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Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF FALLS WATER CO., )  
INC.'S APPLICATION TO AMEND ) CASE NO. FLS-W-19-02  
CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY NO. 236 )  
)  
) COMMENTS OF THE  
) COMMISSION STAFF  
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COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Matt Hunter, Deputy Attorney General, and in response to the Notice of Application and Modified Procedure issued in Order No. 34517 on December 27, 2019, in Case No. FLS-W-19-02, submits the following comments.

**BACKGROUND**

On December 2, 2019, Falls Water Co., Inc. ("Falls Water" or "Company") filed an Application with the Commission to amend the Company's certificate of public convenience and necessity ("CPCN") to add thirteen areas contiguous to its current certificated service area. One of the thirteen contiguous areas is the area in and around the Honey Bee Acres ("Honey Bee") water system (Area 12). The Company requested Commission approval to connect Honey Bee's water system to its existing water system and to include it in the Company's certificated service area. The Company also requested the Commission's approval of a memorandum of understanding ("MOU") with the City of Idaho Falls ("Idaho Falls") meant to assist with long-

range planning for the Company's and Idaho Falls's water systems. The proposed MOU with Idaho Falls sets boundaries between the two systems.

The Company's Application defines fourteen areas affected by proposals in this case, the thirteen contiguous areas referenced above plus Area 14, an area that has been annexed by Idaho Falls. *See* Attachment A. The Company stated that it currently serves customers in Areas 1 through 8 and in Area 13 and that it expects to serve Areas 9 through 11 in the future.

Area 12 (Honey Bee) is a separate water system surrounded by the Company's certificated territory. The Company stated that a Honey Bee representative contacted the Company about connecting the Honey Bee system to the Company's system. The Company stated it proposed to install a new larger main for Honey Bee that will provide better flow and pressure for its customers and for customers in Honey Bee. The Company stated that it agreed to connect Honey Bee customers to the new main and to install meters. The Honey Bee system is not currently metered. The Company stated Honey Bee customers' existing service lines will remain in place and, because of the investment it would make to serve Honey Bee customers, the Company would not be paying Honey Bee owners for assets transferred from the Honey Bee system to the Company's system.

Area 14 has been annexed by Idaho Falls. As part of its Application, the Company requested Commission approval to remove Area 14 from the CPCN and to sell Area 14's water system assets, a 12-inch water main and 6-inch lateral, to Idaho Falls. The Company requested that it be relieved of the duty to provide service to one small commercial customer currently served by the assets to be sold.

Staff believed an expedited transfer of Area 14 assets to be in the interest of the Company and its customers. On February 4, 2020 Staff proposed that the Commission bifurcate Case No. FLS-W-19-02 to allow the Company's asset transfer transaction with Idaho Falls to be considered separately. On February 5, 2020, the Commission opened Case No. FLS-W-20-01 and issued a Notice of Application and Notice of Modified Procedure in Order No 34543. On February 25, 2020, the Commission approved the sale of the 12-inch water main and 6-inch lateral to Idaho Falls, and approved the Company's request to be relieved of the duty to provide service to the small commercial customer served by the assets to be sold. Order No. 34561.

## **STAFF ANALYSIS**

Based on a review and analysis of the Application, the Company's responses to production requests, and discussions with Company representatives, Staff recommends the Commission:

- a. approve the proposal to amend the Company's CPCN to add Areas 1 through 11, and Area 13 (all of which are contiguous to its current certificated service area);
- b. reject the proposal to include Honey Bee (Area 12) in the Company's certificated service area; and
- c. approve the proposal to remove Area 14 from the Company's certificated service area because this area has been annexed by Idaho Falls.

### **Expanded Service Territory**

Staff's review of the Company's proposal to add service territories to its CPCN had two key objectives:

1. to determine if the documentation supplied in the Application accurately represents the intended expansion; and
2. to ensure that the expansion does not overlap or otherwise interfere with other water utilities' territories or expansion plans.

Staff believes the maps and legal descriptions submitted by the Company accurately represent the thirteen areas where the Company plans to expand service and Area 14, the area annexed by Idaho Falls. Idaho Public Utilities Commission Rules of Procedure (RP) 112.02 (Description of Construction or Expansion) and RP 112.03 (Map) define the requirements for describing the expansion of service territories. Staff reviewed the maps and legal descriptions in the Application confirming placement, distances, and borders for each of the thirteen areas where the Company plans to expand service. Staff is satisfied that the service territory descriptions presented in the Application accurately represent the proposed service territory expansion and satisfy the requirements under RP 112.02 and RP 112.03.

Staff investigated other water utilities near the Company's system to determine if planned capital expansion projects could overlap service areas. The Company's existing service territory and planned expansion abuts the City of Ammon's municipal water system service area. Staff compared the City of Ammon's Capital Improvement Plan to the Company's planned service

territory and determined that there was no overlap. In response to Staff production requests, the Company provided a memorandum of understanding which outlines the future boundary for water service area between the Company and the City of Ammon. Additionally, the Company provided a map and legal description describing the boundary between the systems. This coordination between entities benefits the Company and its customers by reducing the risk that future growth by the City of Ammon will impede utilization of the Company's infrastructure, including water mains and laterals near the boundary between the water systems.

Staff supports adding Areas 1 through 11 and Area 13 to the Company's certificated service area. Also, Area 14 should be removed from the Company's certificated service area because it was annexed by Idaho Falls.

### **Honey Bee (Area 12)**

The Company's request to include Area 12 in its certificated service area is premature and should be rejected. The Company has indicated in discussions with Staff that it has not executed an agreement with the owners of Honey Bee outlining the terms and conditions for connecting Honey Bee customers and for the transfer of assets. Without a signed agreement, Staff cannot ascertain whether the Company's stated plan to connect Honey Bee customers in exchange for Honey Bee's assets is fair to both Honey Bee customers and the Company's existing customers. Until an agreement can be finalized such that all parties authorized to execute agreements on Honey Bee's behalf have agreed to terms and conditions that would affect ownership or water service, Staff believes that including Area 12 in the Company's certificated service area should be denied. As long as Honey Bee continues to serve the area as a separate entity, Staff believes Falls Water does not have an exclusive right to serve the area.

### **MOU with Idaho Falls**

In Section VI of its Application, the Company describes an MOU that it intends to sign with the City of Idaho Falls. The Idaho Falls MOU is included as Exhibit D of the Company's Application. In the same section, the Company states, "To the extent approval is required, Falls Water seeks the Commission's approval of the MOU." Because the Idaho Falls MOU does not deal with the transfer of customers, assets, or other issues that have an identifiable impact on rates, Staff believes that it is unnecessary for the Company to seek Commission approval of the Idaho Falls MOU.

The Idaho Falls MOU primarily addresses future boundary considerations between the Company and Idaho Falls in order to avoid unnecessary duplication of infrastructure. Although the Idaho Falls MOU anticipates transfer of a small section of the Company's service territory and a single customer to Idaho Falls, it does not prescribe the terms under which this transfer will occur. The attendant asset sale and customer transfer were addressed and approved by the Commission separately in Case No. FLS-W-20-01, Order No. 34561. Staff supports amending the Company's CPCN to reflect the removal of Area 14 from the Company's certificated service area.

### **Company Documents**

The Company will need to update documents to reflect any Commission-authorized changes to its CPCN. Staff recommends the Company work with Staff to make any necessary revisions within three months of issuance of the final order in this case.

### **STAFF RECOMMENDATIONS**

Staff recommends the Commission:

- a. approve the proposal to amend the Company's CPCN to add Areas 1 through 11, and Area 13 (all of which are contiguous to its current certificated service area);
- b. reject the proposal to include Honey Bee (Area 12) in the Company's certificated service area;
- c. approve the proposal to remove Area 14 from the Company's certificated service area because this area has been annexed by Idaho Falls; and
- d. order the Company to work with Staff to file documents conforming to changes to the CPCN following issuance of the final order in this case.

Respectfully submitted this 11<sup>th</sup> day of March 2020.



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Matt Hunter  
Deputy Attorney General

Technical Staff: Bentley Erdwurm  
Michael Eldred  
Chris Hecht  
Rick Keller  
Michael Morrison  
Kathy Stockton

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 11<sup>th</sup> DAY OF MARCH 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. FLS-W-19-02, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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