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Attorneys for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF SUEZ WATER)
IDAHO’S APPLICATION FOR AMENDMENT) CASE NO. SUZ-W-21-02
OF ITS CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)
) COMMENTS OF THE
) COMMISSION STAFF
)

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

BACKGROUND

On April 2, 2021, SUEZ Water Idaho Inc. (“SUEZ” or “Company”) applied to amend its certificated service territory to remove an area in unincorporated Ada County.

The 520-acre area was added to SUEZ’s Certificate of Public Convenience and Necessity (“CPCN”) No. 143, as amended in 2007, in anticipation of a 700-plus residential housing subdivision described as the Trailhead Community being built on it. *See* Case No. UWI-W-06-04, Order No. 30367. SUEZ states that the Trailhead Community was never developed. SUEZ asserts that the “entire area is undeveloped and unserved, and SUEZ has not received any formal request for extension of service from, or committed to serve, any property owner in the area.” Application

at 3. SUEZ also states that it is “not aware of any development applications pending before Ada County or the City of Eagle affecting this area.” *Id.*

STAFF ANALYSIS

Staff reviewed the Company’s Application proposing to amend its CPCN by removing the Trailhead Community area. Staff also reviewed the Water Management Agreement (“WMA”) entered between SUEZ and the City of Eagle (“City”). Staff believes that SUEZ customers will not be harmed by amending the CPCN. Therefore, Staff recommends the Commission approve the Company’s request.

WATER MANAGEMENT AGREEMENT

As a part of the settlement between the City of Eagle and SUEZ in the District Court case involving SUEZ’s purchase of Eagle Water Company,¹ SUEZ and the City entered into a WMA, effective February 9, 2021. The Company notes:

A primary purpose of the WMA is to provide a mechanism and process for the parties to cooperate in their future water planning and area of service decisions. The WMA contains terms addressing future service area adjustments, administrative filings with the Idaho Department of Water Resources and with the [Idaho Public Utilities Commission], guiding principles for future intertie agreements, and maintenance of good faith communications concerning items of joint interest to SUEZ and the City.

Application at 4. The new WMA provides the Company and the City a mechanism to engage in discussions involving future expansion in or around the City’s service area. However, because of the franchise agreement between the Company and the City, the City cannot serve the 520-acre area until it is removed from SUEZ’s certificated service area. The City represented to Suez that it can adequately serve customers within the 520-acre area if it is removed from the Company’s CPCN. Application at 6. The Application also states that greater cooperation between Suez and the City will be fostered and the “removal of the subject area from SUEZ’s certificated service area would not necessarily preclude SUEZ from extending service there in

¹ In the District Court case, Case No. CV01-19-03534, the City sought declaratory and other relief, asserting that it had a contractual right of first refusal to purchase the system.

the future if a property owner required water service and SUEZ and [the City] agreed that SUEZ was best able to serve consistent with their WMA.” *Id.* at 6-7.

SUEZ has not made any investments in the Trailhead Community. With no assets in place for the Trailhead Community, neither SUEZ nor its customers will be harmed by removing the Trailhead Community from the Company’s CPCN. Additionally, amending the CPCN will not impair SUEZ’s ability to serve existing customers or extend service to its remaining CPCN area.

Hypothetically, revenue generated from new developments could exceed the cost to serve the area, thus reducing the burden on the general body of customers. However, SUEZ serves no customers in this area at this time. Additionally, Staff believes that WMA negotiated between the City and SUEZ avoids lengthy and costly litigation.

CUSTOMER NOTICE AND PUBLIC COMMENTS

In March 2021, the Company sent a notification to each property owner within the affected area notifying them of the Company’s Application and the Company’s intent to remove the area from its certificated service area. As of the filing date of Staff Comments, no public comments have been received.

STAFF RECOMMENDATION

Staff recommends the Commission approve the Company’s request to remove the 520-acre area from CPCN No. 143.

Respectfully submitted this 8th day of July 2021.



Matt Hunter
Deputy Attorney General

Technical Staff: Travis Culbertson
Kathy Stockton
Rick Keller

i:umisc/comments/suzw21.2dhmhtncklsrk comments

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 8th DAY OF JULY 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. SUZ-W-21-02, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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