Heights subdivision.  The other two areas known as Spurwing and Foxtail subdivisions are approximately 2 miles west of UWI’s existing certificated service territory and its nearest facilities.  It is on these two existing non-contiguous developments that Staff concentrated its investigation.  The attached map shows the location of the areas requested.

The 70 lot Spurwing residential subdivision currently has 20 existing customers with un-metered 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 2000 gallons per minute (gpm).  Irrigation water is provided through a separate pressurized system.

The 15 lot Foxtail subdivision, located approximately 1.5 miles east of Spurwing along Chinden Blvd, currently has 5 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.

Due to the non-contiguous nature of these two subdivisions, the Company indicates it has acquired these systems pursuant to its recently approved Non-Contiguous Expansion tariff.  The tariff, although primarily intended for new subdivisions before customers are actually connected, can be applied on a case-by-case basis to existing systems like these.  The case-by-case evaluation of existing systems recognizes the unique situations that can be encountered and provides some leeway in applying the standard rules.  Although the Foxtail water system currently serves no customers and has a separate non-contiguous water system agreement, it will be inextricably linked to Spurwing through a mainline extension that is currently under construction.  Together the proposed service arrangement appears to represent a significant deviation from the tariffs.

Generally, the 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 connects 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 the Company makes no investment until there are customers generating revenue.  It should be noted that this is the first time that the Company has proposed to apply the Non-Contiguous Expansion tariff.

As part of the agreement to provide service to Spurwing, the Company has agreed to interconnect the two subdivisions with a 12-inch mainline to provide a redundant source of supply for both developments.  The cost of this 7,100 ft mainline is $276,901 of which $150,000 will be contributed by the Spurwing developer.  The remaining $127,000 will be borne by the Company.  UWI indicates through production requests and telephone responses that the investment will be made by the Company rather than the developer in exchange for future refunds that the devloper would have received for the advanced cost of supply facilities.  The Company also indicates that a portion of the mainline cost is for oversizing to meet future demand.

The difference between the agreement made to serve Spurwing and what the Non-Contiguous tariff requires primarily deals with the amount of money invested by the Company to acquire the system and the timing of that investment.  Under the tariff, the Spurwing developer would advance the $175,000 supply investment and would receive $16,000 up front for the 20 existing customers and $800 for each additional customer utilizing the facilities over the next 15 years.  Without further development and additional customers utilizing the supply facilities, the developer could only expect to collect $56,000.  Under the agreement the Company pays $127,000 up front for the mainline needed to serve the subdivision and the developer foregoes all refunds associated with supply or mainline costs.

According to the Division of Environmental Quality (DEQ), Spurwing is required to have a second well and the mainline connecting the system to the Foxtail well will fullfill this requirement.  The Foxtail subdivision on the other hand does not have a similar requirement. That appears to be the reason that the Spurwing developer was required to contribute to the mainline cost while the Foxtail developer was not.  It is interesting to note that according to the tariffs and the agreement, Foxtail can receive refunds from “late comers” (customers outside the subdivsion) that utilize its water supply.  Therefore, the Foxtail developer could technically receive refunds for all of the current and future Spurwing customers.  At least up to the cost or  capacity of the advanced Foxtail well.

STAFF ANALYSIS

When the Staff reviewed the proposed Non-Contiguous System Acquisition tariff in Case No. UWI-W-98-1, we recognized the potential for complicated circumstances particularly when acquiring existing systems.  However, the agreements reached to serve the Spurwing subdivision and to a lesser extent the Foxtail subdivision deviate so significantly from existing Company tariffs that Staff believes they should be properly viewed as un-tariffed special contracts.  The Company indicates that the Non-Contiguous tariff was used to establish service to Spurwing but the primary provision of subsequent refund of advanced supply costs is eliminated.

The Company also indicates that Mainline Extension rules 74 through 78 were somehow used to assign cost responsibility in the construction of facilities.  However, none of the advance and refund provisions found in these special source of supply facility rules are included in the agreement.  Moreover, it is questionable whether the mainline should be characterized as special source of supply facilities in the first place.  It seems that the agreement more closely follows the offsite mainline extension tariff where the developer contributes the unrefundable (except vested interest) cost of the facilities.  Yet the agreement fails to collect the entire cost of the facilities or provide for vested interest refunds to the developer.

By interconnecting the two Subdivisions and significantly deviating from existing tariffs, 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 RECOMMENDATION

Staff views this Application as having three separate issues; 1) Is there a public need for water service that justifies the issuance of an expanded Certificate of Public Convenience and Necessity; 2) Is the expansion of UWI’s Certificate of Public Convenience and Necessity in the public interest; and 3) is the proposed service arrangement pursuant to tariffs?  Staff believes that the requested expansion 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 previously served by the Company.  Staff also recommends that this be recorded as the 25th Amendment rather than the 24th as indicated in the Company’s Application.  Amendment No. 24 was previously approved to include the Hidden Springs development.

However, Spurwing and Foxtail subdivisions are not contiguous to nor interconnected with UWI’s existing water system.  Consequently, these existing systems must be acquired and served under existing tariffs or purchased under a Commission approved acquisition agreement. Staff does not believe that the Company’s proposal to serve the Spurwing and Foxtail subdivisions is pursuant to existing expansion or line extension tariffs for the reasons cited above.  Therefore, Staff recommends that the Company make application to acquire these non-contiguous systems under special agreement with justification as to why existing tariffs are inappropriate in this case.  Staff is prepared to meet with the Company to discuss issues of concern raised in these comments.

DATED at Boise, Idaho, this             day of December 1998.

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Scott D. Woodbury

Deputy Attorney General

Technical Staff:  Randy Lobb

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