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IDAHO PUBLIC
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Attorneys for Veolia Water Idaho, Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF VEOLIA WATER IDAHO, INC. FOR AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR WATER SERVICE IN THE STATE OF IDAHO	**CASE NO. VEO-W-22-02** PETITION FOR RECONSIDERATION AND CLARIFICATION

Pursuant to the Commission's Rule of Procedure 331, IDAPA 31.01.01.331, Idaho Code § 61-626, and the inherent authority of the Commission, Veolia Water Idaho, Inc. ("Veolia," "Veolia Water Idaho" or "Company") files this Petition for Reconsideration and Clarification of Order No. 35762, entered on April 28, 2023.

BASES FOR RECONSIDERATION/CLARIFICATION

1. Legal standard

Rates set by the Commission must afford a public utility the opportunity to earn a reasonable return on the value of property that is used and useful in providing service to customers. *See, e.g., Intermountain Gas Co. v. Idaho Pub. Utils. Comm'n*, 97 Idaho 113, 125,

(1975) (quoting *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 690 (1923)).

The Commission has broad discretion to set rates. But that discretion is not boundless. The Commission must make factual findings, sufficient to enable judicial review, that are supported by evidence in the record. *Wash. Water Power Co. v. Idaho Pub. Utils. Comm'n*, 101 Idaho 567, 575-76 (1980) (overturning Commission decision that lacked sufficient factual findings).

The Commission must acknowledge and address issues that impact a utility's opportunity to earn a fair rate of return, including regulatory lag in environments of high inflation and large capital expenditures. *Utah Power & Light Co. v. Idaho Public Utils. Comm'n*, 102 Idaho 282, 284-85 (1981) (overturning Commission's decision to remove an attrition adjustment to account for regulatory lag, despite evidence of excessive regulatory lag due to high inflation and large capital expenditures).

And the Commission must adjust test year data "where the changes are shown to be reliable and certain" and include within rate base "all items which are proven with reasonable certainty to be justifiably used by the utility in providing service to its customers." *Utah Power & Light Co.*, 102 Idaho at 284.

2. Amount of revenue increase

The first paragraph of Order No. 35762 states, in relevant part,

> This Order establishes the revenue requirement and rates for Veolia Water Idaho, Inc. ("Company" or "Veolia"). The Commission establishes a rate base for the Company of $255,162,220, and a revenue requirement of $56,157,933. Attachment A. The Commission approves a 9.25% return on equity, and an overall 6.91% rate of return. This $2,756,227 revenue increase will increase customer rates by 7.06%, to be implemented equally across the board . . . ."

Order No. 35762 at 1 (emphasis added).

Veolia believes that the identified revenue increase—stated as $2,756,227—reflects an error in calculation or in transcription.

Attachment A to the Order, entitled Commission Ordered Revenue Requirement Summary, contains detailed calculations of each component of the approved revenue requirement. The calculations result in a deficiency in operating revenues of $3,701,726. *See* Attachment 1.

The accuracy of the $3,701,726 revenue increase is confirmed by the other figures identified in the first paragraph of Order No. 35762, as well as Attachment A. The Order approves an increase to customer rates of 7.06%. This 7.06% increase is accurate only if the revenue increase amounts to $3,701,726. Similarly, the total authorized revenue requirement of $56,157,933 reflects an increase of $3,701,726.

In summary, Attachment A directly indicates that the Order authorizes a revenue increase of $3,701,726. This is confirmed by calculations using the other amounts contained within the Order. The revenue increase identified in the first paragraph of the Order—$2,756,227—appears to be a mathematical or transcription error. Veolia respectfully requests that the Commission clarify that the Order authorizes a revenue increase of $3,701,726.

3. Return on Equity

The Commission authorizes a Return on Equity of 9.25%. *See* Order No. 35762 at 1, 9. This ROE appears to be driven to some degree by Veolia Water Idaho's status as a subsidiary within the larger Veolia company structure. *See* Order No. 35762 at 9 ("Similarly, the Commission is not persuaded by the Company's risk analysis and size comparison to the proxy group that ignores the Company's status as wholly owned subsidiary." (emphasis added)).

Authorizing a Return on Equity based upon the size and geographical footprint of Veolia's parent companies, rather than that of Veolia Water Idaho, raises a host of problems. Simply stated, the benefits of Veolia Water Idaho's subsidiary status are passed on to Idaho customers. Just not through a depressed Return on Equity.

In addition, the authorized Return on Equity is significantly lower than other water utilities in Idaho and the Pacific Northwest. This is inconsistent with the standards set forth in *Bluefield*, adopted by Idaho caselaw, under which Veolia is entitled to receive a return similar to other businesses (1) at the same time (2) in the same geographic area (3) with similar risks and uncertainties. *See Bluefield*, 262 U.S. at 692. Accordingly, Veolia requests that the Commission reconsider the authorized Return on Equity.

A. The 9.25% ROE is based on an erroneous premise: that the Idaho utility's status as a subsidiary dictates the ROE for the Idaho utility.

The Commission's Order rejected Veolia's risk analysis and size comparison to the proxy group, characterizing it as "ignor[ing] the Company's status as wholly owned subsidiary." *See* Order No. 35762 at 9. While Veolia's status as a wholly-owned subsidiary should not be ignored, neither should Veolia's size and risk as a 105,000-customer utility operating in Idaho. And that is precisely what Staff advocated: in evaluating risk, Mr. Terry testified that to "include *any* adjustment or bias due to the small size of the Company denies these benefits of the larger entity to the ratepayers." Tr. Vol. III, 804–05 (emphasis added).

Veolia respectfully submits that the ROE authorized to an Idaho utility must account for that utility's size when evaluating risk and comparing to a proxy group, even when that utility is a wholly-owned subsidiary, and accordingly requests that the Commission reconsider the authorized ROE on this basis.

Staff's position—that Veolia Water Idaho's size should not be taken into account when assessing risk—presumes cross-subsidization. Staff's witness on this issue, Mr. Terry, asserts that the customer base of Veolia North America decreases, and the customer base of Veolia Environnement eliminates, risks associated with Veolia Water Idaho's small size. Tr. Vol. III, 804-05.[1] The only way this could be true is if the customers of Veolia entities in other jurisdictions subsidized Veolia Water Idaho's customers. *See* Tr. Vol. II, 392 (Mr. Walker's rebuttal testimony). Cross-subsidization between subsidiaries in different jurisdictions is prohibited. And rightfully so—Veolia Water Idaho customers should not subsidize, for example, the customers of Veolia Water New Jersey, Inc. if Veolia Water New Jersey, Inc.'s service territory experienced drought, catastrophic infrastructure failure, or other problems associated with that utility's geographic footprint. The costs of Veolia Water New Jersey, Inc.'s operations should be borne by its customers. So it is here. The fact that Veolia's parent companies own other utilities with customers in other states does not offset the risk inherent in Veolia Water Idaho's 105,000-customer footprint in the Treasure Valley.

Mr. Terry argues that failing to consider the corporate structure would deny customers the benefit of being within a big company. Tr. Vol. III, 805; *id.* at 835. That is not the case. Veolia Water Idaho customers benefit from its status as a subsidiary in various ways: Veolia Water Idaho does not need its own separate executive team, accounting team, HR team, and computer systems; Veolia Water Idaho uses the imputed capital structure of its parent company rather than 100% equity; Veolia Water Idaho has access to debt at lower rates; and so forth. But the benefit to customers does <u>not</u> include a depressed Return on Equity. Return on Equity is

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[1] Mr. Walker explains the corporate structure: Veolia Water Idaho is a wholly-owned subsidiary of Veolia Utility Resources, which is a subsidiary of Veolia Utility Parent, Inc.; which is a wholly-owned subsidiary of Veolia North America, Inc.; which is a wholly-owned subsidiary of Veolia Environnement S.A. Tr. Vol. II, 372 n.2.

properly set for the business unit in Idaho, independent from customers of other affiliates that cannot cross-subsidize Idaho customers. *See* Tr. Vol. II, 392-93 (Mr. Walker rebuttal testimony: "The precepts of a fair rate of return . . . relate to business enterprises, or VWID, not its investors. . . . [A] fair rate of return for a business enterprise should not change based on the composition of its investors, either.").

Similarly, the proxy group of water utilities should properly compare utilities of similar sizes with similar risks. But Staff's witness on this issue, Mr. Terry, included Veolia Water Idaho's great-great grandparent, Veolia Environnement S.A., within the proxy group for the comparable earnings analysis. Tr. Vol. III, 807-08. This skewed results downward—excluding Veolia Environnement S.A. results in an average ROE for the proxy group of approximately 10.67% with a median ROE of 9.85%. *See* Tr. Vol. III, 833–34.

Veolia respectfully submits that this comparison is misplaced. First and foremost, Mr. Terry does not adequately justify inclusion of Veolia Environnement within the proxy group. Mr. Terry does not cite any finance literature, legal authority, or other source to support inclusion of Veolia Environnement within the proxy group. He simply asserts: "I <u>feel it is always appropriate</u> to include Veolia Water Idaho's parent company in the proxy group, should the data be available and somewhat comparable to the proxy group." Tr. Vol. III at 807-08 (emphasis added).

The lack of support for including Veolia Environnement S.A. in the proxy group was confirmed on cross-examination. *See* Tr. Vol. III, 836-37 ("Q: Okay, So Mr. Terry, in including Veolia Environment in your comparable earnings group, did you cite Commission precedent as authority for that? A: No. Q: Did you cite an academic source for that? A: No. Q: Did you cite any authority for that? A: It seemed logical. I walked through the process and said that if this is the one investor in Veolia Water Idaho, Inc., then we should be at least including this into the sample, even if at some points in other places I remove it, because it got too far out of hand. It was too far out from the center.”).

Second, the facts belie Mr. Terry’s assertion that Veolia Environnement is “somewhat comparable” to Veolia Water Idaho. Veolia Environnement is a multinational company with 176,488 employees as of 2021. *See* Tr. Vol. III, 832; *id.* at Exh. 25. Veolia Water Idaho has 137 employees. Tr. Vol. II, 136. Based on 2021 financial information, 4% of Veolia Environnement’s employees are within North America. *See* Tr. Vol. III, 832; *id.* at Exh. 25. 100% of Veolia Water Idaho’s employees are in Idaho. Veolia Environnement is engaged in multiple business segments in its nationwide footprint—in 2021, 62.2% of its revenue came from waste and energy projects. Veolia Water Idaho is engaged in a single business: providing water service in the Treasure Valley. Veolia submits that Veolia Environnement is not comparable—or even somewhat comparable—to Veolia Water Idaho. Veolia Water Idaho’s ROE should not be set with reference to Veolia Environnement, S.A.

Finally, authorizing Veolia Water Idaho’s Return on Equity based on its status as a subsidiary reflects fundamentally the wrong question. An investor <u>in Veolia Environnement</u> may view <u>Veolia Environnement’s</u> diverse footprint and sources of income as requiring a lower rate of return for an investment <u>in Veolia Environnement</u>. But the question at hand is what return on equity an investor <u>in Veolia Water Idaho</u> would require to invest <u>in Veolia Water Idaho</u>. The relevant business unit, the relevant customer base, the relevant product line, and the relevant geographical footprint is that of Veolia Water Idaho, not that of its parent company or companies. *See* Tr. Vol. II, 391-92.

To summarize: the Commission concludes that the authorized ROE of 9.25% is necessary, at least in part, because the Company’s risk analysis and size comparison “ignores the

Company's status as a wholly owned subsidiary." Order No. 35762 at 9. Veolia respectfully disagrees. Veolia's analysis does not ignore the Company's status as a subsidiary; it properly applies precedent and financial principles. Veolia submits that Staff's inclusion of Veolia's parent companies is flawed. Veolia requests that the Commission reconsider the authorized ROE as requested in this Petition, whether through issuing a revised order, additional proceedings to allow presentation of additional evidence on this issue, or as the Commission otherwise sees fit.

B. <u>The 9.25% ROE is the lowest of any utility in Idaho, in the Pacific Northwest, and among the lowest in the country for a water company.</u>

As the Commission acknowledged, a utility is entitled to a return "generally being made <u>at the same time</u> and in <u>the same general part of the country</u> on investments in other business undertakings which are <u>attended by corresponding risks and uncertainties</u>." Order No. 35762 at 9 (emphasis added) (quoting *Bluefield*, 262 U.S. at 692).

The Commission did not make the factual findings contained within this legal standard: that other companies "in the same part of the country" are earning an ROE of 9.25%; that other companies "at the same time" are earning an ROE of 9.25%; and that companies with similar "risks and uncertainties" are earning an ROE of 9.25%. The Commission must make factual findings that are both supported by evidence in the record and sufficient to enable judicial review. *See Wash. Water Power Co.*, 101 Idaho at 575–76 (overturning Commission decision that lacked sufficient factual findings to permit judicial review). Veolia respectfully submits that the evidence in this record does not support the Commission's conclusion.

First, the record demonstrates that the 9.25% return on equity is not "generally being made . . . in the same general part of the country" as Veolia. *See* Order No. 35762 at 9. As Staff Witness Joe Terry admits, the return on equity he recommends—9.0%—would be the lowest return of any utility in the State of Idaho. Tr. Vol. III, 824 ("Q: Mr. Terry, if the Commission were to accept your recommended 9.0 percent return on equity, Veolia Water Idaho would have the lowest authorized rate of return on equity of any utility that operates in Idaho, correct? A: I believe so, but I would have to subject that to check. Q: So you aren't aware of any other utility in Idaho that has an authorized return on equity of 9.0 percent or lower, correct? A: That is correct.").

Mr. Terry did not review the returns of other utilities in the Pacific Northwest. But he was not aware of any utility in the region with an authorized return on equity less than his recommendation. *Id.* at 824-25 ("Q: Mr. Terry, if the Commission were to accept your recommended 9.0 percent return on equity, Veolia Water Idaho would have the lowest authorized return on equity of any utility in the Pacific Northwest; is that correct? A: I don't know. I don't have that information. Q: But you're not aware of any authorized return on equity for any utility in the Pacific Northwest that's 9.0 percent or lower? A: I'm not aware, but I also have not researched all the utilities, so I don't know.").

Indeed, Mr. Terry was unable to identify any water utility in the entire *country* with an ROE lower than his recommendation. *Id.* at 825–26. The lowest ROE Mr. Terry was able to identify was a utility in Arizona that was purportedly awarded an ROE of 8.0%, with significant consequences to the utility's value.[2] *Id.* at 825-827 ("Q: Mr. Terry, can you identify any utility in the country that has an authorized return on equity lower than 9.0 percent? A: I don't know if it

[2] Mr. Terry's testimony on this topic was based on notice from an acquaintance. *See* Tr. Vol. III, 825–26. Mr. Terry appears to be referring to the case of Arizona Public Service Company, an electrical corporation in the State of Arizona. APS was originally awarded a Return on Equity of 8.7%, increased to 8.9% on appeal. *See Ariz. Pub. Serv. Co. v. Ariz. Corp. Comm'n*, 526 P.3d 914, Case No. 1 CA-cc21-0002 at ¶ 31 (Ariz. Ct. App. Mar. 7, 2023). Arizona calculates a rate of return based on a "fair value" rate base, making it not comparable to Idaho's ratemaking regime. *See id.* ¶ 9 ("In the Decision, the Commission determined APS's return on equity, FVI, and fair value base rate. . . . The Commission then used this data to calculate APS's 'fair value rate of return.'" (emphasis added)).

has been restated, but a few years ago there was a utility in Arizona that was awarded an 8.0 . . . .").

Granted, this line of questions related to Mr. Terry's recommended ROE of 9.0% rather than the 9.25% authorized by the Commission. But the implications are the same. 9.25% appears to be the lowest authorized Return on Equity in Idaho; the lowest Return on Equity in the Pacific Northwest; and on the very low end of authorized Returns on Equity in the entire country for water companies in jurisdictions with comparable ratemaking regimes. *See* Attachment 2 to Request for Reconsideration (summarizing ROEs for utilities in Idaho, in the Pacific Northwest, and references to ROEs around the country);[3] *see also* Tr. Vol. II, 390 (Mr. Walker discussing average ROEs for electrical and natural gas companies, which are above 9.25% even though ROEs for these industries are typically lower than for water utilities).

The Commission does not acknowledge or address what evidence supports the statement that 9.25% is the same as generally being made in the "same general part of the country" as Veolia; nor is there any evidence in the record to support such a finding. *See* Order No. 35762 at 9. While the Commission has broad discretion in setting rates, it must present facts necessary to reasonably support its conclusion. *See Boise Water Corp. v. Idaho Pub. Utils. Comm'n*, 97 Idaho 832, 840 (1976).

And this is only one of the three components of the *Bluefield* standard. The other two components—ROEs at the same time, of businesses with the same attendant risks—are likewise

[3] Jurisdictions with lower ROEs often have mechanisms to mitigate the effect of the low ROE on the utility. For example, New Hampshire has a surcharge that allows for rate relief between general rate cases. *See* Case No. DW 20-184, Order No. 26,659 at *4 (N.H. Pub. Utils. Comm'n July 29, 2022) (approving permanent Water Infrastructure and Adjustment Mechanism Adjustment). In addition, New Hampshire uses a year-end rate base, without averaging, which is moved forward to account for the time it takes to process a rate case; a surcharge that accounts for differences in property tax; and a process that allows utilities to implement interim rates while a general rate case is pending. As discussed below, the combination of a low Return on Equity, backward looking rate base, average rate base, denial of the proposed DSIC, and complete denial of working capital does not provide a reasonable opportunity for Veolia Water Idaho to recover the authorized rate of return.

not supported in the record. Mr. Walker and Mr. Terry disagree on many things. But they both agree that, at <u>this point in time</u>, economic conditions include high inflation and high interest rates. This economic environment supports a higher Return on Equity than ROEs granted in lower-interest-rate, lower-inflation environment. *See* Tr. Vol. III, 802 (Mr. Terry Direct Testimony: "A: Many methods to estimate a proper ROE use interest rates as a base line. As these rates increase it will also increase the ROE range recommend[ed]."); *id.* at 827 (confirming this on cross-examination); Tr. Vol. II, 390 (Mr. Walker's rebuttal testimony: "A: Since the current yield on A rated public utility bonds is 75-basis points higher than it was in 2022 and 237-basis points higher than it was in 2021, the required return on equity for water utilities today exceeds the returns authorized in 2021 and 2022." (emphasis omitted)).

This undisputed testimony supports a higher Return on Equity for Veolia than for the ROEs authorized in prior years. Yet the Commission authorized a lower Return on Equity, without addressing the undisputed evidence supporting a higher ROE at this time.

Regarding the third standard—a utility should earn an ROE equivalent to companies at the same time, in the same general area of the country, with the <u>same attendant risk</u>—the record indicates that water companies are considered by investors to be more risky than electrical or natural-gas utilities; that the risk to water utilities has increased in recent years; and that the risk to a company of Veolia Water Idaho's customer footprint is greater than companies with larger footprints. Tr. Vol. II, 373-77 (Mr. Walker's rebuttal testimony, explaining the differences in how investors evaluate natural gas versus water companies); *id.* at 384 (noting that water utility's betas indicate a risk that is 20% higher than 2019 and 11% higher than 2018); *id.* at 384 ("The finance literature supports the fact that, as the size of a firm decreases, its risk and, hence, its required return increases.").

Mr. Terry argues that the size of Veolia Water Idaho's parent companies "moots" issues related to size and diversity, as discussed more thoroughly above. However, Mr. Terry does not dispute Mr. Walker's testimony that water utilities are generally more risky than electrical or natural-gas utilities, or that the risks to water utilities have increased in recent years. *See* Tr. Vol. III, 807-09 (adopting Mr. Walker's Water Proxy Group, with addition of Veolia Environnement, S.A.). This undisputed evidence supports ROE greater than 9.25%.

To summarize: the Commission concluded that the authorized ROE of 9.25% is the same as the ROE being made at the same time, in the same general part of the country, as investments in other business undertakings of similar risk. The evidence in the record does not support those findings. Veolia requests that the Commission reconsider the authorized ROE as requested in this Petition, whether through issuing a revised order, holding additional proceedings to allow presentation of additional evidence on this issue, or as the Commission otherwise sees fit.

4. Regulatory lag

Regulatory lag decreases a utility's opportunity to earn a reasonable rate of return on its investments. The Idaho Supreme Court has recognized the importance of this concept; the Commission's failure to acknowledge and address regulatory lag while setting rates can provide, and has provided, a basis to overturn the decisions of the Commission. *See Utah Power & Light Co.*, 102 Idaho at 284-85 (1981) (overturning Commission's decision to remove attrition adjustment to account for regulatory lag).

Concerns with regulatory lag are particularly acute in times of inflation and increasing capital investment. *See id.* at 285 ("The impact of inflation is great on all public utilities because their endeavors are normally capital intensive and involve assets with relatively long useful lives."). In these circumstances, the Commission must acknowledge and address regulatory lag;

the issue cannot simply be ignored. *See id.* ("It also appears undisputed that the factors of inflation and an expansionistic construction program continue to exist and apparently were not considered by the Commission.").

The Commission made a number of decisions that contribute to excessive regulatory lag. First, the Commission established a test year ending December 31, 2022. Order No. 35762 at 4. Accordingly, the Commission did not include within rate base investments that the Company made during the first four months of 2023.

Second, the Commission did not accept the value of rate base as of December 31, 2022, but instead averaged the value of the rate base, resulting in a value of rate base that approximates the value of rate base in the middle of June, 2022. *Id.* at 23.

Third, the Commission entirely disallowed working capital, which (if allowed) would be calculated using one of three standard methods and included in rate base. *Id.* at 24.

Fourth and finally, the Commission disallowed the proposed DSIC mechanism, which would allow certain rate adjustments between rate cases, alleviating regulatory lag to some degree. *Id.* at 27.

There is undisputed testimony in the record regarding regulatory lag. David Njuguna testified that calculating rate base using a historical test year or average rate base "creates significant regulatory lag" due to the mismatch between the Company's costs and the value of the rate base in service at the time new rates are implemented. Tr. Vol. II, 540-42.

Jim Cagle testified that use of Staff's proposed average rate base methodology, which was adopted by the Commission, would preclude recovery on "approximately $14 million of rate base in service as of December 31, 2022, creating significant regulatory lag." Tr. Vol. II, 673.

Mr. Cagle further explained that, under Staff's proposed methodology, "the Company will be unable to recover approximately $1.4 million in revenue requirement during this rate case," which "creates a lag in recovery that, in turn, can result in under-recovery and more frequent rate cases." *Id.* at 673-74; *see also id.* at 675.

Mr. English acknowledged, in his direct testimony and confirmed on cross-examination, that using a test-year cutoff closer to the time rates are implemented would reduce regulatory lag, albeit at the expense of additional time to review information related to the investments. Tr. Vol. III, 928 (direct testimony); *id.* at 946-47 (cross-examination).

There is also undisputed testimony in the record that the current economic environment is characterized by high inflation and rapid capital investments, as needed to meet rapid growth in Veolia's service territory. Tr. Vol. II, 675 (Mr. Cagle testimony); Tr. Vol. III, 826 ("Q: And you testified that the economy is in a period of significant inflation; correct? A: Yes."); Tr. Vol. III, 942-43 ("Q: Would you agree with Mr. Terry's testimony that we are in an environment of significant inflation:? A: Yes, I would agree with that.").

The combination of the Commission's decisions on rate base, when applied to the economic circumstances, preclude the opportunity to <u>actually</u> recover the authorized rate of return. To illustrate: the Commission states in its Order that Veolia is authorized an overall rate of return of 6.91%. Order No. 35762 at 1. However, by using a test year ending December 31, 2022 and the average of monthly average rate-base methodology, the value of the rate base included in the Commission's Order is effectively the value of rate base as of June 15, 2022. Between June 15, 2022 and March 31, 2023, Veolia had invested approximately $14 million in rate base. *See* Attachment 4; Tr. Vol. II at 673.

Accordingly, on the very first day the new rates went into effect, evidence in the record indicates that Veolia was already approximately $1.4 million in revenue below the revenue that would be collected using the authorized of return. Tr. Vol. II at 673. Veolia's most recent calculations reveal that the rate base in the Order does not account for $21.5 million, with an additional $309,000 of related additional depreciation expense. This produces a significant regulatory lag: almost $2.2 million.

Stated another way, while the Commission says that Veolia is authorized to earn an overall rate of return of 6.91%, Veolia has no realistic opportunity to actually earn that return due to the pace of capital investments and inflation. Veolia is so far behind at the start that it does not have the opportunity to actually earn the authorized return.

Veolia recognizes that the individual decisions with respect to the year-end cutoff for rate base, use of the average of monthly averages, and similar decisions find some support in Commission precedent. But, the individual issues cannot be evaluated in isolation. When taken as a whole and applied to these economic circumstances, Veolia submits that the Commission should not simply cite prior decisions and move forward. Veolia submits that the Commission can, should, and arguably must address and account for the regulatory lag demonstrated in the record, taking into account the facts and evidence in the record, including current rates of inflation and high levels of capital investment. *See Utah Power & Light Co.*, 102 Idaho at 285 (setting aside Commission decision when the Commission did not address regulatory lag in light of the "factors of inflation and an expansionistic construction program").

REQUEST FOR RELIEF

For the reasons set forth above, Veolia respectfully requests that the Commission enter an order:

1. Clarifying, or otherwise indicating, that Order No. 35762 authorizes a revenue increase of $3,701,726, rather than $2,756,277 as currently stated in the first paragraph of the Order;

2. Granting reconsideration on the issue of Return on Equity, in the form of (1) a revised or new order authorizing a Return on Equity as requested by the Company, (2) an order scheduling additional proceedings to obtain and consider additional evidence regarding the proper Return on Equity, or (3) other relief related to Return on Equity that the Commission deems appropriate;

3. Granting reconsideration on the issue of regulatory lag, in the form of (1) a revised or new order that reduces regulatory lag such that the Company is afforded the opportunity to earn a reasonable return on used and useful assets, (2) an order scheduling additional proceedings to obtain and consider additional evidence regarding regulatory lag, or (3) other relief related to regulatory lag that the Commission deems appropriate;

4. Any other relief that the Commission deems appropriate under the circumstances.

DATED: May 19, 2023.

VEOLIA WATER IDAHO, INC.

By ______________________________

Preston N. Carter
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Attorneys for Veolia Water Idaho, Inc.

CERTIFICATE OF SERVICE

I certify that on May 19, 2023, a true and correct copy of the foregoing was served upon all parties of record in this proceeding via electronic mail as indicated below:

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Preston N. Carter

ATTACHMENT 1

ATTACHMENT 1

Commission Ordered Revenue Requirement Summary

Line No.	Description		Company Direct		Commission Order
1	Operating Revenues		$ 51,717,859		$ 52,456,207
2	Operation & Maintenance Expenses:				
3	Payroll		$ 7,661,608		$ 7,025,725
4	Workers Compensation		$ 116,207		$ 106,562
5	Pension Cash Contributions		$ 585,796		$ 585,796
6	Post-retirement Benefits Other than Pension (PBOP)		$ (523,756)		$ (577,900)
7	Employee Healthcare		$ 2,103,710		$ 2,344,149
8	Employee 401k		$ 456,431		$ 411,541
9	Other Employee Benefits - Tuition		$ 14,634		$ 9,273
10	Payroll Overheads (Fringe Benefits Allocation)		$ (1,466,411)		$ (1,508,057)
11	Purchased Water		$ 316,694		$ 316,694
12	Energy- Purchased Power and Other Utilities		$ 2,595,630		$ 2,595,630
13	Chemicals		$ 594,376		$ 594,376
14	Subcontractors		$ 830,455		$ 830,455
15	Customer Billing Expenses		$ 323,463		$ 324,074
16	Bad Debts		$ 305,063		$ 305,063
17	Materials		$ 306,324		$ 306,324
18	Vehicle Allocation		$ 1,025,350		$ 857,457
19	Office Expenses		$ 815,647		$ 788,103
20	Advertising Expense		$ 227,683		$ 197,683
21	Management & Service Fees		$ 4,566,635		$ 4,405,534
22	General Insurance		$ 242,524		$ 177,172
23	IPUC Fees		$ 103,177		$ 103,177
24	Safety		$ 195,406		$ 166,156
25	Amortization Expense - Deferred Rate Case		$ 202,923		$ 50,967
26	Amortization Expense - Deferred Pension		$ 23,218		$ 23,218
27	Amortization Expense - Deferred Tank Painting		$ 177,283		$ 154,783
28	Amortization of Excess Deferred Income Taxes		$ (200,000)		$ (200,000)
29	Amortization Expense - Deferred Power		$ 534,778		$ 264,073
30	AFUDC Equity Gross Up Amortization		$ 30,523		$ 30,523
31	Adjustment to Variable Expenses Due to Volume Normalization		$ (127,937)		$ (136,841)
32	Total Unadjusted Operating & Maintenance Expenses		$ 350,189		$ 361,916
33	Total Depreciation and Amortization		$ 10,929,675		$ 10,383,216
34	Ad Valorem		$ 2,145,032		$ 2,145,032
35	Payroll Taxes		$ 898,783		$ 824,402
36	Total Operating Expense				
37	Before Income Taxes		$ 36,361,115		$ 34,266,277
38	Income Taxes		$ 2,475,051		$ 3,304,448
39	Total Operating Expenses		$ 38,836,166		$ 37,570,725
40	Net Operating Income		$ 12,881,693		$ 14,885,482
41	Plant in Service:				
42	Gross Utility Plant in Service		$ 578,861,098		$ 551,849,764
43	Total Accumulated Depreciation and CIAC Amortization		$ (191,267,542)		$ (185,726,732)
44	Net Utility Plant in Service		$ 387,593,556		$ 366,123,032
45	Customer Advances for Construction		$ (3,797,814)		$ (3,853,268)
46	Contributions in Aid of Construction (net of amortization)		$ (112,913,720)		$ (112,545,711)
47	Utility Plant Acquistion Adjustment Net		$ 10,771,089		$ 10,808,444
48	Accumulated Deferred Income Taxes		$ (5,307,577)		$ (4,398,563)
49	Deferred Charges Included in Rate Base		$ 4,933,851		$ 3,363,566
50	Working Capital Allowance		$ 3,552,571		$ -
51	Regulatory Liability-New Federal Tax Law (TCJA)		$ (4,075,931)		$ (4,335,280)
52	Rate Base		$ 280,756,025		$ 255,162,220
53	Operating Income at Present Rates		$ 12,881,693		$ 14,885,482
54	Cost of Capital		7.77%		6.91%
55	Operating Income at Proposed Rates		$ 21,814,743		$ 17,631,709
56	Operating Income Deficiency		$ 8,933,050		$ 2,746,227
57	Gross Revenue Conversion Factor		1.3573		1.35445
58	Deficiency in Operating Revenue less Intervenor Funding		**$ 12,107,227**		**$ 3,701,726**
59	Percent Increase		**23.41%**		**7.06%**
60	**Total Revenue Requirement**		**$ 63,825,085**		**$ 56,157,933**
61	Capital Structure:				
62	Total Debt	44.43%		44.43%	
63	Cost of Debt	3.99%	1.77%	3.99%	1.77%
64	Total Equity	55.57%		55.57%	
65	Return on Equity	10.80%	6.00%	9.25%	5.14%
66	Total Cost of Capital		7.77%		6.91%

Attachment A
Order No. 35762
Case No. VEO-W-22-02

ATTACHMENT 2

ATTACHMENT 2

Attachment 2
Summary of Returns on Equity

ROEs for Idaho Utilities (arranged by type of utility, then date)		
Utility - water	**Authorized ROE**	**Citation**
Gem State Water Company	9.5%	GSW-W-22-01, Order No. 35692 at 14 (Mar. 1, 2023)
Falls Water Company	10.2%	FLS-W-20-03, Order No. 34925 at 4 (Feb. 16, 2021)
Morning View Water Company	11%	MNV-W-19-01, Order No. 34542 (Feb. 3, 2020)
Grouse Point Water Company, LLC	11%	GPW-W-17-01, Order No. 33910 (Oct. 13, 2017)
Utility – natural gas		
Avista	9.4%	AVU-E/G-21-01, Order No. 35156 at 3 (Sept. 1, 2021)
Intermountain Gas	9.5%	INT-G-16-02, Order No. 33757 at 1 (April 28, 2017)
Utility - electric		
PacifiCorp	9.9%	PAC-E-10-07, Order No. Order No. 32196 at 1 (April 7, 2011)
Idaho Power	10.5%	IPC-E-08-10, Order No. 30722 (Jan. 30, 2009)

ROEs for Utilities in the Pacific Northwest (arranged by type of utility, then date)		
Utility - water	**Authorized ROE**	**Citation**
Great Basin Water Company LLC (Washington)	12.0%	Final Order 01, Docket UW-220218 (July 1, 2022)
Gold Beach Water Company, Inc. (Washington)	12.0%	Final Order 01, Docket UW-220206 (July 1, 2022)
Government Camp Water Company (Oregon)	9.5%	Order No. 18-488 (Dec. 21, 2018)
Illahe Estates Water System (Oregon)	9.5%	Order No. 18-235 (June 22, 2018)
Shadow Wood Water Service (Oregon)	9.5%	Order No. 16-334 (Sept. 6, 2016)
Utility – natural gas		
Northwest Natural Gas Company (Oregon)	9.4%	Order No. 22-437 (Nov. 3, 2022)
Cascade Natural Gas Corporation (Washington)	9.4%	Final Order 09, Docket UG-210755 (Aug. 23, 2022)
Avista (Oregon)	9.4%	Order No 22-291 (Aug. 2, 2022)
Utility - electric		
Puget Sound Energy (Washington)	9.4%	Final Order 10, Docket UG-210918 (Dec. 22, 2022)
Pacificorp (Oregon)	9.5%	Order No. 22-491 (Dec. 16, 2022)

Returns on Equity for Water Utilities, Nationwide

Water utility rate case decisions – 2022

Date	Company	State	ROR (%)	ROE (%)	Common equity as % of capital	Rate base ($M)	Test year end
02/24/22	West Virginia American Water Co.	WV	7.01	9.80	47.97	731	12/31/20
04/07/22	The Maine Water Co. (Biddeford & Saco)	ME	6.29	9.70	50.03	NA	12/31/20
04/08/22	Carolina Water Service, Inc. of North Carolina	NC	7.14	9.40	50.20	144	03/31/21
05/16/22	Aqua Pennsylvania	PA	7.24	10.00	53.95	3,810	03/31/23
07/29/22	Aquarion Water Co. of New Hampshire	NH	7.54	9.10	54.42	29	12/31/19
08/17/22	New Jersey American Water	NJ	7.01	9.60	54.56	4,146	06/30/22
09/21/22	Aqua Ohio	OH	6.78	9.50	52.10	265	12/31/21
12/15/22	Illinois American Water Co.	IL	7.01	9.78	49.00	1,266	12/31/23
10/11/22	San Jose Water Co.	CA	NA	NA	NA	1,027	12/31/22
12/08/22	Pennsylvania American Water Co.	PA	NA	NA	NA	NA	12/31/23
2022	**Average rate award**		**7.00**	**9.61**	**51.53**		

As of Feb. 13, 2023.
NA = not applicable or not available; ROR = Return on rate base; ROE = Return on equity.
Source: Regulatory Research Associates, a group within S&P Global Commodity Insights.

Source: S&P Global, https://www.spglobal.com/marketintelligence/en/news-insights/research/water-roes-trend-higher-on-small-dataset