

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 ORDER NO. 35265
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On November 15, 2018, SUEZ Water Idaho Inc. (“SUEZ”) and Eagle Water Company, Inc. (“Eagle Water”) filed a Joint Application requesting Commission approval of the proposed acquisition of Eagle Water’s assets by SUEZ (“Joint Application”). On December 7, 2018, the Commission issued a Notice of Application and Notice of Intervention Deadline. Order No. 34203. Eagle Water Customer Group (“EWCG”) and Citizens Allied for Integrity and Accountability (“CAIA”) were granted intervention. Order No. 34229.

On March 27, 2019, the Commission granted SUEZ’s unopposed motion for stay, staying the case pending the outcome of litigation at the District Court. Order No. 34292.

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 assets by SUEZ and amendment of Certificate of Public Convenience and Necessity No. 143.

On October 8, 2021, Staff, SUEZ, and Eagle Water (collectively “Stipulating Parties” or individually “Party”) filed a proposed stipulation and settlement (“Settlement”) and a joint motion of approval of stipulation and settlement.

EWCG and CAIA filed comments on the Settlement.

On November 15, 2021, CAIA filed a timely petition for intervenor funding. Similarly, on November 22, 2021, EWCG filed its timely petition for intervenor funding.

On December 9, 2021, the Commission issued a final order approving the Settlement. Order No. 35247.

Having reviewed CAIA’s and EWCG’s petitions for intervenor funding, we issue this Order granting intervenor funding to CAIA and EWCG.

CAIA’S PETITION FOR INTERVENOR FUNDING

CAIA’s petition included an itemized list of expenses totaling \$13,860.00—all legal fees. *See* Exhibit A of CAIA’s Petition. CAIA argued that its hourly fees of \$200.00 per hour were

reasonable for this matter given the nature of the matter and the local market. CAIA Petition at 4. CAIA stated its requested rate for its legal counsel's service was well below hourly rates it had received in recent litigation. *Id.* at 4.

CAIA stated that it participated in every aspect of the case and provided input and asserted issues not raised by Staff or other parties. Notably, "[t]hroughout the process of the 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." *Id.* at 3. CAIA continued to object to the acquisition while advocating for a longer phase-in in the event the Commission did approve the Settlement.

CAIA is a non-profit 501(c)(3) and relies on grants, contributions, and fee recovery to fund its work. CAIA has no paid staff. CAIA stated it "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." *Id.* at 5.

CAIA believed its proposed findings differed from Staff's recommendation and the eventual Settlement terms but could not disclose all the differences due to the confidential nature of settlement negotiations. CAIA believed the acquisition would lead to water quality and customer service issues for Eagle Water customers. CAIA did not believe the acquisition, as proposed in the Settlement, was "just, reasonable, or in the public interest." *Id.*

CAIA stated that it represented members and Suez customers in the area who seek transparency in the operation of public utilities, Eagle Water customers who are low- and fixed-income, and utility customers who seek to maintain local control of limited public resources.

EWCG'S PETITION FOR INTERVENOR FUNDING

EWCG's petition included an itemized list of expenses totaling \$15,780.00—all legal fees. EWCG Petition at 3. EWCG's petition stated that its attorney's standard rate is \$405.00 per hour, but his services were rendered in this case for a discounted rate of \$200.00 per hour. Additionally, no witness fees or reproduction costs were incurred. EWCG is a non-profit consisting of "ratepayers, taxpayers, and concerned citizens" and its funding comes from individuals whose contributions are often "unpredictable, sporadic, and limited in amount." *Id.* at 4-5. EWCG stated that even with intervenor funding, participation was a significant financial hardship.

EWCG formed to oppose and respond to the proposed acquisition of Eagle Water by SUEZ. EWCG's position throughout the proceedings maintained that the Commission should

reject or deny the proposed acquisition and eventually the Settlement per the factors in *Idaho Code* § 61-328 or modify the length of the proposed rate phase-in. *Id.* at 3. EWCG filed comments “setting forth the factual and legal basis for denying or conditioning the acquisition.” *Id.*

EWCG offered that its position and recommendation in the matter differed from other intervenors and Staffs in that “EWCG consistently took the position that acquisition should be denied due to the magnitude of the rate increases for existing Eagle Water customers.” *Id.* EWCG’s position was that the 200% residential and 300% commercial rate increases that would follow the approval of the Settlement would constitute rate shock—even when considering the improvements that were deemed necessary for the Eagle Water system.

COMMISSION DECISION AND FINDINGS

Commission decisions benefit from robust public input. “It is hereby declared the policy of this state to encourage participation at all stages of all proceedings before the commission so that all affected customers receive full and fair representation in those proceedings.” *Idaho Code* § 61-617A(1). Recoverable costs can include legal fees, witness fees, transportation, and other expenses so long as the total funding for all intervening parties does not exceed \$40,000.00 in any proceeding. *Idaho Code* § 61-617A(2). The Commission must consider the following factors when deciding whether to award intervenor funding:

- (1) That the participation of the intervenor materially contributed to the Commission’s decision;
- (2) That the costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor;
- (3) The recommendation made by the intervenor differs materially from the testimony and exhibits of the Commission Staff; and
- (4) The testimony and participation of the intervenor addressed issues of concern to the general body of customers.

Id.

To obtain an award of intervenor funding, an intervenor must further comply with Commission’s Rules of Procedure 161-165, IDAPA 31.01.01.161-165. Commission Rule 162 requires the petition to contain an itemized list of expenses broken down into categories, a statement explaining why the costs constitute a significant financial hardship if not recovered, and a statement showing the class of customer on whose behalf the intervenor participated, IDAPA 31.01.01.162. Commission Rule 165.02-.03 requires the payment of awards is to be made by the utility and is an allowable expense to be recovered from ratepayers in the next general rate case, IDAPA 31.01.01.165.02-.03.

We find that CAIA's and EWCG's petitions satisfy the intervenor funding requirements. Both parties intervened and participated in all aspects of the proceeding. Both parties' petitions for intervenor funding were filed timely. Because we lack insight into the confidential settlement negotiations, we award intervenor funding based on our assessment of the submitted written materials included in the respective petitions. Each petition showed the petitioner worked closely with the Company and Staff and other intervenors throughout the case.

The Commission finds that CAIA and EWCG materially contributed to the Commission's final decision. Both parties' recommendations materially differed from the request in the Companies' Amended Joint Application and Staff's recommendations, and CAIA and EWCG's participation addressed issues of concern to the general body of customers. Finally, we find the legal fees incurred by CAIA and EWCG are reasonable in amount, and that both parties, as non-profit organizations, would suffer financial hardship if the requests are not approved.

Accordingly, we find it reasonable to award CAIA \$13,860.00 and EWCG \$15,780.00 in intervenor funding, with the amounts to be recovered from the Company's General Metered Service customers. We now authorize a total of \$29,640.00 be paid to the above intervenors.

ORDER

IT IS HEREBY ORDERED that CAIA'S petition for intervenor funding is granted in the amount of \$13,860.00 to be recovered from the SUEZ's General Metered Service customers.

IT IS FURTHER ORDERED that EWCG's Petition for Intervenor Funding is granted in the amount of \$15,780.00 to be recovered from the SUEZ's General Metered Service customers.

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

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DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 21st day of December 2021.



PAUL KJELLANDER, PRESIDENT

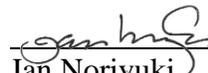


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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