
IDAHO PUBLIC UTILITIES COMMISSION
For Immediate Release
Case No. UWI-W-03-1, Order No. 29423
February 2, 2004
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United Water no longer required to seek court ruling

Boise - The Idaho Public Utilities Commission will no longer require United Water to ask a court to determine whether a Boise city ordinance allowing an increase in the franchise fee from 3 to 4 percent and potentially up to 5 percent violates the Legislature's 3 percent cap imposed on franchise fees in 1995. After the commission's November order to United Water, the Boise City Council, on Dec. 16, 2003, repealed the resolution and returned the franchise fee to 3 percent.

The commission ordered United Water to refund its customers the 1 percent franchise fee collected between Oct. 1 and Dec. 16, which, according to the company, totals about \$50,000 in collected fees.

United Water serves about 190,000 customers in the Boise metropolitan area.

On July 22, 2003, the Boise City Council passed a resolution to increase United Water's franchise fees to 4 percent effective Oct. 1, 2003. A 1995 ordinance passed by the City Council makes it possible for United Water to seek a franchise fee of up to 5 percent after Oct 1, 2005.

Commission staff questioned whether the increased fee violates a law passed by the 1995 Legislature that caps franchise fees at 3 percent and whether it violates the Idaho Constitution.

The commission said the 1995 state legislation makes clear that the Legislature intended franchise fees not to exceed 3 percent as a general rule. Several municipalities were contemplating implementation of franchise fees at the time the Legislature passed the 3 percent cap to create a uniform franchise structure. When the Boise City Council passed its 1995 ordinance allowing up to 5 percent, the council made it retroactive to November 1994, before the Legislature approved the 3 percent cap.

While the Boise City Council's repeal of the 1 percent increase negates the need for United Water to seek a court resolution, commission staff noted that the underlying legality of the city's 1995 ordinance is still not addressed.

A complete copy of the commission's order is available on the commission website at www.puc.state.id.us. Click on "File Room," and then on "Recent Orders and Notices," and scroll down to Order No. 29423. Interested parties have until Feb. 23 to petition the commission for reconsideration of this order.

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