

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN)

Idaho Code 61-526, 61-527, and 61-528 A company that plans to construct and operate a water system under the jurisdiction of this Commission must first make application to the Commission.

The Commission Staff receives requests from time to time for information about the requirements for a Certificate of Public Convenience and Necessity (CPCN) for water utilities. The first step for developers should be to contact an existing water utility or municipal water department and discuss the possibility for a main extension under their main extension rule. If connecting to an existing water system is not feasible or acceptable, then the requirements outlined hereafter may answer most questions concerning the formation of a new water company.

The information given on the following pages is designed to assist those persons who plan to construct and operate a water company under the jurisdiction of the Idaho Public Utilities Commission. Sections of the Idaho Public Utility Laws that directly concern such a company are noted at appropriate places in the text of these instructions. In this brief explanation no attempt will be made to cover every possible situation and **IT SHOULD BE NOTED THAT ALL OF TITLE 61, IDAHO CODE, CHAPTERS 1 THROUGH 10 ARE APPLICABLE TO EVERYONE HOLDING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

The word 'company' as used herein shall mean any person or group of persons that has constructed or plans to construct and operate a public drinking water system. It is the Commission's position that one of the requirements before any Certificate of Public Convenience and Necessity is issued, a separate operating entity involving ONLY the water system must be formed.

Idaho Code Sections 61-104, 61-124, 61-125 and 61-129 are the applicable code sections over what type of system the Commission does and does not exercise jurisdiction over. Generally, the Commission does not exercise regulatory jurisdiction over systems operated by home-owner associations, cooperative associations or formal water districts where the consumers have a voice in electing the water system board or managers.

SECURITY ISSUANCE

Idaho Code 61-901. If the company plans to issue securities or otherwise incur indebtedness that will not be repaid within 12 months then it will be necessary to obtain the permission of the Commission to incur such indebtedness. The application shall be filed in accordance with the Idaho Public Utilities Commission IDAPA 31.01.01 Rules of Procedure 141 - Form and Contents of Application to Issue Certificates (Rule 141).

RECORDS

The company must keep accurate records of the actual cost of constructing the water system and must also keep an accurate account of the revenues and expenses in connection with the operation of the system. The records must be

kept in accordance with the "Uniform System of Accounts for Water Utilities." A copy of this may be obtained from the Secretary of the Idaho Public Utilities Commission or downloaded from the Commission website at: <http://www.puc.idaho.gov/water/water.htm>. The Commission Staff will periodically audit these records.

FEES

The company will be required to pay an annual regulatory fee as determined in Section 61-1004, *Idaho Code*. The fee is currently three tenths (3/10) of one percent (1%) of the gross Idaho intrastate revenues, with a minimum fee of fifty dollars (\$50).

THE DESIGN OF THE WATER SYSTEM

The Idaho Public Utilities Commission does not have a prepared model design of a new water system. However, as a practical matter, the Commission is concerned whether or not the proposed water plant is adequate to serve the intended customers. The Commission can withhold the issuance of a Certificate of Convenience and Necessity until the necessary changes have been made in the design of the system. Therefore, in order to avoid the possibility of a denial for a Certificate of Convenience and Necessity, it is suggested that the water system is designed by a registered professional engineer, and that he be available for interview by the Commission Staff and at the hearing, if necessary, for testimony and cross examination. It is also recommended that the company submit a copy of its plans and specifications to the Commission before construction commences so that any questions concerning the design may be settled before the company appears before the Commission. It is also suggested that water production and customer usage meters be incorporated in the design of the system. The company's attention is also called to IDAPA 58.01.08 – Idaho Rules for Public Drinking Water systems promulgated by the Idaho Department of Environmental Quality (IDEQ) governing the quality and safety of drinking water pursuant to Idaho Code Title 37, Chapter 2 and Title 39 Chapter 1.

PRESUMPTION OF CONTRIBUTED CAPITAL

The Idaho Public Utilities Commission "**Policies and Presumptions for Small Water Companies**" (IDAPA 31.36.01) Rule No. 103 adopted July 1, 1993 by General Order No. 174 states:

In issuing certificates for a small water company, or in setting rates for a small water company it will be presumed that the capital investment in plant associated with the system is contributed capital, i.e., that this capital investment will be excluded from rate base.

This rule means that the company will not be allowed to claim any investment in the system upon which it would earn a return through rates to the consumer. Rates will be based solely upon the operating expenses of the company including

reasonable compensation for time spent managing and operating the system.

RATES AND RULES

The company's proposed rates and rules must be filed with this Commission. The company may obtain assistance from the Commission Staff who will show them the form for filing and will also suggest the type of rules the utility should have on file with this Commission.

If a company is serving a new development, it is expected that there will be start-up losses in the operation of the system until the number of customers has reached 75% or 80% of the number for which the system was designed.

The company should read Title 61, *Idaho Code*, to get a basic understanding of the obligations of the company to its customers.

REPORTS

The company will be required to submit an annual report on its financial condition and operations in such form and detail as the Commission may prescribe.

This report must be made on a form furnished by this Commission, which is mailed to all public utilities in December of each year. The report which covers the calendar year is due by April 15.