

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF SUEZ WATER’S) CASE NO. SUZ-W-20-01
PETITION FOR AUTHORIZATION TO)
ELIMINATE COLLECTION OF GROSS-) NOTICE OF PETITION
UP PAYMENTS ASSOCIATED WITH)
CONTRIBUTIONS IN AID OF) NOTICE OF
CONSTRUCTION) MODIFIED PROCEDURE
)
)
ORDER NO. 34738

On June 22, 2020, Suez Water (“Company”) filed a Petition requesting a Commission order permitting the Company to no longer collect the federal and state income tax gross-up amount related to the Contribution in Aid of Construction (“CIAC”) received from developers. The Company proposes to change the CIAC income tax collection method by paying the tax itself and recovering its costs to serve the new development through rates paid by the new customers served. The Company also requested to update its tariffs¹ to reflect the proposed changes. The Company requested its Petition be processed by Modified Procedure.

With this Order, the Commission issues a Notice of Petition and Notice of Modified Procedure and sets a public comment period and Company reply deadline.

BACKGROUND

The Company’s tariffs include charges and rules that apply when a developer requests the Company connect its water system to new individual, industrial, or commercial developments. Certain charges and allowances relate to main extensions requiring special facilities. These charges are designed to recover the Company’s construction costs, annual overhead expenses, and depending on current tax law, federal and state income tax associated with the developer’s CIAC.

From 1996 through 2017, federal tax law exempted CIAC from a water utilities’ taxable income. The 2017 Tax Cuts and Jobs Act (“TCJA”) removed this exemption. As a result, the Company has included CIAC in its annual taxable income since January 1, 2018.

In May 2018, the Commission directed the Company to account for the taxability of CIAC by grossing-up developers’ contributions. *See* Order No. 34074, Case No. GNR-U-18-01.

¹ The Company is proposing to modify Tariff Sheet Nos. 27, 33, 36, 43, and 45.

Effective June 1, 2018, the Company's tariffs have included a table illustrating the basis for calculating the tax gross-up factor so the charges would reflect the net present value of CIAC-related cash flows and the future tax deductibility of contributed asset. The tariffs' "special facilities charges" to developers include the gross-up factor and offset the Company's increased tax liability from CIAC under the TCJA.

NOTICE OF PETITION

YOU ARE HEREBY NOTIFIED that the Company states it has conducted a study that shows its existing rates for water service will generate sufficient revenue from customers in a new development to cover the Company's CIAC-related tax expenses from that development.² The Company thus proposes to modify the method of CIAC payment approved in Order No. 34074 and update the Company's tariffs so developers no longer pay for future CIAC-related taxes. The Company's states its proposal ensures development will pay for the additional costs it imposes, and existing customers will not subsidize the development through rate increases.

YOU ARE FURTHER NOTIFIED that the Company proposes to cease grossing-up contributed property on the effective date of the final order in this case. CIAC would become taxable upon transfer of ownership to the Company. The Company would refund the tax gross-up to the developer for any project that closes on or after the effective date. If the Company has incurred a tax liability on a project that closed before the effective date, then the Company would retain the developer's gross-up payment.

YOU ARE FURTHER NOTIFIED that the Company's Petition and Exhibits, including the proposed tariff sheets and testimony, are available for public inspection during regular business hours at the Commission's office. The Petition is also available on the Commission's web site at www.puc.idaho.gov. Click on the "WATER" tab in the left-hand column of the home page, then select "Open Cases" and then locate and click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code. The Commission may enter any final order consistent with its authority under Title 61.

² See Direct Testimony of Cathy Cooper at 5-7.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted under the Commission's Rules of Procedure, IDAPA 31.01.01.000, *et seq.*

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and it will review the case through written submissions under the Commission's Rules of Modified Procedure Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201-204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that persons desiring to state a position on this Petition may file a written comment explaining why the person supports or opposes the Petition. Persons who would like a hearing must specifically request a hearing in their written comments. **Persons shall have until September 15, 2020, to file written comments.** Comments must be filed by e-mail unless e-mail is unavailable. To comment by e-mail, please access the Commission's home page at www.puc.idaho.gov. Click the "Consumers" tab and then "Case Comment Form" and complete the form using the case number as it appears on the front of this document. Comments filed by e-mail must also be e-mailed to the Company at the e-mail addresses listed below. If e-mail is unavailable, then comments may be mailed to the Commission and Company at these addresses:

**For the Idaho Public Utilities
Commission:**

Commission Secretary
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

For Suez Water:

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YOU ARE FURTHER NOTIFIED that **the Company must file any reply comments by September 22, 2020.**

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

ORDER

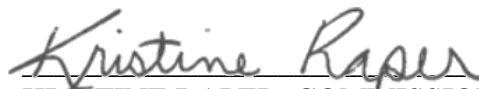
IT IS HEREBY ORDERED that this case be processed by Modified Procedure, Rule 201-204 (IDAPA 31.01.01.201 - .204). Persons shall have until September 15, 2020, to file written comments, and the Company shall have until September 22, 2020, to file a reply, if any.

IT IS FURTHER ORDERED that parties continue to comply with Order No. 34602, issued March 17, 2020. All pleadings should be filed with the Commission electronically and shall be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should also be accomplished electronically. Voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 29th day of July 2020.



PAUL KJELLANDER, PRESIDENT

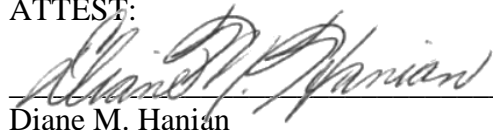


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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