

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF EAGLE WATER)
COMPANY'S CAPITAL IMPROVEMENT) **CASE NO. EAG-W-07-01**
REPORT AND APPLICATION TO)
CONTINUE THE EXISTING SURCHARGE) **NOTICE OF APPLICATION AND**
) **ENGINEERING REPORT**
)
) **ORDER NO. 30430**
)

On August 6, 2007, Eagle Water Company filed its system-wide Engineering Report and an Application to recover the professional fees (engineering, legal, accounting) for preparation of the Report and Application. As stated by the Commission, the purpose of the Engineering Report was to identify infrastructure improvements necessary to serve Eagle Water and its customers now and in the present. The Company was also ordered to file an application seeking approval to begin construction on the necessary infrastructure improvements and to propose a new rate design to recover the costs of the identified improvements. Order No. 30331 at 1.

In the present Application, Eagle Water reports that on July 10, 2007, the Eagle City Council approved an "Asset Purchase Agreement" which would allow the City to purchase the utility. As set out in the Purchase Agreement, the parties anticipate that the transaction will close in November 2007. Application at ¶ 21. Once the City acquires the Company, the Commission's regulatory supervision over the utility would end. *Idaho Code* § 61-104. However, Eagle Water requests that the Commission address several issues in the interim. These issues are outlined in greater detail below.

BACKGROUND

The history behind this case is contained in Order No. 30266 but the pertinent events are briefly outlined here. In August 2005, the Commission issued an emergency Order directing Eagle Water to "use all deliberate speed" to increase water pressure in a portion of its service territory. In addition to taking immediate actions, the Company was directed to prepare an engineering report to address the chronic low-pressure problems in its system and to project its water supply needs for the future. The engineering report was to "serve as a 'road map' for

determining exactly what infrastructure improvements are necessary to serve present and future needs of Eagle Water and its customers.” Order No. 29903 at 7.

To recover the costs of preparing the engineering study, the Commission authorized Eagle Water to implement a rate surcharge. Order No. 29969. The surcharge was based upon the legal and engineering fees necessary to prepare the engineering report and to file the accompanying application. Based upon cost estimates provided by the Company, the surcharge was designed to recover \$112,414.

After the Commission issued its surcharge Order, Eagle Water and the Department of Environmental Quality (DEQ) signed a “Consent Order,” which among other issues, required Eagle Water to submit the engineering report to DEQ for approval. DEQ directed that Eagle Water submit a preliminary engineering report for review and comment, followed by the preparation of the final report.

Although the Commission directed that the engineering report should be completed as soon as possible, its submission to the Commission has been significantly delayed. Eagle Water attributed the delay to various issues including: The health of its primary engineer; the need to engage another engineering firm; changing DEQ system requirements; and the DEQ review process. Order Nos. 30213, 30266, 30331. In addition to the delays, the Company reported that the cost of preparing the engineering report directly exceeded the amount authorized by the Commission. Order Nos. 30266 at 2, 30331 at 2.

EAGLE WATER’S FILING

A. The Engineering Report

YOU ARE HEREBY NOTIFIED that the Company acknowledges that the primary purpose of the Engineering Report is to: (1) identify current system pressure and supply deficiencies; and (2) identify, analyze and recommend necessary improvements. Executive Summary at 1. The Report is several hundred pages in length and contains 11 appendices.

YOU ARE FURTHER NOTIFIED that based upon the anticipated growth in the City of Eagle, the Company has projected customer growth out to the year 2026. Based upon this data, the Company developed a model to determine peak-hour flow requirements for its system in 2010 and 2026. *Id.* at 3. The Engineering Report’s estimates are based upon “pressure, flow and redundancy requirements” promulgated by DEQ in its Rules for Public Drinking Water

Systems, IDAPA 58.01.08. Based upon these parameters, a computer model was developed to calculate the maximum day demand with fire flow and peak hour flow demand. Report at 5.

YOU ARE FURTHER NOTIFIED that the Engineering Report proposes that the Company undertake several construction projects designed to “increase the service pressure, available fire flow, and water supply within the water system.” *Id.* at 6. The Report classifies the projects into three infrastructure categories: Mandatory, future, and suggested. The seven projects and their categories are set out below:

PROJECT	COST ESTIMATE
Interconnect with an adjacent water system (M)	\$151,250
Replace Floating Feather valve (M)	\$ 43,120
New water source (Well) (F)	\$898,000
Booster pump for Well No. 2 (F)	\$ 38,000
Additional system interconnection piping (Well No. 6) (F)	\$253,600
Pump redundancy for main booster pump station (S)	\$ 51,700
Install recording flow monitors (S)	\$ 47,100

(M) = Mandatory

(F) = Future

(S) = Suggested

The Company projects that the first two projects should be constructed before the start of 2008 irrigation season.

B. The Surcharge Application

YOU ARE FURTHER NOTIFIED that although the sale of the Company is pending, Eagle Water makes several requests in its Application. First, the Company generally seeks authority to recover the additional engineering, legal and accounting fees incurred in the preparation of the Engineering Report and this Application. The Company maintains that its costs in preparing the Engineering Report totaled \$218,394. Application at ¶ 14. To date, the Company has paid \$79,741 in engineering fees from the surcharge account. Consequently, the Company seeks permission to recover its additional engineering fees totaling \$138,653.

YOU ARE FURTHER NOTIFIED that the Company estimates that it has expended \$16,232 in legal fees for the preparation of the Engineering Report and the previous surcharge

application. *Id.* at ¶ 15. The Company notes that it has unpaid legal fees of about \$4,897.¹ The Company also estimates the legal fees for this Application to be \$12,000. Finally, the Company seeks to recover about \$863 in accounting fees.

YOU ARE FURTHER NOTIFIED that the Company requests authority to recover a total of \$201,434 in expended and anticipated fees, and to reimburse other accounts. The Company requests authority to recover this amount from two sources. First, Eagle Water requests that it be allowed to take possession of the existing balance in the surcharge account. The Company reports that as of July 12, 2007, the balance in the surcharge account was about \$91,300. Second, the Company requests authority to borrow approximately \$110,000 “to cover the [remaining balance of the] professional fees.” *Id.* at ¶ 24. To pay this latter amount, the Company proposes that the existing surcharge be continued. Presumably the surcharge would be sufficient to defray payment of the \$110,000 loan over two years. The Company requests that its Application to recover the additional professional fees be processed under Modified Procedure.

YOU ARE FURTHER NOTIFIED that the Application and the Engineering Report have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Application and Engineering Report (except for the appendices) are available on the Commission’s website at www.pub.idaho.gov under “File Room” and then “Water Cases.”

DEADLINE FOR INTERVENTION

YOU ARE FURTHER NOTIFIED that persons desiring to intervene in this matter for the purpose of presenting evidence or cross-examining witnesses at hearing must file a Petition to Intervene with the Commission pursuant to this Commission’s Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and .073. Persons intending to participate at hearing must file a Petition to Intervene **no later than 14 days from the service date of this Order.** Persons seeking intervenor status shall also provide the Commission Secretary with an electronic mail address to facilitate further communications in this matter.

YOU ARE FURTHER NOTIFIED that persons desiring to present their views without parties’ rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or to other parties.

¹ The Company has paid some of the professional fees from other sources than the existing surcharge account and seeks to reimburse other accounts by \$45,021.

YOU ARE FURTHER NOTIFIED that once the deadline for intervention has passed, the Commission Secretary shall issue a Notice of Parties. The Notice of Parties shall assign exhibit numbers to each party in this proceeding.

YOU ARE FURTHER NOTIFIED that after the Notice of Parties is issued, the Commission anticipates that the parties will informally convene to devise a recommended schedule to process this case. Once a schedule is developed, the Commission will subsequently issue a Notice of Hearing. In addition to the schedule, the parties may discuss discovery logistics, electronic service, and other scheduling matters.

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter pursuant to Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-302, 61-307, 61-502, 61-503, 61-507, 61-622, and 61-623. 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.*

DISCUSSION

As indicated in the Company's Application, it has entered into an Asset Purchase Agreement with the City of Eagle. The parties anticipate that their purchase transaction will be executed in November 2007. In the interim, Eagle Water has requested authority to recover additional professional fees (engineering, legal, accounting) that were incurred in the completion of the Engineering Report and the preparation of this Application. In Order No. 30331 the Commission directed that the surcharge be continued (subject to refund) based upon the increasing costs to complete the report. Consequently, this Application concerns itself with the reasonableness of the fees, the proposed recovery, the proposed loan, and the manner of repaying the loan.

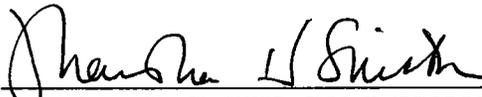
ORDER

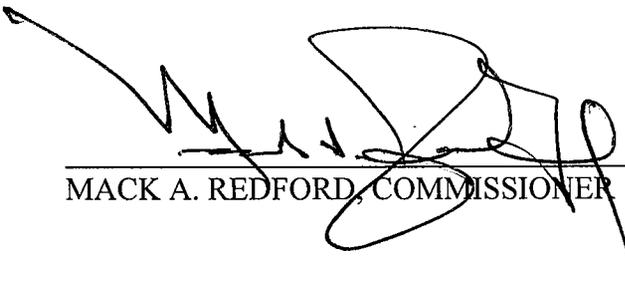
IT IS HEREBY ORDERED that persons desiring to intervene in this case for the purpose of presenting evidence or cross-examination at hearing shall file a Petition to Intervene with the Commission no later than fourteen (14) days from the service date of this Order.

IT IS FURTHER ORDERED that after the Notice of Parties is issued, the Staff shall convene an informal prehearing conference with the parties to discuss the processing of this case.

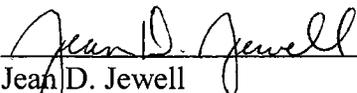
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 18th
day of September 2007.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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