DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVE SCHUNKE

RANDY LOBB

BOB SMITH

DAVID SCOTT

WORKING FILE

FROM:SCOTT WOODBURY

DATE:SEPTEMBER 25, 19976

RE:CASE NO. EAG-W-97-1

REQUEST FOR AMENDMENT OF CERTIFICATE—CHASE PROPERTY

On July 28, 1997 Eagle Water Company, Inc.  (Eagle Water; Company) filed an Application and on August 18, 1997 an Amended Application with the Idaho Public Utilities Commission (Commission) for authority to amend its Certificate of Public Convenience and Necessity No. 278 and to expand its certificated area of service by enlarging and extending its boundaries.

Specifically, Eagle Water proposes to expand its certificated area to include the property known as the Chase property, approximately 120 acres located on the corner of Floating Feather and Eagle Roads.  Reference Idaho Code 61-526; Commission Rules of Procedures, IDAPA 31.01.01.112.

It is reflected in the Application that the land owners of the property to which the Application applies wish is to determine a water supplier with known rates and services, which is able to provide such services in a reasonable time.  The area sought is contiguous to that already certificated to Eagle Water.  The timetable of development of the Chase property is currently unknown.  The main lines of Eagle Water, the Company contends, are already stubbed to the south and to the east of the subject property.  Expansion of the certificate to include the area sought, the Company contends, would allow immediate access to water by the land owner.  The Company contends that no physical expansion of facilities is needed.  It is estimated that 240 to 250 additional customers could be served at the time the subject property is developed.

The Application (and Amended Application) has been filed with the Commission together with related exhibits including a description of the Chase property and related map.

Notices of Application and Modified Procedure in Case No. EAG-W-97-1 were issued on August 26, 1997.  The deadline for filing written comments was September 17, 1997.  Timely comments were filed by the City of Eagle, United Water Idaho, Inc. and Commission Staff (attached).

As reflected in Staff comments, the Chase property lies within an area previously requested for certification by both Eagle Water Company and United Water Idaho in Case Nos. EAG-W-95-1 and EWU-W-94-1. As result of those cases, the Commission designated an area bounded by the north/south half section line of Section 5, Township 4N, Range 1E, Beacon Light Road, Eagle and Floating Feather Roads as an uncertificated “buffer zone”.  In Order Nos. 26337 and 26338 the Commission said:

Those areas currently served by the municipal water system are specifically excluded from the area granted to either utility.  Also excluded, are two presently uncertificated buffer areas more specifically described as follows:

The uncertificated area north of Floating Feather Road and west of Eagle Road and generally described as the east half of Section 5, Township 4 North, Range 1 East, Boise Meridian....

The Commission further stated:

We find it reasonable not to certificate these areas between the United Water and Eagle service areas where service has not yet been requested.  Leaving this “buffer zone” will allow the service provider decision for these areas to be made in the future when specific requests for service are pending and better information will be available to use in determining which company should serve.

All commenting parties request denial of the Company’s Certificate Amendment Application.  Comments of the parties can be summarized as follows:

City of Eagle, noting that it is an area water provider, requests that the area remain uncertificated until such time as an applicant applies for a development permit to the City.

United Water, also an area water provider, contends that the underlying request for service is premature and speculative and is unsupported by any specific development plans or demonstration of actual current need.  The preference of the land owner without specific development plans, United Water contends, cannot take precedence over the general public interest.  United Water raises concerns regarding Eagle Water service and capacity, ability to provide fire flows, and the financial ability of Eagle Water to provide infrastructure upgrade in wells and lines.

United Water contends that the Application for Expansion is premature and contrary to the spirit of the Commission’s Orders in the prior Certificate cases establishing buffer zones and on uncertificated area.  Reference Order Nos.  26337,  26338.  26524 and 26525.  Should the Commission determine that a sufficient showing has been made to consider approval of the Application, United Water recommends a hearing on questions regarding the showing of necessity and the financial ability of  Eagle Water to provide service.

Commission Staff notes that no developers have requested water service and no projects have been proposed.  Staff contends that it is premature to certificate this area to Eagle Water based on a service request from a land owner who has no plans to retain ownership or develop the property.

Commission Decision

●Does the Commission find that the Company’s Application for amendment of its Certificate comports with the Commission’s intent as set forth in the Commission’s Order Nos. 26337 and 26338 wherein the Commission expressed its desire to allow the service provider decision for such areas to be made in the future when specific requests for service are pending and better information will be available to use in determining which company should serve?

●Does the Commission continue to find that Modified Procedure is appropriate?

●Does the Commission find that Eagle Water Company’s filing satisfies the underlying statutory and procedural requirements for certificate applications?  Reference Idaho Code §§ 61-526 and 61-528; IDAPA 31.01.01.112.

●In light of the Commission’s prior certificate orders (Eagle Water; United Water) and designation of the requested area as uncertificated, does the Commission find that the request for service to the Chase property is sufficient evidence of present and future need for service?

●Has Eagle Water demonstrated a present and future ability to provide adequate and satisfactory service to the Chase property?

●In its prior Orders, the Commission stated, “While the preference of individual customers, school districts and the community is to be given some weight in the choice of service provider, we do not find it controlling.”  The property owner in this instance suggests that designation of a service provider will improve the market ability of the property.  United Water and the City of Eagle, both water providers in their own right, suggest that the selection of service provider should await the filing of actual development plans.  What weight should be given to the preference of the respective parties?

●Does the public interest, convenience and necessity require a present designation of service provider for the Chase property?

●If the Commission is inclined to grant the Company’s request, how does the Commission wish to handle United Water’s request for a hearing in this case?

Scott Woodbury

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