

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF SUEZ WATER IDAHO</b>	)	<b>CASE NO. SUZ-W-20-02</b>
<b>INC.’S APPLICATION FOR AUTHORITY</b>	)	
<b>TO INCREASE ITS RATES AND CHARGES</b>	)	
<b>FOR WATER SERVICE IN IDAHO</b>	)	<b>ORDER NO. 35030</b>
	)	

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On September 30, 2020, SUEZ Water Idaho Inc. (“Company”) applied to increase its rates and charges for water service in Idaho. The Company proposed to increase its rates by \$10,160,211—an average of 22.3%. The Company proposed to apply the rate increase uniformly to all customer classes, including miscellaneous service charges and fees. The Company also requested an October 31, 2020 effective date.

On March 17, 2021, a Stipulation and Settlement (“Settlement”) and a motion for Commission approval of the proposed Settlement were filed with the Commission. *See* IDAPA 31.01.01.056, .272, .274. Under the proposed Settlement, the Company would be allowed to implement revised tariff schedules designed to recover an additional \$3.996 million, representing an 8.75% increase in revenue.

Having reviewed the record, the Commission now issues this Order approving the Settlement based on the findings set forth below.

**PROCEDURAL BACKGROUND**

The Company requested to increase rates by 22.3%. On October 21, 2020, the Commission issued a Notice of Application, suspended the Company’s proposed effective date of October 31, 2020 for 30 days plus 5 months, and set a deadline for interested persons to petition for intervenor status. Order No. 34819. Micron Technology (“Micron”), Boise City, Ada County, Intermountain Fair Housing Council (“IFHC”), SUEZ Water Customer Group (“SWCG”), Community Action Partnership Association of Idaho (“CAPAI”), and Gannon et al. (collectively the “Intervenors”) petitioned to intervene, and the Commission granted their petitions. Order Nos. 34845, 34859, and 34861.

On February 11, 2021, Commission Staff entered settlement negotiations with the Company and Intervenors. Four settlement conferences were held. On March 17, 2021, the proposed Settlement and a motion for Commission approval of the proposed Settlement were filed with the Commission. *See* IDAPA 31.01.01.056, .272, .274. The two intervenors that did not sign

the Settlement, IFHC and Gannon et al., filed motions to withdraw as parties, and the Commission granted their motions.<sup>1</sup> See Order No. 35002.

To allow adequate time to review the record and deliberate, the Commission extended the period of suspension until June 29, 2021. See Order No. 35014.

A public workshop was held on March 25, 2021; a customer hearing on the proposed Settlement was held on April 15, 2021; and a technical hearing on the proposed Settlement was held on April 20, 2021.

### **OVERVIEW OF THE SETTLEMENT**

The proposed Settlement was signed by the Company, Staff, Micron, Boise City, Ada County, SWCG, and CAPAI. Under the proposed Settlement, the Company would be authorized to issue new tariff schedules designed to recover \$3.996 million in a two-phase approach—an overall increase of 8.75%. From May 1, 2021 through April 30, 2022, the Company would implement tariffs designed to collect an additional \$1.62 million in revenues—a 3.55% increase from current rates.<sup>2</sup> Beginning May 1, 2022, the Company would be allowed to revise its tariffs to collect an additional \$2.376 million in revenues—an approximately 5.20% increase in addition to the 3.55% increase in year one.

The parties to the Settlement also agreed on many other terms, several of which are highlighted below.

#### ***1. Components of the revenue requirement***

The parties to the Settlement agreed on several components of the revenue requirement, including amortization amounts, deferral of pension costs, depreciation rates, and intervenor funding. Regarding intervenor funding, the signing parties agreed, “[a]ny intervenor funding awarded by the Commission will be added to revenue requirement and recovered in rates for the year of May 1, 2021 through April 30, 2022, and beginning May 1, 2022, will not be further included in the revenue requirement upon which rates are based on this case.” Settlement at 5.

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<sup>1</sup> Intervenors Gannon et al. withdrew from this case after entering a memorandum of understanding with Commission Staff. The Commission is not asked to approve or otherwise rule on the memorandum of understanding.

<sup>2</sup> Based on the terms of the Settlement, the rates from May 1, 2021 through April 30, 2022 will also include recovery of any intervenor funding the Commission awards in this case.

Specific amortization amounts and timelines include:

**a. Amortization amounts**

- (1) Deferred pension costs of \$477,382 shall be amortized over a 48-month period beginning when rates go into effect from this case and continuing until the Company's next general rate case filing. The remaining balances, as calculated from the Company's book deferral amounts when rates from this case go into effect, will be included in the Company's next general rate case.
- (2) Deferred Power costs of \$197,485 shall be amortized over a 48-month period beginning when rates go into effect from this case and continue until the Company's next general rate case filing. The remaining balances, as calculated from the Company's book deferral amounts when rates from this case go into effect, will be included in the Company's next general rate case.
- (3) Rate Case Expenses shall be amortized over a 48-month period beginning as of the date of the change in rates in this case.<sup>3</sup>
- (4) Deferred convenience fees shall be amortized over a 48-month period beginning as of the date of the change in rates in this case.
- (5) The protected portion of the regulatory liability resulting from the change in income tax rates from the Tax Cuts and Jobs Act ("TCJA") will be amortized at a rate of \$227,000 per year.
- (6) The unprotected portion of the regulatory liability of \$1,603,716 from the change in income tax rates from the TCJA will be amortized over a 12-month period beginning as of the date of the change in rates in this case.
- (7) The regulatory liability of \$772,504 resulting from the change in income tax rates from the TCJA for the period beginning January 1, 2018 through May 31, 2018 because of the Commission's Order No. 34074 in case GNR-U-18-01 will be amortized over a 12-month period beginning as of the date of the change in rates in this case.
- (8) The regulatory assets associated with tank paintings in this case, beginning as of the date of the change in rates in this case, shall be amortized over a 20-year period and are set forth as follows:

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<sup>3</sup> Provided that any amounts awarded by the Commission as intervenor funding will be added to Rate Case Expenses and amortized as described in Paragraph 9.d of the Settlement.

Barber Tank (Internal)	\$16,902
Hulls Gulch (Internal)	\$56,758
Hulls Gulch (External)	\$10,667
Hidden Hollow	\$5,116

*Id.* at 3-5.

Amortization of allowance for funds used during construction (AFUDC) equity will continue with a 35-year amortization period. Amortizations of other similar items approved in previous rate cases are governed by those respective rate orders as provided in the Company’s rate case filings.

**2. Depreciation study**

The Company agreed in the Settlement to file an updated depreciation study with its next general rate case filing if that filing occurs more than two years from the date the Settlement is approved by the Commission.

**3. Future load study**

The Company agreed to complete a load study to “provide calculated max-day and max-hour factors for the total system as well as by appropriate customer class.” *Id.* at 6. The Company will work with interested parties to take input on load study components including “customer class definitions, sampling methodologies from those classes, and data sources.” *Id.* The Company would commence these discussions soon after the final decision in this docket and will finish within 12 months.

**4. Public outreach**

The Company agreed to broaden its outreach efforts to its customers. Outreach will include community project updates like the Bench Bulletin series, in-person and virtual town hall listening sessions, expanded use of the Notify Reverse-911 system for customer notification, and a water-quality mailer regarding key projects and initiatives.

**5. Public workshops**

The Company agreed to “host annual workshops for all interested parties, with participation of the Commission Staff, the Idaho Department of Environmental Quality..., and the Idaho Department of Water Resources...on a range of topics related to water conservation and resource planning.” *Id.*

6. **Discussion with CAPAI**

The Company agreed to discuss the Company's low-income assistance program and to consider opportunities to improve the program for low-income customers.

**COMMENTS AND TESTIMONY OF PARTIES**

Staff and the Company filed testimony supporting the Settlement. These submissions are summarized below.

1. **The Company**

Mr. Marshall Thompson, Vice President and General Manager of SUEZ Water Idaho Inc., represented the Settlement is "fair, just, and reasonable and reflects a balance between the interests of the Company, the parties, and the public." Thompson Direct at 4. Mr. Thompson observed that the revenue requirement was "vigorously negotiated." *Id.* at 2. Mr. Thompson also noted the Settlement addresses several issues Staff and Intervenors had and reasonably resolves those issues. *Id.* at 3. Mr. Thompson concluded "the Settlement represents an outcome on a number of issues that could not have been achieved if the proceeding were fully litigated." *Id.* at 4.

At the April 20, 2021 technical hearing, Mr. Thompson responded to questions posed by the Commissioners regarding the Company's actions to address water quality on the Boise Bench. Mr. Thompson suggested the Company is continuing public outreach. Mr. Thompson testified that the Company's plans to improve water quality on the Boise Bench were on track, or even fast tracked. Tr. at 64. He indicated the Taggart Well project would limit the quantities of manganese and iron in the water but would not completely resolve all water-quality issues. *Id.* at 61. Mr. Thompson stated that the Taggart Well project would not begin until the fall because of public safety issues with fire protection and increased demand due to lawn irrigation. *Id.* at 68-69.

Mr. Thompson testified the Company continues to utilize unidirectional flushing to remove buildup of minerals that discolor water. *Id.* He said the Company also samples the water quality on the Boise Bench at disproportionately greater rates compared to other areas it serves. *Id.* at 63, 70. He added that unidirectional flushing and zone stability efforts are showing measurable results. *Id.* at 66-67. Mr. Thompson testified that the Company uses customer calls reporting poor water quality to track and map the time and place and to correlate areas of concern. *Id.* at 67.

**2. Staff**

Mr. Donn English, Program Manager of Accounting and Finance and Program Manager of Technical Analysis and Energy Efficiency, stated in his testimony that 14 Staff members analyzed the Company's Application, including auditors, engineers, utility analysts, and consumer investigators. English Direct at 3-4. Staff submitted over 155 production requests and met virtually with the Company multiple times as part of its investigation. *Id.* Staff analyzed the Company's test year results, "and verified all of the Company's calculations and assumptions with regard to the overall revenue requirement." *Id.* at 4. Staff auditors "reviewed thousands of transactions, selected samples, and performed transaction testing in accordance with standard audit practices." *Id.* The Company's labor expense, incentive plans, and employee benefits were all reviewed by Staff. *Id.* Staff also reviewed Company investments to determine whether they were prudently incurred. *Id.* Cost of capital, capital structure, cost of services, and revenue normalization were also investigated. *Id.*

Mr. English noted Staff supports the proposed Settlement, as it "offers a reasonable balance between the Company's opportunity to earn a reasonable rate of return on its investment and affordable rates for customers." *Id.* at 6. Mr. English expressed Staff's belief that the Settlement is in the public interest; fair, just, and reasonable; and should receive Commission approval. *Id.*

Regarding customer complaints on the Boise Bench about water quality, Mr. English explained that Staff will continue to investigate the complaints. *Id.* at 14. "Staff will also monitor and track the Company's ongoing plans to replace pipe, flush lines, and make improvements to the Taggart Well as approved by the Idaho Department of Environmental Quality ("IDEQ")." *Id.*

**PUBLIC COMMENTS AND TESTIMONY**

**1. Public comments**

IFHC withdrew as an intervenor in March and instead filed written public comments on April 14, 2021. IFHC argued that the Company and the Commission must comply with the federal Fair Housing Act ("FHA"), and that the Company's Application violates the FHA because the customer notice was provided only in English. IFHC Comments at 3-6. IFHC also argued that the Company's proposed rate increase in its Application violates the FHA because it will have a disparate impact on housing consumers who are members of protected classes. *Id.* at 4-5.

Before the Settlement was filed, the Commission received numerous written comments from the public, the vast majority opposing the Company's proposed 22.3% rate increase. The comments focused on the unreasonableness of the proposed rate increase, the timing with the economy recovering from the Covid-19 pandemic, discolored water, where water infrastructure was being constructed and the specific areas it benefited, and what rate increase would be appropriate.

After the Settlement was filed on March 17, 2021, however, the Commission received only three written comments. Only one of them may be reasonably interpreted as opposing the Settlement. That customer comment opposed any rate increase, citing the discolored water on the Boise Bench.

## **2. Public testimony**

On April 15, 2021, the Commission held a telephonic customer hearing on the proposed Settlement. Twelve customers testified. All of them expressed concern over the quality of water they were receiving, more specifically the discolored water. Customers conveyed frustration about having to do additional cleaning of appliances and fixtures, replacing appliances at an accelerated rate, checking water quality before washing laundry, and buying bottled water or filtration systems.

Generally, the testimony was not focused on the terms of the Settlement. However, some customers suggested it was inappropriate to raise their rates until the issues with discolored water are resolved.

## **COMMISSION FINDINGS AND DECISION**

SUEZ is a water corporation and a public utility, as defined under Title 61 of the Idaho Code, and provides water service to the public in Idaho. *Idaho Code* §§ 61-125, and -129. The Commission has jurisdiction over the Company and this matter under *Idaho Code* §§ 61-501, -502, -503, -507, -520, -523, and -622.

The Commission reviews settlement stipulations under Procedural Rules 271-277. IDAPA 31.01.01.271-.277. Under those rules, the Commission prescribes how it will consider a proposed settlement, given the nature of the case and settlement terms before it. IDAPA 31.01.01.274. Here, we set the matter for a technical hearing at which the parties presented testimony supporting the settlement stipulation; we also requested comments from the public, in writing or through testimony at a public customer hearing. Order No. 34978.

The purpose of a technical hearing on a settlement is “to consider the reasonableness of the settlement and whether acceptance of the settlement is just, fair, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” IDAPA 31.01.01.274. A settlement’s proponents must show that the settlement is reasonable, in the public interest, or otherwise according to law or regulatory policy. IDAPA 31.01.01.275. The Commission is not bound by settlement agreements. Instead, we “independently review any settlement proposed” to determine whether it complies with our rules and the law. IDAPA 31.01.01.276.

Staff and the Intervenors extensively reviewed, scrutinized, questioned, and investigated the Company’s assertions in the Company’s rate case filing. The parties spent considerable time and effort developing and negotiating their positions. Staff reviewed the Company’s test year results of operations, capital budgets, capital spending trends, and operations and maintenance expense and trends. Tr. at 80. Staff also reviewed the Company’s labor expense, incentive plans, and employee benefits. *Id.* Staff investigated the Company’s cost of service, capital structure, cost of capital, and revenue normalization. *Id.* Staff, the Company, and the Intervenors held four settlement conferences to address Staff’s and Intervenors’ concerns about the Company’s filing.

**1. Revenue requirement and studies**

The Settlement reduces the Company’s initial request to raise rates \$10.16 million (22.3%) to an increase of \$3.996 million (8.75%), implemented over two phases. In its Application, the Company stated, “presently authorized rates produce a rate of return of 4.09%.” The Company requested authority to collect “additional revenues to recover increased operating expenses and costs associated with plant additions, and to produce a fair rate of return thereby enabling it to continue to provide adequate and reliable service to its customers.”

The record suggests that Staff, the Company, and Intervenors spent considerable time investigating the Company’s proposal and negotiating for an outcome that would provide reasonable rates for customers and an opportunity for the Company to earn a reasonable return on its investment. Significant discovery was conducted, which allowed the parties to explore the Company’s proposed rate increase and make informed decisions regarding settlement. Clearly the parties worked hard through numerous settlement conferences to identify adjustments that would result in an outcome that could be agreeable to the parties, the public and, ultimately, this Commission. Staff stated the Settlement offered balance “between the Company’s opportunity to



earn a reasonable return on its investment and affordable rates for customers.” *Id.* at 83. The parties’ efforts culminated in a Settlement that the parties agree is “fair, just, and reasonable, in the public interest, and otherwise in accordance with law or regulatory practice.” Settlement at 8.

The Settlement includes a phase-in of the negotiated rate increase. *Id.* at 83. Customers would see a 3.5% increase on May 1, 2021, which represents increased revenues of \$1.62 million in the first year. *Id.* On May 1, 2022, rates would increase by 5.2%, which represents a \$2.376 million increase in the second year. *Id.* at 83-84. Over two years, the impact of both increases is 8.75%, or \$3.996 million. *Id.* at 84.

We find that the first-year revenue increase of \$1.62 million, effective May 1, 2021, and the second-year increase of \$2.376 million, effective May 1, 2022, are fair, just, and reasonable, and in the public interest. *See Idaho Code* § 61-622; IDAPA 31.01.01.274-.276. These revenue increases are necessary to allow the Company to recover reasonable investments and expenses.

The parties to the Settlement agreed the first year, May 1, 2021 through April 30, 2022, would include a one-time application of tax benefits associated with unprotected, non-plant Accumulated Deferred Federal Income Tax (“ADFIT”) balances. *Id.* at 88. The ADFIT balance can be returned to customers in any manner approved by the Commission. *Id.* The Settlement contemplates returning the entire ADFIT balance—approximately \$1.6 million—in the first year. We find that applying the \$1.6 million ADFIT balance to the first year is reasonable. It will help keep the rate increase low which will benefit customers.

In the Settlement, the parties also agreed the Company would (1) file an updated depreciation study with its next general rate case; (2) undertake a load study; (3) broaden its public outreach efforts and host public workshops related to water quality and resource planning; and (4) examine its low-income assistance program including participation and future opportunities. Settlement at 6-7. We find these additional actions to be in the public interest and anticipate the Company will complete them according to the expectations memorialized in the Settlement.

## **2. Discolored water**

While not explicitly included within the terms of the Settlement, we cannot ignore the numerous customer reports of discolored water on the Boise Bench. We received extensive testimony at the customer hearing and in several public comments. We are sympathetic to the customers concerns and frustrations.

There is no question that the Company is aware of the problem and is working to correct it, albeit not fast enough for the residents who live there. It is also our understanding that the water the Company is providing complies with IDEQ standards. We encourage the Company to continue to work diligently to consider and implement solutions to address the understandable concerns of the Bench residents. The Company has agreed to keep Staff apprised of these efforts.

**3. Intervenor funding**

Because recovery of intervenor funding was a term of the Settlement and the Settlement will become effective May 1, 2021—before the Commission has had a chance to consider intervenor funding requests—the Commission will allow the Company to recover a proxy amount that may be adjusted later. *See* IDAPA 31.01.01.164. Due to the number of intervenors, various viewpoints and full participation during settlement conferences, the Commission presumes that the full statutory allowance for intervenor funding will be met. *See Idaho Code* §61-617A(2). Therefore, the Commission authorizes the Company to include \$40,000 of presumed intervenor funding to its revenue requirement for the May 1, 2021 through April 30, 2022 period – consistent with the terms of the Settlement. If less than \$40,000 for intervenor funding is ultimately awarded, the Commission will direct the appropriate adjustments in its order directing payment of intervenor funding. The intervenor funding award shall be chargeable to the Schedule 1—General Metered Service customers. *Idaho Code* § 61-617A(3).

**ORDER**

IT IS HEREBY ORDERED that the Settlement filed on March 17, 2021, is approved. The rates contemplated in the Settlement shall be effective May 1, 2021. The Company shall promptly file conforming tariffs.

IT IS FURTHER ORDERED that the Company shall recover \$40,000 in intervenor funding. This amount shall be included in the Company's rates for the period of May 1, 2021 through April 30, 2022, subject to adjustment as noted above.

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.

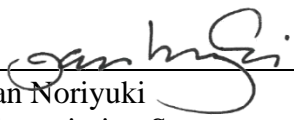
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30<sup>th</sup> day of April 2021.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Jan Noriyuki  
Commission Secretary

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