

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF EAGLE WATER )**  
**COMPANY'S ENGINEERING REPORT AND ) CASE NO. EAG-W-07-01**  
**APPLICATION TO CONTINUE THE )**  
**EXISTING SURCHARGE ) ORDER NO. 30654**  
**)**

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In August 2005, the Commission ordered Eagle Water Company to prepare an Engineering Report to address present and future water needs in its system. On August 6, 2007, Eagle Water filed its final Engineering Report and an Application to recover the professional fees (engineering, legal and accounting) for preparation of the report and the Application. In its Application, the Company requested authority to recover \$201,434 in professional fees. In September 2007, the Commission issued a Notice of Application and set a deadline for intervention. There were no Petitions to Intervene.

The Commission's Notice also observed that the Company and the City of Eagle had entered into an "Asset Purchase Agreement" that would allow the City to purchase the utility. Order No. 30430 at 1. Under the Purchase Agreement, the requested fees in this case would "be recovered by Eagle Water as part of the Purchase Price." Application at ¶ 22. The parties were unable to complete their transaction and the Purchase Agreement expired on March 31, 2008.

Given this turn of events, the Commission issued a Notice of Modified Procedure on July 31, 2008, requesting written comments on Eagle Water's Application. Timely comments were submitted by Commission Staff. Eagle Water filed reply comments on August 21, 2008. After reviewing the Application, Staff comments and the Company's reply, Eagle Water Company's request to recover fees from the surcharge account is granted in part and denied in part.

**BACKGROUND**

The history behind this case is contained in Order No. 30266 but the pertinent events are briefly outlined here. In August 2005, the Commission issued an emergency Order directing Eagle Water to "use all deliberate speed" to increase water pressure in a portion of its service territory. In addition to taking immediate actions, the Company was directed to prepare an Engineering Report to address the chronic low-pressure problems in its system and to project its

water supply needs for the future. The Engineering Report was to “serve as a ‘road map’ for determining exactly what infrastructure improvements are necessary to serve present and future needs of Eagle Water and its customers.” Order No. 29903 at 7. Eagle Water’s engineering company, MTC Inc., initially estimated that the Engineering Report would cost \$79,895 and would take “a minimum of three months to complete the engineering study.” Application at ¶ 7; Exh. 4 (Case No. EAG-W-05-02).

To recover the costs of implementing repairs and preparing the engineering study, the Commission authorized Eagle Water to implement a monthly rate surcharge. Order No. 29969. The surcharge was designed to recover the estimated cost of the repairs and the accounting, legal and engineering fees. Based upon the estimates provided by the Company, the Commission authorized the Company to implement a surcharge to recover \$112,414 (including the estimated \$79,895 in engineering fees). Order No. 29969 at 6; Order No. 29903.

After the Commission issued its surcharge Order, Eagle Water and the Department of Environmental Quality (DEQ) signed a “Consent Order,” which, among other issues, required Eagle Water to submit a “Preliminary Engineering Report” to DEQ for review and approval. Eagle Water submitted its Preliminary Engineering Report to DEQ and the Commission in June 2006. Both agencies provided comments to the Company. Shortly after Eagle Water submitted the Preliminary Engineering Report prepared by MTC, the MTC engineer responsible for the computer modeling of Eagle Water’s system left the firm. Staff Comments at 7. MTC then contacted another engineering firm (Ward Engineering Group) in Salt Lake City to assist with the computer modeling. The two engineering firms continued working on the Engineering Report to meet the changing demands of DEQ. *Id.* at 5. Eagle Water filed its draft Final Engineering Report with DEQ in January 2007. By letter dated July 6, 2007, DEQ approved the Final Engineering Report. Application, Exh. 5.

#### **THE PRESENT APPLICATION**

In its August 2007 Application, Eagle Water requested authority to recover a total of \$201,434 in expensed and anticipated fees, and to reimburse other accounts. Application at ¶ 23. The Company’s Application to recover professional fees is made up of the following items:

<b>Type of Fee</b>	<b>Amount</b>
Additional engineering fees for the Engineering Report	\$161,394
Additional legal fees for the Engineering Report	16,232
Additional legal fees for the previous Surcharge Application	10,945
Additional accounting fees for the Engineering Report	263
Estimated legal fees for this Application	12,000
Estimated accounting fees for this Application	<u>600</u>
TOTAL	<u>\$201,434</u>

Application at ¶ 19 (August 6, 2007).

Although the Commission directed that the Engineering Report be completed “as soon as possible,” its submission to the Commission was significantly delayed. Eagle Water attributed the delay to various factors including: The health of MTC’s primary engineer, James Rees; the need to engage another engineering firm when the software modeling engineer left MTC; changing DEQ system requirements; and the lengthy DEQ review process. Order Nos. 30213, 30266, 30331. In particular, Eagle Water explained that Ward Engineering revised the computer modeling of the water system “no less than 36” times to meet changing DEQ requirements. Application at ¶ 8; Rees Affidavit at ¶ 9. Eagle Water also insisted that these factors resulted in a significant increase to the costs of preparing the Engineering Report – from the \$79,895 amount initially authorized by the Commission – to more than \$218,000. Application at ¶ 14; Order Nos. 30266 at 2, 30331 at 2.

In its August 2007 Application, the Company requested authority to recover \$201,434 in professional fees from two sources. First, Eagle Water requested that it be allowed to take possession of revenues in the surcharge account in excess of the previously authorized amount of \$112,414. Order No. 30430 at 4. Second, the Company requested authority to borrow approximately \$110,000 “to cover the [remaining balance of the] professional fees.” *Id.*, citing Application at ¶ 24. To pay off this bank loan, Eagle Water proposes that the existing surcharge be continued and the bank loan would be paid off with proceeds from the continued surcharge. Application at ¶¶ 24-25. The Company’s accountant calculated that the expected revenue from the surcharge would be sufficient for the Company to recover its requested fees. *Id.*; Exh. 12-13. The Company also agreed that it will continue to segregate the surcharge account from other Company accounts, and that expenditures covered by the surcharge will not be recorded in the Company’s plant accounts or added to its rate base. Application at ¶ 26.

### ***A. The Cash Flow Order***

In Order No. 30440 issued September 21, 2007, the Commission granted Eagle Water authority to borrow up to \$110,000 from its bank. *Id.* at ¶ 24, Exh. 12. The Company was also granted authority to access the existing surcharge account to pay for this bank loan conditioned upon the Commission's subsequent review to determine the reasonableness and prudence of the professional fees for preparing the Engineering Report and the accompanying Application. The Commission found that "Eagle Water may be required to reimburse the surcharge account for any disallowed amounts paid from that account. If the outstanding loan covers disallowed costs, Eagle Water will be required to pay these amounts directly to the bank." Order No. 30440 at 3.

### ***B. Procedural History***

In Order No. 30430, the Commission set a deadline for intervention. No person petitioned for intervention. The Order also directed that once the deadline for intervention passed, the parties should informally convene to devise a recommended schedule to process the case. Staff and the Company met on July 24, 2008. The parties recommended that the Application to recover the professional fees be processed under Modified Procedure. The Commission issued its Notice of Modified Procedure on July 31, 2008 and Staff filed its comments on August 5, 2008. The Company filed its reply comments in response to Staff's comments on August 21, 2008.

Through September 30, 2008, the surcharge has collected approximately \$377,942. As previously mentioned, the Company was initially authorized to recover \$112,414. After completion of this proceeding, the parties anticipate that Eagle Water will file a new application seeking to recover new expenses for the cost of two new wells, a new booster pump, and the cost of interconnecting its water system with the City of Eagle (Case No. EAG-W-08-01).

## **THE COMMENTS**

### ***A. Staff Comments***

1. Legal and Accounting Fees. After completing its review of the Company's Application, Staff agreed that previously incurred legal and accounting fees in Case No. EAG-W-05-02 should be recovered from the surcharge account. Staff observed that these legal and accounting fees appeared reasonable. Staff recommended recovery of \$16,231.84 in legal fees for the Engineering Report; \$10,945.22 for legal fees associated with the previous Surcharge

Application; and \$262.50 for the accounting fees associated with the Engineering Report. Staff Comments at 8. These legal and accounting fees total \$27,439.56. *Id.* at 9.

Staff did not agree with the Company's proposal to collect its "estimated" legal and accounting fees for processing this case in the amount of \$12,600 (\$12,000 and \$600, respectively). Because activities in this case have not been completed, Staff asserted that these amounts were not fully known and measurable, and should be reviewed in the Company's next proceeding. "At that time the Company can submit the invoices supporting the actual amounts for these services." *Id.*

2. Engineering Fees. While Staff recognized that changing DEQ standards resulted in Eagle Water incurring additional engineering fees, Staff argued the requested amount of engineering fees for completing the Engineering Report is excessive. Using data provided by the Company, Staff calculated that the total amount of engineering fees to complete the report was "almost three times the original cost estimate of \$79,895 submitted by the Company as part of its Surcharge Application on August 24, 2005. . . ." *Id.* at 6; Application at ¶ 14.

Staff cited several reasons why the Commission should not allow recovery of all the requested engineering fees. First, Staff insisted that the Preliminary Engineering Report was late and, when filed, it did not adequately respond to the concerns identified in Commission Order No. 29840. *Id.* Although the Commission ordered the Company to prepare the Engineering Report as soon as possible, Staff noted it took the Company nearly 10 months to submit its Preliminary Engineering Report in June 2006. *Id.* After the Company submitted its Preliminary Report, Staff wrote to Eagle Water that "the [Preliminary] Engineering Report does not adequately respond to the concerns stressed in the [Commission's] Order."<sup>1</sup> Staff Comments Atch. A. Staff said the Preliminary Report essentially contained "the implementation of one alternative: completion of well #7 and improvements to the booster station near SH-55. While these steps demonstrate positive improvements for system pressure, no other alternatives were offered. In addition, you did not include any cost-effectiveness analyses." *Id.* In other words, after working on the report for nearly 10 months, the Preliminary Report lacked the comprehensive analysis required by the Commission. Thus, additional engineering work would be necessary, even after MTC had billed for engineering services in excess of the amount

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<sup>1</sup> The Commission's Order No. 29840 directed that the Engineering Report "consider all possible options including additional water supply, storage, booster pumps and additional mainlines. . . ."

authorized by the Commission. Making matters worse, MTC's computer modeling engineer left the firm. Had MTC been more diligent in preparing the report, it might have been completed or farther along before that departure.

Second, Staff recommended that the Commission disallow a portion of the Ward Engineering fees. More specifically, after MTC contacted Ward Engineering for assistance, a billing statement dated June 9, 2007, showed an "original" amount of services for \$43,000, and a "change order amount" for an additional \$53,064.73. Staff Comments Atch. C. However, Staff noted that a subsequent billing statement dated August 29, 2007 shows that the change order amount was reduced to \$42,476.73. Consequently, Staff "believes that the \$42,476.73 is the more accurate amount for the change order because it is the latest invoice adjusting the original bill." Staff Comments at 7. Consequently, Staff recommended that the Commission reduce the expenses for Ward Engineering by \$10,588 – from a total of \$96,064.73 to \$85,476.73. *Id.* at 9.

Third, although Staff recognized that the change orders attributed to DEQ changes appear reasonable, Staff nevertheless advocated that ratepayers should not shoulder all the additional engineering fees requested by the Company. Staff noted that the original estimate of \$79,895 was prepared by MTC, "an expert in the field." *Id.* at 6. Staff also insisted there was a lack of contractual or accounting controls between Eagle Water and MTC and between MTC and Ward Engineering Group. In response to a production request, Staff reported that there was no written contract between Eagle Water and MTC, and no written contract between MTC and Ward Engineering. *Id.* at 5. Eagle Water did not maintain appropriate cost controls for the significant expenditures of preparing the Engineering Report, especially when it knew the initial estimate was exceeded.

Finally, Staff argued the initial delay in preparing the inadequate initial report, the departure of the qualified engineer at MTC, and the difficulties with the computer modeling should be absorbed by MTC and not Eagle Water ratepayers. "These are the risks of running a professional service business. Ratepayers should not shoulder the extra costs incurred." *Id.* at 7.

Based upon these factors, Staff recommended that the Commission disallow all engineering fees incurred by MTC over the original and previously Commission-approved amount of \$79,895. With the one \$10,588 adjustment to Ward's expenses, Staff believed the engineering and computer modeling fees attributed to Ward caused by the change orders are reasonable. "It is Staff's position that once MTC asked Ward Engineering to complete the study

including change orders, additional engineering fees billed by MTC above the original estimate were unwarranted and became unrecoverable.” *Id.* at 7. Consequently, Staff recommended that Eagle Water be allowed to recover only \$85,476.73 of additional engineering fees from the surcharge account.

3. The Surcharge. Staff recommended the rate surcharge be discontinued. Staff proposed that the remaining surcharge balance be held in its restricted account to cover future costs associated with capital expenditures identified in the Engineering Report (e.g., a new booster pump, two new wells, and interconnection). *Id.* at 9, 3.

In summary, Staff recommended the Company be allowed to recover an additional \$112,916.29 in engineering, accounting and legal fees from the surcharge account. When this amount is grossed-up for taxes (at a factor of 1.2788), Eagle Water should be allowed to withdraw an additional \$144,397.35 from the surcharge account. Thus, Staff recommended the Commission authorize Eagle Water to withdraw a total of \$256,811 (\$112,414 plus \$144,397) from the surcharge account. *Id.* at 10.

### ***B. Eagle Water’s Reply Comments***

Eagle Water’s reply comments consisted of two pages and two affidavits provided by the lead engineers of MTC and Ward Engineering, respectively. In its comments, Eagle Water “does not materially disagree with Staff’s Comments” with the exception of the disallowance of the additional engineering fees attributed to MTC. Reply at 1. Eagle Water maintained that Staff did not appreciate the time invested in the project by MTC and its principal engineer, Mr. Rees. He provided “valuable guidance” to Ward Engineering and interfaced with DEQ through the year-long review process. *Id.* at 2.

In his affidavit, Mr. Rees indicated he is the principal engineer of MTC and has professional expertise in the area of public drinking water systems. Affidavit at ¶ 3. He refuted that MTC had no contract with Eagle Water. He produced a contract dated January 2, 1998 that obligated MTC to provide engineering services on a “time and materials basis” for Eagle Water. Exh. B-2. He indicated that the purpose of such a contract is to “reduce the ultimate cost to the customer while ensuring that the contractor does not underbid his time in the event of unknown project conditions.” *Id.* at ¶ 7.

Mr. Rees explained that MTC’s original estimate for completing the Engineering Report of \$79,895 was based on the advice of Mr. Collins who “was familiar with the Haested

Methods software needed to conduct the study. MTC's original estimate did not reflect a software upgrade that was ultimately needed to complete the work due to the size of Eagle Water's system or the amount of man-hours that ultimately were necessary to update Eagle Water's system maps. . . ." Affidavit at ¶ 9. He also attributed the under-estimation to the amount of times he spent researching and advocating for a water peaking standard of 2.58 times which was initially rejected by DEQ but was ultimately accepted after numerous computer runs. *Id.*

Due to his role as "Engineer in Responsible Charge on the project," Mr. Rees asserted he "was required under Idaho law to stay involved with the project after" Ward Engineering was brought in to perform the computer modeling. *Id.* at ¶ 12. Without elaboration, he cited *Idaho Code* §§ 54-1215(3)(d) and 54-1202(12).<sup>2</sup>

Chet Hovey of Ward Engineering Group provided the other affidavit in support of Eagle Water's request for "full payment of all submitted engineering fees." *Id.* Mr. Hovey indicated he is a professional engineer duly licensed in the States of Utah and Nevada. Affidavit at ¶ 2. He insisted that Mr. Rees of MTC was more than just a "Technical Advisor to the project." *Id.* at ¶ 10. Mr. Hovey stated he talked to Mr. Rees two or three times a week resulting in between "15-20 hours per month in project-related discussions, including meetings with the [DEQ] where Mr. Rees provided an important interface on behalf of Eagle Water Company." *Id.* Mr. Hovey also asserted that under Idaho law, Mr. Rees was required to be involved with the Engineering Report as "the Engineer in Responsible Charge and as the designated lead engineer for Eagle Water Company." *Id.* at ¶ 13.

### DISCUSSION AND FINDINGS

The Commission's task in this proceeding is to determine whether the professional fees requested by Eagle Water are reasonable and prudent. Typically, expenses incurred by the Company are presumed reasonable and the burden of persuasion shifts to the party opposing such expenses. In this case, the primary dispute between the Company and Staff pertains to the reasonable amount of engineering fees the Company should recover from ratepayers. We

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<sup>2</sup> *Idaho Code* § 54-1202(12) defines "responsible charge" as "the control and direction of engineering work, . . ., requiring initiative, professional skill, independent judgment and professional knowledge of the content of relevant documents during their preparation. Except as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge."

recognize at the outset that the fees requested by Eagle Water greatly exceed the estimate it provided the Commission in August 2005. We turn first to the accounting and legal fees.

1. Legal and Accounting Fees. Staff recommended that the Commission allow Eagle Water to recover its legal and accounting fees from the previous proceeding (Case No. EAG-W-05-02) and for the preparation of the Engineering Report. In particular, Staff recommended recovery of \$262.50 for the accounting fees associated with the Engineering Report; \$10,945.22 for legal fees associated with the previous Application; and \$16,231.84 in legal fees associated with the preparation of the Engineering Report. Staff Comments at 8. In its reply comments, the Company indicated that “it does not materially disagree with Staff’s Comments” except in the area of engineering fees. Reply at 1-2. Based upon our review of the Application and comments of the parties, we find these fees to be reasonable. Eagle Water is allowed to recover \$27,440 in legal and accounting fees from the surcharge account.

Initially, Eagle Water requested authority to recover its “estimated” \$12,600 in legal and accounting fees for this case. Staff objected to recovery of estimated or budgeted fees and suggested that such fees be recovered in the next case when the “actual” expenses are known. Again, Eagle Water did not disagree with Staff’s adjustment. *Id.* Based upon the parties’ agreement, the Commission denies recovery of the estimated legal and accounting fees. At such time as these fees are known and measurable, the Company may seek recovery.

2. Engineering Fees. We now turn to Eagle Water’s request to recover the engineering fees for preparing the Engineering Report. At the outset, our review of this issue has been complicated by the lack of updated or current account balances. Despite the passage of time, Eagle Water did not update its fee request. For example, in the Company’s August 2007 Application, it requested \$161,394 in engineering fees and noted that it had already collected \$80,079 from the authorized amount of \$112,414 available in the surcharge account. Application at 4, 6. However, after issuance of the Cash Flow Order that allowed Eagle Water to exceed (subject to refund) the \$112,414 ceiling, it appears that as of August 6, 2008, the Company withdrew \$149,709 from the surcharge account. In other words, Eagle Water’s request for \$161,394 in engineering fees is significantly overstated.

As set out above, Staff made several arguments why the Company should not be allowed to recover all of its requested engineering fees. We first turn to Staff’s proposed adjustment concerning the billing from Ward Engineering. In its Application, the Company

included a statement dated June 9, 2007, reportedly showing that the Ward Group provided engineering services to MTC totaling \$96,064.73. This amount was the sum of an “original contract amount” of \$43,000 and a “change order amount” of \$53,064.73. Exh. 6. Staff took issue with the change order amount. More specifically, Staff asserted that a subsequent billing statement dated August 29, 2007 shows a change order amount of \$42,476.73 for a total “revised contract amount” of \$85,476.73. Staff Comments at 5-6, Atch. D. When Staff inquired about this discrepancy, it asserted that Eagle Water, MTC and Ward Engineering could not provide a satisfactory explanation for this \$10,588 discrepancy. *Id.* at 6.

Eagle Water did not address this specific issue in its reply comments. Eagle Water merely requested that the Commission “authorize full payment of all submitted engineering fees.” Moreover, Mr. Hovey did not address this issue in his affidavit. Given the lack of any direct response by Eagle Water, we find that Eagle Water has not persuaded us that the larger change order amount is reasonable or prudent. Consequently, we adopt Staff’s proposal to reduce the allowable engineering fees by \$10,588.

Next, the Staff generally contends that Eagle Water failed to exercise adequate controls over the escalating amount of engineering fees. Staff maintained that:

Eagle Water failed to provide evidence that it exercised adequate oversight and cost control in the development of the Engineering Report. In addition, Staff notes that there was no written contract between Eagle Water and MTC, the primary engineering consultant, and no written contract between MTC and Ward Engineering.

*Id.* at 7. We agree with Staff that Eagle Water did not exercise sufficient controls over the costs of preparing the Engineering Report. When Eagle Water submitted its Preliminary Engineering Report, it was clear that the engineering fees, thus far, had already exceeded MTC’s estimated engineering fees for preparation of the report. While we understand that changing DEQ standards caused the engineering fees to increase, the fact that MTC had already exceeded the total estimate should have alerted Eagle Water to the need to control subsequent engineering fees. The need for cost controls was even more apparent when MTC realized that it could no longer complete the computer modeling of the system. This latter fact coupled with the exceeded engineering estimate should have caused Eagle Water to assert greater oversight over the engineering fees.

Making matters worse, there was no written contract between MTC and Ward or between Eagle Water and Ward. The surcharge account is not a blank check for the recovery of engineering fees. The Company has a responsibility to its ratepayers to control expenses and ensure that only reasonable and prudent expenses are incurred.

Turning to the Eagle Water-MTC contract, we do not find that this “time and materials” contract reduced the ultimate cost to Eagle Water as claimed by Mr. Rees. As Mr. Rees noted in his affidavit, Mr. Collins (the computer modeling engineer) advised that the report could be completed for \$79,895 – but this estimate was well off the mark. Mr. Rees also asserted that the “original estimate did not reflect a software upgrade (\$5,045) that was ultimately needed to complete the work. . . .” Affidavit at ¶ 9. However, the original estimate did include a “Software Upgrade” in the amount of \$5,244.75 (including tax). Application, Exh. 4 (EAG-W-05-02). Moreover, the 2007 Application shows that MTC was paid for a “Water Program” in October 2005 in the amount of \$5,044.95 – the same amount Mr. Rees claims was not in the original estimate. Application, Exh. 6 (MTC p. 1 of 2). We find that the “original estimate” did include the software upgrade and that MTC was paid for the upgrade on December 8, 2005. *Id.*

Finally, Mr. Rees insisted that the fees charged by MTC were reasonable because he was the “Engineer in Responsible Charge” on the project, citing *Idaho Code* § 54-1202. We find that Mr. Rees’ reliance on *Idaho Code* § 54-1202 is misplaced. While Mr. Rees may have been familiar with the particulars of Eagle Water’s system, it is apparent that MTC could not complete the computer modeling that was the foundation of the Engineering Report. It is undisputed that the computer modeling task was transferred to Ward Engineering.

Mr. Hovey indicates in his affidavit that he is a licensed professional engineer in the States of Utah and Nevada. Affidavit at ¶ 2. Mr. Rees states in his affidavit that he is professional engineer licensed in Idaho and “due to [his] role as Engineer in Responsible Charge on the project, I was required under Idaho law to stay involved with the project after Chet Hovey, P.E., of Ward Engineering was brought in to take over after Mr. Collins’ departure from MTC.” Rees Affidavit at ¶¶ 2, 12. From these affidavits, one might draw the conclusion that Mr. Rees was required by Idaho law to be the Engineer in Responsible Charge because he was the only licensed Idaho engineer. However, as indicated in Eagle Water’s Exhibit B-1, Mr. Hovey is a licensed Idaho professional engineer. A review of the Idaho Board of Engineers

website confirms that Mr. Hovey is a licensed engineer in Idaho.<sup>3</sup> Because Mr. Hovey completed the computer modeling, he might be considered the Engineer in Responsible Charge of the computer modeling required to complete the report.<sup>4</sup> MTC did not exercise “control and direction” of the computer modeling for the report. Moreover, *Idaho Code* § 54-1202(12) states that “reviewing” documents prepared by others “does not constitute the exercise of responsible charge.”

Based on the numerous factors discussed above, the Commission finds that Eagle Water has not demonstrated that all of the requested engineering fees are reasonable and prudent. The Company’s lack of oversight and control is further exacerbated by its lack of transparency with the Commission. Essentially, the Company seeks a “blank check” with which it can recover its uncontrolled engineering expenses. Based on Staff comments and the totality of the evidence in this case, the Commission finds that Eagle Water is limited to recovering additional engineering fees in an amount not to exceed \$85,477. Further, the Commission declines to allocate fees between the two engineering companies. It is the responsibility of Eagle Water to sort out and satisfy its account balances.

In addition to these engineering fees, the Commission will also allow Eagle Water to recover the costs of the power well sounder (\$597) and the loan fees associated with the cash flow loan (\$1,152). These expenses were not previously recovered and are reasonable expenses.

In summary, the Commission finds that it is reasonable for Eagle Water to recover \$114,666 in additional professional fees and expenses. When this amount is grossed-up for taxes (at a factor of 1.2788), the Commission will allow Eagle Water to recover \$146,635 in this case. Consequently, the total fees and expenses authorized by this Order and the prior Order is \$259,049 (\$112,414 + 146,635). The Company is authorized to recover this cumulative amount from the surcharge account.

3. Continuing the Surcharge. Although the Company had initially urged the Commission to continue the existing surcharge, the Company apparently agreed with the Staff’s recommendation that the surcharge be discontinued. Application at ¶ 25; Staff Comments at 9. We agree with the parties and order that the collection of the surcharge rate be discontinued. As evident in our prior Orders, the Commission intended that the surcharge remain in place only

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<sup>3</sup> [www.ipels.idaho.gov](http://www.ipels.idaho.gov).

<sup>4</sup> The record does not reveal the hourly rate for Mr. Hovey.

long enough to collect the revenue necessary to defray the Company's reasonable expenses in correcting the low-pressure problems and in preparing the Engineering Report. Having finally decided the engineering issues above, there is no further need for the surcharge at this time.

Through September 30, 2008, the surcharge has collected approximately \$377,942. After Eagle Water has recovered its authorized professional fees and expenses (\$259,049), the surcharge account has a balance of approximately \$118,893. The Company shall continue to maintain the surcharge account and is prohibited from converting the remaining surcharge funds to its own use absent the Commission's express approval. Eagle Water has indicated that it intends to file a new application seeking recovery of capital expenses for system improvements identified in the Engineering Report. The balance in the surcharge account will be available to defray Commission-approved costs in the Company's next case.

### **ORDER**

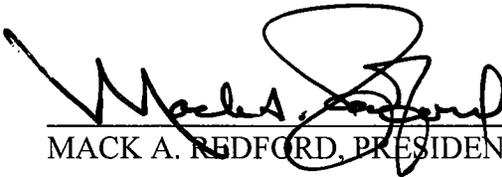
IT IS HEREBY ORDERED that Eagle Water Company's Application to recover additional professional fees is granted in part and denied in part. Eagle Water is authorized to access revenues from the surcharge account in the gross-up amount of \$146,635 for legal, accounting and other expenses authorized above. This amount is in addition to the previously authorized amount of \$112,414.

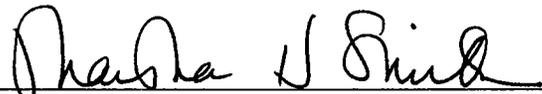
IT IS FURTHER ORDERED that Eagle Water's Application to recover its estimated legal and accounting fees for this Application is denied. At such time as the legal and accounting fees for this Application are known and measurable, the Company may seek to recover these fees in a subsequent case.

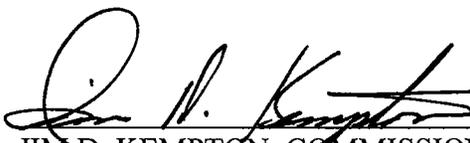
IT IS FURTHER ORDERED that Eagle Water cease collecting its surcharge as of the date of this Order. Any remaining balance in the surcharge account will remain sequestered until the Commission expressly authorizes the Company to withdraw funds from this account.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. EAG-W-07-01 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

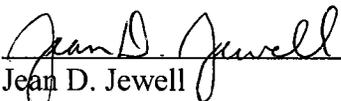
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7<sup>th</sup>  
day of October 2008.

  
MACK A. REDFORD, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
JIM D. KEMPTON, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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