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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF UNITED WATER IDAHO INC. FOR) **CASE NO. UWI-W-11-03**
AUTHORITY TO APPLY ABANDONED)
DEPOSITS TO LOW INCOME)
ASSISTANCE PROGRAM.) **COMMENTS OF THE**
) **COMMISSION STAFF**
)

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 32359 on September 20, 2011, submits the following comments.

BACKGROUND

On September 2, 2011, United Water Idaho Inc. (United Water, Company) filed an Application requesting Commission authority to pay unclaimed deposits to its UW Cares program. *Idaho Code* § 14-508(1) provides that a deposit paid to a utility “in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one (1) year after termination of services for which the deposit or advanced payment was made is presumed abandoned.” Pursuant to paragraph 2 of Section 14-508, the Commission may certify to the Idaho State Treasurer that a utility participates in a financial assistance

program that assists the utility's low income and disadvantaged customers with their utility bills.¹ Upon certification by the Commission, "the utility shall pay the funds which would have been presumed to be abandoned under subsection (1) of this section to the financial assistance program certified by the public utilities commission." *Idaho Code* § 14-508(2).

United Water's Application states that it currently holds two deposits related to the construction of subdivision water main extensions. The projects were abandoned by the developers prior to completion. The deposit amounts totaled \$95,656.19 at the time United Water filed its application. United Water asserts that it "made diligent effort to return the deposits to the depositors, but has been unable to do so." United Water Application, p. 3.

Because the deposits have remained unclaimed for more than a year, they are presumed to be abandoned pursuant *Idaho Code* § 14-508 and the Commission's Utility Customer Relations Rule 110, IDAPA 31.01.21.110. Accordingly, United Water requests a Commission Order certifying to the Idaho State Treasurer that United Water participates in a financial assistance program which assists the utility's low-income and disadvantaged customers with their utility bills, and authorizing transfer of the deposits, less reasonable costs of this proceeding, to the dedicated UW Cares account.

STAFF REVIEW

Staff has reviewed United Water's Application and cited statutes and rules. Staff supports the Company's request to transfer the abandoned deposits plus accrued interest to the UW Cares Idaho program. The UW Cares program assists low-income and disadvantaged customers with payment of water bills. The program currently provides up to \$50 in annual water bill assistance to qualifying customers, and United Water initially designed it to match customer contributions into the fund up to \$20,000 annually. Since 2005, the program has provided more than \$74,000 in assistance to more than 1,600 qualified customers.

United Water Idaho, Inc. received a deposit on January 31, 2007 from Shaunessey, LLC for Park Place Gardens subdivision. The current balance of that deposit is \$80,878.48. Another deposit was received on April 21, 2008 from Hard Rock Construction for the Catalpa Subdivision. The current balance of this deposit is \$14,771.71. The deposits were initially

¹ *Idaho Code* § 14-501(1) was amended in 2010 to designate the Idaho State Treasurer to receive the Commission's certification.

collected to cover the Company's inspection and overhead costs on the construction of water mains into the developments. The projects were abandoned by the developers prior to completion.

United Water maintains that it has made diligent efforts to return the money to the developers but has been unable to do so. Under Idaho Code § 14-508(1) and the Commission's Utility Customer Relations Rule 110(01), these deposits are presumed abandoned. Rule 110(02) states that "a utility may apply to the Commission for approval to pay unclaimed deposits and advance payments presumed to be abandoned to a financial assistance program which assists the utility's low-income and disadvantaged customers with payment of utility bills."

United Water Idaho initiated UW Cares in 2005 as the first and only water utility customer assistance program in the state. The program is administered through El-Ada Community Action Partnership social service organizations. United Water states that at the current level of customer demand, the abandoned deposits would provide funds sufficient to maintain the program for several years. The additional funds would also enable expansion of the UW Cares program. Absent a ruling from the Commission that United Water participates in this program, the abandoned deposits would escheat to the general fund of the State of Idaho.

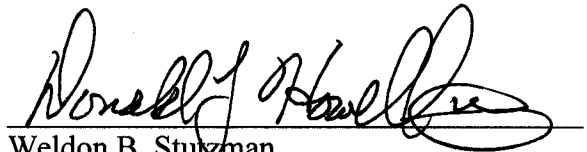
United Water also requests that it be allowed to pay reasonable attorney's fees from the abandoned deposits for the preparation and processing of this Application. The Company estimated the attorney fees to be approximately \$5,000. Staff believes that it is inappropriate and possibly unlawful to pay legal fees from the deposits. *Idaho Code* § 14-508(1) allows unclaimed deposits to be transferred to a "financial assistance program . . . less any lawful deductions...." Staff is not persuaded that attorney fees incurred to transfer unclaimed deposits to a financial assistance program constitute lawful deductions to the two customer deposits mentioned above. Staff believes that costs incurred to obtain the Commission's certificate and processing this application is a normal and routine legal cost to the utility.

The Company's Application did not request that the Commission's Order be continual and on-going with regards to future abandoned customer deposits. Staff believes that the Company should request certification and approval of future abandoned deposits it wishes to transfer to the UW Cares program.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the Company's request and issue an order certifying to the Idaho State Treasurer that United Water Idaho, Inc. participates in a financial assistance program which assists the utility's low-income and disadvantaged customers with their utility bills, and authorizing transfer of the abandoned funds to the dedicated UW Cares account. Staff does not recommend that the Commission allow United Water Idaho, Inc. to deduct and pay from the abandoned funds the reasonable attorneys' fees.

Respectfully submitted this 11th day of October 2011.

for 
Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Donn English

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 11TH DAY OF OCTOBER 2011, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. UWI-W-11-03, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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SECRETARY