(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF BRIAN WATER CORPORATION FOR AUTHORITY TO INCREASE ITS RATES. | )  )  )  ) | CASE NO. BRN-W-98-1  ORDER NO.  27998 |

On August 3, 1998, Brian Water Corporation (Brian Water; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting a 10% increase in tariffed rates to build up depleted cash reserves to take care of “future emergency repairs such as water line breaks and replacement of the backup pump and regular maintenance.”  For reasons detailed below, this Order authorizes Brian Water to increase its rates and charges for water service by $3,105 annually, or 31% over current revenues, to a total annual revenue requirement of $12,936.

Brian Water is a regulated water utility providing water service under Certificate of Public Convenience and Necessity No. 260 to 47 residential customers in Brian Park Subdivision, a development located in Ada County, Idaho, a few miles east of Boise along old State Highway 21.  The Company’s water rates were last adjusted by the Commission in Order No. 22880 issued December 12, 1989, in Case No. BRN-W-89-1.

Under the Company’s proposed 10% rate increase, the base rate for the first 4,000 gallons per month would increase from $7.91 to $8.70 and the excess commodity charge (over 4,000 gallons per month) would increase from $0.83 to $0.91 per 1,000 gallons.  The Company proposed using a test year of 1997 in its rate application.  As reflected in the Company’s filed 1997 annual report, Brian Water in 1997 received annual revenue of $9,831.07 from annual metered sales of 8,529,000 gallons.  The Company’s proposed increase would generate approximately a $980 increase in annual revenue.

Included with the Company’s Application are comparative balance sheets for the latest three years ending December 31, 1997, a schedule of operation and maintenance expenses, a summary of earnings and rate base, a statement of income at present and proposed rates, a description of pro forma adjustments and an engineering report for test year ending December 31, 1997.

An initial Notice of Application in Case No. BRN-W-98-1 was issued by the Commission on August 26, 1998.

On January 22, 1999, following completion of its investigation into the Company’s filing, Commission Staff filed a Report with the Commission Secretary containing its analysis and recom­men­da­tion in Case No. BRN-W-98-1.  Staff’s investiga­tion included a review of the Company’s past case files, annual reports filed with the Commission, prior audit reports, complaint records, and on-site visits to review the Company’s financial records and physical plant in service.

Staff Recommendation

Although the Company has requested only a 10% increase in rates, Staff has determined that to provide for the Company’s present and continued viability, a $3,105 or 31% increase in annual revenues is required.

Staff further recommends by way of rate design that the calculated revenue requirement be collected by increasing the Company’s base rate for the first 4,000 gallons per month from $7.91 to $10.50 and increasing the excess commodity charges (over 4,000 gallons per month) from $0.83 to $1.08 per 1,000 gallons.  Staff calculates that this rate change, on average, will result in an increase in the base rate of approximately $31 per year per customer and an increase in the commodity charge of approximately $34 per year per customer, a total increase to customers of approximately $65 per year.

Staff Analysis

Brian Water has two wells, a large well producing approximately 160 gallons per minute and a small well producing approximately 110 gallons per minute.  The large well pump was replaced in 1997, at a cost of approximately $6,900.  There is no master meter, however, each customer is metered.  Two customers located on the far east end of the service line are served using booster pumps and tanks.  No major repairs or modifications to this system are planned at this time.

The Staff-adjusted Company revenues for a 1997 test year are $10,814.  After Staff adjustments to the Company’s accounts, the test year total operating expenses were determined to be $10,850.  Company and Staff adjustments to the test year are proposed to account for increased laboratory analytical costs of an average of $579 per year.

The rate base for Brian Water is composed of major improvements and repairs made to the system.  The original cost of the developer installed system including the wells, pressure vessel, electric controls, well house and distribution system are considered contributed property under Commission Rule 103, Policies and Presumptions for Small Water Companies.  Reference IDAPA 31.36.01.103.  The rate base was increased to account for the installation of a new primary well pump in 1997, at a cost of $6,900.  The total adjusted rate base of $13,855 includes adjustments for the new pump, meters and instrumentation.

Staff has utilized and proposed for Brian Water a rate of return on rate base of 12%, the equity return authorized by the Commission for several years on small water systems.  Staff believes that a 12% equity return continues to be reasonable.  The capital structure of Brian Water is entirely owner-equity; the Company has no debt.  This equity return when applied to the rate base produces a net income of $1,663.  Expenses of operating the system ($10,850), when added to the pre-tax income  requirement ($2,086), produce a total revenue requirement of $12,936.

The Company’s actual 1997 test year revenues were $9,831.  The revenue requirement calculated by Staff, $12,936, is $3,105 greater than the actual revenues collected during the test period and indicates that the gross revenue must be increased.  The Staff’s recommended increase of $3,105 is primarily attributable to the increases in rate base, the return on that rate base, and reasonable expenses required (e.g., analytical testing expenses).  It is in the customer’s best interest, Staff contends, to establish a revenue requirement that will allow the Company to meet the maintenance and operation obligations as they come due, as well as make the necessary repairs and replacements to the system in a timely and efficient manner.

The rate design analysis of Staff was based on a revenue requirement for the Company of $12,936; 47 hook-ups in the water system; a 4,000 gallon per month consumption allowance; and retention of the current metered customer rate structure (base rate and excess commodity charges).  The test year consumption of 8,529,000 gallons per year was used in the rate design.  It was noted that this approximates the three year (1995-1997) average consumption of 8,476,333 gallons per year.  The rate design recommended by Staff is a base service charge at $10.50 per month and the commodity charge set at $1.08 per 1,000 (above 4,000 gallons).

On February 5, 1999, the Commission issued a second Notice of Application in Case No. BRN-W-98-1, Notice of Staff Report, Analysis and Recommendation (and the Commission’s proposed adoption of same) and a Notice of Modified Procedure.  The deadline for filing written comments was March 5, 1999. Commission Staff filed comments adopting its previously filed Report and Recommenda­tion.  Also filed were the March 5, 1999, written comments of Leonard G. Baxter, a customer of Brian Water who opposes the use of Modified Procedure and requests a hearing.

Mr. Baxter in his March 5, 1999 comments questions why the Commission and Staff (government employees) would consider giving Brian Water (a not-for-profit utility) a 31% increase when the Company in its Application requested only 10%.  Will the Commission or Staff pay the extra 21% increase, he queries?  Should the Commission not be neutral, he queries?  Mr. Baxter also raises questions regarding service, equipment and water quality.  The Company on March 29, 1999, filed a partial response regarding the equipment failure.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. BRN-W-98-1 including the Commission Staff’s report, analysis and recommendation (a report which we include by reference as if appended hereto in its entirety), the filed comments of Mr. Baxter, and the Company’s partial response.  While we note Mr. Baxter’s objection to Modified Procedure and his request for hearing, the Commission continues to find that the issues presented in this case are suitable for processing under Modified Procedure.  Reference IDAPA 31.01.01.204.

Furthermore, we were informed by Staff and therefore believe that individual copies of our second Notice of Application, including Notice of Staff’s report and recommendations and the Commission’s proposed adoption of same, were mailed to all Brian Water customers.  We note that Mr. Baxter is the only customer of Brian Water to file written comments in this case.  Mr. Baxter raises ques­tions regarding service, equipment and water quality.  In reviewing Mr. Baxter’s letter it is apparent that the service and equipment problem relates to water pressure.  Mr. Baxter is one of two customers requiring a booster pump to provide adequate pressure.  The Commission is informed by Staff that the pressure problem has been remedied in part by repairing an auxiliary booster pump.  Although the problem has not been totally remedied, indications are that the ultimate fix may require the correction of a problem on the customer’s side of the meter.

The water quality problem identified by Mr. Baxter seemingly relates to the hardness of the water.  The Commission recognizes and is informed that the Company is not required to test for alkalinity or pH.  The hardness or softness of water is recognized as an aesthetic and not a health threatening problem.  It is reported that Mr. Baxter treats his water with a water softening system.  We find that the Company is not responsible for this treatment cost.

In response to Mr. Baxter’s question as to Commission justification for even considering an increase greater than that requested by the Company, we note by way of preface that the authority and power of the Commission to determine the reasonableness of the Company’s rates and charges is derived from statute, Idaho Code Title 61—Public Utilities Law.  In this case the Commission considered Commission Staff’s report, analysis and conclusions.  Staff recommenda­tions were the result of its investigation, discovery and inspection.  Idaho Code 61-610—Right to Inspect Books and Examine Employees; IDAPA 31.01.01.221-240—Discovery-Related Prehearing Procedure.  Our grant of authority to determine and fix rates includes the power to investigate.  See Idaho Code 61-502—Determination of Rates; 61-503—Power to Investigate and Fix Rates and Regulation.  Brian Water for its part has a statutory duty to maintain adequate, efficient, just and reasonable service.  Idaho Code 61-302—Maintenance of Adequate Service.  We have a reciprocal duty to customers to ensure that the Company has the wherewithal to provide such service

Staff contends in this case and we agree that in determining the reasonableness of Brian Water’s tariffed rates we must consider whether they provide the Company with enough revenue to meet its maintenance and operation obligations as they come due, and provide it with the ability and means to make necessary repairs and replacements to its water system in an otherwise timely and efficient manner.  In short, we are concerned with the Company’s continued viability.  It is not administratively efficient to set rates for a utility of Brian Water’s small size at a level that will result in frequent petitions to the Commission for rate relief.  This is neither fair to the Company nor its customers.  In Brian Water’s case we are able to provide it with reasonable operational flexibility by permitting it to maintain a reserve account in an amount equal to what it would otherwise be authorized as a return on equity.

In reviewing the record, we continue to find Staff’s proposed revenue requirement and rate design to be fair, just and reasonable.  We find that the Company’s requested rate increase of 10% represented little more than a perception by the Company that ten years had elapsed since its last rate case and its cash reserves were depleted.  We find that the Company’s request was not based on an accounting analysis of the Company’s financial position or on standard revenue requirement methodologies.  Based on our consideration of the established record in this case, we find it reasonable to approve a calculated annual revenue requirement for Brian Water of $12,936 and to establish the following tariff rates for metered service: an increase in the Company’s base rate for the first 4,000 gallons per month from $7.91 to $10.50 and an increase in the excess commodity charge (over 4,000 gallons per month) from $0.83 to $1.08 per 1,000 gallons.  As calculated by Staff we find that this rate change, on average, will result in an increase in the base rate of approximately $31 per year per customer and an increase in the commodity charge of approximately $34 per year per customer, a total increase to customers of approximately $65 per year.

The revenue requirement that we approve is $3,105 or 31% greater than the Company’s actual 1997 test year revenues of $9,831.  The revenue requirement and rates that we approve are derived from an approved adjusted test year operating expense of $10,850, a 12% equity return on an approved calculated rate base of $13,855 and a pretax income requirement of $2,086.  The Company is directed to file amended tariff sheets reflecting the approved rates.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction and authority over Brian Water Corporation, a water utility, and the issues raised in this case, pursuant to Title 61 of the Idaho Code and the Commission’s 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 above, IT IS HEREBY ORDERED and the Commission in Case No. BRN-W-98-1 does hereby approve a $3,104 or 31% increase in authorized annual revenue for Brian Water Corporation for a total authorized annual revenue requirement of $12,936.

IT IS FURTHER ORDERED and the Commission does hereby authorize and establish tariffed rates and charges as set out above.  The Company is required to file tariff sheets consistent with this Order.

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 April 1999.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

PAUL KJELLANDER, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:BRN-W-98-1.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

April 23, 1999