

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)	ORDER NO. 30440
)	

On August 6, 2007, Eagle Water Company filed an Application to recover its costs in preparing a system-wide Engineering Report and the Application in this case. See Order No. 30430. In particular, the Company requested authority to recover professional fees (engineering, legal, accounting) totaling \$201,434. The Company seeks authority to recover this amount from two sources: (1) the existing surcharge account authorized by Order No. 30331; and (2) a new bank loan. Eagle Water anticipates that it will need to borrow \$110,000 for cash flow purposes if the Commission permits the Company to obtain funds from the existing surcharge account. The Application indicates that the surcharge account balance was \$91,300 as of July 12, 2007. Application at 4.

Included in the Application was a loan proposal prepared by Idaho Banking Company. The proposal was predicated upon a total loan amount of \$201,433 with terms reflecting a two-year payoff and interest at prime plus 2%, currently 10.25% (8.25 + 2). The required loan payments would consist of monthly payments to cover interest only with principal payments required quarterly based upon customer surcharge revenues. The final terms of the loan have not yet been established.

The Application also reports that Eagle Water has completed \$848,000 in infrastructure improvements in 2006. Application at 5. The Company also contemplates making \$114,120 of improvements in 2007. *Id.* at 6. The Company is not seeking to recover these infrastructure improvements at this time because of the pending sale of the utility to the City of Eagle.

STAFF ANALYSIS AND RECOMMENDATION

The Staff asserts that it views Eagle Water's Application and loan request in two phases. The first phase is the working capital loan request. The second phase is to analyze the reasonableness and prudence of the professional fees requested by the Company. For cash flow

purposes and loan approval, the Staff believes that the existing surcharge will be used to retire the debts and as collateral for the loan (reflecting a revenue stream for loan repayment). If the Commission subsequently finds in the second phase that any of the professional fees are unreasonable or imprudently incurred, then the disallowed portion will be the sole responsibility of Eagle Water and not customers.

In the first phase, Staff recommends that the Commission approve the loan request up to \$110,000 and allow Eagle Water to use the surcharge revenues (and its revenue stream) as collateral for the loan. Staff also recommends that Eagle Water be required to provide the final draft loan documents with the bank for Staff's review. Copies of all executed agreements for the loan should be filed with the Commission. When a final Order is issued in the second phase of this case, Staff recommends that Eagle Water be required to reconcile the surcharge and loan account, and if necessary, repay directly any costs disallowed by the Commission. This reconciliation process will be audited and verified by the Staff.

DISCUSSION AND FINDINGS

As we observed in Order No. 30430, Eagle Water and the City of Eagle have entered into an "Asset Purchase Agreement" which would allow the City to purchase the utility. The parties anticipate that the transaction will close in November 2007. Once the City acquires the Company, the Commission's regulatory supervision of the utility would end. Order No. 30430 at 1. However, until such time, Eagle Water remains a regulated utility subject to our jurisdiction. Commensurate with its regulatory status, Eagle Water seeks authority to borrow \$110,000 to defray the professional fees it has or will incur. The Company also requests permission to use revenue from its existing surcharge account to pay the professional fees and to use as collateral for the loan.

Eagle Water is principally engaged in the delivery of water service to residential and commercial customers in and around the City of Eagle. Eagle Water is a water corporation within the definition of *Idaho Code* § 61-125, and a public utility as defined by *Idaho Code* § 61-129. The Idaho Public Utilities Commission has jurisdiction over this matter pursuant to Title 61, Idaho Code, and specifically *Idaho Code* §§ 61-508, 61-901, and 61-902.

Based upon the representations in the Application, we find that the proceeds from the surcharge account and bank loan will be used to pay the professional fees incurred or projected

to be incurred in the preparation of the Engineering Report and this Application, and the reimbursement of monies from other accounts previously used to pay the professional fees.

After examining the Application and Staff's recommendation, the Commission finds that an evidentiary hearing in this matter is not required.

The Commission further finds that the Application requesting authority to borrow \$110,000 subject to those conditions recommended by Staff is for a lawful purpose, is within Eagle Water's corporate duties, and is generally compatible with the public interest. The Commission specifically reserves for phase two of this proceeding the reasonableness and prudence of the requested engineering, legal and accounting fees. The authority contained in this Order to execute a loan agreement does not constitute a final decision regarding the reasonableness and prudence of the professional fees.

The issuance of this Order does not constitute agency determination/approval of the type of financing or the related costs for ratemaking purposes, which determination the Commission expressly reserves until the appropriate proceeding.

ORDER

IT IS HEREBY ORDERED that Eagle Water Company's Application for authority to borrow up to \$110,000 is granted. The Company is also granted authority to access the existing and future surcharge funds subject to our subsequent review in phase two and a final reconciliation as proposed by Staff.

IT IS FURTHER ORDERED that Eagle Water provide the final draft loan document for Staff's review. The Company shall file copies of all executed agreements for the loan with the Commission.

IT IS FURTHER ORDERED that the Commission specifically reserves the right to determine the reasonableness and prudence of the professional fees for which the Company currently seeks recovery. In the event the Commission subsequently disallows recovery of any portion of the professional fees, the amount disallowed will be the sole responsibility of Eagle Water and not recoverable from customers. 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.

IT IS FURTHER ORDERED that once a final Order is issued in this case, Eagle Water shall be required to reconcile the surcharge and loan accounts and, if necessary, repay

directly to the surcharge account or bank any costs disallowed by the Commission. This reconciliation process will be audited and verified by Staff.

IT IS FURTHER ORDERED that nothing in this Order or any act or deed done or performed in connection with this Order shall be construed to obligate the State of Idaho to pay or guarantee in any manner whatsoever any loan authorized under this Order.

IT IS FURTHER ORDERED that this loan authorization is without prejudice to the regulatory authority of the Commission with respect to rates, services, accounts, evaluation estimates or determination of costs or any other matter which may come before the Commission pursuant to its jurisdiction and authority as provided by law.

IT IS FURTHER ORDERED that the issuance of this Order does not constitute acceptance of Eagle Water's materials accompanying the Application for any purpose other than the issuance of this Order.

THIS IS A FINAL ORDER EXCEPT FOR THE RESERVED ISSUES OF PRUDENCY AND RECONCILIATION. 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 20th
day of September 2007.



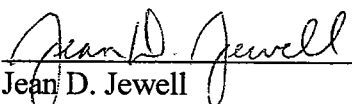
PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER

Commissioner Redford Dissents Without Opinion
MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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