

RECEIVED

2021 NOV 15 PM 4:42

IDAHO PUBLIC
UTILITIES COMMISSION

James M. Piotrowski
Marty Durand
PIOTROWSKI DURAND, PLLC
P.O. Box 2864
1020 W. Main Street, Suite 370
Boise, Idaho 83701
Telephone: (208)331-9200
Facsimile: (208)331-9201
james@idunionlaw.com
marty@idunionlaw.com

Attorneys for Intervenor
Citizens Allied for Integrity and Accountability

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT
APPLICATION OF SUEZ WATER
IDAHO AND EAGLE WATER
COMPANY FOR THE ACQUISITION OF
EAGLE WATER COMPANY**

**CASE NOS. SUZ-W-18-02
EAG-W-18-01**

**INTERVENOR CITIZENS
ALLIED FOR INTEGRITY AND
ACCOUNTABILITY'S PETITION
FOR INTERVENOR FUNDING**

I. INTRODUCTION

COMES NOW, the Citizens Allied for Integrity and Accountability (CAIA) and, pursuant to Idaho Code § 61-617A and Rules 161-165 of the Commission's Rules of Procedure, IDAPA 31.01.01.161-165, petitions this Commission for an award of intervenor funding in the above-captioned proceeding. CAIA timely submits this application pursuant to IPUC Rule 164.

II. BACKGROUND

CAIA was granted leave to intervene as a party to this proceeding by IPUC Order 34229 on January 10, 2019. CAIA petitioned to intervene consistent with its mission to protect the

public interest by preserving private property rights, public health, safety and critical natural resources. Throughout the duration of this case, CAIA engaged in every aspect including, but not limited to, analyses of the issues and parties involved, reviewing the purchase agreements, researching water quality and customer service, reviewing the proposed rates and the impact that such an increase would have on Eagle Water's low-income rate payers. CAIA reviewed numerous written testimonies and reviewed hundreds of pages of disclosure documents. CAIA conducted discovery, participated in several intra/inter-party teleconferences including settlement negotiations; the latter of which did not lead to agreement by the intervenors.

III. PROCEDURAL REQUIREMENTS

A. Rule 161 Requirements (IDAPA 31.01.01.161):

Suez is a regulated, water public utility with gross Idaho intrastate annual revenues exceeding three million, five hundred thousand dollars (\$3,500,000.00).

B. Rule 162 Requirements:

(01) Itemized list of Expenses

Consistent with Rule 162(01) of the Commission's Rules of Procedure, an itemized list of all expenses incurred by CAIA in this proceeding is attached hereto as Exhibit A which was prepared from data maintained in Piotrowski Durand, PLLC's time and invoicing system, which in turn is the result of contemporaneously entered time records. Exhibit A reflects the date, the time spent, the tasks performed and the person performing the tasks. "MD" refers Marty Durand and "JP" refers to James Piotrowski. Attorneys for CAIA spent a total of 69.3 hours on this matter.

(02) Statement of Proposed Findings

Throughout the process of this proceeding, CAIA consistently opposed the acquisition of Eagle Water by Suez for numerous reasons, including lack of transparency, equity, water quality, local control, and rate shock. As the Settlement Stipulation provides, Suez and Staff ultimately agreed to a significantly longer rate phase in period. CAIA continued to object to the acquisition while advocating for a longer phase should the acquisition be approved.

CAIA asks the Commission to deny the application in the absence of full disclosure of interested parties and terms. The public has been denied information necessary for informed input. It is difficult to propose any meaningful solutions, amendments or alternatives when so much remains hidden from public view.

A letter from Suez and Veolia to the Commission was provided in response to CAIA's Request for Production. (Exhibit 405 attached to CAIA Comments on Joint Application for Acquisition.) This is, apparently, the only statement made public regarding the Suez/Veolia merger. Without CAIA's intervention, the public would have no information at all regarding the merger.

CAIA is alarmed at the lack of transparency and asks the Commission to deny the acquisition:

a. The Acquisition Application does not clearly disclose what operational relationship will exist between Suez and Veolia. The public has been denied the opportunity to comment on the entire acquisition and merger.

b. The Acquisition Application does not clearly disclose the details of the sale to and settlement with H2O Eagle Water. Eagle Water customers have been denied information of the

true cost and compensation to unknown middlemen and how this impacts rates and conflicts of interest.

c. The surcharge distribution is not equitable and based solely on convenience to Suez. Alternatives should be fully explored.

(03) Statement Showing Costs:

CAIA submits that the costs it seeks to recover through this Petition are reasonable. Piotrowski Durand, LLP, CAIA's legal counsel have been practicing in Idaho for 25 and 26 years respectively and have extensive experience and a unique combination of knowledge and skills in administrative law, litigation and public policy, that very few lawyers possess.

The majority of the firms's work is performed on an hourly basis with rates ranging from \$150 per hour (for a single client with unique circumstances), to \$350 per hour for work in complex areas of law, particularly litigation of difficult statutory claims arising under federal law. Recent fee award decisions include rates ranging from \$300 per hour in *Citizens Allied for Integrity and Accountability v. Thomas Schultz, Director of the Department of Lands, et al.*, Case No. 17-cv-00264-BLW, United States District Court for the District of Idaho, to \$350 per hour in *K.W. v. Armstrong*, Case No. 1:12-cv-00022-BLW, United States District Court for the District of Idaho. Hourly fees of \$200 are reasonable for this case, reflecting the local market as well as the nature of the matter. In addition, CAIA seeks no costs through this Petition.

CAIA fully participated in every aspect of this proceeding from start to finish and provided input and asserted issues not raised by Staff and other parties. For the reasons stated herein, CAIA respectfully submits that the costs it seeks to recover as set forth in Exhibit A are reasonable.

(04) Explanation of Cost Statement:

CAIA is a non-profit organization under IRS Code 501(c)(3). CAIA has no paid staff and relies on grants, contributions and recovery of fees to fund its work to protect the public interest in natural resources. CAIA does not have the financial ability to intervene on behalf of the public in matters such as this without the opportunity to recover costs and fees as allowed by PUC Rule 165. CAIA has no direct monetary stake in the outcome of this or any other proceeding before the Commission in the sense that it does not represent for-profit businesses or advocacy groups, directly or indirectly, representing for-profit business interests.

(05) Statement of Difference:

CAIA's proposed findings differ greatly from the recommendation of Staff and the Settlement Proposal. As with any case at least partially resolved through settlement, details of positions taken during settlement negotiations typically cannot be revealed or otherwise disclosed outside of the settlement process.

CAIA objects to the acquisition of Eagle Water by Suez as water quality and customer service will suffer. The acquisition amount has not been independently reviewed and terms of the acquisition have not been disclosed. The proposed acquisition is not just, reasonable or in the public interest. Should the acquisition be approved, CAIA believes a longer phase in should be allowed to address rate shock, especially for low income customers, and a more equitable distribution of surcharge funds should be explored and adopted.

(06) Statement of Recommendation:

CAIA's recommendations address issues of transparency, equity, rate shock, water quality and local control, all of which are of concern to the general body of utility users and consumers. Public utilities should enjoy the trust of the public they serve. Lack of transparency

impacts the public trust and all water customers have a strong interest in use and management of limited natural resources.

(07) Statement Showing Class of Customer:

CAIA intervened on behalf of members and Eagle Water customers who will experience rate shock and reduced water quality. CAIA intervened on behalf of members and Suez customers in the area who seek transparency in the operation of public utilities. CAIA intervened on behalf of members and low and fixed income Eagle Water customers who will suffer the greatest impact of significant rate increases. CAIA intervened on behalf of members and utility customers who seek to maintain local control of limited public resources.

IV. CONCLUSION

CAIA intervened to protect important public interests and has participated in every step of the process. CAIA's intervention resulted in disclosure of documents and consideration of rate shock and impacts on limited income customers. The funding requested is reasonable and CAIA asks the IPUC to approve this Application.

Dated this 15th day of November, 2021.


Marty Durand

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of October, 2021, a true and correct copy of the foregoing document was served on the following via electronic mail:

Jan Noriyuki
Commission Secretary
Idaho Public Utilities Commission
secretary@puc.idaho.gov
jan.noriyuki@puc.idaho.gov

Erick Shaner
Dayn Hardie
Deputy Attorney General
Dayn.hardie@puc.idaho.gov
Erick.shaner@puc.idaho.gov

Marshall Thompson
Suez Water Idaho, Inc.
marshall.thompson@suez.com

Molly O'Leary
Eagle Water Company, Inc.
molly@bizcounseloratlaw.com

Robert DeShazo, Jr.
Eagle Water Company, Inc.
eaglewaterco@gmail.com

N.L. Bangle
H2O Eagle Acquisitions, LLC
nbangle@h20-solutionsllc.net

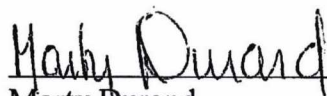
Jason Pierce
Mayor, City of Eagle
jpierce@cityofeagle.org
tosborn@cityofeagle.org

B. Newall Squyres
Murray D. Feldman
Holland & Hart, LLP
City of Eagle
nsquyres@hollandhart.com
mfeldman@hollandhart.com

Norman Semanko
Parsons Behle & Lattimer
Eagle Water Customer Group
nsemanko@parsonsbehle.com
ecf@parsonsbehle.com

Mary Grant
Scott B. Muir
Boise City Attorney's Office
boisecityattorney@cityofboise.org

Preston Carter
Givens Pursley, LLP
Suez Water Idaho, Inc.
mcc@givenspursley.com
prestoncarter@givenspursley.com


Marty Durand

PIOTROWSKI DURAND,
PLLC

P.O. Box 2864
Boise, ID 83701
(208) 331-9200

TAX ID
#47-0914076

Invoice submitted to:
CAIA Eagle Water Utility

November 15, 2021
In Reference To:
Invoice # 20640

Professional Services

		<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
1/3/2019 JP	Drafted substitution of counsel; reviewed and responded to email messages from counsel; reviewed and responded to email messages from client; further reviewed Suez filings; legal research	200.00/hr	1.70	340.00
2/21/2019 JP	Legal research; drafted motion for extension of discovery deadlines	200.00/hr	1.20	240.00
2/22/2019 JP	Drafted motion for extension of discovery deadlines	200.00/hr	1.30	260.00
7/14/2021 MD	Review PUC pleadings and testimony	200.00/hr	2.00	400.00
7/25/2021 MD	review pleadings and testimonies, research "public interest"	200.00/hr	1.00	200.00
7/26/2021 MD	review testimony and draft memo	200.00/hr	2.00	400.00
8/19/2021 MD	review documents from client and petitions	200.00/hr	0.50	100.00
8/20/2021 MD	draft notice of appearance, review discovery response	200.00/hr	0.50	100.00
8/23/2021 MD	review pleadings and attend conference with all parties	200.00/hr	2.00	400.00

EXHIBIT
A

		<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
8/24/2021 MD	Telephone conference with other intervenor, email other intervenor re opposition to modified procedure, download and review discovery materials; email client; review information on Veolia	200.00/hr	2.50	500.00
8/26/2021 MD	review discovery responses re assets, review information from client; draft information request; check on confidentiality agreement	200.00/hr	2.50	500.00
8/30/2021 MD	finish information request and serve on Suez	200.00/hr	1.30	260.00
8/31/2021 MD	Conference on PUC decision re modified proceedings, Telephone conference with potential witness, review protective agreement and sign, email client with update	200.00/hr	1.00	200.00
9/14/2021 MD	attend settlement conference, review discovery responses, update client	200.00/hr	2.50	500.00
9/15/2021 MD	review discovery responses for base rate calculations	200.00/hr	1.00	200.00
9/16/2021 MD	review and select discovery re rate base and sale	200.00/hr	1.30	260.00
9/21/2021 MD	review discovery responses, check prior discovery responses for info, check Wyoming SOS for H2O Eagle Acquisitions information	200.00/hr	3.00	600.00
9/22/2021 MD	review discovery and find info on H2O Eagle,	200.00/hr	2.00	400.00
9/23/2021 MD	check discovery responses and email O'Leary for unredacted contract	200.00/hr	0.50	100.00
9/27/2021 MD	gather relevant documents, outline comments, review Suez counter proposal, email client, email other intervenor	200.00/hr	2.30	460.00
9/29/2021 MD	send summary to client, review updated phase in tables from Staff, email other intervenor	200.00/hr	1.00	200.00
10/3/2021 MD	Telephone conference with client re update	200.00/hr	0.40	80.00
10/4/2021 MD	work on comments, attend intervenor settlement discussion	200.00/hr	2.50	500.00
10/5/2021 MD	attend settlement conference and work on comments, attend evening workshop	200.00/hr	3.00	600.00
10/6/2021 MD	research PUC rules for comments and exhibits	200.00/hr	1.00	200.00

		<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
10/7/2021 MD	review public pleadings and confidential discovery for accounting reviews, review settlement agreement and send to client	200.00/hr	2.00	400.00
10/11/2021 MD	research PUC and work on comments, respond to client inquiry	200.00/hr	3.00	600.00
10/12/2021 MD	check about amended schedule, work on comments, mail copy to client	200.00/hr	3.50	700.00
10/13/2021 MD	research and work on comments	200.00/hr	2.00	400.00
10/18/2021 MD	review notice of settlement and hearing order, send to client	200.00/hr	0.50	100.00
10/20/2021 MD	work on comments and identifying exhibits	200.00/hr	3.00	600.00
10/21/2021 MD	finish comments, clean up cites, send to client for review	200.00/hr	2.50	500.00
10/25/2021 MD	revise comments, send to client for review; find confidentiality agreement and send to Suez.	200.00/hr	2.50	500.00
10/26/2021 MD	finish comments, Telephone conference with client, order exhibits and prepare for filing	200.00/hr	2.50	500.00
10/27/2021 MD	reorder exhibits, revise comments, file with PUC, review Staff comments, email client	200.00/hr	1.00	200.00
11/1/2021 MD	attend public meeting (via phone)	200.00/hr	1.50	300.00
11/8/2021 MD	review Suez response to comments, start drafting fee petition	200.00/hr	2.00	400.00
11/9/2021 MD	work on fee petition, review rules	200.00/hr	2.00	400.00
11/10/2021 MD	finish fee petition	200.00/hr	1.30	260.00
	For professional services rendered		<u>69.30</u>	<u>\$13,860.00</u>
	Balance due			<u><u>\$13,860.00</u></u>

To insure proper credit, please include invoice number on your payment. Thank you.