

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF SPIRIT LAKE EAST WATER COMPANY ) CASE NO. SPL-W-06-01  
FOR AUTHORITY TO INCREASE ITS )  
RATES AND CHARGES FOR WATER ) ORDER NO. 30279  
SERVICE IN THE STATE OF IDAHO )**

On August 14, 2006, Spirit Lake East Water Company (Spirit Lake, Company) filed a general rate case Application requesting authority to increase its rates and charges for water service, which have not changed in 23 years. The Company requested approval to increase its rates from \$12 to \$24 for the first 9,000 gallons of water usage, and from \$0.10 to \$0.20 for every 100 gallons of water used by a customer over 9,000 gallons per month. The Company also requested approval for an increase in the connection fee for new customer service from \$1,200 to \$2,500. Spirit Lake proposed an effective date of September 14, 2006 for the new rates. Pursuant to *Idaho Code* § 61-622, the Commission suspended the proposed effective date in Order No. 30119 issued August 29, 2006.

On November 30, 2006, the Commission issued a Notice of Modified Procedure to process Spirit Lake's Application. The Commission Staff filed its written comments on January 19, 2007 and Spirit Lake, after requesting an extension of time, filed its comments on February 23, 2007, and then filed amended comments on February 26, 2007. The Commission convened a public hearing at Spirit Lake, Idaho on February 28, 2007. In the same order granting Spirit Lake's Motion for Additional Time, the Commission continued the period for suspension of the Company's proposed rates until April 15, 2007. *See* Order No. 30241 issued February 9, 2007.

By this Order, the Commission directs Spirit Lake, based on substantial evidence of inadequate and unreliable service, to provide a plan of correction to immediately address known problems with its water delivery system. The Commission also approves a modest rate increase for Spirit Lake, raising the rate to \$12.50 for the first 9,000 gallons of water per month, and to \$0.12 for each 100 gallons after the initial 9,000, and a new customer connection fee of \$2,500.

**BACKGROUND**

Spirit Lake was granted a Certificate of Public Convenience and Necessity (No. 293) in February 1983, and the Commission established its rates for consumption in November 1983.

Spirit Lake currently provides service to 287 residential customers in Kootenai and Bonner Counties, Idaho. The Company's office is located in Spokane, Washington, but Spirit Lake has no direct employees. The water system was installed as part of subdivisions developed by Hanson Properties, Inc., which later became Hanson Industries, Inc. (Hanson). In 1982 the water distribution system owned by Hanson was turned over to Spirit Lake, a wholly owned subsidiary. Hanson remains the majority owner of Spirit Lake.

Hanson financed the construction of the Spirit Lake water system, as well as its operation since inception. Hanson employees handle all accounts payable and receipts for Spirit Lake, and provide accounting, billing, customer service, water-operator and maintenance services. Spirit Lake does not have a bank account separate from that of Hanson. The Company's fiscal year is November 1 through October 31.

The Company's monthly water rates have not changed since 1983, but the Commission in June 2004 did approve an increase in the Company's connection fee from \$650 to \$1,200. The Application in this case states that the proposed \$2,500 connection fee is the actual cost to complete the connection to add a new customer to the water system. The Company asserts the new service connection fee is needed to cover the amount actually paid to outside contractors who perform the connection work.

Staff's comments describe the Spirit Lake water system, which depends on a single well for its water supply. A 100 horsepower pump lifts water approximately 600 feet to a concrete reservoir. The reservoir is a reinforced concrete, above ground cylinder with a total capacity of 192,400 gallons. Three booster pumps, housed in a below ground concrete caisson, deliver water from the reservoir to the mains and branches of the system. System control valves, chlorinator and bladder type pressure tanks are housed in a building next to the reservoir. A small shed next door holds a 55 horsepower, 75 kW diesel generator used as a back-up power supply.

The Company's service territory covers an area of approximately six square miles. The system's mains and branches contain 126,585 feet of pipe, most of it PVC pipe, in sizes varying from 1 inch to 10 inches in diameter. Approximately 527 feet of pipe is galvanized steel. Because customer stub outs and valves were not installed on the mains and branches when the system was built, every new customer added to the system requires a tap into a main that is under pressure. As of December 2006, the system serves 287 active customers in the Spirit Lake

East and Treeport subdivisions. There are also 18 dormant customers (meters locked) connected to the system. The subdivisions are largely built out, with 13 customer hookups in fiscal year 2005 and 3 new hookups in 2006.

### **EVIDENCE OF INADEQUATE AND UNRELIABLE SERVICE**

*Idaho Code* § 61-302 requires every public utility to “furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, . . . and as shall be in all respects adequate, efficient, just and reasonable.” Considerable evidence provided by Staff and by customers of Spirit Lake demonstrates that the water delivery system has been unreliable, particularly following power outages, and inadequate in delivering a dependable supply of water to many customers. The Commission finds on the record presented that Spirit Lake currently does not meet the standard of Section 61-302 for service that is in all respects adequate, efficient, just and reasonable.

Staff in its comments identified three maintenance items that affect the water service Spirit Lake provides to its customers. According to Staff, the largest problem is significant, unidentified leaks in the system; second is the failure of the recently installed generator; and third is repair of a flat roof that covers the water storage reservoir.

Staff calculated that leakage in the Spirit Lake system is more than one gallon, and could be as much as one-and-a-half gallons, for every gallon used by customers. Staff described the leakage problem as severe, well beyond the 10% to 15% that is considered acceptable for small water systems. Staff also believes that water loss from leaks is increasing faster than customer usage, indicating that the volume of water leaking from the system as a percent of total production is increasing.

Given the seriousness of the leakage problem, Staff recommended the Company be directed to prepare a plan to locate and repair system leaks. For this case, Staff recommended that the Company’s cost of electricity, beyond that which is required to pump water in excess of the metered usage plus 10%, be disallowed in the Company’s revenue requirement. Staff calculated the pro rata share of electricity for disallowance to be 55% of the test year total electric bill.

The second maintenance item affecting service is a generator installed in the fall of 2005. The Company installed the 55 horsepower diesel generator to operate the booster pumps in the event of power outages. Since it was installed, there have been two power outages where

the generator was needed, and both times the generator failed. Staff also stated that the generator is not large enough to provide sufficient electricity to run the well pump and keep the reservoir filled during an outage, especially considering the amount of water loss in the system. Staff believes that repair of system leaks must be a priority, and will improve available operating time of the system during a power outage. Staff recommended the Company investigate acquiring a larger back-up generator capable of operating the entire system.

The third maintenance issue is a flat roof cover over the water storage reservoir. Staff stated the roof currently does not leak, but water sitting on the roof presents a potential water quality issue. Water on the flat surface will freeze and thaw, leading to leaks in the roof, and possible contamination of the reservoir water. Staff recommended the Company be directed to repair the roof to prevent ponding of surface water to assure a safe, reliable water supply.

In addition to Staff's analysis, significant evidence of inadequate water service was provided by customers of Spirit Lake. Approximately 45 written comments were filed with the Commission, not including 38 consumer complaints following an outage on March 15, 2007, which became part of the record in this case and were considered by the Commission. In addition, approximately 80 to 90 customers attended the public hearing in Spirit Lake, Idaho, and more than 25 signed in to testify. The customers identified several significant problems, and expressed frustration with the Company's unwillingness or inability to address them.

Staff in its written comments summarized the results of a workshop and the written comments received by the Commission up to January 19, 2007. Staff hosted a customer workshop at Timberlake High School Library on November 8, 2006. Thirty-seven customers attended the workshop, and expressed concerns regarding poor water quality, low system pressure, inadequate maintenance of the water system, lack of justification for the requested rate increase, and failure by the Company to provide fire hydrants or fire protection access. A majority of the attendees were well-informed members of the Spirit Lake East Homeowners Association and the homeowners from the Treeport Subdivision, which is not represented in the Spirit Lake East Homeowners Association. Both groups have been in contact with the Idaho Department of Environmental Quality and Hanson Industries during the past several years to address service and water quality issues with Spirit Lake.

Prior to January 19, 2007, when Staff filed its comments, the Commission had received 21 written comments and a petition with 56 customer signatures requesting another

workshop or hearing. Ten comments were in support of an increase provided that a plan showing substantial investment to improve water quality and pressure were implemented. Eleven comments reflected opposition to the proposed rate increase based on past failure of the Company to adequately maintain and improve the system over the years. A few comments supported an increase in rates to finance an additional well rather than relying on only the one currently providing water to the system. Most comments expressed frustration with the Company's lack of response to water and service quality issues.

In addition to the comments filed in this case, Staff summarized the complaints received by the Commission's Consumer Division regarding Spirit Lake. Nineteen complaints were made from January 1, 2004 to January 8, 2007. Six of the complaints concerned extended water outages in October 2004. Other complaints concerned poor water quality, a billing dispute and objections to this proposed rate increase. Five complaints were received during a December 2006 power outage, referencing the failure of the back-up generator to adequately handle the system needs and stating that the Company was not diligent in maintaining the back-up power supply. Complainants also expressed concern that notices to boil water mailed to customers during the busy holiday season, in the midst of a major storm, did not reach residents for two or more days after the system had been flushed with chlorine.

Spirit Lake customers testified to these and other problems at the public hearing on February 28, 2007. Customers testified to complete failures of the water system, the most significant occurring in October 2004 when the well pump failed. Most customers were without water for several days, some had no water for nine or ten days. Tr. pp. 19-20, 30, 46, 63. One customer described the outages as occurring "routinely, yearly, our water supply has been off." Tr. p. 63. Inadequate water pressure also is a problem for many customers. Customers testified to water pressure that may be adequate for a shower, but "you better take it at 5:00 am because by 7:00 am you'll only be getting a trickle." Tr. p. 41. The water pressure was described as "atrocious" by a customer who complained, "it shouldn't take 15 minutes to fill up your sink to wash your dishes." Tr. p. 71. Some customers testified the pressure problem has been getting worse in recent months. Tr. pp. 53, 55-56, 61. Customers also testified regarding the taste or quality of the water. One customer testified that orders to boil potable water happen "almost every year," and that the water now "has so much chlorine in it my dogs don't even drink [it]". Tr. p. 30. Another customer testified: "The taste of this water is not to the liking of our family

since it's been added—chlorine has been added due to the filth of the patched together reservoir. As for me and my house, we won't drink it." Tr.p. 40. One customer spends "one [hundred] to \$200 in bottled water a month because I am tired of my child—we've lived here for 12 years—ending up sick and having to go to the doctor to find out that it's, you know, something with the stomach bacteria and things like that." Tr. p. 71.

Finally, the Commission learned, while considering its Order in this case, of another water outage occurring March 15-16, 2007. Numerous Spirit Lake customers contacted the Commission, and the Company provided information about the cause of the outage and the Company's response. The outage was caused by failure of the well pump, the same pump that was replaced after the October 2004 outage. Although the Company in this instance acted promptly to repair the pump and provided bottled drinking water to customers, the pump's failure is yet another occurrence for customers, some of them long-suffering, where an adequate water supply was not provided them.

Based on the considerable record presented by Staff and Spirit Lake customers, the Commission finds that the Company is not providing the water service required by Idaho law. A water company that has water outages as often as yearly, and leaves customers without water for up to ten days is not providing service that is adequate or efficient or reasonable. Water delivered at insufficient pressure to allow showering or lawn watering for many customers is not adequate or reasonable. Water that is not drinkable, because of bad taste or contamination, is not promoting "the safety, health, comfort and convenience" of customers. *Idaho Code* § 61-302. Repairs needed to provide necessary service have been neglected or delayed without justification, resulting in equipment and facilities inadequate to promote the safety, health, comfort and convenience of its patrons.

The evidence is undisputed that the most pressing needs to improve the water system are replacement of the inadequate generator and repair of the system leaks. A generator must be of sufficient size to operate the well pump and keep the reservoir full during power outages. Repair of leaks will mean more water is delivered to customers at higher levels of pressure. We direct the Company to address these needs without delay. To assure prompt action is taken, we direct the Company to provide a written plan to the Commission within fourteen (14) days of the service date of this Order, explaining the steps the Company will take to install a new generator and to address the system leaks. We expect the Company to respond promptly and in good faith

to address the problems with its water system.

In their comments or testimony, many customers recommended that Spirit Lake be allowed no rate increase until system improvements are made. Although Spirit Lake has been deficient in its operation of the water system, the Commission is without authority to disregard or deny the Company's Application for a rate increase for that reason. The rate request is based on improvements already made and on higher operating costs, and denying the Application could be a legally impermissible taking of property from the Company. We thus turn to the specific rate case issues.

### **REVENUE REQUIREMENT**

Staff in its comments provided an analysis and calculation for Spirit Lake's revenue requirement. After making several adjustments to rate base, Staff recommended a rate base for Spirit Lake in the amount of \$156,038. The Company requested, and Staff supported, a return on equity of 12%. After making adjustments to test year revenues and expenses, Staff concluded Spirit Lake's annual income deficiency is \$10,673. After applying the net income to gross revenue multiplier for income taxes, Staff initially recommended a total revenue increase in the amount of \$13,751.

Staff's initially proposed revenue increase of \$13,751, or 28.71%, is significantly less than the Company's request for an increase of \$47,866, or nearly 100%. The Company revised its request, however, in its Amended Reply Comments filed February 26, 2007. Spirit Lake identified several Staff adjustments to revenues, expenses and rate base, identified at page six of the Company's Reply Comments, to which the Company did not object. After providing additional information to Staff, the Company also identified additional rate base, revenue and expense adjustments that Staff was willing to support. With agreement on additional items, Staff revised its recommended revenue increase to be \$19,640, or approximately 37%, and Spirit Lake's revised request is for additional annual revenue of \$27,961, or an increase of approximately 53%.

We accept and approve most of the rate base, revenue and expense adjustments agreed upon by Staff and the Company. The final accounting amounts approved by the Commission are set forth in Attachment A, Column D, to this Order. We will summarize the rate case components, and decide those remaining items about which Staff and the Company did

