

Michael C. Creamer (ISB No. 4030)
Preston N. Carter [ISB No. 8462]
Givens Pursley LLP
601 W. Bannock St.
Boise, ID 83702
Telephone: (208) 388-1200
Facsimile: (208) 388-1300
mcc@givenspursley.com
pnc@givenspursley.com

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for SUEZ Water Idaho Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF
SUEZ WATER IDAHO, INC. FOR
AUTHORIZATION TO ELIMINATE
COLLECTION OF GROSS-UP PAYMENTS
ASSOCIATED WITH CONTRIBUTIONS IN
AID OF CONSTRUCTION

Case No. SUZ-W-20-01

**PETITION AND REQUEST FOR
MODIFIED PROCEDURE**

SUEZ Water Idaho Inc. (“SUEZ” or “Company”), pursuant to Commission Rule of Procedure 31.01.01.053 hereby petitions for an order modifying Commission *Order 34074* issued on May 31, 2018 in Case No. GNR-U-18-01 to permit SUEZ to no longer collect the federal and state income tax gross-up amount related to Contributions in Aid of Construction and to revise its existing tariff, Schedule . In support thereof, the Company respectfully shows as follows:

FACTUAL BACKGROUND

SUEZ is a water corporation within the meaning of the Idaho Public Utility Law and is subject to the jurisdiction of the Commission. SUEZ provides municipal water service within Ada County, Idaho pursuant to its Certificate of Public Convenience and Necessity No. 146 as amended.

SUEZ's rates, charges, rules and regulations for services are contained in its tariff, approved by and on file with the Commission. SUEZ's tariff includes rules governing requests for service for individual, industrial and commercial development and sets forth certain charges and allowances for the related main extensions. Among the charges the developer incurs in connection with main extensions requiring special facilities are the actual construction costs, general overheads allocated annually by the Company over the new development projects, and variously over the years, a payment to offset the Company's federal and/or state income tax liability associated with the developer-contributed payments or facilities (i.e., contributions in aid of construction or "CIAC").

Most recently, the Federal 2017 Tax Cuts and Jobs Act ("TCJA") eliminated the exemption of CIAC from inclusion in income for water utilities that has been recognized since 1996. Effective January 1, 2018, CIAC has been included in the Company's annual taxable income.

In response to the reduced corporate tax rate included in the TCJA, the Commission established Generic Case No. GNR-U-18-01 and directed all regulated utilities to: 1) account for the tax benefits as a regulatory liability; 2) report to the Commission how the tax changes in the TCJA affected them; and 3) show how they could pass any resulting benefits to customers. *See Order No. 33965* at 1-2. SUEZ filed its report with the Commission on March 29, 2018 addressing both the effect of the reduced corporate tax rate and the inclusion of CIAC in taxable income on the Company's tax liabilities.

In its May 31, 2018 *Order 34074* the Commission ordered that SUEZ decrease rates by \$2,722,791 effective June 1, 2018, and file an update to its deferred tax accounts. *Id.* at 4-5. *Order 34074* also directed that SUEZ gross-up its CIAC charge to contributing developers to

account for the taxability of the contributions. *Id.* at 5. SUEZ's tariff was revised accordingly effective June 1, 2018 to include a table illustrating the basis for calculating the tax gross-up factor whereby the charge reflects the net present value of CIAC-related cash flows and the future tax deductibility of the contributed asset. *See* SUEZ Tariff, Sheet 27, ¶85. Since June 1, 2018, SUEZ has included this gross-up factor in the special facilities charges to developers to offset the increased tax liability associated with CIAC per the TCJA. The Commission approved this approach, noting that requiring the developer to pay the income tax consequences of CIAC will ensure that SUEZ's customers do not subsidize the developer through rates. *Order 34074* at 4.

COMPANY EXPERIENCE WITH THE CIAC GROSS-UP

As explained in the accompanying Direct Testimony of Cathy Cooper, SUEZ's experience with including the gross-up factor over the past two years has been that this charge places it at a competitive disadvantage *vis a vis* non-regulated, tax-exempt municipal water providers. SUEZ's normal general overhead charges and the recently-included CIAC gross-up can now amount to up to an additional forty-five to fifty percent of the total project construction cost. Rather than incur these costs that are necessarily passed on to home buyers, developers who do not have the option to choose a municipal water provider, may choose to create and operate a separate community water system. In either case, SUEZ's existing customers are negatively impacted because of the lost opportunity to absorb and spread the Company's costs over a larger customer base. *See also Direct Testimony of Jarmila Cary* filed contemporaneously herewith.

SUEZ'S PROPOSED REVISION TO CIAC TREATMENT

To respond to this developing issue, the Company is proposing a modification to the method approved in *Order 34074* to address the TCJA tax liability for CIAC. SUEZ is proposing that it pay the CIAC tax rather than the developer. Analysis performed by the Company based on recent experience confirms that new developments can generate enough revenue through existing rates to cover the annual revenue requirement for the CIAC tax. This will continue to ensure that development pays the additional costs it imposes and that the Company's existing customers do not subsidize the developer through rates.

If this Petition is approved by the Commission, SUEZ would revise its tariff as indicated in the strike-out/underline and clean versions of its current tariff attached hereto as Exhibits A and B.

The rationale for SUEZ's requested treatment of the CIAC tax obligation is more fully explained in the accompanying Direct Testimony of Ms. Cary and Ms. Cooper.

COMMUNICATIONS AND SERVICE OF PLEADINGS

Communications and service of pleadings in this matter should be sent to the following:

Mr. Marshall Thompson
SUEZ Water Idaho Inc.
8284 West Victory Rd.
Boise, ID 83709
marshall.thompson@suez.com

Michael C. Creamer
Givens Pursley LLP
601 W. Bannock St.
Boise, ID 83702
P.O. Box 2720-83701
mcc@givenspursley.com

REQUEST FOR MODIFIED PROCEDURE

SUEZ does not believe that a hearing is necessary to consider the matters presented herein and requests that this Petition be processed by Modified Procedure under Commission Rules of Procedure 201-204. If, however, the Commission determines a hearing is required, SUEZ is prepared for immediate hearing, based on the direct testimonies and exhibits accompanying this Petition.


PRAYER FOR RELIEF

Wherefore, SUEZ respectfully requests that the Commission enter its Order:

1. Approving Modified Procedure;
 2. Approving SUEZ's requested change in method for addressing its CIAC income tax liability by allowing SUEZ to pay the tax associated with CIAC and recover the increased revenue requirement through revenues generated by the new customers served;
 3. Approving SUEZ's revisions to its tariff as proposed in Exhibits A and B hereto;
- and
4. Granting such other and further relief as it appropriate in the circumstances.

Respectfully submitted this 22nd day of June, 2020.

SUEZ Water Idaho Inc.

By: 
Michael C. Creamer
Preston N. Carter
Givens Pursley LLP
Attorneys for Petitioner

Case Nos. SUZ-W-20-01
PETITION AND REQUEST FOR MODIFIED
PROCEDURE

EXHIBIT B
CLEAN TARIFF PAGES

Sheet No. 1
Replacing all Previous Sheets

SUEZ WATER IDAHO INC.

SUEZ WATER IDAHO INC.

RATE SCHEDULES

RULES AND REGULATIONS

GOVERNING THE RENDERING OF WATER SERVICE

AND WATER MAIN EXTENSIONS

Issued Per IPUC Order No. XXXX
Effective – XXXX, XX, 2020

Issued by SUEZ WATER IDAHO INC.
Marshall Thompson, Vice President
8248 West Victory Road, Boise, Idaho

Case Nos. SUZ-W-20-01
PETITION AND REQUEST FOR MODIFIED PROCEDURE
EXHIBIT B - Page 2

Sheet No. 2
Replacing all Previous Sheets

SUEZ WATER IDAHO INC.

TABLE OF CONTENTS

	<u>Sheet Number</u>
Title Page	1
Table of Contents	2
Schedules of Rates	
Schedule Number 1	General Metered Service 3
Schedule Number 1A	DEQ Fee 4
Schedule Number 1B	Flat Rate Service 5
Schedule Number 1C	Brian Subdivision Surcharge 5A
Schedule Number 2	Public Hydrants and Street Sprinkling 6
Schedule Number 3	Private Fire Sprinkler and Service 7
Schedule Number 4	Private Fire Hydrant Service 8
Schedule Number 5	Miscellaneous Fees and Charges 9, 9A, 10
Schedule Number 6	Municipal Franchise Fees 11
Application for Service	12
Service Connection	12,13,14
Meters	14
Meter Setting	14,15
Meter Testing	15
Bills	16
Discontinuance of Service	16,17
Customer's Deposits	17
Builder's Temporary Service	17,18
Fire Protection	19
Miscellaneous	19
Definitions – Water Service	19, 20
Definitions – Water Main Extension	21
Water Main Extensions – General	21
Water Main Extensions - Connection Fees	21, 22
Water Main Extensions - Individual Residences	22, 23
Water Main Extensions - Residential Subdivision or Multiple Family Housing Development	23, 24
Water Main Extensions - Commercial, Industrial, or Municipal Development	23, 24
Special Facilities	24, 25
Non-contiguous Expansion	26
Water Main Extension Agreement, Individuals, Advances, Refunds	27,28,29, 30,31
Water Main Extension Agreement, Residential, Multiple Family Housing, Commercial, Industrial, or Municipal Development	32,33,34, 35,36,37, 38,39,40,41
Residential or Multiple Family Housing Non-contiguous Water System Agreement	42,43,44, 45,46,47, 48,49, 50

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Case Nos. SUZ-W-20-01
PETITION AND REQUEST FOR MODIFIED PROCEDURE
EXHIBIT B - Page 3

SUEZ WATER IDAHO INC.

Exhibit A
INDIVIDUAL RESIDENCE
MAIN EXTENSION AGREEMENT

C.E.A. No. _____

AGREEMENT between SUEZ WATER IDAHO INC., hereinafter called "Company", and _____, hereinafter called the "Applicant".

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The Applicant(s) hereby applies to the Company for the said extension for its system, and the Company agrees to construct the said extension upon the terms and conditions hereinafter set forth in accordance with its Rules and Regulations. Said extension is described as follows and shown on the attached sketch which is hereto made a part of this Agreement:

2. Applicant shall contribute to the Company upon the execution hereof the sum of _____ Dollars (\$) which amount the Company estimates to be the cost of installing the said "on-site" extension as described above including overhead cost to the Company such as supervision, engineering, accounting, legal expenses and the cost of obtaining any necessary governmental permits. Any difference between the actual cost and the amount contributed, shall be shown as a revision of the amount of contribution, and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of on-site facilities". If it is necessary to adjust the amount of Applicant's contribution, in accordance with the terms of this paragraph, a supplemental memorandum will be prepared setting forth the "contributed cost of on-site facilities" and shall be attached hereto and made a part hereof.

3. Applicant shall contribute to the Company upon the execution hereof the sum of _____ Dollars (\$) which amount the Company estimates to be the cost of installing the said off-site main extension including overhead cost to the Company such as supervision, engineering, accounting, legal expenses and the cost of obtaining any necessary governmental permits. Any difference between the actual cost and the amount contributed shall be shown as a revision of the amount contributed and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of off-site mains". If it is necessary to adjust the amount of Applicant's advance, in accordance with the terms of this paragraph, a supplemental memorandum will be prepared setting forth the "contributed cost of off-site mains" and shall be attached hereto and made a part hereof.

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Marshall Thompson, Vice President
8248 West Victory Road, Boise, Idaho

SUEZ WATER IDAHO INC.

RESIDENTIAL, MULTIPLE FAMILY HOUSING, COMMERCIAL, INDUSTRIAL, OR
MUNICIPAL DEVELOPMENT WATER MAIN EXTENSION AGREEMENT (continued)

B. WHERE THE APPLICANT HAS ASKED THE COMPANY TO PERFORM THE
EXTENSION

1. Applicant hereby applies to the Company for the said Extension of its system and the Company agrees to construct the said Extension upon the terms and conditions hereinafter set forth and in accordance with its Rules and Regulations.
2. Applicant shall contribute to the Company upon the execution hereof the sum of _____ Dollars (\$) which amount the Company estimates to be the cost of installing the said "on-site" Extension as described above including overhead cost to the Company such as supervision, engineering, accounting, legal expenses and the cost of obtaining any necessary governmental permits. Any difference between the actual and the amount contributed shall be shown as a revision of the amount of contribution and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of on-site facilities". If it is necessary to adjust the amount of Applicant's contribution, in accordance with the terms of this Paragraph, a supplemental memorandum will be prepared setting forth the "contributed cost of on-site facilities" and shall be attached hereto and made a part hereof.
3. Applicant shall contribute to the Company upon the execution hereof the sum of _____ Dollars (\$) which amount the Company estimates to be the cost of installing the said "off-site" main Extension including overhead cost to the Company such as supervision, engineering, accounting, legal expenses and the cost of obtaining any necessary governmental permits. Any difference between the actual and the amount contributed shall be shown as a revision of the amount contributed and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of off-site mains". If it is necessary to adjust the amount of Applicant's advance, in accordance with the terms of this Paragraph, a supplemental memorandum will be prepared setting forth the "contributed cost of off-site mains" and shall be attached hereto and made a part hereof.
4. The Company will use its best efforts to commence and carry to completion as soon as possible the installation of said Extension, having in mind however, delays which may be occasioned by weather, acts of God or the public enemy, strikes or other matters not within its control.
5. The amount of "contributed costs for on-site" facilities shall be retained by the Company and booked as a contribution in aid of construction.
6. The amount of "contributed costs for off-site" mains shall be retained by the Company and booked as a contribution in aid of construction. However, an applicant for

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SUEZ WATER IDAHO INC.

RESIDENTIAL, MULTIPLE FAMILY HOUSING, COMMERCIAL, INDUSTRIAL, OR
MUNICIPAL DEVELOPMENT WATER MAIN EXTENSION AGREEMENT (continued)

will require its contractor to comply, via its contract with contractor, with all terms and conditions set forth herein.

3. The Company estimates that _____ (\$ _____) will be the cost of installing the said "on-site" Extension as described above including overhead cost to the Company such as supervision, engineering, accounting, and legal expenses. Any difference between the actual and the amount contributed shall be shown as a revision of the amount of contribution and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of on-site facilities". If it is necessary to adjust the amount of Applicant's contribution, in accordance with the terms of this Paragraph, a supplemental memorandum will be prepared setting forth the "contributed cost of on-site facilities" and shall be attached hereto and made a part hereof.

4. The Company estimates that _____ (\$ _____) will be the cost of installing the said "off-site" Extension as described above including overhead cost to the Company such as supervision, engineering, accounting, and legal expenses. Any difference between the actual and the amount contributed shall be shown as a revision of the amount of contribution and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of off-site facilities". If it is necessary to adjust the amount of Applicant's contribution, in accordance with the terms of this Paragraph, a supplemental memorandum will be prepared setting forth the "contributed cost of off-site facilities" and shall be attached hereto and made a part hereof.

5. The Applicant agrees to advance to the Company, simultaneously with the execution of this Agreement, the sum of _____ Dollars (\$ _____) which represents the cost of the Company's overhead fees, and such items as inspection and testing. Such amount shall be subject to reconciliation after all such costs are known and the difference shall be either refunded to or collected from the Applicant.

6. The installation shall be subject to the Company's inspection, testing and acceptance, however, absence of such inspection or testing by the Company shall not relieve the Applicant of any of its obligations. The Company shall require the Applicant and the Applicant's contractor (via its contract with the Applicant) to warrant the work in accordance with Paragraph 15 below. The Company shall further require the Applicant and the Applicant's contractor (via its contract with the Applicant) to maintain insurance as follows:

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Marshall Thompson, Vice President
8248 West Victory Road, Boise, Idaho

SUEZ WATER IDAHO INC.

RESIDENTIAL OR MULTIPLE FAMILY HOUSING
NON-CONTIGUOUS WATER SYSTEM AGREEMENT (continued)

3. Company shall have the right to conduct, review and confirm, to Company's satisfaction, test results in connection with any and all wells, soil tests, engineering tests, environmental surveys, plans and specifications and/or record drawings, and related studies of the Water Facilities deemed necessary by Company to determine the suitability, in Company's sole discretion, of the Water Facilities for expansion. Should an applicant propose a Development requiring special facilities, upgrades, modifications or, if the Development is deemed by the Company to be unusual or burdened with special needs, that existing water system will be looked at independently and the terms of the acquisition will be set forth in an amendment hereto.

[Add the following paragraph if Owner is to construct the Water Facilities:

4. Immediately after the execution of this Agreement, Owner shall diligently proceed to obtain all governmental approvals including, without limitation, all necessary permits, information, and consents required by the appropriate federal, state, or local governmental authorities, agencies, or officials to permit the construction, operation and maintenance of the Water Facilities. As soon as practicable, after receipt of such governmental approvals, Owner shall diligently proceed to construct the Water Facilities, as described, or to be described, in the Water Facilities plans and specifications prepared and sealed by a licensed professional engineer and reviewed and approved by the parties hereto. The cost of obtaining all governmental approvals, the cost of such plans and specifications, and the cost of the construction of the Water Facilities shall be borne by Owner at Owner's sole cost and expense. At the sole discretion of Company, inspection of the construction of the Water Facilities shall be conducted by Company. Based on proper advice and consideration, Company may alter the performance from strict adherence to such plans and specifications if based on job site experience, or if adherence to such plans and specifications becomes impractical or infeasible under the circumstances. Company shall be the sole judge as to the adequacy of the Water Facilities. The parties hereto shall cooperate fully with each other and all other parties in connection with each other's efforts hereunder.]

[Add the following paragraphs if Company is to construct the Water Facilities:

4. Owner shall contribute to Company upon the execution hereof the sum of _____ Dollars (\$ _____) which amount Company estimates to be the cost of installing said Water Facilities including overhead cost to Company such as supervision, engineering, accounting, legal expenses and the cost of obtaining any necessary governmental permits. Any difference between the actual and the amount contributed shall be shown as a revision of the amount contributed and shall be payable within thirty (30) days of submission. The actual cost thus finally determined shall be referred to as the "contributed cost of facilities." If it is necessary to adjust the amount of Owner's contribution, in accordance with the terms of this paragraph, a supplemental Memorandum will be prepared setting forth the "contributed cost of facilities" and shall be attached hereto and made a part hereof. The amount of said "contributed cost for

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RESIDENTIAL OR MULTIPLE FAMILY HOUSING
NON-CONTIGUOUS WATER SYSTEM AGREEMENT (continued)

construction of the Water Facilities. Owner shall warrant to Company in writing that the Water Facilities has been constructed in accordance with the plans and specifications reviewed and approved by Company, and shall provide Company with as-built record drawings of the Water Facilities. Owner shall also warrant the Water Facilities against defects in construction for a period of one (1) year from execution of such warranty.

6. Owner shall contribute to Company upon the execution hereof the Water Facilities as described above, and shall also contribute overhead costs to Company such as supervision, engineering, accounting, legal expenses and the cost of obtaining any necessary governmental permits. The actual cost of contribution shall be referred to as the "contributed cost of facilities." The Source of Supply costs shall be referred to and be booked as an advance in aid of construction. All other costs shall be referred to, and be booked as, a contribution in aid of construction.

7. Upon conveyance of the Water Facilities to Company, Company shall be solely responsible for management, maintenance and operation of the Water Facilities. The parties agree that the Water Facilities and associated permits and licenses shall be managed and operated by Company in a manner which is comparable to and consistent with Company's management and operation of its other water utility facilities within the State of Idaho. The parties further acknowledge that Company shall serve all residential customers as a public utility, subject to the jurisdiction of the IPUC.

8. Owner shall prepare and record (prior to the sale of any lot in the Project) perpetual restrictive covenants which include, without limitation, that the Water Facilities is or shall be owned and operated by Company. Company shall cooperate with Owner in the preparation of such restrictive covenants and shall have the right to approve such restrictive covenants prior to recordation. Such approval shall not be unreasonably withheld. Owner shall cause a notation to be made on any subdivision plat of the Project that states that the Water Facilities is or shall be owned and operated by Company.

9. If the Project is served by a non-potable irrigation System, appropriate backflow prevention device(s) shall be required to be installed at no cost to Company. Owner shall prepare and record (prior to the sale of any lot in the Project) perpetual restrictive covenants which include, without limitation, that cross-connections are prohibited, and shall delegate to Company the right to inspect such non-potable irrigation system, enforce such restrictive covenants, and to remove any such cross-connections. Company shall cooperate with Owner in the preparation of such restrictive covenants and shall have the right to approve such restrictive covenants prior to recordation. Such approval shall not be unreasonably withheld.

10. An amount not to exceed Eight Hundred Dollars (\$800.00), as more fully described on Attachment No.2 attached hereto, which is subject to modification as Adjusted Average Residential Revenue may change with future rate activity, shall be paid by Company to Owner as soon as practicable after each lot is connected to the

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