Office of the Secretary
Service Date
May 31, 2018

# BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION INTO THE IMPACT OF FEDERAL TAX CODE REVISIONS ON UTILITY COSTS AND RATEMAKING | CASE NO. GNR-U-18-01<br><br>ORDER NO. 34074<br>(SUEZ WATER IDAHO, INC.) |

On March 29, 2018, SUEZ filed its report on the impact of recent tax law changes on the costs and rates of SUEZ Water Idaho Inc. (the "Company"). SUEZ proposed to address the deferred tax liabilities in a future general rate case. On May 22, 2018 Staff filed a report recommending the Commission authorize the Company to decrease base rates by \$2.7 million on June 1, 2018 (about 5.6%), and take other actions. *See* Report of the Commission Staff Re: SUEZ Water Idaho Inc. After the Staff filed its report, the Company notified the Commission that the Company concurred with Staff's recommendations, and the Company filed conforming tariffs.

Having reviewed the record, the Commission finds that Staff's recommendations are fair, just, and reasonable, and should be adopted in the public interest. The Commission also finds it reasonable to approve the Company's conforming tariffs. The Commission's decision is further explained below.

## BACKGROUND

The federal Tax Cuts and Jobs Act of 2017 (the "TCJA") decreased the federal corporate tax rate from 35% to 21%, effective January 1, 2018. After the TCJA passed, the Governor of Idaho signed House Bill 463 reducing the Idaho State Corporate Income Tax rate from 7.4% to 6.925%. The tax rate reduction materially decreased the current and deferred tax expense included in customers' rates.

The Commission opened this multi-utility case to investigate whether to adjust the rates of certain utilities that benefit from the reduced tax rates. *See* Order No. 33965. The Commission directed all affected utilities—including the Company—to immediately account for the tax benefits as a regulatory liability. The utilities also were to report on how the tax changes affected them, and how they could pass any resulting benefits to customers. *See id.* at 1-2. After that, the Commission's Staff was to audit the utilities and report the audit results to the Commission. *Id.* at 2. The Commission planned to order utilities to show cause why any changes recommended by Staff should not be made. *Id.*

## THE COMPANY'S REPORT

The Company filed its report on March 29, 2018. In it, the Company proposed to reduce base rates by $2,722,791, or about 5.6%, to account for the reduction in corporate tax rates and associated changes to the revenue conversion factor. *See* Company Report at 5. The Company noted it had hired an outside consulting firm to help it review its income tax records to verify the balances of the regulatory liabilities subject to normalization (plant-related), and deferred tax liabilities that are unprotected (non plant-related). The Company thus proposed no changes for its deferred tax liabilities at this time, but instead stated it would address the deferred tax liabilities in a general rate case, after the detailed review has been completed. *Id.* at 2-4.

The TCJA also eliminated the tax-exempt status of Contributions in Aid of Construction ("CIAC") for water and sewer utilities.[1] *Id.* at 4. As CIAC is now taxable, the Company proposed that the contributor pay the income tax consequences of the taxability of the contribution so the Company's customers would not subsidize the contributor. The Company proposed to gross-up the CIAC charged to developers at the net present value of cash flows resulting from the taxability of the CIAC and the future deductibility for income tax purposes of the resulting asset. And to eliminate the impact on current customers, the Company proposed that the deferred income tax impact of such transaction be held outside the ratemaking process. *Id.*

## STAFF REPORT AND COMPANY CONCURRENCE

After the Company filed its report, Staff audited it and reported the audit results to the Commission. In summary, Staff recommended the Company: (1) decrease base rates by $2.7 million; (2) work with Staff on how to return remaining tax benefits to customers after the Company has updated its Excess Deferred Income Tax ("EDIT") account balances following a third-party audit; and (3) gross-up its CIAC calculations to account for their taxability.

The Company subsequently notified the Commission that the Company concurred with Staff's recommendations, and the Company filed conforming tariffs. *See* Company's May 30, 2018 filing.

Staff's recommendations, with which the Company concurs, are further explained below.

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[1] In general, CIAC includes money, services, or property provided to a utility at no cost, which the utility uses to offset the costs to acquire, improve, or construct property, facilities, or equipment used to provide utility services.

1. **The Company should decrease base rates by $2.7 million.**

Staff stated the decreased tax rates, and corresponding changes to the gross revenue conversion factor, reduced the Company's retail revenue requirement by $2.7 million. Staff noted the Company used revenues from its last general rate case, Case No. UWI-W-15-01, to calculate the percentage by which to uniformly reduce rates. Staff stated the percentage reduction would be more accurately calculated using 2017 billed revenues. Staff thus recommended the Commission order the Company to decrease its base rates by $2,722,791 (about 5.6%) effective June 1, 2018, as outlined in Attachments A and B to the Staff's report. Staff Report at 2-3.

2. **The Company should work with Staff on how to return remaining tax benefits to customers after the Company has updated its EDIT account balances following a third-party audit.**

Staff noted that the TCJA required utilities to revalue deferred tax amounts at the lower corporate tax rate as of December 20, 2017. This revaluation resulted in EDIT balances that would require the Company to reclassify deferred tax as a deferred regulatory asset or liability on its balance sheet. Staff noted the revaluation would require the Company to amortize plant-related EDIT balances over the associated assets' remaining lives to comply with IRS normalization rules, while non plant EDIT could be amortized over any period the Commission deems appropriate. *Id* at 3.

Although the TCJA required these changes, Staff noted the Company's report did not recommend an amortization period or rate adjustment for EDIT. Instead, the Company explained it had retained a third-party accounting firm to review its tax records and verify regulatory liability balances, which the Company would prefer to address in a general rate case. *Id.* Staff believes the third-party review would generate information that would ultimately assist Staff in evaluating how the Company should best amortize the EDIT and return the benefits to customers. Staff stated it would work with the Company to determine the appropriate ratemaking treatment for the EDIT, and file its recommendations, after the third party has completed its review and the Company has filed updated EDIT balances later this year. *Id.* at 3.

Staff also noted that the Company's report did not address the January 1, 2018 – May 31, 2018 regulatory liability that resulted from the Commission's direction that utilities immediately account for the financial benefits from the January 1, 2018 tax rate reduction. *Id.* (citing Order No. 33965). Staff stated it would work with the Company to determine the amount of this regulatory liability, and how best to return it to customers, after the Company had filed its updated EDIT balances. *Id.* at 3-4.

**3. The Company should gross-up its CIAC calculation to account for their taxability.**

Staff noted that, under the TCJA, CIAC to water utilities are taxable as of January 1, 2018. Because of this, the Company proposed to gross-up CIAC charges to contributing developers at the net present value of CIAC-related cash flows and the future tax deductibility of the resulting asset. Staff recommended the Commission accept the Company's CIAC proposal and review the Company's CIAC calculations in the Company's next general rate case. *Id.* at 4.

## DISCUSSION AND FINDINGS

The Commission has jurisdiction over the Company, and the issues in this case, under Title 61 of the Idaho Code, including Idaho Code § 61-501, -502, -503, and -524. We have reviewed the record, including the Company's initial report, and the Staff's report. We note that no one has intervened as to the Company, or opposed Staff's recommendations. Further, the Company stated it concurs with Staff's recommendations, and it has filed conforming proposed tariffs.

Based on our review, we find it fair, just, and reasonable to require the Company to return to customers about $2.7 million effective June 1, 2018, as shown on Attachments A and B to Staff's Report (which we incorporate here by reference). Additionally, the Company shall promptly file an update to its deferred tax accounts after the outside accounting firm the Company retained has completed its review of the Company's income tax records. We expect the Company to then work with Staff to determine the amount and manner in which to return to customers the remaining benefits from the TCJA. Last, we find it reasonable to authorize the Company to gross-up its CIAC calculations to account for the taxability of those contributions. We note that requiring a contributing developer to pay income tax consequences of CIAC will ensure the Company's customers do not subsidize the developer through rates.

## O R D E R

IT IS HEREBY ORDERED that the Company shall decrease rates by $2,722,791 effective June 1, 2018, as shown on Attachments A and B to Staff's Report. The Company's proposed tariffs, filed May 30, 2018, are approved.

IT IS FURTHER ORDERED that the Company promptly file an update to its deferred tax accounts after its outside accounting firm finished reviewing the Company's income tax records, and that the Company then work with Staff to determine the amount and manner in which to return to customers the remaining benefits from the TCJA.

IT IS FURTHER ORDERED that the Company gross-up its CIAC calculations to account for the taxability of those contributions, as noted above.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st day of May 2018.

Paul Kjellander

PAUL KJELLANDER, PRESIDENT

Kristine Raper

KRISTINE RAPER, COMMISSIONER

Eric Anderson

ERIC ANDERSON, COMMISSIONER

ATTEST:

Diane M. Hanian

Diane M. Hanian
Commission Secretary

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