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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF EAGLE WATER COMPANY, INC. FOR AUTHORITY TO EXPAND ITS CERTIFI­CATED AREA AND AMEND ITS CERTIFI­CATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 278. | )  )  )  )  )  )  ) | CASE NO. EAG-W-95-1  ORDER NO.  26431 |

On August 22, 1994, United Water Idaho Inc. (formerly Boise Water Corporation and referred to herein as United Water or UWI) filed an Application with the Idaho Public Utilities Commission (Commission) in Case No. EUW-W-94-1 for an amended Certificate of Public Convenience and Necessity to expand its operation as a water corporation and public utility in and near the City of Eagle, Idaho, and for approval of related rates and charges.  On February 21, 1995, United Water amended its Application to include additional territory.

On July 18, 1995, Eagle Water Company, Inc. (Eagle Water) filed an Application with the Commission in Case No. EAG-W-95-1 for authority to amend its Certificate of Public Convenience and Necessity No. 278 (Second Amended) and to expand its certificated area of service by enlarging and extending its boundaries.

Finding a significant overlap in the certificate service areas requested by United Water and Eagle Water, the Commission for the purpose of economy and efficiency and to avoid building redundant records issued Order No. 21670 and consolidated the cases for hearing.

On March 5, 1996, the Commission issued final Order No. 26338 in Case No. EAG-W-95-1 certifying and authorizing Eagle Water to provide water service to identified areas in the Eagle area of Ada County, Idaho.  On March 5, 1996, the Commission issued final Order No. 26337 in Case No.  EUW-W-94-1 certifying and authorizing United Water to provide water service to identified areas in the Eagle area of Ada County, Idaho.

On March 26, 1996, United Water filed a Petition for Reconsideration in Case Nos. EUW-W-94-1 and EAG-W-95-1.  United Water contends that the Commission’s Order is not in conformity with law to the extent it awards any additional certificated area to Eagle Water without making express findings of Eagle Water’s present and future financial ability to serve the new areas awarded to Eagle Water.  United Water contends that the Commission’s Order is unreasonable to the extent it awards any certificated area to Eagle Water, especially north of Floating Feather Road, and the area immediately surrounding the Eagle municipal water system.

Order No. 26337 requires UWI to account for the Eagle area system in a manner that  allows the operation to be “separated and looked at on a stand alone basis for rate proceedings.”  United Water understands this not to be a requirement for a separate and distinct set of books, but rather as a requirement that the information be maintained in a fashion that allows it to be separated

for presentation and analysis at the time of any rate proceedings.  United Water requests that the Commission confirm or clarify this understanding.  If the Commission intends that a separate set of books be maintained the Company requests reconsideration, as separate information the Company contends can be made available without the expense of maintaining complete separate records.

United Water requests reconsideration by comment.

On April 2, 1996, Cross-Petitions for Reconsideration were filed by Eagle Water and the City of Eagle.

Eagle Water disputes the contentions of United Water that the record is devoid of evidence demonstrating that Eagle Water can maintain and expand its system.  Eagle Water contends that the Commission specifically found

that Eagle Water is a provider of satisfactory and adequate water service, that its service has improved significantly in recent years, and that it has creatively met challenges to provide replacement, repair, and maintenance services and responded to unforseen circumstances.  The Commission also correctly noted that while Company size and financial capability is a factor for consideration, it is not controlling.

Eagle Water contends that it presented evidence at the hearing that it presently has the capacity to serve twice as many customers as it presently serves, and also presented evidence of its plans for additional wells and a million-gallon reservoir.  Eagle Water’s long established presence in the area, its improvement in service, its proven ability to meet the challenges of growth, and the overwhelming public support for its Application, it states, more than adequately justified the Commission’s award for additional certificated area.

Eagle Water rejects United Water’s arguments for awarding United Water the area north of Floating Feather Road and disputes the significance of EM2’s water service contract with the City of Eagle.

Noting United Water’s request for clarification, Eagle Water states that it understands the Commission’s Order to require a separate accounting of United Water’s Eagle operations.

Eagle Water by way of “cross-petition” asserts that some identified areas awarded to United Water should logically and naturally remain uncertificated buffer zones (i.e., uncertificated area west of Eagle Road between Floating Feather Road and Beacon Light Road should be extended further west to Ballantine Road; some of the area immediately south of the Boise River).  Eagle Water requests that an additional hearing be scheduled for public comment and to demonstrate the justification for increasing the uncertificated buffer zones between its operations and United Water’s.

The City of Eagle believes the service territory north of Floating Feather Road should be left uncertificated.  In this way, it states, the ability to serve, financial ability, the necessity for additional service in the community, and the desires of future customers in the uncertificated territory can be taken into account at the time a certificate is applied for.

Expressing continued concern about the financial ability of Eagle Water to provide service, the City of Eagle requests that the Commission specifically require an adequate and competent financial plan for all areas to be served by Eagle Water.  Alternately the City requests that the area north of Floating Feather Road be left uncertified until such time as Eagle Water provides to the Commission an adequate and competent financial plan demonstrating its financial ability to serve the area.

On April 4, 1996, United Water filed an Answer to Eagle Water’s Cross-Petition.  With respect to Eagle Water’s contentions regarding certificated areas granted to United Water, United Water maintains that Eagle Water’s request is untimely filed and is beyond the scope of a cross-petition for reconsideration—reference IDAPA 31.01.01.331.02, i.e., a cross-petition for reconsideration must be “in response to any issues raised in the petition for reconsideration.”

The intent of United Water’s Petition for Reconsideration, United Water states, “is to have the Commission reconsider the area north of Floating Feather Road and east of Eagle Road which surrounds Lexington Hills and the City of Eagle municipal system.”  If the Commission were so inclined, United Water contends that designation of that area as a buffer zone would be appropriate.

Commission Findings

The Commission has reviewed the filings of record, transcript and final Order No. 26338 in Case No. EAG-W-95-1.  The Commission has also reviewed and considered the related petitions and cross-petitions for reconsideration and Eagle Water’s proposed time line for filing a financial plan for repairing and replacing existing facilities.

The Commission finds it reasonable to grant reconsideration solely as to the appropriateness of the Commission’s Order certificating to Eagle Water the area north of Floating Feather Road and east of Eagle Road which surrounds Lexington Hills and the City of Eagle municipality system.  In our reconsideration we will consider the appropriateness of allowing the area to remain uncertified pending further application.  In order to have the relevant information for reconsideration we direct Eagle Water to file a detailed financial plan demonstrating its ability and wherewithal to provide future water service including extension, replacement, repair and maintenance.  Eagle Water Company’s financial plan should include the following:

●Maintenance schedules for three years

●Cash flow projections for three years

●Construction budgets for three years

●Projected income statements for three years

●Projected balance sheets for three years

●The amortization schedule for each outstanding loan

●A list of any new loans (including the source and amount) anticipated to be necessary by the Company to accommodate its construction and maintenance plans.

●For the water company and the construction company a list of all contingencies, commitments, special transactions and events, credit claims, tax audits, etc. and the possible impact of each on the water company.

Eagle Water should provide workpapers showing all its calculations, list all assumptions made, and include basic data such as unit sales prices, wage rates, manpower requirements, power costs, insurance rates, property taxes, material prices and projected growth rates.  If other sources of information or assumptions are relied on those should be identified.

Eagle Water is directed to file this information with the Commission and other parties of record on or prior to June 7, 1996.  Written comments regarding Eagle Water’s financial plan shall be filed on or before Monday, June 17, 1996.  We find that no oral hearing is required to reconsider this issue.

The Commission finds that as to other matters and issues raised by the parties the Commission’s Order No. 26338 is either supported by the record and/or the Commission in furtherance of the public convenience and necessity and pursuant to the power and authority granted it under Title 61 of the Idaho Code has the authority and discretion to order same.  Reconsideration as to those matters and issues is denied.  The Commission specifically finds that Eagle Water’s proposal to enlarge the uncertificated buffer areas and decrease the certificated area awarded to United Water is an untimely request for reconsideration and beyond the permissible scope of a cross-petition for reconsideration.  Reference IDAPA 31.01.01.331.02.  Eagle Water’s petition in this regard is dismissed and reconsideration is accordingly denied.  As to all issues and matters as to which reconsideration is denied we defer the finality of this Order for purpose of appeal pending the final order on reconsideration.

O R D E R

In consideration of the foregoing IT IS HEREBY ORDERED and the Commission Hereby grants in part and denies in part reconsideration of Order No. 26338 as more particularly described above, requires Eagle Water Company to file a financial plan, and further adopts the foregoing scheduling.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of April 1996.

                                                                                                                                    RALPH NELSON, PRESIDENT

                                                                                         MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

bls/O:EAG-W-95-1.sw

**COMMENTS AND ANNOTATIONS**

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**TEXT BOXES**

Office of the Secretary

Service Date

April 24, 1996