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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF SCHWEITZER WATER)
COMPANY'S APPLICATION FOR) **CASE NO. SWC-W-23-01**
APPROVAL OF ACQUISITION OF THE)
ASSETS OF RESORT WATER CO. INC. AND)
FOR THE ISSUANCE OF A CERTIFICATE) **COMMENTS OF THE**
OF PUBLIC CONVENIENCE AND) **COMMISSION STAFF**
NECESSITY)

COMMISSION STAFF ("STAFF") OF the Idaho Public Utilities Commission, by and through its Attorney of record, Michael Duval, Deputy Attorney General, submits the following comments.

BACKGROUND

On December 27, 2023, Schweitzer Water Company ("Schweitzer"),¹ a subsidiary of Alterra Mountain Company U.S. Inc. ("Alterra"), applied for approval of its acquisition of Resort Water Co. Inc.'s ("Resort Water") assets ("Transaction"). Specifically, Schweitzer requested that the Commission (1) approve the acquisition of Resort Water's assets, (2) grant

¹ This same company previously filed a case with equivalent requests—except that the proposed entity to be named on that requested CPCN was Husky Water Company. See Case No. HWC-W-23-01. After deciding that the Company name on the requested CPCN should instead be Schweitzer Water Company, the Application in Case No. HWC-W-23-01 was withdrawn. In October 2023, Husky Water Company amended its Articles of Incorporation with the Idaho Secretary of State to reflect the new name Schweitzer Water Company.

Schweitzer a new Certificate of Public Convenience and Necessity (“CPCN”) pursuant to *Idaho Code* § 61-526 and Rule 112 of the IPUC Rules of Procedure, IDAPA 31.01.01.112 that authorizes service to the area previously served by Resort Water and the Ridge System, and (3) approve Schweitzer’s proposed tariffs (“Application”).

Schweitzer stated that on August 22, 2023, it acquired Resort Water from its parent company—Schweitzer Mountain LLC. Schweitzer stated that Resort Water operated two smaller water systems (the “Resort System” and the “Ridge System”). At the time of these acquisitions, Schweitzer was known as Husky Water Company. The Resort System operates under CPCN No. 445. The Ridge System, once known as Acme Water Works, Inc. (“Acme”) previously operated under CPCN No. 518 when it was known as Acme. “[The Ridge System] has been operated by Resort Water since January 1, 2018, but without amendment to or transfer of Acme’s CPCN No. 518.”² Application at 5. If Schweitzer’s Application is approved, it will provide water to both service areas under a new CPCN number. Schweitzer stated that it intends for Resort Water’s employees and contractors to fill their same roles when working for Schweitzer.

Schweitzer’s Application is structured to conform with the requirements of *Idaho Code* § 61-328. However, Schweitzer acknowledged that *Idaho Code* § 61-328 is not a mandatory authority as it specifically applies to the sale of assets by electric utilities—not water utilities.

STAFF ANALYSIS

Based on its review of the Application, exhibits, and responses to Production Requests, Staff recommends the Commission issue a new CPCN authorizing service to the areas previously served by Resort Water and the Ridge System. Additionally, Staff recommends the Commission cancel CPCN No. 445 for Resort Water and CPCN No. 518 for the Ridge system.³ Finally, Staff recommends the Commission approve the proposed tariffs subject to the recommendations discussed below.

² It is not clear from the Application that the Ridge System is currently operating under a valid CPCN.

³ CPCN No. 518 issued to ACME Water Order No. 33210.

Public Interest

Staff believes this transaction is consistent with the public interest. Schweitzer plans to make investments to increase both the safety and reliability of the system. Schweitzer will have access to capital that is not currently available to Resort Water via Schweitzer's parent company, Alterra.

Schweitzer will maintain its expertise in operating a regulated water utility by retaining employees, procedures, and licensed officials of Resort Water. *See J. Brownlie Di*, pp. 6 - 7. Schweitzer will continue to provide 24-hour response to repairs or water quality issues. Application at 9.

Customer Rates

Customer rates will not increase due to the sale of the Resort System or the Ridge System. The two water systems have different customer rates. Schweitzer charges Resort Water and Ridge System customers a fixed monthly charge for each Equivalent Residential Unit ("ERU"). The Resort Water charge is \$44.80 per ERU per month, or \$537.44 per year. The Ridge System charge is \$29.25 per ERU per month, or \$351.00 per year.

Resort Water's CPCN and rates were established in Order No. 29732, Case No. RES-W-04-01. The rates for the Ridge System were established in Order No. 33219, Case No. AWW-W-13-01. While the rates and a partial CPCN were approved in that case, a formal tariff is not on file with the Commission. Schweitzer's proposed tariff rates do not increase. However, Schweitzer proposed modifications to the tariff language as described in the tariff section below.

Schweitzer Intent and Ability to Operate

Staff believes that Schweitzer, with the support of its parent Company Alterra, has a bona fide intent and the financial ability to operate and maintain the water systems. Alterra owns and operates water systems and treatment plants at other resort properties in Vermont, California, Utah, and Washington. Application at 3. Alterra will also retain the employees from the Resort Water Company. These employees have familiarity with the system and have historically maintained adequate service.

Staff reviewed Alterra's Consolidated Accounting Statements for 2022. Alterra shows a consolidated cash and cash equivalent of \$1.1 billion, consolidated revenue of \$1.6 billion, a net

income of \$106 million, and a net cash from operation activities of \$441 million. This illustrates that Alterra has sufficient financial resources to fund any capital expenditures needed to maintain the system.

Alterra states that rates would not be increased due to the proposed Transaction. Application at 6. At this point, all the costs of the transaction have been paid by Alterra and not Resort Water. Therefore, the only way that the costs of this transaction could be placed into rates is for some or all those costs to be allocated from the parent company to Schweitzer. As of this time, there has not been an allocation methodology developed to allocate costs from Alterra to Schweitzer. This allocation methodology will be reviewed when Schweitzer files an application to change its rates in a future proceeding.

Accounting

Assessment Fees and Annual Reports

Schweitzer has agreed to pay the past due balance owed by the Ridge System, formerly Acme. Schweitzer will be responsible for assessment fees and annual reports. As of March 5, 2024, the amount owed by Acme for Commission fees and interest on unpaid balances was \$355.60. The invoice was mailed to Mr. Trulock by certified mail on Wednesday, March 6, 2024. On March 21, 2024, counsel for the Company confirmed that the invoice will be paid. On March 22, 2024, in a conversation with Staff, the Company stated that the statement would be submitted for expedited processing on March 25, 2024. As of April 11, 2024, the payment has not been received.

When the Application was filed, the Commission had not received any annual reports from Acme, nor the 2019 and 2021 annual reports for Resort Water. The Commission received the signed copies of annual reports for Acme from 2018 to 2022 and the missing Resort Water annual reports on March 11, 2024.

CPCN

Per Schweitzer's request, Staff recommends the Commission cancel CPCN Nos. 445 (Resort System) and 518 (Ridge System) and authorize a new CPCN that combines the two service territories as provided in Attachment A to Staff Comments. Supplement to Application at 2. Staff verified that these combined legal descriptions match the mapped area that Schweitzer

plans to provide service and that the area does not interfere or encroach upon any other water systems.

While reviewing the maps and proposed legal descriptions supplied in Exhibit Nos. 0006 and 0007 of the Application, Staff discovered that the legal descriptions and the existing CPCN Nos. 445 and 518 do not accurately reflect the service areas of the Resort and Ridge systems. Due to these discrepancies, Staff conducted a teleconference with Schweitzer on March 22, 2024, and requested Schweitzer resubmit legal descriptions and maps for service areas of both systems, which were then provided through supplemental filings. Second Supplement to Application at 2. Schweitzer also requested to cancel the existing CPCNs used for the Resort Water CPCN No. 445, and the Ridge System (formerly known as Acme) CPCN No. 518. Staff determined the amended legal descriptions accurately describe Schweitzer's requested service territories for both the Resort and Ridge systems, which are provided as Attachment A to Staff Comments: (1) A-1: Legal Description Of "Resort System," and (2) A-2: Legal Description of "Ridge System."

Staff also determined that there are no overlapping service territories between the amended and combined Resort Water and Ridge Water system service territories and any other water utilities. The combined territory shares common boundaries with the Spires system and with the Schweitzer Basin Water Company ("SBWC") service territory under CPCN No. 521. However, Staff verified that they do not overlap, SBWC and Schweitzer independently operate with their respective infrastructures, and there have not been any territory disputes to date.

Engineering

Overview of the Water System

The Schweitzer Water Company consists of two different water systems located in Bonner County, Idaho: the Resort System and the Ridge System. Both the Resort and Ridge systems operate independently without interconnection with each other, or to other systems as stated by Schweitzer's Response to Production Request No. 16. The Resort System has 770 total ERUs, with 538 ERUs currently active, 89 inactive committed, and 143 available. Further, the Ridge System has 118 total ERUs with 28 active, 60 inactive committed, and 30 available.

The Resort System and the Ridge System are separated by two other water systems unrelated to the transaction but possibly relevant to future water system expansion by

Schweitzer. A map of these various systems can be found in Exhibit 6 of the Direct Testimony of Tom Trulock.

The Resort System is classified as a non-transient, non-community public drinking water system located on Schweitzer Mountain in Bonner County, Idaho, serving water to the Schweitzer Resort and portions of the Schweitzer Basin Public Utility Division (“P.U.D.”). The water system consists of three drilled wells, three storage reservoirs, two control buildings, one treatment facility, a series of three booster pumps and two water tanks supporting the booster pumps, and distribution systems. As water sources, Well No. 4 has a capacity of 93 gallons per minute (“GPM”) equipped with a 15 HP (“Horsepower”) pump, Well No. 5 has 98 GPM capacity through a 5 HP pump, and Well No. 6 can produce water at 71 GPM using a 2 HP pump. The lower reservoir (Reservoir No. 1 at 5032-feet elevation), middle reservoir (Reservoir No. 2 at 5062-feet elevation), and the upper reservoir (Reservoir No. 3 at 5194-feet elevation) have approximate capacities of 42,000 gallons, 65,000 gallons, and 206,000 gallons, respectively. The water treatment, chlorination, and soda ash injection take place in the Upper Control Building, whereas the Lower Control Building controls the transfer flow from Reservoir No. 2 to Reservoir No. 1 and then to distribution lines. The Resort’s distribution system operates in four main pressure zones controlled by six main-line pressure reducing valves (“PRVs”) and consists of 2-inch to 8-inch PVC pipes, 35 fire hydrants, and 45 isolation gate valves. There is a 15-kW backup generator located in the Upper Control Building that provides emergency power to one well pump, building heating and lighting, and the water treatment system. *See* Response to Production Request No. 6 – Exhibit No. 4 at 3. The system utilizes booster pumps and water tanks to supply water to the Sky House Lodge located at an approximate elevation of 6,400 feet.

The Ridge System is classified as a transient, non-community public drinking water system that serves water to the Schweitzer Village subdivision, located on Schweitzer Mountain in Bonner County, Idaho. The system comprises one active groundwater well (Well No. 1) with a production capacity of 30 GPM, a well house/control building (Wellhouse No. 1), and a 200,000-gallon storage reservoir (Reservoir No. 1 at 5045 feet elevation). The Ridge system also has a second well (Well No. 2), which is currently not in use but may be brought on-line in the future. The distribution system engages two pressure zones controlled by two main-line PRV assemblies and it embodies 4-inch to 8-inch PVC plus ductile iron pipes and 12 fire hydrants.

Currently the Ridge system does not have water treatment and the system does not have a backup generator.

Reliability Analysis of the Water Systems

Staff believes the assets being transferred to Schweitzer, including both Resort and Ridge systems, are adequate to ensure reliable service to its customers and that current water rights included within both Resort and Ridge systems provide an adequate supply of potable water to support Schweitzer’s maximum production capacity to meet its current water consumption needs. Staff’s conclusions are based on the performance of the current systems since the assets being transferred include all the assets and infrastructure currently being used to supply water to its current customers (*See* Response to Production Request No. 13 – Confidential Exhibit No. 8). However, the only reliable performance data available was the absence of customer complaints or compliance issues included in the Idaho Department of Environmental Quality (“IDEQ”) sanitary surveys or water rights issues with the Idaho Department of Water Resources. *See* Response to Production Request Nos. 2 and 9.

Lack of Customer Complaints or Regulatory Compliance Issues

Staff reviewed the customer complaints database of both Acme and Resort Water and learned there have been no complaints regarding water quality/reliability or low water pressure during the last 5 years. Staff also reviewed IDEQ sanitary surveys for Resort and Ridge systems (completed in years 2019 and 2017 respectively) and determined there are no reported significant deficiencies that may have impaired reliability of either system. Because of these reasons, Staff believes that the transferred assets for both Resort and Ridge systems are sufficient to reliably meet current customer demands.

Consumption Data and Metering Issues

Ideally, Staff prefers to quantitatively measure system capacity against consumption as a measure of reliability. Staff was able to determine Schweitzer’s annual water production from 2018 through 2022. Schweitzer’s highest water production occurring in 2022 was 19,994,453 gallons at approximately 339 GPM (both systems combined). *See* Response to Production Request No. 12 – Exhibit No. 7. However, Staff was not able to compare annual consumption

against production due to a lack of customer metering infrastructure and meter calibration issues. Schweitzer stated it is aware of these issues and is in the process of upgrading more components and controls to provide better reporting consistency going forward with projected completion by the summer or fall of 2024. *See* Supplemental Response to Production Request No. 12.

Facilities Plan

Schweitzer is currently in the process of completing and submitting its facilities plan. *See* Response to Production Request No. 9. Without a plan and without the ability to accurately measure total consumption against system capacity, Staff could not determine whether Schweitzer can sufficiently meet its future customer's water demand. Because Staff believes it is critical to understand Schweitzer's ability to continuously provide reliable water service and meet customer demand in the future, Staff recommends the Commission direct Schweitzer to submit its completed facilities plan that also addresses metering issues by December 31, 2024.

Water Rights

Staff believes Schweitzer has sufficient water rights to support its maximum production capacity including both Resort and Ridge systems. *See* Response to Production Request No. 3 - Exhibit No. 1.

According to Staff analysis, Schweitzer has total water rights for 2.89 cubic foot per second ("CFS") diversion rate (approximately 1297 GPM), including municipal, commercial, and storage usage. Additionally, Schweitzer has water rights for a 0.5 CFS diversion rate (224 GPM) specifically reserved for Fire Protection.

Including all systems and booster pumps for both Resort and Ridge systems, Schweitzer has a total maximum production capacity of 703 GPM. *See* Response to Production Request No. 6 – Exhibit No. 4 at 2. Staff analyzed Schweitzer's annual water production for the past 5 years from 2018 to 2022, and the highest production capacity in 2021 was approximately 347 GPM (both systems combined), which is below Schweitzer's currently available water rights. *See* Response to Production Request No. 12 – Exhibit No. 7.

Tariffs

Schweitzer requested that the Commission approve its proposed tariffs. Schweitzer edited existing Resort Water Schedule Nos. 1-5 to update the company name. Although Schweitzer stated it was not raising rates, Schweitzer proposed rearranging the existing Schedules to add a residential fixed rate service (that would apply to Ridge System customers) under a newly proposed Schedule No. 6. According to the Application, the proposed Schedule No. 6 states that “[a]ll rates are based on equivalent residential units” from the existing schedules. Application, Exhibit No. 2, Schedule No. 6.

According to Schweitzer’s response to Production Request No. 28, after Resort Water’s acquisition of the Ridge System from Acme, the Ridge System continued operating in accordance with the “unofficial” tariff in Order No. 33210 for Case No. AWW-W-13-01.

Schweitzer proposed a new Schedule No. 6 that accommodates commercial and residential customers previously served under the Ridge System with updated language to match the existing Resort Water tariffs. The Ridge System will have a Basic Fee of \$29.25 per month along with a change in billing structure. The change in billing structure for Ridge System customers taking service under Schedule No. 6 will no longer be subjected to additional fees for exceeding 12,000 gallons in monthly water usage.

Previous non-recurring charges for the Ridge System listed under Schedule No. 2 have been eliminated. The Ridge System will now adopt the Resort Water fixed charges under Schedule No. 2 of the updated tariffs as shown in the table below. While the non-recurring charges for the Ridge System are different under the new tariff, they have not increased customer rates.

Schedule No. 2 Miscellaneous Fees and Charges: Sheet No. 4 and 5 Schweitzer Proposed

Tariffs

Description of Fee or Charge	Frequency/Conditions	Amount
Return Check Charge	Each occurrence	\$15.00
Reconnection less than 30 days disconnected	Normal business hours	\$20.00
Reconnection less than 30 days disconnected	Not normal business hours	\$60.00
Reconnection greater than 30 days disconnected	Normal business hours	Four months of service
Reconnection greater than 30 days disconnected	Not normal business hours	Four months of service plus \$60.00
Field Collection Trip Charge	Each occurrence	\$15.00

CUSTOMER COMMUNICATION AND NOTIFICATIONS

Schweitzer provided a proposed notice to customers within Exhibit No. 3 of the Application. Commission Staff found that the Customer Notice draft the Company submitted with the Application did not meet all requirements required under Rule 125 of IDAPA 31.01.01 - Rules of Procedure of the Idaho PUC. Subsequently the Company committed to providing an updated Customer Notice draft. This updated notice was submitted to Commission Staff on Monday, March 25, 2024. The updated notice appeared to meet the requirements as set forth in Rule 125. Staff informed the Company that the notice was sufficient and acceptable to send to Customers. As of April 11, 2024, the Company has yet to send out the revised Customer Notice. However, the Company has communicated with Staff concerning the planned release of the revised Customer Notice.

In Production Request No. 19, Commission Staff requested information describing all public outreach activities that have occurred to date, indicating the type of outreach activities, locations, and dates. The Company responded, stating that a press release for the acquisition was provided at the following link: <https://www.schweitzer.com/schweitzer-life/schweitzer-alterra/>. In addition, the Company stated that they provided numerous social media posts and e-mail releases sent by Alterra Mountain Company U.S. Inc. that primarily focus on the acquisition of the Schweitzer Mountain Resort. The Company also provided copies of the Mountain Utility Company notice regarding billing, dated October 16, 2023, and the notification letter that was sent to all customers and published in the Coeur d'Alene Press.

In Production Request No. 35, the Commission asked the Company to provide examples of customer bills for Resort Water, Ridge Water and Schweitzer Water Company. The Company responded by providing sample bills for each system. The sample bills provided for Schweitzer Water Company reflect a bill prior to the name change from Husky Water Company to Schweitzer Water Company. The Company responded and sent a sample water bill for Schweitzer. Upon review of the provided bills, it appears that the bills do not comport with Rule 201 of the Utility Customer Relations Rules. The following Staff comments describe the specific portions of the bills that require modifications to meet the Rule:

1. No toll-free telephone number is listed on the bill. The Rule requires a toll-free number to allow customers to contact the Company. IDAPA 31.21.01.201.01(j);

2. No payment due date was observed on the bill. IDAPA 31.21.01.201.01(d);
3. No date funds will be withdrawn if autopayment is used. IDAPA 31.21.01.201.01(d);
4. Under the section of the bill labeled “Payment Terms,” no definition of “CC” or “E” as shown on the bill were described in the Codes located at the bottom of the bill. To be consistent, Staff recommends referenced payment terms/codes be defined in the section shown at the bottom of the bill;
5. There was no description of recurring and non-recurring fees shown on the bill. IDAPA 31.21.01.201.01(e);
6. The sample bill provided had charges (sewer charges) shown on the bill. The Commission does not regulate sewer services. No charges for services for which the Commission does not regulate may be contained in the utility’s tariff. IDAPA 31.21.01.207;
7. The bills provided did not show payments or credits applied to the customer’s account since the last billing statement. Bills should show payments and credits applied since the last billing statement. IDAPA 31.21.01.201.01(h); and
8. The Company’s Application showed past due interest being charged in Schedule No. 6 of the Sample Tariff. However, no interest was indicated for Schedules Nos. 1 through 5. It is unclear if interest for past due amounts will be charged for all Schedules, or only Schedule No. 6. Staff recommends that past due interest charges be identified for each Schedule or be identified in Schedule No. 2 (Miscellaneous Fees and Charges).

Staff recommends the Commission require Schweitzer to file a compliance filing within 30 days demonstrating these modifications have been completed.

As of April 10, 2024, the Commission has not received any public comments regarding this case.

STAFF RECOMMENDATIONS

Staff recommends the Commission:

1. Approve Schweitzer’s Application to issue a new CPCN to authorize service to the areas previously served by Resort Water and the Ridge System;
2. Cancel CPCN Nos. 518 and 445;

3. Approve Schweitzer's tariffs as filed;
4. Direct Schweitzer to submit its completed facilities plan that includes addressing metering issues by December 31, 2024; and
5. Require the Company to file within 30 days a compliance filing demonstrating Customer bills comport with IDAPA 31.21.01.

Respectfully submitted this 11th day of April 2024.



Michael Duval
Deputy Attorney General

Technical Staff: Jon Kruck
Joseph Terry
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A-1: LEGAL DESCRIPTION OF “RESORT SYSTEM”

A parcel of land in Section 20, Township 58 North, Range 2 West, Boise Meridian, Bonner County Idaho, further described as follows:

Beginning at the Center Quarter Corner of said Section 20, monumented with a 4 inch diameter concrete monument with a 2-inch diameter brass cap marked “PLS 1947”, from which the East Quarter Corner bears South 89°51’25” East, 2693.97 feet;

Thence South 00°13’44” West, 1068.16 feet along the north-south center section line to the southeasterly corner of Ski and Road Easement as shown on Crystal Springs Subdivision Block E, recorded as Instrument #437196, Records of Bonner County, Idaho;

Thence North 89°58’51” West, 527.03 feet, along said Ski and Road Easement southerly line, to the southwesterly corner of said Easement;

Thence North 22°14’10” East, 33.20 feet, to the southeasterly corner of Lot 10, Crystal Springs Subdivision Block D, recorded as Instrument #437196;

Thence, along the southerly line of said Crystal Springs Subdivision Block D the following five (5) Courses:

- 1) North 66°17’30” West, 343.67 feet;
- 2) Thence South 23°39’37” West, 200.23 feet;
- 3) Thence North 66°19’45” West, 192.32 feet;
- 4) Thence North 59°15’24” West, 185.93 feet;
- 5) Thence North 46°26’07” West, 256.60 feet to the southwesterly corner of Lot 6 of said Crystal Springs Subdivision Block D;

Thence, departing said Crystal Springs Subdivision Block D southerly line, North 39°39’51” West, 961.28 feet;

Thence North 45°28'38" East, 1912.66 feet, to the northwesterly corner of Lot 6, Block 6, Trappers Creek, recorded as Instrument #735696;

Thence North 46°36'42" East, 930.90 feet to the northwesterly corner of Parcel 35 as described in Special Warranty Deed Instrument #102486.

Thence South 89°23'40" East, 330.04 feet;

Thence South 00°15'36" East, 211.23 feet;

Thence South 41°18'17" East, 616.50 feet;

Thence South 89°23'40" East, 605.25 feet;

Thence South 00°33'53" East, 253.90 feet;

Thence South 67°53'34" East, 1456.70 feet to the easterly line of said Section 20;

Thence South 00°52'27" East, 507.70 feet to the east quarter corner of said Section 20;

Thence North 89°51'25" West, 2693.97 feet, along the east-west center section line of said Section 20, to the **Point of Beginning**.

And

The West Half of the Southwest Quarter of the Northwest Quarter of Section 17, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho.

Containing 177 acres, more or less.

A-2: LEGAL DESCRIPTION OF “RIDGE SYSTEM”

Boise Meridian, Idaho

T. 58 N., R. 2 W.

SEC. 29, NE1/4, N1/2NW1/4, SE1/4NW1/4.

Containing 280 acres, more or less.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE 11TH DAY OF APRIL 2024, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF TO SCHWEITZER WATER COMPANY** IN CASE NO. SWC-W-23-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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