

DAYN HARDIE (ISB No. 9917)  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0312

RECEIVED  
2021 OCT 27 PM 4:05  
IDAHO PUBLIC  
UTILITIES COMMISSION

Street Address for Express Mail:  
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A  
BOISE, ID 83714

Attorneys for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE JOINT</b>	)	
<b>APPLICATION OF SUEZ WATER IDAHO,</b>	)	<b>CASE NO. SUZ-W-18-02/</b>
<b>INC., TO ACQUIRE EAGLE WATER</b>	)	<b>EAG-W-18-01</b>
<b>COMPANY</b>	)	
	)	<b>COMMENTS OF THE</b>
	)	<b>COMMISSION STAFF</b>
	)	

---

**STAFF OF** the Idaho Public Utilities Commission, by and through its attorneys of record, Dayn Hardie, Deputy Attorney General, submit the following comments.

**BACKGROUND**

On November 15, 2018, SUEZ Water Idaho Inc. (“SUEZ”) and Eagle Water Company, Inc. (“Eagle Water”) jointly (the “Applicants”), applied to the Commission requesting approval of a proposed acquisition of Eagle Water’s assets by SUEZ.

SUEZ—formerly United Water—has been operating in the Treasure Valley since 1928. SUEZ serves approximately 99,000 customers in the Boise area.

Eagle Water is a privately held water company serving approximately 4,400 customers near Eagle, Idaho. Eagle Water holds Certificate of Public Convenience and Necessity (“CPCN”) No. 278. H2O Eagle Acquisition, LLC (“H2O Eagle”) is also involved in the proposed acquisition. According to the Applicants, H2O Eagle will purchase Eagle Water’s

assets for an undisclosed amount. Simultaneously, SUEZ will then purchase Eagle Water's assets from H2O Eagle for \$10 million.

On December 7, 2018, the Commission issued a Notice of Application and established a deadline for interested parties to intervene. Order No. 34203. City of Eagle, Eagle Water Customer Group ("EWCG"), City of Boise City, Community Action Partnership Association of Idaho ("CAPAI"), and Citizens Allied for Integrity and Accountability ("CAIA") intervened. Order No. 34229.

During the proceeding, Intervenor City of Eagle sued Eagle Water in District Court claiming a right of first refusal to buy Eagle Water's water system. Because the Commission's decision on the Joint Application may have been affected by the outcome of the District Court litigation, SUEZ moved to stay the Commission proceeding pending a resolution of the litigation between the City of Eagle and Eagle Water. SUEZ represented that the other parties to the Commission proceeding did not oppose the motion. On March 27, 2019, SUEZ's motion was granted, and the Applicants were ordered to provide quarterly reports on the status of the District Court case, Case No. CV01-19-03534. Order No. 34292.

After extended mediation, SUEZ, Eagle Water, and the City of Eagle reached a settlement agreement ("Settlement Agreement") that included new terms relevant to this proceeding. On February 24, 2021, the parties filed the Settlement Agreement and a stipulation of dismissal with the District Court. On March 8, 2021, the District Court dismissed the case.

On June 8, 2021, Eagle Water and SUEZ filed a motion to recommence proceedings in this docket. The same day, Eagle Water and SUEZ filed an amendment to its Joint Application requesting approval of the acquisition of Eagle Water's assets by SUEZ ("Amended Joint Application"). Most notably, the purchase price for Eagle Water's assets increased by \$500,000, and the phase-in period to bring Eagle Water rates to parity with SUEZ's rates increased from three years to five years. A Water Management Agreement ("WMA") and Asset Purchase Agreement were included with the Amended Joint Application. Supplemental written testimony was filed contemporaneously with the Amended Joint Application.

On July 14, 2021, the Commission granted SUEZ and Eagle Water's motion to recommence proceedings and issued a Notice of the Amended Application. Order No. 35104.

On September 9, 2021, the Commission issued a Notice of Scheduling establishing public comment and Companies' reply deadlines in addition to scheduling a public workshop and a customer hearing. Order No. 35160.

On September 14, 2021, the parties began settlement negotiations seeking to resolve the issues in this case. The parties met for three settlement conferences and one accounting workshop.

On October 8, 2021, a proposed Stipulation and Settlement ("Settlement") and a joint motion for approval of the proposed Settlement were filed with the Commission to memorialize the agreement. SUEZ, Eagle Water, and Staff, (collectively "Stipulating Parties") were the signatories to the Settlement.

On October 15, 2021, the Commission issued a Notice of Proposed Settlement and Notice of Amended Schedule that altered the Staff and Intervenor comment deadline and the Companies' reply deadline. Order No. 35198.

## **STAFF ANALYSIS**

Staff's evaluation of the transaction focused on the purchase price SUEZ will pay for the Eagle Water system, the value received by SUEZ customers from the acquisition, the value received by customers of Eagle Water, and the capital investment necessary to bring the Eagle Water system into compliance with Idaho Department of Environmental Quality ("IDEQ") regulations. Staff recommends the Commission approve the proposed Settlement allowing SUEZ to acquire Eagle Water's assets and to transfer Eagle Water's CPCN to SUEZ. Staff believes that the Settlement is fair, just, and reasonable, and in the public interest.

Idaho Code does not address the acquisition of water companies. Staff relied on the standards outlined in *Idaho Code* § 61-328(3) related to the sale of electric utilities for its review of the proposed acquisition. Those standards require:

- a. The transaction is consistent with the public interest;
- b. The cost of and rates for supplying service will not be increased by reason of such transaction; and
- c. The applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service.

## **Public Interest**

Staff believes the transaction is consistent with the public interest. SUEZ intends and has the ability to provide reliable service to Eagle Water customers and enhanced customer experience through various payment platforms, 24-hour customer service, and online access providing instant consumption data.

The current owner of Eagle Water desires to sell the water system because of the need to comply with water quality regulations, complex utility regulations, and complex operational and technical requirements. Because of significant growth coupled with his lack of experience in upgrading water systems, the current owner of Eagle Water is experiencing difficulties in maintaining its current quality of service and obtaining adequate financing for operations, maintenance, and infrastructure upgrades. The owner desires that Eagle Water be sold to a company that will be able to meet the needs of Eagle Water customers and serve the public interest. As such, Eagle Water is being sold to H2O Eagle, and concurrently purchased by SUEZ from H2O Eagle (collectively, the “Transaction”).

The Transaction is in the public interest because the benefits of interconnecting both systems outweigh the costs of maintaining both systems separately. Staff compared the alternative of operating both systems separately to the alternative of interconnecting and operating the two systems as a common single system. By identifying the costs and benefits of combining the two systems from a perspective of Eagle Water customers and from the perspective of SUEZ customers, the acquisition will be mutually beneficial for customers of both systems once the systems are interconnected.

For customers of SUEZ, the main benefit of interconnecting the two systems is an increase in the water supply to the SUEZ system from Eagle Water’s system at an estimated capital cost avoidance of \$11.2 million. If SUEZ does not acquire Eagle Water, the next least-cost alternative for SUEZ will be to expand the existing Marden Surface Water Treatment Plant, increase the size of approximately 14,000 feet of existing 24-inch and 36-inch diameter water transmission piping, complete an interconnection with Island Woods, and add a 2-million-gallon water storage tank and booster pump station prior to 2022.<sup>1</sup> However, by interconnecting the two systems, SUEZ will be able to utilize its existing storage capacity to utilize Eagle Water’s non-peak excess pumping capacity and water rights, since Eagle Water does not have significant

---

<sup>1</sup> Suez’s response to Staff’s Production Request No. 14.

capacity to store water when its demand is low. By acquiring Eagle Water, SUEZ can avoid \$11.2 million in additional investment.

For Eagle Water customers, there are several direct benefits that interconnecting to SUEZ's water system can provide to alleviate current inadequacies. The inadequacies that must be addressed include:

1. Current deficiencies in meeting firewater flow requirements;
2. Insufficient system-peak pumping capacity;
3. Inadequate water rights needed for peak domestic use and firewater flow requirements without investing in additional water storage capacity;
4. Issues in system reliability and operating efficiency;
5. Potential water supply safety issues; and
6. Lack of visibility to customer usage and potential system leaks.

Several of these inadequacies put Eagle Water out of compliance with IDEQ requirements and were caused by a lack of proper investment in the Eagle Water system during system expansion. IDEQ requires Eagle Water to meet fire protection flow requirements when wells are out of service.<sup>2</sup> If Eagle Water's largest well is out of service, the system cannot meet the required fire protection flow. Additionally, Eagle Water must demonstrate that it can meet the combined flowrates of average-day demand plus fire flow requirements in the event of a power outage.<sup>3</sup> Finally, the system would fall short in meeting peak hour flow requirements for redundant domestic use pumping capacity with Eagle Water's largest<sup>4</sup> well out of service, as required by IDEQ.

If Eagle Water does not interconnect with SUEZ, Eagle Water would likely need to drill an additional well, acquire additional water rights, invest in high-capacity water storage, and add standby power to certain existing wells that are without backup generators. These issues can all be addressed with the planned near-term interconnection to SUEZ's Redwood Creek pipeline.

SUEZ plans \$14.6 million of capital improvements for the Eagle Water system during the next five years. In addition to the interconnection to the Redwood Creek pipeline, SUEZ plans to construct a new two-million-gallon water storage tank, add a Supervisory Control and

---

<sup>2</sup> IDAPA 58.01.08.501.18, Redundant Fire Flow Capacity.

<sup>3</sup> IDAPA 58.01.08.501.07, Reliability and Emergency Operation.

<sup>4</sup> IDAPA 58.01.08.501.07, Reliability and Emergency Operation.

Data Acquisition (“SCADA”) system to allow 24-hour monitoring of the Eagle Water system to better control pumping operations resulting in an improved system operating efficiency; address delayed investment in safety;<sup>5</sup> security investments; well cleaning; and distribution piping replacements. Upgrades more visible to Eagle Water customers would include a change-out of existing meters to advanced metering infrastructure (“AMI”). The AMI meters provide better metrics for customer usage which can be accessed and utilized through SUEZ’s website.

The current Eagle Water system uses ground water as its source supply, while SUEZ uses a combination of both ground water and surface water. Currently, SUEZ chlorinates its water to meet IDEQ requirements for disinfection. Once the two systems are combined, the Eagle Water system will also be chlorinated. Staff believes a system the size of Eagle Water by itself would benefit from chlorination by reducing the risk of contamination from leaking distribution lines and defective backflow devices. Chlorination is recommended to make water safe for consumption.

### **Cost and Rates**

Although rates will increase for Eagle Water customers, Staff notes that the acquisition of Eagle Water assets is SUEZ’ least cost option to continue to provide reliable water service to its western service territory. Eagle Water customers will see rates increase over seven years to SUEZ rates, if the Settlement is approved. The acquisition by SUEZ offers a successful succession plan for Eagle Water and its customers.

Absent the Transaction, Eagle Water customers’ rates would increase due to substantial required improvements. Despite the proposed increase in rates, the Applicants and Staff believe customers will be better served long-term by SUEZ through improved service, water quality, and system dependability if the sale is approved.

Table No. 1 below illustrates the necessary investment in the Eagle Water system to comply with IDEQ peak flow and fire flow requirements. These investments include a storage tank and several safety measures with an estimated cost of \$4.152 million. The additional revenue requirement associated with the necessary capital investment is approximately \$658,000, or 96% increase over current rates.

---

<sup>5</sup> Arc-flash analysis and upgrades, eyewash stations, fall protection.

**Table No. 1: Eagle Water Required System Investments**

	Required Investments
Storage Tank	\$ 4,012,000
Safety & Security	\$ 140,000
Total Additional Rate Base	\$ 4,152,000
Incremental Revenue Requirement	\$ 657,670
Current 2020 Revenue	\$ 683,036
Percentage Increase	96%

### **Intent and Ability to Operate**

SUEZ continues to demonstrate that it has the financial ability and bona fide intent to operate its current system. If the Settlement is approved, SUEZ would operate the Eagle Water system and take additional steps to maintain or improve the water system until such time the two water systems are interconnected.

### **Acquisition Adjustment**

An acquisition adjustment describes the difference between the price paid to acquire the assets and the assets' net book value. SUEZ proposes to record the Eagle Water assets to Plant-in-Service and record an equivalent amount as Accumulated Depreciation, resulting in a zero-book value of the assets. The acquisition adjustment then becomes the final purchase price plus transaction costs.

In the Amended Joint Application, SUEZ agrees to purchase Eagle Water for \$10.5 million. SUEZ is seeking recovery of \$512,400 in transaction costs. Such transaction costs include, operation expenses, an American Land Title Association ("ALTA")<sup>6</sup> survey, and legal fees. The Stipulating Parties agreed to an acquisition adjustment of \$10.475 million to be amortized over a 40-year period beginning when new rates are implemented in SUEZ's next general rate case proceeding. This amount removes customer communications and costs associated with the district court case.

---

<sup>6</sup> SUEZ's response to Staff's Production Request No. 11.

In the Settlement, the Stipulating Parties agreed that the acquisition adjustment would be allocated between the Utility Plant Acquisition Adjustment regulatory asset account and the incurred transaction cost accounts. The gross amount of utility plant in service of Eagle Water assets being acquired will be included in rate base with an offset of an equal amount in a related accumulated depreciation account.

**Surcharge Line-of-Credit Account**

In Order No. 34295, approving a Joint Settlement Stipulation in Case No. EAG-W-15-01, the Commission ordered Eagle Water to establish a surcharge line-of-credit account (“Surcharge Account”).<sup>7</sup> The Joint Settlement Stipulation stated that Eagle Water “...will discontinue the \$100 and \$500 hookup charges it has been collecting per Tariff Schedule No. 5. The balance of the accounts that contain the hookup charges (\$365,580, as of July 12, 2018) will be allowed to remain in the surcharge account and be used as a line-of-credit going forward (funds to be used and repaid). The parties [in Case No. EAG-W-15-01] agree that [Eagle Water] will annually deposit \$45,288 of overearnings into the surcharge line-of-credit account beginning in 2017. This arrangement shall remain until the Company requests, and the Commission approves different treatment.” *Id* at 3.

Staff calculated the Surcharge Account balance to be \$592,020 as of December 31, 2021. See Table No. 2.

**Table No. 2 – Surcharge Balance**

132.5 Surcharge Account 20008322	\$ 150,000
132.6 IFB Well Construction	\$ 159,837
132.7 IFB Engineering	\$ 55,743
<b>Total</b>	<b>\$ 365,580</b>
Overearnings 2017	\$ 45,288
Overearnings 2018	\$ 45,288
Overearnings 2019	\$ 45,288
Overearnings 2020	\$ 45,288
Overearnings 2021	\$ 45,288
<b>Total Overearnings as of 12/31/2021</b>	<b>\$ 226,440</b>
<b>Surcharge Balance as of 12/31/2021</b>	<b>\$ 592,020</b>

<sup>7</sup> EAG-W-15-01 Joint Settlement Stipulation, Page 3, Section 12.



The Stipulating Parties agree that the balance of the Surcharge Account should be returned to current Eagle Water customers in the form of a one-time payment upon closing of the Transaction. The Surcharge Account refund will be paid to current Eagle Water customers as of the date of the final Commission order. The refund is intended to partially or fully offset the first-year increase in the Rate Phase-in discussed below.

**RATE PHASE-IN**

In the Amended Joint Application, the Applicants requested a five-year rate phase-in to bring Eagle Water customer rates to parity with SUEZ rates. The Stipulating Parties agreed that a seven-year rate phase-in would be appropriate, thereby reducing any single-year impact to current Eagle Water customers. *See* Table No. 3.

Staff believes a rate increase for Eagle Water customers is necessary. To mitigate rate shock and provide a more gradual transition of rates, Staff believes that a seven-year phase-in of rates is reasonable. Additionally, the immediate refund of the surcharge can be used to help Eagle Water customers transition to increased rates in year one.

**Table No. 3 – Rate Phase-In**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Amended Joint Application	50.00%	63.00%	75.00%	88.00%	100.00%		
Stipulation and Settlement	50.00%	58.33%	66.67%	75.00%	83.33%	91.67%	100%

**CUSTOMER INPUT**

**Customer Notice and Press Release**

The Eagle Water Company (EAG-W-18-01) Application included a customer notice and press releases in November 2018 and March 2021. In the customer notices and the press releases, the customers were directed to contact SUEZ for further information. The notice and press release also included details of the proposed rate increase as required under Rule 125 of the Commission's Rules of Procedure, IDAPA 31.01.01.125.

## **Public Workshop and Customer Hearing**

A telephonic public workshop was held Tuesday, October 5, 2021, at 7:00 PM. 19 individuals participated—14 participated by asking questions or offering statements. Staff presented the Company's Amended Joint Application and answered customers questions. Customer concerns echoed those presented in written comments. During the workshop, customers stated that they opposed the transaction, wanted to know why City of Eagle could not purchase the system, questioned the true intent of Veolia acquiring SUEZ, and that the purchase included a middle-man—H2O Eagle. Staff answered questions and encouraged participants to present their comments and concerns in writing to the Commission or to present their testimony at the telephonic customer hearing on November 1, 2021 at 7:00 PM.

## **Customer Comments**

As of October 26, 2021, the Commission has received 381 customer comments since SUEZ and Eagle Water submitted the November 15, 2018 Application. Many customers have submitted multiple comments and the overwhelming majority are against the sale of the Company. Current Eagle Water customers expressed their support and satisfaction with Eagle Water and their concerns about:

- the proposed rate increase;
- the proposed chlorination of their water; and
- the possibility of the transfer of water rights and water out of the current service area.

Customers also expressed concern about SUEZ, which includes:

- Foreign ownership of the parent company SUEZ and potential acquisition by Veolia:
  - affecting the ability of the Commission to regulate the system and maintain fair, just, and reasonable rates for customers;
  - affecting SUEZ's ability to manage the system for the benefit of the customers; and
  - allowing the transfer of profits to the foreign owned parent company.
- Water quality concerns such as:
  - the ongoing problem of discolored water in portions of SUEZ's system;

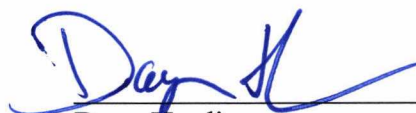
- use of treated water from the Marden plant; and
- effects of chlorination on customer health.
- Loss of local customer service options.

## STAFF RECOMMENDATION

Staff Recommends that the Commission approve the Settlement as filed, including:

- Setting the acquisition adjustment at \$10.475 million, with no carrying charge, amortized over 40 years;
- Recovery of the acquisition adjustment should begin upon implementation of new SUEZ rates in its next general rate case;
- The surcharge balance of \$592,020 be returned to current Eagle Water customers via check, as of the final order; and
- Staff recommends the rate phase-in of Eagle Water customer rates to Suez rates over seven years, with a rate increase to 50% of current SUEZ rates, effective January 1, 2022, and an increase of 8.33% on January 1 of each following year, as depicted in Table No. 3.

Respectfully submitted this *27th* day of October 2021.



Dayn Hardie  
Deputy Attorney General

Technical Staff: Travis Culbertson  
Rick Keller  
Chris Hecht  
Kathy Stockton

[i:umisc/comments/suzw18.2\\_eag18.1dhestncklsrkch comments](#)

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 27<sup>th</sup> DAY OF OCTOBER 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**; IN CASE NOS. SUZ-W-18-02/EAG-W-18-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

MICHAEL C CREAMER  
PRESTON N CARTER  
GIVENS PURSLEY LLP  
601 W. BANNOCK ST.  
BOISE, ID 83702  
E-MAIL: [mcc@givenspursley.com](mailto:mcc@givenspursley.com)  
[prestoncarter@givenspursley.com](mailto:prestoncarter@givenspursley.com)

MARSHALL THOMPSON  
SUEZ WATER IDAHO, INC.  
8248 W. VICTORY RD.  
BOISE, IDAHO 83709  
E-MAIL: [marshall.thompson@suez.com](mailto:marshall.thompson@suez.com)

ROBERT DESHAZO  
EAGLE WATER COMPANY, INC.  
188 W. STATE ST.  
EAGLE, IDAHO 83616  
E-MAIL: [eaglewaterco@gmail.com](mailto:eaglewaterco@gmail.com)

N.L. BANGLE  
H2O EAGLE ACQUISITION, LLC  
188 W. STATE ST.  
EAGLE, IDAHO 83716  
E-MAIL: [nbangle@h2o-solutionsllc.net](mailto:nbangle@h2o-solutionsllc.net)

MOLLY O'LEARY  
BIZCOUNSELOR AT LAW PLLC  
1775 W STATE STREET, #150  
BOISE ID 83702  
E-MAIL: [molly@bizcounseloratlaw.com](mailto:molly@bizcounseloratlaw.com)


B NEWAL SQUYRES  
MURRAY D FELDMAN  
HOLLAND & HART LLP  
PO BOX 2527  
BOISE ID 83702-2527  
E-MAIL: [nsquyres@hollandhart.com](mailto:nsquyres@hollandhart.com)  
[mfeldman@hollandhart.com](mailto:mfeldman@hollandhart.com)

**ELECTRONIC ONLY**  
MAYOR JASON PIERCE  
CITY OF EAGLE  
660 E CIVIC LANE  
EAGLE ID 83616  
E-MAIL: [jpierce@cityofeagle.org](mailto:jpierce@cityofeagle.org)  
[tosborn@cityofeagle.org](mailto:tosborn@cityofeagle.org)

JAMES M PIOTROWSKI  
MARY DURAND  
PIOTROWSKI DURAND PLLC  
1020 W. MAIN STREET, SUITE 440  
PO BOX 2864  
BOISE ID 83701  
E-MAIL: [james@idunionlaw.com](mailto:james@idunionlaw.com)  
[marty@idunionlaw.com](mailto:marty@idunionlaw.com)

SCOTT B. MUIR/ MARY GRANT  
DEPUTY CITY ATTORNEY  
BOISE CITY ATTORNEY'S OFFICE  
150 N. CAPITOL BLVD.  
PO BOX 500  
BOISE ID 83701-0500  
E-MAIL: [boisecityattorney@cityofboise.org](mailto:boisecityattorney@cityofboise.org)

NORMAN M SEMANKO  
PARSON BEHLE & LATIMER  
800 W MAIN ST STE 1300  
BOISE ID 83709  
E-MAIL: [nsemanko@parsonsbehle.com](mailto:nsemanko@parsonsbehle.com)  
[ecf@parsonsbehle.com](mailto:ecf@parsonsbehle.com)



SECRETARY