

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF EAGLE WATER)
COMPANY'S ENGINEERING REPORT AND) CASE NO. EAG-W-07-01
APPLICATION TO CONTINUE THE)
EXISTING SURCHARGE) NOTICE OF
) MODIFIED PROCEDURE
)
) ORDER NO. 30605

In August 2005, the Commission directed Eagle Water Company to prepare a system-wide Engineering Report for the purpose of identifying infrastructure improvements necessary to serve Eagle Water and its customers then and in the future. On August 6, 2007, Eagle Water filed its Engineering Report and an Application to recover the professional fees (engineering, legal, accounting) for preparation of the Report and the Application. In its Application, the Company requests authority to recover \$201,434 in professional fees.

On September 18, 2007, the Commission issued a Notice of Application and set a deadline for intervention. The Commission's Notice also observed that the Eagle City Council had approved an "Asset Purchase Agreement" that would allow the City to purchase the utility. Order No. 30430 at 1. The transaction was initially supposed to close in November 2007. The parties were not able to complete the Asset Purchase Agreement and the Agreement expired on March 31, 2008. Given this turn of events, the Commission Staff has completed its review of the reasonableness and prudence of the requested engineering, legal and accounting fees. The Staff and Eagle Water now recommend that this case be processed under Modified Procedure.

BACKGROUND

A. Procedural History

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. The authorized 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 was 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 lengthy DEQ review process. Order Nos. 30213, 30266, 30331. The Company also reported that the cost of preparing the Engineering Report greatly exceeded the amount authorized by the Commission. Order Nos. 30266 at 2, 30331 at 2.

B. The Present Application

In the present Application, Eagle Water requests authority to recover a total of \$201,434 in expensed and anticipated fees, and to reimburse other accounts. The Company requested authority to recover this amount from two sources. First, Eagle Water requested that it be allowed to take possession of revenues in the surcharge account in excess of its previously authorized collection of \$112,414. Order No. 30430 at 4. Second, the Company requested authority to borrow approximately \$110,000 “to cover the [remaining balance of the] professional fees.” *Id.*, citing Application at ¶ 24. To pay off this bank loan, Eagle Water proposes that the existing surcharge be continued and the bank loan would be paid off with proceeds from the continued surcharge. *Id.*

C. The Cash Flow Order

In Order No. 30440 issued September 21, 2007, the Commission granted Eagle Water authority to borrow up to \$110,000. The Company was also granted authority to access

the existing surcharge account to pay for this bank loan conditioned upon the Commission's subsequent review to determine the reasonableness and prudence of the proposed professional fees for preparation of the Engineering Report and the accompanying Application. The Commission found that "Eagle Water may be required to reimburse the surcharge account for any disallowed amounts paid from that account. If the outstanding loan covers disallowed costs, Eagle Water will be required to pay these amounts directly to the bank." Order No. 30440 at 3.

THE CURRENT STATUS

In Order No. 30430, the Commission set a deadline for intervention. No person petitioned for intervention. The Order also directed that once the deadline for intervention passed, the parties should informally convene to devise a recommended schedule to process the remaining phase of this case. The Staff and the Company met on July 24, 2008. The parties recommend that the proposed recovery of the professional fees be processed under Modified Procedure. Shortly after the Commission issues its Notice of Modified Procedure, the Staff is prepared to file its comments. Consequently, this would give the Company approximately three weeks to file its comments in support of its Application and in response to the Staff's comments.

Through June 30, 2008, the surcharge has collected approximately \$304,000. The Company was previously authorized to recover \$112,414 and it has an outstanding request for an additional \$201,434. The available balance in the surcharge account is \$191,586 (\$304,000 - 112,414). After completion of this proceeding, the parties anticipate that Eagle Water will file a new application seeking to recover new expenses for the cost of two new wells, a new booster pump, and the costs of interconnecting with the City of Eagle (Case No. EAG-W-08-01).

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Notice. The comment must contain a

statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application shall be mailed to the Commission and Eagle Water at the addresses reflected below:

Commission Secretary	Robert V. DeShazo, Jr.
Idaho Public Utilities Commission	Eagle Water Company, Inc.
PO Box 83720	172 W. State Street
Boise, ID 83720-0074	Eagle, ID 83616

Street Address for Express Mail:	Molly O’Leary
	Richardson & O’Leary PLLC
472 W. Washington Street	PO Box 7218
Boise, ID 83702-5918	Boise, ID 83707
	E-Mail: molly@richardsonandoleary.com

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission’s home page located at www.puc.idaho.gov. Click the “Comments and Questions” icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to Eagle Water at the e-mail address listed above.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Application and 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.puc.idaho.gov under “File Room” and then “Water Cases.”

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

ORDER

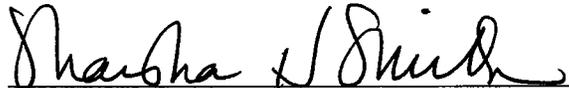
IT IS HEREBY ORDERED that this Application be processed under Modified Procedure, IDAPA 31.01.01.201-204. The Commission Staff shall file its comments in this proceeding within three days of the service date of this Order.

IT IS FURTHER ORDERED that Eagle Water Company and other persons interested in submitting written comments in this matter do so within 21 days of the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *31st* day of July 2008.



MACK A. REDFORD, PRESIDENT

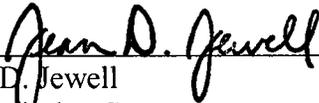


MARSHA H. SMITH, COMMISSIONER



JIM D. KEMPTON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:EAG-W-07-01_dh3