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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.  26525 |

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; EWC) 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.

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.

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 by way of clarification stated that the intent of United Water’s Petition for Reconsideration “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.  Reference United Water Answer to Eagle Water’s Cross-Petition.

The Commission in Order No. 26432, Case No. EUW-W-94-1/Order No. 26431, Case No. EAG-W-95-1 granted 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.  The Commission in its Order granting reconsideration stated that it would also consider the appropriateness of allowing the area to remain uncertified pending further application.  In order to have the relevant information for reconsideration Eagle Water was directed 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 the Commission stated 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 was directed to 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 were also to be identified. The Commission found that no oral hearing was required to reconsider the issue.

By this Order on reconsideration the Commission grants a portion of the relief requested by United Water Idaho Inc. and the city of Eagle and changes the newly certificated status of the area north of Floating Feather Road and east of Eagle Road to uncertificated and withdraws Eagle Water’s Certificate for such area.

Eagle Water Company — Financial Plan

On June 11, 1996, Eagle Water Company pursuant to Commission direction filed its financial plan (plan) with the Commission.  Reply comments were filed by United Water, Ashland Acres Subdivision and Commission Staff.  Eagle Water thereafter filed a response to the comments of the Commission Staff.

Eagle Water submits that its filed financial plan demonstrates its ability and wherewithal to provide future water services, including extension, replacement, repair and maintenance.  Eagle Water has provided three-year maintenance schedules, cash flow projections, construction budgets, projected income statements and projected balance sheets.  Eagle Water has also provided amortization schedules for outstanding loans and a statement of contingencies and the possible impacts of such on Eagle Water.  Also provided by Eagle Water are workpapers, assumptions and sources of information related to the Company’s preparation of its financial plan.

The contingencies addressed by Eagle Water are as follows:

1.Ada County Highway District Road Improvement.  This is a contingency that affects Eagle Water Company in areas where Eagle Water Company, Inc. does not currently have main lines constructed for future growth.  The Ada County Highway District’s strict requirement that new paving cannot be cut for five (5) years, coupled with the Eagle Water Company, Inc. master plan means that the Company must install main line and stubouts for future projects as ACHD installs new paving.  For example, the Company installed such main line and stubouts on Floating Feather Road past the Eagle Middle School in May and June of 1996, with an estimated cost of forty-five thousand dollars ($45,000).  These projects will be funded by hook-up fees  (for wells and water supply), working capital (cash and accounts receivable), and developer’s participation.

2.Water Reservoir.  The reservoir testified about by the Company at the public hearings has been put on hold for several reasons:

a.The Ada County Commissioners, and/or staff, have not formalized an Agreement between the County and the Company; and

b.The reconsideration requested by United Water and the City of Eagle, and the uncertainty of future sewer service in the Eagle area do not allow realistic consideration of the reservoir until settled.

3.New Well.  The Company has drilled and tested a new well about one mile west of Eagle, south of State Street, and will proceed to completion by the fall of 1996.

4.Sewer Moratorium.  The Company believes, based on information, including discussions with the Eagle Sewer District, that the sewer moratorium will be lifted, and the problems leading to the moratorium resolved, within 60 days, more or less.  The lifting of the moratorium will more than validate the predictions of hookups and so forth contained in the attachments and will add substantial expansion possibilities for the Company.

United Water

United Water concludes that Eagle Water’s financial plan fails to demonstrate either present or future financial ability to serve.  A Company may be very good in many technical ways, UWI contends, but fail to meet the public convenience and necessity solely because of an inability to pay for maintenance and expansion.  Public interest, United Water states, is served where financial ability establishes that adequate service will not be limited by growth and other economic factors over which the applicant has no control.

The standard for quality of a financial plan, United Water contends, was enunciated by the Idaho Supreme Court in McFayden v. Public Utilities Consolidated Corporation, 50 Idaho 651, 299 P. 671 (1931).  The “Plan” filed by Eagle Water, UWI contends, does not satisfy the Court’s standard.  In McFayden the Court held “as between two utilities with like ability to furnish like service under our public utility law, the Company already serving a given field has a right to preference. . . . However, if an applicant can and does in good faith offer a better or a broader service, a different question is presented.  In such case the applicant is offering the public more than sheer competition.  In reality, it is offering a different service. . . . [T]he first and most fundamental obligation [is] securing adequate service for the public. . . . A service that is inferior is not adequate. . . .”  In the McFayden case the Commission granted a Certificate to a new provider  of natural gas service over the objection of an existing certificated supplier of manufactured gas.  The Court in McFayden did not specifically address the adequacy or elements of a sufficient “financial plan.”

United Water contends that Eagle Water’s filing only raises concerns rather than puts them to rest.  Specifically, United Water identifies the following concerns:

1.Testimony at the hearing indicated that building a reservoir would be a major part of planning for future growth by EWC.  However, the reservoir was not included in the plan.  In addition to this specific omission, in more general terms, the submittal does not appear to show a financial strategy or ability to accommodate growth.  Without demand versus capacity projections, the submittal cannot be tested for feasibility.

2.It is impossible to determine from the submittal whether the “backbone plant” (i.e., wells, storage) has sufficient capacity to supply the anticipated growth.  This capacity of the plant will have a significant impact on the capital side of the strategic plan, and cannot be analyzed with the information provided.  The financial plan should verify the ability to construct, maintain and repair a fully identified present and future capital plant which clearly meets fire and consumer demand.

3.Based on the balance sheet provided, and considering the major components of rate base, it appears that in the first year forecast there is a negative rate base, and this negative condition seems to deteriorate over the life of the plan.

4.The submittal indicates the use of a line of credit to fund general operations of EWC.  This suggests an inadequate present rate base and cash flow, and the submittal seems to indicate that this problem will get worse over time.

5.The “plan” is simply an accountants “compilation.”  The accountant’s disclaimers speak for themselves.  Additionally, the document is not based on actual performance (un-audited), but rather on poorly integrated projections based on information provided by the EWC to the accountant.

6.The compilation integrates the construction company which is, in actuality, a separate entity.  The integration of the construction company information distorts cash flow, and makes it impossible to realistically determine that EWC has the financial ability necessary to justify issuance of a Certifi­cate of Public Convenience and Necessity.

7.The submittal does not incorporate income taxes, which are a major expense of any healthy utility.  The absence of this expense distorts the income, cash flow and retained earnings projections.

8.The aggressive projections of increases in customers are not matched by appropriate increases in gross plant investment and operating expenses (i.e., billing expense, power, etc.).

9.This submittal does not provide the type of information and projections typically necessary for, and common in, utilities regulation.  Revenue requirements are not even mentioned in the submittal.

The EWC “plan”, United Water contends is inadequate.  It does not, UWI states, provide the reader with elementary information necessary to evaluate the capital planning necessary to address growth in the area being reconsidered, to determine how that growth will be financed, and to determine if there is any realistic possibility that infrastructure can be maintained and repaired post-installation.  Public convenience and necessity, United Water contends, requires more than a showing that the applicant can put a new system in the ground.  In the absence of a plan establishing future financial ability, United Water contends that it is the most appropriate for the Commission to designate the area being reconsidered as a buffer zone, with actual service to be determined pursuant to specific applications.

Commission Staff

Staff reviewed Eagle Water’s financial plan and performed a limited audit of the Company’s 1995 accounting records.  As maintained, the accounting records of Eagle Water also include the records of a related but unregulated construction company.  As part of its analysis, Staff attempted to separate out the construction company and to assess the water company alone.  Staff prepared and submitted a pro forma balance sheet, income statement and cash flow for Eagle Water for the 1996-1999 forecasting period together with a statement of basic assumptions.

Staff’s comments contain the following observations and recommendations:

∙Staff’s financial projection shows that with continued growth, continued collection of the surcharge hook-up fees and only small increases in expenses, Eagle Water should be able to meet it’s financial obligations.  If growth does not occur or if expenses have major increases the Company will continue to have the same financial problems it has experienced in the past.  Without growth, increases in expenses will require Eagle Water to file a rate case to cover its revenue requirement.

∙Surcharges collected to date by the Company, on an after income tax basis, have exceeded the costs of the well and water report they were intended to pay.  Staff contends the Company should be ordered to justify the continued collection of surcharge fees.

∙Because the balance sheet shows that Eagle Water has a negative utility plant in service balance and a negative owners equity, Staff concludes that the Company is over earning.

∙The Company has projected a 54% increase in income in 1996, a 29% increase in income in 1997, a 12.4% increase in income in 1998, and an 11% increase in income in 1999.  The improvement in the projected net income is the result of the Company’s projected growth of 184 new residential customers and 28 new commercial customers for each of the next three years.  This projection is consistent with the City of Eagle projections.  Staff believes, however, that there are many things that could affect this growth:  e.g., building moratorium; if interest rates increase; down turn in the Treasure Valley economy; if the Company is unable to hold its expenses to approximately a 7% increase each year.

∙The balance sheet shows that Eagle Water Company will continue to have a negative net utility plant in service due to contribution of plant and depreciation.

The utility plant in service negative balance continues to increase because the normal hook-up fee of $250 is considered a contribution in aid of construction (CIAC).

∙The Company has supplied loan payment schedules.  Staff believes the Company should continue to pay off the high interest loans.  The Company, Staff notes, has not included a $55,000 loan used to purchase materials for the construction of Well No. 6 and the related mains.  This loan was supposed to be paid off on December 28, 1995 but, on June 18, 1996 this loan was still outstanding.

∙The Cash Flow Statement, shows that of the $240,487 increase in the general cash account $204,681 was generated from the $250 hook-up fee after the cost of the hook-up has been deducted.  This shows the importance of growth to the continued cash flow health of the Company.  Staff’s original opinion that the Company must have continued growth to be viable and that without this growth the Company would have trouble generating cash to cover emergency repairs, debt and interest payments is still valid.

∙Staff is also still concerned with the close ties between the Construction Company and the Water Company. Staff has previously requested a legal separation of the two Companies and continues to believe it is in the interest of the ratepayer that the Construction Company is recognized as a separate legal entity.  Staff has also requested a separation between the Water Company accounting and the Construc­tion Company accounting.  This can be accomplished with proper allocations to separate accounts.

∙Staff’s long-standing concerns with the Company’s accounting records and methods of allocating common costs between the Water Company and the Construction Company are still valid.  This Company had approximately $250,000 in revenue in 1995 but is still doing minimum accounting and is still using the cash method of accounting.  Staff has difficulty auditing because there is little or no audit trail and the numbers continue to change as new information is found.  In Staff’s August 1992 audit report Staff recommended:

The Company must keep and maintain adequate records.  The computer billings must be printed out monthly and reconciled to the input records, checked to be sure all meter readings have been correctly entered, and checked to be sure all checks received are properly posted.  This printout must than be kept for future reference.  An accounts payable ledger must be maintained.  This does not mean a slip of paper with a listing of bills received.  It means a continuing record by vendor of debts as they are incurred with a record of payments made with check number and date.  Files must be properly set up and maintained.  This filing system should be kept in a file cabinet not somewhere on the desk.  All receipts must be kept and filed, preferably by vendor.  It is recommended that the bill be marked “paid” and the check number and date of payment written on the bill before it is filed.  When files are pulled at year end they must be kept together in proper files not just thrown in a box.

Proper allocations must be made between the Water Company and the Construction Company.  Administration and general costs, accounting costs, legal fees, employee benefits, insurance costs, supplies and materials, transportation expenses, property taxes, and any other joint costs and/or assets must be allocated between the Water Company and the Construction Company if they cannot be directly separated by billings.  Staff suggests an allocation factor using the average of gross revenue and payroll.

Staff states that its recommendation is as valid now, as then.

∙Staff believes the Company is big enough that they should have a full time bookkeeper capable of determining a direct assignment of costs based on payroll records, invoices and contracts and that common costs need to be examined to determine if there is a cost causation factor that would be more appropriate than the one currently used.  Staff also believes that this bookkeeper should be required to keep the books on an accrual basis instead of the current cash basis.  Staff states that it is willing to work with the external accountant to straighten out the plant accounts, hook-up fees, hook-up surcharges, depreciation and CIAC.  Without proper accounting records, cash flow management, and asset budgets, Staff concludes that this Company will continue to have problems.

Ashland Acres Subdivision

Kathryn McCallum, the owner and developer of Ashland Acres Subdivision in Eagle, Idaho submitted comments regarding the financial ability of Eagle Water Company to provide reasonable water service to Ashland Acres in a time frame that would allow construction to proceed as soon as possible.  Ashland Acres is a proposed subdivision approved by the city of Eagle Planning and Zoning Commission, and the Eagle City Council consisting of 21.2 acres and 22 buildable lots located adjacent to the northwest corner of Lexington Hills Subdivision.  Street access to Ashland Acres will occur through Lexington Hills from Floating Feather Road.  Lexington Hills, McCallum states, has also “stubbed out” a main water line on behalf of Ashland Acres so as to allow water service to future residents of Ashland Acres.  As represented, it has been McCallum’s intent to purchase water for Ashland Acres from the city of Eagle and the city’s municipal water system currently serving Lexington Hills.  Based on its analysis of Commission Orders, it appears to McCallum’s engineer that Eagle Water would have to construct a main water line approximately one-half mile from Floating Feather Road, across private land, in order to interconnect with the water distribution system to be installed in Ashland Acres.  McCallum suggests that a conservative and preliminary construction cost estimate for this main line is $50,000.  The potential cost of constructing unnecessary facilities, McCallum states, is the essence of her concern in this case.  McCallum’s concern is that she will be required to pay up front the full cost of construction of what she contends to be an unneeded and duplicative main water line.  McCallum understands that one of the significant financial differences between United Water and Eagle Water, as it impacts developers, is the financing of the construction of facilities.  While both companies require a developer to pay 100% of the cost of new facilities, United Water allows a developer to amortize and repay these costs over a multiple year period.  Eagle Water, on the other hand, requires the developer to pay all capital costs of construction up front.

McCallum suggests that there are two possible remedies to its dilemma:

1.  Reclassifying Ashland Acres as an additional uncertificated buffer area.

2.  Require Eagle Water, United Water and the city of Eagle to enter into good faith negotiations so that each entity acquires the contractual right to transfer water from one area of a distribution system or a production well located in one area to provide service to another area so that one entity cannot use the existence of its current infrastructure as a bottleneck facility.  The interconnection and integrated operation of these three water systems, McCallum contends, would provide greater overall economies of scale, quality of water service, safety and fire protection in the general Eagle area, regardless of which subdivision is served by what entity.

Eagle Water Response

Eagle Water contends that the files, computer records, bookkeeping practices, duties of employees allocated to bookkeeping, and so forth were not reviewed by Commission Staff in its audit on June 14, 1996.  Eagle Water therefore feels that the conclusion of Staff in its Reply Comments that the 1992 audit recommendations of Staff are still valid is incorrect and is based on an assumption rather than actual examination of the records of Eagle Water.  In support thereof, Eagle Water notes the following:

a.Fully adequate records are kept and maintained in greatly superior methods compared to 1992, complying with and carrying out Staff recommendations.  Additionally, many of the items noted in the 1992 audit were actually in better condition than set forth in the audit, but Eagle Water did not contest any such items or submit additional documentation regarding such items.  Instead, Eagle Water improved its overall record keeping and has worked with Commission Staff continuously to that end.

b.Computer billings are printed out monthly.  Every bill is personally checked to verify meter reading and amount before bill is mailed to customer.

c.All payment checks are photo copied and retained for three months.

d.A monthly report is generated which reflects all activity of all accounts for the previous month.

e.An accounts payable ledger is kept and maintained noting the date of all payments, the amount of each payment, and the check number of each.

f.All receipts for purchases are filed by the month they were paid and in the appropriate accounting number within the accounting system, by category.

g.All bills are properly filed by account number, in order of payment and are in metal file cabinets marked with the appropriate year.

Eagle Water requests that the Reply Comments of the Commission Staff be modified pursuant to the foregoing facts.  The Company stands prepared to provide proof to Staff of each of the identified items.

Commission Findings

The Commission on reconsideration has reviewed the filings of record in Case No. EAG-W-95-1 including its prior Orders, the financial plan of Eagle Water Company and the related comments of United Water, Ashland Acres and the Commission Staff.  We note that the city of Eagle although filing a Petition for Reconsideration has not filed comments.  We incorporate by reference our previous findings set out in Order No. 26431 as to other matters and issues raised by the parties on reconsideration.  Based on our review and after further deliberation, we find it reasonable and in the public interest to grant a portion of the relief requested by United Water, the city of Eagle and Ashland Acres and to modify our prior Order.

The financial plan filed by Eagle Water does not provide the Commission with regulatory assurance or confidence that at the present time we can find that Eagle Water is the best positioned financially or physically to provide expanded service to the unserved areas north of Floating Feather Road and east of Eagle Road.  We recognize and the record reflects that it was the perceived intrusion of United Water into the Eagle area that prompted Eagle Water to attempt to define and expand its service territory in a manner quite different from its prior pattern of growth.  The Commission itself believed that the competing certificate applications required that most all of the territory be divided, with small buffer areas established for separation.  After considered reflection we find that we are no longer of that belief.  While we do not wish to encourage nor will we permit a checkerboard and/or uneconomic pattern of service to develop, we now believe that it is wise to wait for the actual pattern of planned development in this area before determining which entity should be the provider of water service.

Eagle Water is a small  company.  United Water is a large company.  Those are just the facts.  They are fundamentally different utilities.  Eagle Water experiences many of the challenges associated with being small, not the least of which in this case is a financial profile that more resembles a customer-owned utility heavily dependent on contribution and operating day-to-day on a skeletal income-in expense-out basis.  The economic and operational challenges that small water companies face require a great deal of resourcefulness.  In our prior Order No. 26338, we made the following findings:

Eagle Water is a provider of satisfactory and adequate water service, and indeed we find that the quality of its service has improved significantly over the last few years.  Eagle Water Company is a small water company that has long provided service to the Eagle area.  The Commission has a duty to ensure that the present and future viability of Eagle Water is not threatened or impaired.  Although we find that Eagle Water’s capability to fund further expansion replacement, repair and maintenance and unforeseen circumstances and emergencies may continue to present it with creative challenge, we also recognize that Eagle Water has achieved some degree of success in rising to and meeting that challenge.

The Commission’s findings are supported by the record.  Eagle Water’s ability to expand beyond its prior certificated area, however, must be closely monitored.  The public interest demands no less.

Rather than assigning the unserved areas north of Floating Feather Road and east of Eagle Road to Eagle Water as we did in Order Nos. 26337 and 26338, we find a more reasonable approach is to leave the area uncertificated at the present time.  Accordingly the general description of new areas certificated to Eagle Water Company in Attachment 1 to Order Nos. 26337 and 26338, has been amended and is attached to this Order.  Eagle Water retains the area previously certificated to it described as the SW 1/4 of the NW 1/4 of Section 4, T4N, R1E (Bighorn Subdivision and LDS Church).   We find that the public interest is better served by this approach.  As in the “buffer zones” we previously established, we will make the service provider decision(s) for this unserved area in the future when specific requests for service are pending and better information is available to us to determine which company should provide service.  As we stated before, while the preference of individual customers and the community is to be given some weight in the choice of service provider, we do not find it controlling.  Nor do we find it controlling or significant that United Water through an unregulated affiliate already has a presence in the area.  Neither utility is permitted to extend facilities into the uncertificated areas without prior application to and authorization from this Commission.  Installation of facilities into such areas without prior certification and approval will be viewed as a violation of this Order subjecting the utility to the imposition of statutory penalties.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Eagle Water Company, Inc., a water utility, and the issues presented in Case No. EAG-W-95-1, pursuant to the authority and power granted the Commission under Title 61 of the Idaho Code and pursuant to 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 on reconsideration of Order No. 26338 does hereby grant that portion of relief requested by United Water Idaho Inc and the city of Eagle which requested that the newly certificated status of the area north of Floating Feather Road and east of Eagle Road (reference Order No. 26338, Attachment 1 p. 1 of 2 Eagle Water ¶1) be changed to uncertificated and that Eagle Water Company’s Certificate of Convenience and Necessity for such area be withdrawn.  Accordingly, the description of Eagle Water’s certificated area of service is so amended and Eagle Water Company, Inc. is directed to prepare and file an amended Certificate for Commission approval.  Reconsideration as to other matters and issues raised by the parties is denied.

IT IS FURTHER ORDERED and Eagle Water Company is put on notice that it is not to extend facilities into the uncertificated areas generally depicted in Attachment 1 (amended) p.  2 of 2 of this Order without prior application to and authorization from this Commission.

THIS IS A FINAL ORDER ON RECONSIDERATION.  Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No.  EAG-W-95-1 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules.  See Idaho Code § 61-627.

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

                                                                                                                                    RALPH NELSON, PRESIDENT

                                                                                         MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

bls/O:EAG-W-95-1.sw3

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

July 22, 1996