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Attorneys for Intervenor Eagle Water Customer Group

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT
APPLICATION OF SUEZ WATER IDAHO,
INC., TO ACQUIRE EAGLE WATER
COMPANY

Case Nos.: SUZ-W-18-02; EAG-W-18-01
EAGLE WATER CUSTOMER GROUP'S
COMMENTS ON PROPOSED
SETTLEMENT

Eagle Water Customer Group (“EWCG”), by and through its counsel of record, Parsons Behle & Latimer, hereby submits these comments pursuant to the Commission’s *Notice of Proposed Settlement; Notice of Amended Schedule; Order No. 35198* (October 15, 2021) and in response to the *Stipulation and Settlement* (October 8, 2021).

I. BACKGROUND

On October 8, 2021, Commission Staff and the Applicants filed a proposed *Stipulation and Settlement*. On October 13, 2021, Exhibit 1 to the *Stipulation and Settlement* was filed. Among other things, the settlement proposes a phased-in rate increase for existing Eagle Water Customers (“EWC”).

In year 1, the current EWC average residential bill would increase from \$12.35 to \$19.48 per month – a 58% increase. In year 2, the increased rate of \$23.85 would be a 93% increase from the current EWC average monthly residential bill. This escalating, phased rate increase would level out in year 7 when the increased rate of \$40.88 per month would be a 231% increase from the current EWC average monthly residential bill.

For EWC commercial customers, the average year 1 rate increase from \$38.96 to \$79.19 per month would be a 103% increase. In year 2, the increased rate of \$96.95 would be a 149% increase from the current EWC average monthly commercial bill. In year 7, the phased rate increase would level out at \$166.19 per month – a 327% increase from the current EWC average monthly commercial bill.

II. STANDARDS OF REVIEW

The Commission is not bound by a settlement proposal. The Commission will independently review any proposed settlement to determine whether it is just, fair, and reasonable, and in the public interest, or otherwise in accordance with law or regulatory policy. The Commission may accept a settlement, reject a settlement, or state additional conditions under which a settlement will be accepted. IDAPA 31.01.274-276.

“The Commission has an established practice of evaluating the transfer of water systems under the criteria found in Idaho Code Section 61-328.”¹ As the Commission observed in the Falls Water Company acquisition (Case No. FLS-W-18-01): “Idaho statutes do not specifically address the acquisition of water companies. However, the Commission generally looks to the standards outlined in Idaho Code Sec. 61-328 related to the sale of electric utilities.” *Order No. 34103* at 3. Among these criteria is whether the transaction is in the public interest and whether rates would be increased because of the transaction. I.C. Sec. 61-328; *Order No. 34416* (Acquisition of Gem State Water Company, Case Nos. BCS-W-19-01; DIA-W-19-01) at 3.

¹ *Order No. 35018* (Acquisition of Troy Hoffman Water Corp., Case No. GSW-W-21-01) at 3; *Order No. 34833* (Acquisition of Morning View Water Company, Case No. FLS-W-20-04) at 4; *Order No. 34616* (Acquisition of Happy Valley Water System and Bitterroot Water Co.) at 3; *Order No. 34486* (Acquisition of Water Business of Taylor Mountain Water and Sewer District, Case No. FLS-W-19-01) at 3; *Order No. 34416* (Acquisition of Gem State Water Company, Case Nos. BCS-W-19-01; DIA-W-19-01) at 4; *Order No. 34391* (Acquisition of Stoneridge Utilities LLC Water Co., Case No. SWS-W-18-01) at 2.

A phased-in rate increase can be a “responsible and reasonable method of mitigating the rate shock that would otherwise result” to existing customers. *Order No. 27798* (United Water Idaho Acquisition of South County Water, Case No. UWI-W-98-2) at 10.

III. EWCG COMMENTS

1. The Acquisition of Eagle Water Company Would Result in a Rate Increase for Existing Customers, Contrary to Idaho Code Section 61-328.

It is beyond question that the proposed transaction will result in a rate increase for existing Eagle Water Company customers. While the record in this matter indicates that a rate increase of some size would be required even without the proposed acquisition, the amount of this potential increase is less than the rate increase following the transaction. The difference is directly attributable to the proposed transaction and is therefore an increase in rates resulting from the transaction.

In other water corporation acquisition cases, the Commission has been able to conclude that customer rates would not increase because of the transaction. See e.g., *Order No. 34103* at 3 (“We also find that the sale will not cause rates to increase.”); *Order No. 34416* at 5 and *Order No. 34486* at 4 (“The cost of and rates for supplying service will not increase because of the transaction.”); *Order No. 34833* at 4 and *Order No. 35108* at 4 (both noting that “customer rates will not increase because of the transaction.”). That cannot be said here.

In recent water company acquisitions, Commission Staff has assured the Commission that “it will ensure that the requested rate increase was not driven by the transaction, and that rates will not be higher than they would have been absent the transaction.” *Order No. 35108* at 4; *Order No. 34616* at 2. The *Stipulation and Settlement* appears to depart from this approach.

The Commission has an established practice of evaluating the transfer of water systems under the criteria found in Idaho Code Section 61-328. This includes determining whether rates

on existing customers will be increased as a result of the transaction. In the current matter, the acquisition of Eagle Water Company by SUEZ Water Idaho will result in an increase in the rates of existing customers. This is true even after factoring out the rate increase that would inevitably occur if the acquisition did not happen. The cost of being brought into rate parity under the existing SUEZ tariff is higher for existing customers than the costs that would result from the required improvements to Eagle Water Company's system. That is a rate increase resulting from the transaction, which is precluded under the guiding statute.

In addition, the proposed rate increase – 231% for EWC residential customers and 327% for commercial customers – is not in the public interest. If there is an example of such a large rate increase resulting from the acquisition of a water corporation in Idaho, EWCG has been unable to locate it.² The magnitude of the rate increase would be unprecedented.

Given the Commission's previous reliance on the factors enumerated in Idaho Code Section 61-328, including whether the transaction will result in a rate increase and whether it is in the public interest, the *Stipulation and Settlement* and the underlying Application should be rejected and denied by the Commission.

2. The Proposed Phased-In Rate Increase will not Mitigate the Rate Shock that will Occur to Existing Customers.

If the Commission is otherwise inclined to approve the acquisition of Eagle Water Company by SUEZ Water, it must satisfy itself that the rate phase-in is reasonable to approve. *See Order No. 27798* at 10 (“Although the Company has proposed a five-year transition, we find it reasonable to provide South County customers with a longer period. . .The rate phase-in that

² The acquisition of South County Water by United Water Idaho resulted in a rate increase of over 100%, phased-in over six years. *Order No. 27798* at 8-10. During the acquisition of the Algoma Water System, Commission Staff proposed, and the Commission approved, a 53.5% increase for residential customers and a 58.1% increase for commercial customers. *Order No. 30567* at 3-6.

we find reasonable to approve for existing South County customers is a six-year phase-in period.”) (emphasis added). The decision is clearly the Commission’s to make.

While the length of the proposed phase-in seems relatively long at seven years, the *structure* of the phase-in is also a critical consideration in avoiding rate shock. *See e.g., Memorandum from Scott Woodbury to Commissioners*, Case No. UWI-W-98-2, United Water/South County Water (November 4, 1998) (“*Woodbury Memo*”) (noting that the considerations for the proposed phase-in of rates include both the structure and the length).

In the South County Water acquisition case, the length of the phase-in was increased from the proposed five-years to six-years by the Commission. The structure of the phase-in included no rate increase during year 1. *Order No. 27798* at 10. In addition – and critically important in comparison to the current case – the first year of the rate increase (year 2) was only 30% more than the existing customer rates. *See Woodbury Memo* (“without purchase, South County customers would realize a 30% increase in their rates. . .an amount equivalent to the proposed first-year phase-in rate increase”).

For Eagle Water Company customers, the first year of the rate increase would be almost twice as much (58%) for residential customers and more than three times higher (103%) for commercial customers. While it is true that this would be largely offset by a one-time Surcharge Account Refund to Eagle Water customers in year 1, this will do nothing to mitigate the rate shock that will ultimately hit existing customers in year 2 when the rate increase is 93% more than existing residential rates and 149% more for commercial customers. That *is* rate shock.

To bring the Eagle Water Company rate phase-in structure into parity with the South County Water phase-in, and thereby mitigate the rate shock that would otherwise occur, the first

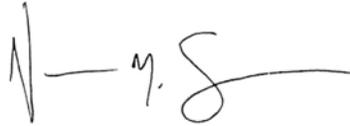
year of the rate increase would need to be 30%. The structure and the length of the phase-in should be adjusted by the Commission as necessary to achieve this reasonable rate increase.

IV. CONCLUSION

For the reasons set forth above, EWCG requests that the Commission: (1) reject and deny the *Stipulation and Settlement* and underlying Application pursuant to the factors considered under Idaho Code Section 61-328; or (2) modify the structure and length of the proposed rate increase phase-in as reasonably necessary to mitigate the rate shock that would otherwise occur to existing Eagle Water customers, as it did for existing customers in the South County Water acquisition case.

DATED this 27th day of October, 2021.

PARSONS BEHLE & LATIMER



Norman M. Semanko
Attorneys for Eagle Water Customer Group

CERTIFICATE OF SERVICE

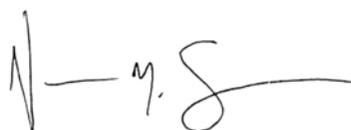
I HEREBY CERTIFY that on the 27th day of October, 2021, a true and correct copy of the foregoing document was served on the following via email:

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DATED this 27th day of October, 2021.



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