

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF NORTH STAR) CASE NO. NSW-W-21-01
WATER, LLC’S APPLICATION FOR)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY) ORDER NO. 35323
_____)

On May 26, 2021, North Star Water LLC (“North Star” or “Company”) applied for a Certificate of Public Convenience and Necessity (“CPCN”) to provide water-related services as a public utility in Idaho. The Company also requested that the Idaho Public Utilities Commission (“Commission”) set rates for the water services it seeks to deliver to the public.

On June 24, 2021, the Commission issued Notice of Application and Notice of Modified Procedure setting comment and reply comment deadlines. On September 8, 2021, Commission Staff (“Staff”) filed comments and on October 13, 2021, the Company filed reply comments. No other comments were received.

Now, the Commission issues this final Order granting the Company a CPCN and setting rates and terms for the water services the Company intends to provide to its customers.

APPLICATION

North Star requested a CPCN from the Commission to provide domestic, irrigation and fire protection water services to a 24-lot subdivision in Canyon County, Idaho (“Subdivision”). The Subdivision is located east of Wagner Road approximately one mile west of the City of Caldwell’s current municipal boundary in Canyon County, Idaho.¹ *Application* at 1. North Star asserted it will not compete with any other public utilities in its proposed service territory. *Id.* at 2.

The Company is an Idaho limited liability company headquartered in Kuna, Idaho and licensed to do business in the state. *See Appendix 1* attached to the *Application*, Appendix 1. The Company asserted that its water system was constructed in 2008 but has not received final approval from the Idaho Department of Environmental Quality (“IDEQ”). *Application* at 3. The Company represented it will receive final approval of the water system from IDEQ once it receives a CPCN. *Id.* North Star asserted that it does not have the original cost of constructing the water system but

¹ The legal description of the area the Company seeks a CPCN for is the W ½ of the NW ¼ of Section 8 within Township 3 North, Range 3 West. *Application* at 6.

the estimated cost of upgrades to the system is \$221,050. *Id.* The anticipated annual maintenance cost is included on the Operation & Maintenance Expenses attached as Appendix 8 to the Application.

Although North Star is not currently serving customers, the Company proposed to charge flat rates once it does as its water system only has a single flow meter.² The Company proposes charging \$70 per month for domestic service and an additional \$30 per month for irrigation water service. *Id.* at 19.

Included with North Star's Application were Appendixes containing 1) the Company's Certificate of Organization, 2) a plat map for the Subdivision, 3) photos showing the water system's mechanical piping, equipment, proposed improvements and pipeline layouts, 4) the Drinking Water Distribution Operator – Class 1 license for Michael J. Williams-Black, 5) a Notice of Change in Water Right Ownership form submitted to the Idaho Department of Water Resources for the Company's water rights, 6) deeds describing the real property in the Subdivision and where the Company's well is located, and 7) estimated operation and maintenance expenses. *See Appendixes 1-8 attached to the Application.*

CPCN

Staff reviewed the Company's Application and recommended that the Commission grant the Company a CPCN. *Staff Comments* at 2. Staff stated North Star's service area does not overlap or compete with any existing water corporation's certificated area and the system has a reasonable opportunity to provide reliable service to future customers. *Id.* Staff also noted that the water system design and construction has been approved by IDEQ. However, as designed, the water system does not allow for separate metering of domestic and irrigation usage. *Id.* Staff recommended that additional water system improvements should be made to allow the Commission to set rates that are just, fair, and reasonable. *Id.* Further, additional data will need to be collected over time as customers connect to the system, and rates will need to be adjusted at a future time in a general rate case. *Id.*

Staff observed that the water system is a single-well configuration, designed to serve domestic, pressurized irrigation, and fire protection needs.³ *Id.* Domestic and fire protection water are provided through a separate system than for irrigation water. However, the water system only

² The Company doesn't expect to connect any customers until August 2022.

³ The fire protection system includes five fire-hydrants in the Subdivision—of which there exists a signed, current agreement with the City of Caldwell Fire Department. *See Staff's Comments* 3.

has a single flow meter that tracks consumption for both systems so consumption data for each cannot be tracked. *Id.* Staff also believed the system’s water rights were adequate to meet the expected demand of the Subdivision when fully developed. *Id.*

Commission Finding and Decision

Based on the foregoing the Commission finds it fair, just, and reasonable to grant the Company’s request for a CPCN.

REVENUE REQUIREMENT

Though the Company’s Application did not explicitly request a specific revenue requirement, the rates proposed by the Company would generate \$30,000⁴ in revenue annually when the entire development of 24 lots plus the common area are connected and receiving service. The Company provided an estimate of annual operation and maintenance (“O&M”) expenses totaling \$25,130 in its first year of operation and escalating to \$28,284 in year 5 using a 3% annual inflation adjustment. *See Application Appendix 8.*

Staff recommended an annual revenue requirement of \$19,869. *Staff Comments* at 6. Staff believed the Company’s O&M plan was reasonable—but proposed several adjustments to the Company’s estimated O&M expenses *Id.* Staff also expressed concerns that the Company had no history of providing service to customers, which makes the O&M budget harder to project. *Id.* Staff believed North Star is under-capitalized because the water system infrastructure costs were recovered through the sale of lots. *Id.* at 6. Accordingly, the system is funded with contributed capital, and the Company does not have plant-in-service that qualifies for rate base treatment. *Id.* Staff alleged that without rate base, the Company’s revenue requirement is the amount necessary to cover its operating expenses. *Id.* at 6-7.

The Company disagreed with Staff’s assessment stating that its revenue “need[ed] to be higher than \$19,869.” *Company Reply Comments* at 1. The Company argued that when the correct sampling schedule and the reserve budget is adjusted, additional revenue will be required. *Id.* The Company provided additional expenses to the O&M expenses sheet, including a Sanitary Survey, Water Assessment Fee, Consumer Confidence Report, and the Commission Regulatory Fee. *Id.*

⁴ The Company proposed a rate of \$70 per month for domestic water use and \$30 per month for irrigation use. Twenty-four lots plus the common area multiplied by \$100 per month results in annual revenues of \$30,000.

Commission Finding and Decision

The Commission has reviewed the record—including the Company’s revised O&M sheet. After reviewing the O&M Plan, we find that a revenue requirement of \$21,390 is fair, just, and reasonable. Our finding is based on the adjustments to the Company’s proposed O&M Plan as discussed in further detail below.

1. Power Costs

Staff stated that the Company’s projected power costs were underestimated. *Id.* at 4. The Company included annual power costs of \$3,000 in its O&M plan. Based upon its calculations,⁵ Staff recommended that the Company be permitted to recover annual power costs of \$5,339. *Id.* at 5. Staff noted that the Company’s estimated annual power cost of \$3,000 was unfounded and encouraged the Company to keep accurate records of power costs, paying particular attention to costs as the system adds customers. *Id.* Through production requests and responses, the Company confirmed that “after doing more research and comparing to another water system, the power expense should be \$5,400 to \$6,000 per year.” *Id.*

Commission Finding and Decision

The Commission has reviewed the documents submitted by Staff and the Company and finds a projected power expense of \$5,400 to be fair, just, and reasonable. When the system is operational and serving customers, we direct the Company to monitor its power costs so that it may seek recovery of actual power costs in a future rate case proceeding.

2. Repairs

The Company’s O&M Plan included an annual allowance of \$500 for repairs. Staff recommended that the \$500 annual estimate for repairs be removed from the O&M budget and overall revenue requirement. *Staff Comments* at 7. Staff believed repairs should be recovered from the Company’s reserve account. *Id.*

On reply, the Company argued that the estimated \$500 annual expense for emergency repairs should be included in the overall revenue requirement because the Company stated that it would no longer have a reserve account. *Company Reply Comments* at 1.

⁵ Staff calculated the Company’s estimated power costs using IDEQ design flow tools and Idaho Power’s Schedule Nine Tariff sheet.

Commission Finding and Decision

The Commission declines to include the \$500 estimated annual repairs budget in the Company's revenue requirement. The annual cost of future repairs is unknown and unmeasurable at this time, and it is therefore inappropriate for the Company to collect funds from customers it may not have to spend. Absent a tracking mechanism or a reserve account, there is no guarantee that the recovery of funds for repairs would be available when repairs are necessary. When the Company incurs actual expenses for repairs, those amounts may be capitalized and booked to Utility Plant-in-Service and depreciated over the estimated remaining life of the assets. The Company may file an application to increase rates to recover the depreciation expense along with a return on its investment in a future rate proceeding after actual costs are incurred.

3. Lab Testing Fees

The Company included a budget of \$1,200 per year for lab fees for IDEQ required water testing. Staff recommended setting an annual water testing budget expense at \$600—stating that, for small water companies, \$600 is the multi-year average of all IDEQ required testing. *Staff Comments* at 7.

On reply, the Company asserted that Staff's analysis of the lab testing required by IDEQ (*see Staff's Comments*, Attachment. B) contained several errors. *Company Reply Comments* at 1. First, the Company asserted that coliform and E. coli testing are required monthly—not annually. Second, the Company argued that Staff failed to include Volatile Organic Contaminant testing which it asserted is required quarterly during the first year of operation, then annually for three years after that. *Id.* Third, the Company alleged that Staff failed to include semi-volatile organic compounds in its list of Synthetic Organic Contaminants—which, according to the Company, costs it an additional \$250 dollars every quarter for the first year of operation and then every three years. *Id.* The Company attached a new spreadsheet for required sampling costs for 2022-2030, that it argued, demonstrated that—over a nine-year time frame—the average annual sampling cost is \$1,702.89 per year. However, the Company stated that its first year of sample costs will total \$8,443—which amounts to \$703.58 per month. *Id.* The Company argued that it would not be fair for the Commission to force a Company to charge less than what it actually costs to run the water system. *Id.* at 2.

Commission Finding and Decision

The Commission finds that—because not all tests are required every year—a multi-year average of water testing expense is appropriate. We therefore accept the annualized testing cost updates and find that recovery of an annual lab testing fee budget of \$1,703 is fair, just, and reasonable to provide the Company sufficient recovery of its actual costs over time.

4. Equipment and Spare Parts

The Company's O&M Plan included an annual budget of \$1,000 for equipment and spare parts. Staff recommended that the Commission remove North Star's estimated expenses of \$1,000 for equipment and spare parts from the Company's proposed revenue requirement. *Staff Comments* at 7. Staff argued that equipment and spare part inventory expenses should only be included in the Company's rate base after they are incurred. *Id.*

On reply, the Company asserted that the \$1,000 for inventory and spare parts should remain in the revenue requirement. *Company Reply Comments* at 2. The Company argued that the Subdivision may take a few years to fully develop, and therefore, it didn't make sense to force the Company to carry those expenses when it will already have to spend \$8,443 on water sampling in the first year. *Id.*

Commission Finding and Decision

The Commission has reviewed the documents submitted by Staff and the Company and finds that spare parts are capital expenditures that can be recovered when placed in service. As new equipment is added to the system, the Company should book those expenditures into the appropriate plant accounts, thus building rate base on which the Company can expect to earn a reasonable return. Again, after the Company begins servicing customers, it should file a general rate case with the Commission with updated O&M expenses and rate base. Utility rates are not static and are based on a moment in time. As situations change and expenses and investment in the system grow, a utility can file an application to propose to change its rates.

5. Additional Expenses

The Company asserted that its original O&M budget did not include all expenses necessary to own and operate the water system which it asserted should also include: Required sanitary surveys once every three years at a cost of \$500 (\$167 per year); Water Assessment Fees of \$100 per year; Consumer Confidence Report at \$100 per year; and the IPUC Regulatory Fee of \$50 annually. *Company Reply Comments* at 1.

Commission Finding and Decision

The Commission finds that the additional expenses included in the Company’s reply comments are required and necessary for the operation of the Company’s water system. Accordingly, we include an additional \$417 in the Company’s revenue requirement.

6. Hookup Fee & Reserve Fund

Staff noted that the Company proposed a hookup fee of \$3,125, that it hoped would provide sufficient reserves to operate. *Staff Comments* at 5. Staff learned the Company will not incur additional costs when a customer connects to its system and neither the domestic nor irrigation distribution systems were paid for by the Company.⁶ *Id.* at 6. Staff believed the hookup fee would not be used to connect new customers—but to instead cover operational expenses because the Company has not yet developed a revenue stream. *Id.* Staff suggested the funds collected from the hookup fee be placed in a separate account⁷—with an established and auditable paper trail for all expenditures paid from the fund. *Id.* Staff recommended the Commission require pre-approval to use the funds and restrict the use of the fund to emergencies and major unplanned capital expenditures including leak repairs and unplanned replacements. *Id.*

The Company replied that the hookup fee was an affiliated company’s (Black Water, LLC) profit for going through the engineering process. *Company Reply Comments* at 1. The Company also stated that it had submitted an invoice to the developer to pay for the engineering work completed. The Company expressed concern with Staff’s comments regarding the creation and subsequent use of a reserve fund. *Id.* Thus, the Company stated that it would not have a reserve fund. *Id.*

Commission Finding and Decision

The Commission has reviewed the documents submitted by Staff and the Company and finds that the \$3,125 fee proposed by the Company is unnecessary because the Company will not incur additional costs to connect new customers to the system. Because the Company will not receive any hook-up fees, the Commission finds that the creation of a reserve fund is unnecessary.

After reviewing the O&M Plan plus the aforementioned findings, we find that a revenue requirement of \$21,390 is fair, just, and reasonable.

⁶ Staff also learned the water system was in existence before the Company acquired it. As such, original construction costs and contractors are unknown.

⁷ Staff recommended this separate account be a reserve fund for the Company.

7. Rate Design⁸

The Company proposed to charge \$70 per month for domestic use and \$30 per month for irrigation use.

Staff opposed the Company's request to split rates for domestic and irrigation use because the water system is not individually metered. *Staff Comments* at 7-9. Staff recommended that North Star charge a single, flat rate until such time as the Company can separate usage and associated costs between domestic and irrigation use. *Id.* at 9. Using its original analysis of the Company's revenue requirement, Staff recommended a single monthly flat rate of \$66.25. *Id.*

The Company opposed Staff's recommendation, reasoning that it made more sense to have the rates listed as two separate line items on the bill. *Company Reply Comments* at 2.

Commission Finding and Decision

The Commission finds that a single, monthly rate is most appropriate for a single-metered water system. However, after reviewing the Company's adjusted revenue requirement of \$21,390, we find that a single monthly rate of \$71.30 is fair, just, and reasonable for the 24-lot system plus common area as one customer. When the Company begins delivering water service to customers, it should place another meter at the well to monitor irrigation and domestic water usage data separately. When the Company has sufficient data to determine a proper allocation of costs between domestic and irrigation use, it can request the Commission—through a general rate case—to bifurcate its monthly charges as originally proposed in its Application.

8. Late Payment Charges, Returned Transaction Fee, and Reconnection Fee

Staff supported the Company's proposed late payment charge of 1% monthly on unpaid balances. *Staff Comments* at 10. Staff proposed a \$20 returned transaction fee for payment returned for insufficient funds. However, Staff opposed the Company's proposed reconnection fee as unreasonable and inconsistent with charges authorized by the Commission for similarly situated utilities. *Id.* The Company proposed a reconnection fee of \$35 during regular business hours and \$70 for after hours. *Company Reply Comments* at 2-3. The Company and Staff agreed that normal business hours are between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding legal holiday. *Staff Comments* at 10. Instead, Staff recommended a \$20 reconnection charge following an involuntary disconnection during regular business hours and a \$40 reconnection charge outside

⁸ This section includes the summary of Staff's comments on Reporting and Records as well as Tariffs.

of regular business hours. *Id.* Staff stated that the \$40 charge is within the range of charges previously approved by the Commission for similar utilities under similar circumstances. *Id.* The Company asked for a 1% late payment charge—which Staff supported. *See Staff Comments* at 10. However, in its reply comments, the Company inquired whether an Idaho statute mandates what it can and cannot charge for a late payment fee.⁹ *Company Reply Comments* at 2.

The Company opposed Staff’s recommendation for reconnection charges. The Company argued that its employees are required to travel approximately 75 minutes round-trip for reconnections and urged the Commission to consider cost, benefits, and employee time involving travel and reconnection services. *Id.* The Company stated that—when calculating those elements—it costs the Company \$59.30 to reconnect a customer. Thus, the Company argued that its proposed \$35/\$70 fee structure was reasonable. *Id.*

Commission Finding and Decision

The Commission has reviewed the documents submitted by Staff and the Company and finds that the Company’s proposed reconnection fee of \$35 for reconnections during business hours and \$70 for reconnections outside of normal business hours to be fair, just, and reasonable. The Idaho Code grants the Commission authority to set rates (which includes fees) that are fair, just, and reasonable. *See Idaho Code* §§ 61-501 and -502. Staff’s calculation was based upon previous reconnection fees allowed by the Commission to similarly situated companies. However, the Commission notes that if a company can demonstrate actual costs associated with a particular service, (such as reconnections) then the company is encouraged to submit that documentation to the Commission for review and possible recovery of that cost.

The Commission finds a late payment charge of 1% monthly on unpaid balances to be reasonable.

The Commission also finds a returned transaction fee of \$20 for insufficient funds is reasonable.

COMMISSION FINDINGS AND DECISION

The Commission re-incorporates the aforementioned findings and decisions into this section as though fully set forth herein. The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502, and -503. Accordingly, the Commission is empowered to set rates, fares, fees, and charges, that are fair, just, and reasonable. *Idaho Code* § 61-502. The Commission

⁹ It is unclear from the Company’s reply comments as to whether it is in agreement to charge a 1% late-payment fee.

finds that the water rights granted to the Company are adequate to provide reliable service to the Subdivision. Additionally, the Commission finds the Company's O&M plan to be fair, just, and reasonable with the aforementioned adjustments as incorporated herein. Accordingly, the Commission finds the following to be fair, just, and reasonable:

1. Issuing the Company a CPCN;
2. Approval of a power cost recovery budget of \$5,400;
3. Approval of an annual Lab-testing fee budget of \$1,703;
4. Approval of an overall revenue requirement of \$21,390;
5. Approval of a single, monthly charge for water service of \$71.30;
6. Approval of a late-payment charge of 1% of the total customer past-due balance;
7. Approval of a \$35 fee for reconnections performed during regular business hours and a \$70 fee for reconnections performed outside of regular business hours; and
8. A \$20 charge for transactions that result in insufficient funds notices.

The Commission understands the Company's views and notes that it is not the Commission's intention to require a company to charge less than what it actually costs to operate a water system. The Commission encourages the Company to continue working with Staff to find the right balance, mechanisms, and procedures to recover costs and expenses. The Commission invites the Company to file a general rate case when it has additional data describing its actual expenses incurred.

ORDER

IT IS HEREBY ORDERED that the Company is to be issued a CPCN upon issuance of this Order for the following service territory. The W ½ of the NW¼ of Section 8 within Township 3 North, Range 3 West. Certificate No. 535 shall be issued as a separate document.

IT IS FURTHER ORDERED the Company's power-cost recovery estimate in its O&M plan be adjusted to \$5,400.

IT IS FURTHER ORDERED the Company's lab-testing fee estimate in its O&M plan be adjusted to \$1,703.

IT IS FURTHER ORDERED the Company's equipment and spare parts estimate and its repair estimate in its O&M plan be removed.

IT IS FURTHER ORDERED the Company's annual revenue requirement is set at \$21,390.

IT IS FURTHER ORDERED the Company charge future customers a single, monthly charge of \$71.30 for water service until such time as the Company can separately meter domestic and irrigation use.

IT IS FURTHER ORDERED the Company's reconnection fees be set at \$35 for reconnections performed during regular business hours and \$70 for reconnections performed outside of regular business hours.


IT IS FURTHER ORDERED the Company may charge 1% monthly for a customer's past-due balance as a late-payment charge.

IT IS FURTHER ORDERED the Company may charge customers \$20 for insufficient fund transactions.

IT IS FURTHER ORDERED that the Company shall submit tariffs conforming to this Order, as well as a sample bill and sample disconnection notice, no later than 30 days after 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 with regard to any matter decided in 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 22nd day of April 2022.



ERIC ANDERSON, PRESIDENT

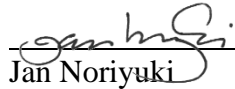


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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