

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF TETON WATER & SEWER COMPANY’S REPORTING ON RESERVE FUND DISTRIBUTION) **CASE NO. TTS-W-23-01**
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) **ORDER NO. 35734**
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On January 3, 2023, Teton Water & Sewer Company, LLC (“Company”) filed its 2022 Reserve Fund Usage Report (“Report”) pursuant to Order No. 35382 seeking approval that the reserve funds were used appropriately.

The Commission issued a Notice of Application and Notice of Modified Procedure setting public comment and Company reply deadlines. Order No. 35668.

Staff filed comments to which the Company replied. No other comments were received.

Having reviewed the record, the Commission enters this final Order on the Company’s Application.

BACKGROUND

The Commission established the Emergency Reserve Fund to address the Company’s under-capitalization. Order No. 30718. The Company developed its system using lot sales to recover infrastructure costs, which left the Company without plant-in-service that could be put into rate base. Therefore, the Company lacked sufficient earnings to cover unexpected expenses. *Id.* In establishing the Emergency Reserve Fund, the Commission stated “the reserve fund is to be used only for emergencies and major unplanned capital expenditures (plant repair, maintenance and replacement). It is not intended to . . . fund capital expenditures that should have been planned.” *Id.* at 12. In addition, the Commission required the Company to establish an auditable paper trail for expenditures paid from the Emergency Reserve Fund and to file notice with the Commission when money from the Emergency Reserve Fund is used. Order Nos. 30718, 34000.

THE APPLICATION

The Company’s Report reflects expenditures of \$28,777.25 for the following projects: Asphalt Repair at 33 Targhee Trail, Water Leak Repair at 20 Targhee Trail, Water Leak Repair at 46 Targhee Trail, and Water Leak Repair at 4 Blackfoot Trail. Application at 1.

The Company documented that the reserve funds covered the 33 Targhee Trail asphalt repair in the amount of \$3,927.70. *Id.* The remaining costs—\$24,849.55—were paid from

operating funds. *Id.* The Company anticipated additional repairs and costs for the Water Leak Repair at 4 Blackfoot Trail in 2023. *Id.*

THE COMMENTS

Staff Comments

Staff recommended the Commission: “(1) approve the Company’s use of the Emergency Reserve Fund for 2022 for the entire amount of \$3,928 for the repair at 33 Targhee Trail; (2) reduce the remaining amount of the projects to be included in Plant-in-Service by \$484 for a total of \$24,365;” and “(3) require the remaining amount of 2022 repairs in the amount of \$24,365, along with the 2021 unrecovered repairs of \$23,388, to be recorded in Account 101.333 for recovery in the Company’s next general rate case.” Staff Comments at 4. Staff also recommended an annual depreciation expense of \$1,592 over 30 years for the \$47,763 in capital expenses incurred in 2021 and 2022 that were “not covered by the Emergency Reserve Fund.” *Id.*

Staff noted that Order No. 30718 “authorized the Company to establish an Emergency Reserve Fund with specific parameters for accessing the funds.”¹ *Id.* at 2. Staff believed the Company’s documentation showed the four projects met the parameters established in Order No. 30718. *Id.*

Staff evaluated the Company’s labor costs for prudence. *Id.* at 3. According to Staff, the Company used an affiliated company with common ownership, Teton Management Services, Inc., (“TMS”) for repair work, because “other vendors no longer have laborers on staff” for the type of repair work the Company required. *Id.* (citing Company’s Response to Production Request No. 1). TMS invoiced the Company at \$50 per hour for labor, however the all-in cost to TMS for the labor was \$28 per hour. *Id.* at 3. Staff argued that costs for affiliated transactions should be “the lower of cost or market.” *Id.* Staff recommended recovery should be limited to the actual cost incurred by TMS of \$28 per hour. *Id.* at 3-4. Therefore, Staff proposed removing excess labor costs of \$484 from recovery through the Emergency Reserve Fund. *Id.* at 4.

Staff recognized that the Company’s Emergency Reserve Fund has been insufficient to cover the Company’s emergency repairs for the previous two years and recommended that the

¹ The requirements for accessing the funds were as follows: “(1) the Company must file a notice of application to use the fund; (2) the fund is only to be used for emergencies and unplanned capital expenditures (plant repair, maintenance, and replacement); (3) the Company must establish an auditable paper trail for all expenditures paid from the fund; and (4) the fund can only be used for capital expenditures greater than 10% of the Company’s annual revenue requirement.” Order No. 30718. The Commission eliminated the 10% revenue requirement in Order No. 34000.

additional incurred expenses of \$24,365 be “booked to account 101.333” and depreciated over 30 years for a depreciation expense of \$1,592 per year. *Id.*²

Company Reply Comments

The Company agreed with Staff’s approval recommendation of the \$3,928 repair at 33 Targhee Trail. Company reply comments at 1. However, the Company disagreed with Staff’s proposed reduction of the TMS labor expenses by \$484, the accounting adjustments, and the proposed depreciation treatment. *Id.*

For the labor expenses, the Company argued it would “obtain a credit in the amount of \$484 from the vendor” and book this credit in 2023. *Id.*

As for Staff’s recommendation to book the amount of “\$24,365 from previously booked expenses to a balance sheet account,” the Company asked this “be modified to record future unrecovered repairs . . . but not retroactively for the tax year [2022] already closed.” *Id.* The Company does “not believe the benefit outweighs the costs of the CPA in making this change retroactively.” *Id.*

For the accounting and annual depreciation recommendations, the Company believed that this will “create an accounting change after the fact for not one, but two years” and the “burden and cost of amending tax returns outweighs the benefits.” *Id.* The Company proposed 2023 be the starting point for the proposed changes, and 2023 be the starting point for recording the future unrecovered repairs as suggested by Staff. *Id.* The Company did not object to Staff’s annual depreciation expenses of \$1,592, but again, requested 2023 should be the starting point for a depreciation expense for unrecovered repairs. *Id.*

COMMISSION FINDINGS AND DECISION

The Company operates a water system as a water corporation as defined by *Idaho Code* §§ 61-124 and 61-125 and is a public utility under *Idaho Code* § 61-129. The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502 and -503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and -503.

² The total of unrecovered expenses is \$47,763 (\$24,365 for 2022 and \$23,388 for 2021)—which is \$1,592 over 30 years.

Having reviewed the record, we approve the Company's use of the Emergency Reserve Fund for the \$3,928 for the repair at 33 Targhee Trail as prudently incurred.

We agree with Staff that affiliated transactions require additional scrutiny because of the potential for the non-regulated entity to acquire profits from the regulated utility business. Our goal is to ensure that owners of affiliated companies are not unduly profiting from customers of the regulated utility. Affiliated transactions should be recorded at the lower of cost or market. Accordingly, the Commission has adjusted the labor costs for the three water leak repairs by \$484 to reflect the actual costs incurred by TMS for labor. With this adjustment, the Commission approves \$24,365 for the remaining project costs for the three water leak repairs as prudently incurred.

The Commission hereby directs the Company to book \$24,365 for the three leak repairs in 2022, along with \$23,388 for unrecovered repairs in 2021 to Plant-in-Service in Account 101.333. The Company can recover the costs of these capital expenditures through depreciation expense in the Company's next general rate case. The Commission authorizes a \$1,592 annual depreciation expense over 30 years for these capital expenditures. The Company shall track its regulatory depreciation expense, accumulated depreciation, and net book value of plant for recovery in its next general rate case.

We understand the Company's concerns about the cost of refiling its taxes; however, the Commission notes that regulatory accounting is rarely synchronized with tax accounting. Depreciation expense for regulatory accounting often differs from depreciation expense for tax accounting, and changes to regulatory depreciation expense do not impact the Company's tax returns.

ORDER

IT IS HEREBY ORDERED that the Company's use of the \$3,928 in the Emergency Reserve to cover the asphalt repair expenses at 33 Targhee Trail is approved as prudently incurred.

IT IS FURTHER ORDERED that the Company's expenditures of \$24,365 for the repairs at 20 Targhee Trail, 46 Targhee Trail, and 4 Blackfoot Trail is approved as prudently incurred.

IT IS FURTHER ORDERED that the Company shall book \$24,365 for the three water leak repairs in 2022 that were not covered by the Emergency Reserve Fund, along with the 2021

unrecovered expenses of \$23,388, in Account 101.333 for recovery in the Company's next general rate case.

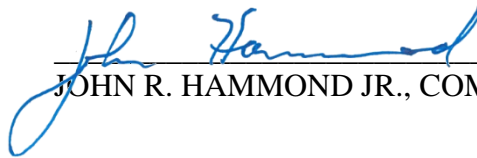
IT IS FURTHER ORDERED that the Company shall book an annual depreciation expense of \$1,592 for 30 years for the 2021 and 2022 capital expenditures not covered by the Emergency Reserve Fund.

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 regarding 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 10th day of April 2023.



ERIC ANDERSON, PRESIDENT

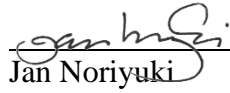


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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