

## DECISION MEMORANDUM

**TO:** COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSIONER KEMPTON  
COMMISSION SECRETARY  
COMMISSION STAFF

**FROM:** DON HOWELL

**DATE:** JULY 24, 2008

**SUBJECT:** APPLICATION OF EAGLE WATER TO RECOVER ITS COSTS IN  
PREPARING THE COMMISSION ORDERED ENGINEERING REPORT,  
CASE NO. EAG-W-07-01

In August 2005, the Commission directed Eagle Water Company to prepare a system-wide Engineering Report for the purpose of identifying infrastructure improvements necessary to serve Eagle Water and its customers now and in the future. On August 6, 2007, Eagle Water filed its Engineering Report and an Application to recover the professional fees (engineering, legal, accounting) for preparation of the Report and the Application. In its Application, the Company requests authority to recover \$201,434 in professional fees.

On September 18, 2007, the Commission issued a Notice of Application and set a deadline for intervention. The Commission's Notice also observed that the Eagle City Council had approved an "Asset Purchase Agreement" that would allow the City to purchase the utility. Order No. 30430 at 1. The transaction was initially suppose to close in November 2007. The parties were not able to complete the Asset Purchase Agreement and the Agreement expired on March 31, 2008. Given this turn of events, the Commission Staff has completed its review of the reasonableness and prudence of the requested engineering, legal and accounting fees. The Staff and Eagle Water recommend that this case be processed under Modified Procedure.

### BACKGROUND

#### *A. The Commission's Initial Order*

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.

To recover the costs of preparing the engineering study, the Commission authorized Eagle Water to implement a rate surcharge. Order No. 29969. The surcharge was based upon the legal and engineering fees necessary to prepare the engineering report and to file the accompanying application. The authorized surcharge was designed to recover \$112,414.

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 the engineering report to DEQ for approval. DEQ directed that Eagle Water submit a preliminary engineering report for review and comment, followed by the preparation of the final report.

Although the Commission directed that the engineering report should be completed as soon as possible, its submission to the Commission was significantly delayed. Eagle Water attributed the delay to various issues including: The health of its primary engineer; the need to engage another engineering firm; changing DEQ system requirements; and the lengthy DEQ review process. Order Nos. 30213, 30266, 30331. The Company also reported that the cost of preparing the engineering report greatly exceeded the amount authorized by the Commission. Order Nos. 30266 at 2, 30331 at 2.

### ***B. The Cash Flow Order***

As part of its August 2007 Application, Eagle Water requested authority to borrow \$110,000 for cash flow purposes. In Order No. 30440 issued September 21, 2007, the Commission granted Eagle Water authority to borrow up to \$110,000. The Company was also granted authority to access the existing surcharge account conditioned upon the Commission’s subsequent review to determine the reasonableness and prudence of the professional fees for preparation of 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.

## THE CURRENT STATUS

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 remaining phase of this case. The Staff and the Company met on July 24, 2008. The parties recommend that the remaining phase of this case be processed under Modified Procedure. Shortly after the Commission issues its Notice of Modified Procedure, the Staff is prepared to file its comments. Consequently, the Company would have approximately three weeks to file its comments in support of its Application and in response to the Staff's comments.

Through June 30, 2008, the surcharge has collected approximately \$304,000. The Company was authorized to recover \$112,414 and has an outstanding request for \$201,434. 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 costs of interconnecting with the City of Eagle.

## COMMISSION DECISION

1. Given the lack of any intervenors and the parties' agreement, does the Commission wish to process the Company's request for additional professional fees via Modified Procedure?
2. Does the Commission adopt the parties' proposal that the Commission Staff file its comments shortly after the issuance of the Commission's Notice?
3. Anything else?



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Deputy Attorney General

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