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

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| IN THE MATTER OF THE APPLICATION OF COUNTRY CLUB HILLS UTILITIES, INC. TO SURRENDER ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 312. | )  )  )  )  )  )  ) | CASE NO. CCH-W-95-1  ORDER NO. 26759 |

On January 30, 1995, MGA, Inc., DBA Country Club Hills Utilities, Inc., (Country Club Hills; Company) notified the Idaho Public Utilities Commission (Commission) that it had changed its corporate status from “for profit” to “not for profit”.  Country Club Hills serves approximately 85 customers near Idaho Falls, Idaho.  Country Club Hills sought to surrender its Certificate of Public Convenience and Necessity No. 312.  Country Club Hills believed that changing corporate status to non profit would permit it to operate free of Commission jurisdiction, control and regulation.

On March 3, 1995, the Commission in Order No. 25910 stated that further investigation was required to determine whether or not Country Club Hills was operating as a public utility within the State of Idaho.  To that end, Staff was directed to conduct an investigation and audit of Country Club Hills.

Staff’s investigation revealed that Country Club Hills was continuing to operate as a public utility.  Pursuant to discussions with the Company a letter was sent to Country Club Hills on September 26, 1995, expressing Staff’s position as to what changes would be required of Country Club Hills to avoid regulation.  As stated, it was Staff’s position that “a non profit corporation to avoid regulation must be structured in such a manner that the customers, not the developer, have ultimate control of the company, its operations and management, and the pricing of its water and related services.”  The Company was directed to inform Staff as to whether Country Club Hills was structured in such a manner as to satisfy Staff’s concerns.  If not, Staff requested the Company’s preferred procedure for processing its Application.  The Company failed to respond.

On February 23, 1996 Staff sent a follow up letter to Country Club Hills inquiring as to the appropriateness of a dismissal.  On February 29, 1996, Country Club Hills by telephone indicated to Commission Staff its preference that the proceedings in Docket No. CCH-W-95-1 be informally stayed pending the outcome of negotiation and arrangements with United Water affiliate, EM².

On November 25, 1996 Staff sent a further follow up letter to Country Club Hills advising the Company that this matter must be activated or closed out prior to year end.  The Company was requested to advise the Commission in writing on or prior to December 13, 1996 if Country Club Hills had any objection to a dismissal of the Company’s Application and the closing of the Docket in Case No. CCH-W-95-1.  The Company failed to respond.

Commission Findings:

The Commission has reviewed and considered the filings of record and correspondence in Case No. CCH-W-95-1.  The Commission finds it reasonable to dismiss without prejudice the Application of Country Club Hills Utilities, Inc. in Case No. CCH-W-95-1 for failure of the Company to diligently prosecute its case.  We find that Country Club Hills continues to be a public utility and water corporation operating and providing water and related services pursuant to Certificate of Public Convenience and Necessity No. 312.  We continue to find that Country Club Hills Utilities, Inc. is subject to Commission jurisdiction and regulation.

Conclusions of Law:

The Commission has jurisdiction over this matter and Country Club Hills Utilities, Inc.,  a water utility, pursuant to the authority and power granted it under 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 that the Application of Country Club Hills Utilities, Inc. in Case No. CCH-W-95-1 be dismissed without prejudice and the case Docket closed.

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 January 1997.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

January 14, 1997