DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVE SCHUNKE

GEORGE FINK

ROSE SCHULTE

DAVID SCOTT

WORKING FILE

FROM:SCOTT WOODBURY

DATE:SEPTEMBER 11, 1998

RE:CASE NO. BAR-W-98-1 (BARBER WATER)

PETITION FOR RECONSIDERATION

On August 19, 1998, the Commission issued final Order No. 27677 in Case No. BAR-W-98-1 authorizing, conditional on the securing of sufficient water rights from the Department of Water Resources, the amendment of Barber Water Corporation’s Certificate of Public Convenience and Necessity No. 277 to reflect the addition of the Idaho Shakespeare Festival site.  The Company was directed to file a map of the proposed boundary expansion and legal description of the ISF site.  The Company was also directed to prepare and file an amended Certificate for Commission approval.  The Company has yet to make any compliance filings with the Commission, including related tariff rates for ISF.

On September 2, 1998, Idaho Consumer Affairs Incorporated (ICA) filed a Petition for Reconsideration with the Commission Secretary (attached).  ICA in its Petition for Reconsideration contends that the Commission erred in processing the Company’s Application pursuant to Modified Procedure.  ICA continuing with its opposition to the ISF agreement and the related extension of service and facilities contends that a formal public hearing should have been held.

ICA contends that despite the Commission’s finding that “no other utility or water service provider has expressed interest in providing potable water service to the Shakespeare site”, another source of potable water was available to ISF, i.e., an unidentified property owner who lives east of the Darkwood Farm and apparently known to the director of ISF.

Also filed with the Commission was a letter from Mr. Ronald Welch (attached), who raises questions regarding the Company’s water rights and related ability to serve.  Mr. Welch suggests that the Commission by its orders may have directed and aided Barber Water into direct violation of the Company’s water rights, a violation that may have existed since July 1982 (reference right to serve Barberton Subdivision 1 and 2 and now ISF).

Commission Decision

Apart from the possibility that there was another potential provider of potable water service, ICA presents no additional relevant contentions that have not already been considered by the Commission.  Regarding Mr. Welch’s letter, the Commission conditioned its grant of authority on the Company’s ability to secure adequate water rights.  ICA requests that the Commission reconsider its decision to process this matter by Modified Procedure rather than by hearing.  Should reconsideration be granted and a hearing scheduled?

Scott Woodbury

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