

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER HANSEN  
COMMISSION SECRETARY  
COMMISSION STAFF

**FROM:** DON HOWELL

**DATE:** DECEMBER 21, 2006

**RE:** EAGLE WATER'S PETITION FOR RELIEF FROM THE  
COMMISSION'S SURCHARGE ORDER, CASE NO. EAG-W-05-2.

On October 30, 2006, the Commission issued Order No. 30160 Order directing "Eagle Water Company to [(1)] submit a final engineering report and [(2)]an application to implement and recover system improvements identified in the engineering report no later than December 31, 2006." Order No. 30160 at 3. Third, the Order authorized Eagle Water to continue to collect the existing rate surcharge until December 31, 2006, subject to refund. *Id.* The Commission stated that if "the engineering report and the application for improvements are not filed by December 31, 2006, then we shall order Eagle Water to refund the surcharge revenue collected above \$112,414 to individual customers." *Id.*

On December 20, 2006, Eagle Water filed a Petition seeking relief from the three (3) requirements of Order No. 30160.

### BACKGROUND

In August 2005 the Commission issued an emergency Order directing Eagle Water to "use all deliberate speed" to increase low water pressure in a portion of its service territory. In addition to taking immediate action, the Company was directed to prepare an engineering report to address the chronic low-pressure problems in the existing water system and project water supply needs out to 2010. "The report shall include the recommended system improvements, construction schedule and estimated cost of each individual [improvement]." Order No. 29840 at 3. The engineering report was to "serve as a 'road map' for determining exactly what infrastructure improvements are necessary to serve the present and future needs of Eagle Water

and its customers.” Order No. 29903 at 7. The Company was ordered to complete “its engineering study as soon as possible.” *Id.* at 9.

On February 6, 2006, the Commission issued Order No. 29969 authorizing Eagle Water to implement a temporary rate surcharge. The surcharge was intended to recover \$112,414 for the costs of the engineering report and other associated expenses. Once the authorized amount was recovered, the surcharge would be discontinued. Order No. 29969 at 6.

On June 2, 2006, Eagle Water submitted its “preliminary engineering report” to the Commission and to the Idaho Department of Environmental Quality (DEQ). Both Staff and DEQ asked the Company to submit additional information as part of the Company’s final engineering report. Order No. 30160.

### THE PETITION

In its Petition, Eagle Water asserts that it has been “diligently pursuing” the completion of the final engineering report but will not be able to file the report and the implementing application by December 31. In addition to addressing the requirements set forth by this Commission, the Company indicates that it was also using the engineering report to meet the requirements of a Consent Order the Company entered into with DEQ. Petition at 1. The Company indicates there have been “numerous setbacks in the completion of the report, not the least of which was Mr. Rees’s recent surgery to repair an...aneurysm.” Attached to the Petition was an affidavit of the Company’s Salt Lake City engineer, Chet Hovey. Mr. Hovey has been assisting the Company’s local engineer, Jim Rees, in preparing the final engineering report.

Mr. Hovey’s affidavit recites the history of preparing the report. He was engaged by Mr. Rees’s firm (MTC) when an engineer departed MTC. Mr. Hovey alleged in his affidavit that the delay in finalizing the engineering report has been caused by changing DEQ requirements. Affidavit at ¶¶10-21.

Mr. Hovey estimated that his company’s bill for assisting in the preparation of the engineering report would exceed \$40,000. *Id.* at ¶22. Consequently, the engineering report may exceed the authorized cost that the surcharge was intended to cover.

In summary, Eagle Water requests that the Commission:

- (1) Extend the deadline for submitting the final engineering report to January 20, 2007.
- (2) Extend the surcharge “at least through the end of January, 2007,

when the exact cost of the engineering study will be known”.

- (3) Extend the deadline for the filing of the application to implement the system improvements identified in the engineering report until March 1, 2007.

#### COMMISSION DECISION

Does the Commission wish to amend its prior Order No. 30160 grant Eagle Water relief on the 3 points setout above?



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Don Howell

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