(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
|   CAPITOL WATER CORPORATION, Complainant,vs.COLE ROAD COMPANY, LLC DBA SIGNATURE POINT AND CONSTRUCTION PARTNERS, INC., Respondent. | )))))))))))) | CASE NO. CAP-W-97-1NOTICE OF PREHEARING CONFERENCEORDER NO.  27103 |

On May 30, 1997, Capitol Water Corporation (Capitol Water; Company) filed a Complaint with the Idaho Public Utilities Commission (Commission) against Cole Road Company, LLC, dba Signature Point and Construction Partners, Inc. (Respondents).  A Summons was mailed by the Commission to each Respondent on June 2, 1997.  On June 20, 1997, Construction Partners, Inc. filed its answer with the Commission.  On June 23 (26), 1997, an answer (and amended answer) was filed by Cole Road Company, LLC, dba Signature Point.

Capitol Water contends that during 1994 at the Respondents’ request the Company agreed to and did extend its main service lines to a development known as Signature Point.  The Company contends that the Respondents were advised that they would be required to contribute the costs of the main extension including an amount to cover the related income taxes Capitol Water would be obligated to pay on the value of the contributed facilities (CIAC).  The Company contends that on July 12, 1996, the Respondents were notified by letter that the income tax portion of the main extension charge currently owing to Capitol Water was $32,470.88.  Capitol Water contends that despite repeated attempts to collect said amount, the Respondents have refused to pay.

Capitol Water requests that the Commission issue an order

1.Finding that in accordance with the Commission’s orders implementing the Uniform Main Extension Rule and the Commission’s Order No. 21933, Respondents are jointly and severally obligated to pay the costs relating to the income tax on the CIAC of the Signature Point development; and

2.Ordering Respondents to pay Capitol Water the outstanding balance in the amount of $32,470.88 attributable to the income tax on CIAC of the Signature Point development.

Respondent Construction Partners, Inc. denies that it was a developer for Signature Point and requests dismissal and an award of attorney fees and court costs.

Respondent Cole Road Company, LLC denies that there exists any privity between the parties, contends that there was no valid contractual agreement, and alleges that there was no consideration for any contract alleged to exist.  Cole Road further denies the existence of any tariff requiring payment of income taxes by any party to this case, or obligation of Capitol Water to collect CIAC (taxes) pursuant to the Tax Reform Act of 1986.  Cole Road denies that the income tax amounts requested were properly calculated and contends that Capitol Water should be estopped from collecting any income tax payment for failing to adequately and timely notify them of such a requirement.  Cole Road requests that the Complaint be dismissed.

YOU ARE HEREBY NOTIFIED that the Commission after reviewing and considering the filings of record in Case No. CAP-W-97-1, finds it reasonable to schedule a prehearing conference of the parties to explore the nature of relief requested by Capitol Water, and as pertains to same the statutory jurisdiction of the Commission and related Commission powers of enforcement.  The Commission further finds it reasonable to require the Company at the prehearing conference to demonstrate why alternative judicial forums for relief are not more appropriate in a contract action to recover alleged monies owed.

In accordance with the foregoing, YOU ARE FURTHER NOTIFIED that a prehearing conference in Case No. CAP-W-97-1 is scheduled for THURSDAY, SEPTEMBER 11, 1997, COMMENCING AT 9:30 A.M. IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO (208) 334-0300.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act.  Persons needing the help of a sign language interpreter or other assistance of the kind that the Commission is obligated to provide under the Americans with Disabilities Act in order to participate in or to understand the testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing.  The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0338  (TELEPHONE)

(208) 334-3151  (TEXT TELEPHONE)

(208) 334-3762  (FAX)

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the foregoing scheduling for prehearing conference in Case No. CAP-W-97-1 be adopted.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of August 1997.

                                                                                                                                       DENNIS S. HANSEN, PRESIDENT

                                                                                            RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:CAP-W-97-1.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

August 15, 1997