

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF) EAGLE WATER COMPANY, INC. TO AMEND) ITS CERTIFICATE OF PUBLIC) CONVENIENCE AND NECESSITY NO. 278.)	CASE NO. EAG-W-04-2 ORDER NO. 29610
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On May 21, 2004, Eagle Water Company, Inc. (Eagle Water) filed an Application with the Idaho Public Utilities Commission (Commission) requesting authorization to amend its Certificate of Public Convenience and Necessity No. 278 by extending the boundary of its authorized service area. This proposed expansion is located in Ada County just east of Old Highway 55/Horseshoe Bend Road and immediately south of the Farmers Union Canal. Both Eagle Water and United Water Idaho Inc. (United) have the capability to serve the five parcels in question that are generally referred to as the two Troutner properties, the two McKay properties, and the Dry Creek Cemetery. Exhibit 101. After reviewing the record and the provisions of the Settlement Stipulation filed September 30, 2004, the Commission accepts the Stipulation as a fair, just and reasonable allocation of the service area encompassed by the five parcels between the two Companies.

PROCEDURAL BACKGROUND

On June 8, 2004, the Commission issued a Notice of Application, Modified Procedure and Comment Deadline in this case. Order No. 29519. The Commission Staff filed comments, to which United Water and Eagle Water replied. To better address the issues raised in these comments, the Commission scheduled a prehearing conference to take evidence and determine what, if any, additional procedure was necessary. Order No. 29560. United Water Idaho Inc., the City of Eagle, and William and Ellene Parr requested intervenor status, which was granted by the Commission in Order Nos. 29560, 29592 and 29593, respectively. On September 22, 2004, the Commission held a prehearing conference and took argument and testimony on: 1) the issues the parties feel need to be addressed by the Commission, 2) whether it is necessary to commence a proceeding to allocate service area, 3) the nature of cost data required for the Commission to make an informed decision, 4) the ability of both parties to provide service of the quality expected by customers, and 5) an appropriate schedule to process this case.

To make a more informed decision regarding allocation of service territory for the Application's five parcels, the Commission took testimony from Gregory Wyatt, the vice president and general manager of United Water Idaho Inc.; Robert DeShazo, Jr., president of Eagle Water Company; and Rick Sterling, Staff engineer. Based upon the testimony presented, the Commission preliminarily found that Eagle Water should serve the Dry Creek Cemetery. Tr. at 80. As to the remaining four properties, the Commission requested that United and Eagle Water provide detailed cost estimates, easement arrangements, and estimated time needed to serve the two Troutner parcels and the two McKay parcels. *Id.*

THE SETTLEMENT STIPULATION

Following the evidentiary hearing held on September 22, 2004, Eagle Water and United worked together to reach a mutually agreeable service territory allocation of the five properties in question and filed a Settlement Stipulation on September 30, 2004. Based on those discussions, United and Eagle Water agreed that a reasonable resolution of this matter is for Eagle Water to provide service to the Troutner properties and the Dry Creek Cemetery and for United to provide service to the McKay properties. *See* Hearing Exhibit 101. Eagle Water and United requested that the Commission enter its Order approving this Stipulation and thereafter Eagle Water and United will file amended certificates of public convenience and necessity reflecting the additions of these service areas.

COMMISSION FINDINGS AND DISCUSSION

Pursuant to Commission Rule 274 we shall decide whether to accept the Stipulation based on the record currently before us. IDAPA 31.01.01.274. The record is substantial and all parties that materially participated in this docket have either signed this Agreement or did not actively oppose it. Accordingly, we find further proceedings are not necessary for us to determine whether we should accept this Agreement.

As set out in the record, both United and Eagle Water have the ability to serve the five parcels at issue in this Application. Although we are concerned about quality of service complaints from Eagle Water customers, we find that the majority of complaints received by the Commission this summer pertained to system damage largely outside Eagle Water's control, that has since been repaired. The Commission appreciates the swift attention devoted by United and Eagle Water to resolving this matter and believes that the Stipulation will serve customers well.

Thus, we approve the Settlement Stipulation entered into by United and Eagle Water as a fair, just and reasonable resolution of the service territory allocation requested by this Application.

We understand that the parties are working with William and Ellene Parr to determine if and how water service can be provided to their property. The Commission asks that the parties keep us informed as to the status of the Parrs' request for service. Finally, we open a new docket in Case No. GNR-W-04-1 to consider allocation of the uncertificated service territory in the Eagle area. The Commission directs Staff to establish workshops to work through the requisite issues of such an undertaking. Tr. at 17-18, 20-21.


ORDER

IT IS HEREBY ORDERED that the proposed Stipulation is just, fair and reasonable, in the public interest, and in accordance with the law and regulatory policy of this State. Accordingly, we accept the Stipulation as proposed by Eagle Water Company and United Water Idaho Inc.

IT IS FURTHER ORDERED that Eagle Water Company and United Water Idaho Inc. comply with all terms contained in the Stipulation. Each utility shall file a revised service territory description reflecting the additional service area set forth in the Stipulation within thirty (30) days of the service date of 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 14th
day of October 2004.



PAUL KJELLANDER, PRESIDENT

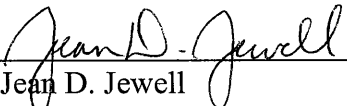


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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