

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF EAGLE WATER)	
COMPANY'S APPLICATION FOR)	CASE NO. EAG-W-09-01
AUTHORITY TO IMPLEMENT A)	
CUSTOMER SURCHARGE)	NOTICE OF APPLICATION
)	
)	NOTICE OF DEADLINE
)	FOR INTERVENTION
)	
)	ORDER NO. 30734

On January 22, 2009, Eagle Water Company filed an Application to implement an immediate surcharge on customers' water usage in excess of 600 cubic feet per month. The Company also requests permission to access existing funds in its surcharge account. The new surcharge and the existing balance in the surcharge account would be used by Eagle Water to defray the costs of several large capital improvement projects and to pay for outstanding legal and accounting fees. Application at 3-5. The Company states in its Application that the surcharge will be subject to refund if the requested expenses are "not ultimately approved by the Commission for Surcharge recovery." *Id.* at 7 (emphasis added). Eagle Water requests that its Application be processed via Modified Procedure.

BACKGROUND

In the Company's last case, the Commission allowed Eagle Water to recover \$146,635 from the existing surcharge account to defray the costs of preparing its Engineering Report. Order No. 30654 at 12. After allowing Eagle Water to recover its prudent professional fees and expenses, the Commission ordered the Company's rate surcharge to be terminated. Order No. 30667 at 5-6. The Commission calculated that after subtracting the allowed engineering costs, the surcharge account would have a balance (as of October 30, 2008) of approximately \$120,000. *Id.* at 6. On reconsideration, Eagle Water requested that the surcharge be continued so it could recover the costs of new capital improvements and its monthly interconnection fee with the City of Eagle to serve the Floating Feather Mobile Home Park (Case No. EAG-W-08-01).

NOTICE OF APPLICATION
 NOTICE OF DEADLINE FOR INTERVENTION
 ORDER NO. 30734

In denying the Company's Petition for Reconsideration, the Commission found that the Company's request to recover the costs of its capital projects was "a new matter and outside the scope of reconsideration in [the Engineering fees] case." Order No. 30667 at 5. The Commission stated that the appropriate course of action was for Eagle Water "to file an application seeking recovery of its capital projects." *Id.* at 7. The Company's present Application is its request to recover the costs of its capital projects and other expenses.

THE APPLICATION

YOU ARE HEREBY NOTIFIED that Eagle Water seeks to recover the costs of constructing several capital projects that are either complete or under construction. In addition, the Company also seeks to recover its \$10,000 per month "tie-in" expense with the City of Eagle, \$600 in accounting fees, and approximately \$37,500 in legal fees. The costs of the capital improvements and other expenses are outlined below.

<u>Capital Improvements Completed</u>	<u>Cost</u>
Well No. 7	\$605,988
Floating Feather Pressure Reducing Valve	\$ 43,630
Tie-In to City of Eagle	\$ 12,910
Rebuild Well No. 4	<u>\$ 59,755</u>
Sub Total	\$722,303

<u>Capital Improvements in Progress</u>	<u>Cost</u>
Main Booster Station (Motor & Generator)	\$175,100
Well No. 8	<u>\$636,520</u>
Sub Total	\$811,620

<u>Expenses</u>	<u>Cost</u>
Legal & Accounting Fees	
Prior Surcharge Application Legal Fees	\$ 6,048
Engineering Report Legal Fees	\$16,554
Surcharge Extension Application Legal Fees	\$14,906
Surcharge Extension Accounting Fees	<u>\$ 600</u>
Legal & Accounting Fees Sub Total	\$38,108
Eagle City Tie-In Expense (\$10,000/month)	<u>\$60,000</u>
Sub Total	\$98,108

The combined total for the capital improvement projects is \$1,533,923 and the total for expenses is \$98,108. Application at 2-5.

YOU ARE FURTHER NOTIFIED that to defray the costs set out above, the Company proposes to borrow \$995,500 from the Idaho Banking Company. According to the proposed terms of the bank loan, Eagle Water will borrow \$995,500 at 6.75% over a term of seven years. Application, Exh. E. To repay the loan, the Company proposes to implement an immediate surcharge of 48.075% for usage above 600 cubic feet per month. In addition to the surcharge, the Company also seeks permission to access the remaining balance in the surcharge account. The Company reports the current balance in the surcharge account is approximately \$218,000. Application at n.3. The Company proposes to use these surcharge account funds to complete work on the main booster pump and Well No. 8. *Id.* at 6. Completion of Well No. 8 would allow the Company to terminate its tie-in agreement with the City of Eagle, thereby saving \$10,000 per month.

YOU ARE FURTHER NOTIFIED that even if the surcharge is approved, Eagle Water asserts that its overall rates “would remain well below those of the City of Eagle and United Water of Idaho.” Application, Exh. H. Eagle Water maintains that an immediate surcharge (subject to refund) is necessary to ease its cash flow restrictions “brought about by the need to complete Well No. 7 and the City of Eagle tie-in in order to satisfy DEQ regulatory requirements and lift the sanitary restrictions moratorium.” Application at 7. The current constriction of the Company’s cash flow severely limits Eagle Water’s “ability to meet current demands for payment of other capital improvements that are underway.” *Id.* The Company requests that the surcharge take immediate effect. *Id.*

YOU ARE FURTHER NOTIFIED that the Application has been filed with the Commission and is available for public inspection during regular business hours at the Commission offices. The Application is also available on the Commission’s Website at www.puc.idaho.gov under the “File Room” and then “Water Cases.”

STAFF REVIEW

YOU ARE FURTHER NOTIFIED that after reviewing the Company’s Application, the Commission Staff does not oppose the Company’s request to implement the requested surcharge (subject to refund) effective February 23, 2009. Although Staff has not completed a detailed audit of the Company’s capital projects, Eagle Water has provided sufficient evidence that it has completed several costly capital projects. Staff believes that ratepayers are sufficiently protected by the Company’s offer to make the surcharge subject to refund.

YOU ARE FURTHER NOTIFIED that Staff reports that it appears the Company is completing its capital improvements in compliance with its Engineering Report approved by DEQ. Staff also agrees with the Company's plans to use the available funds in the existing surcharge account to complete work on the main booster pump and Well No. 8. Completing Well No. 8 would allow the Company to terminate its tie-in agreement with the City of Eagle for a savings of \$10,000 per month.

YOU ARE FURTHER NOTIFIED that Staff recommends that the Commission authorize Eagle Water to borrow \$995,500 from the bank. Staff also suggests that Eagle Water be required to provide the final draft loan documents with the bank for Staff's review. Copies of all executed agreements for the loan should be filed with the Commission.

YOU ARE FURTHER NOTIFIED that Staff believes this case is appropriate for processing under the Commission's rules of Modified Procedure. Staff recommends that the Commission issue a Notice of Application and set a deadline for intervention. The parties can then meet informally to establish a schedule to process this case via Modified Procedure.

DISCUSSION AND FINDINGS

After reviewing the Company's Application and Staff's recommendations, we find it is reasonable to allow Eagle Water Company to implement its proposed 48.075% surcharge (subject to refund) for customers who consume more than 600 cubic feet of water per month. Because the surcharge is subject to refund, we believe ratepayers are protected until the Commission has completed its review of the reasonableness and prudence of the Company's capital costs and expenses set out in its Application. In particular, "Eagle Water recognizes that it will be required to repay any . . . surcharge [collected] if the expense[s are] not ultimately approved by the Commission for surcharge recovery." Application at 7. Staff further asserts that the impact of the surcharge should be mitigated because the irrigation season has not started.

Based upon representations made in the Application, we further find that the proceeds from the surcharge account and the proposed bank loan will be used to pay for the costs of the capital projects and expenses set out in the Application. We further find that the Company's request to borrow \$995,500 subject to those conditions recommended by Staff is for a lawful purpose, is within Eagle Water's corporate duties, and is generally compatible with the public interest. The Commission specifically reserves its right to review the capital expenditures and other expenses for reasonableness and prudence. The authority contained in this Order to

execute the loan agreement does not constitute a final decision regarding the reasonableness and prudence of the Company's capital costs and expenses.

DEADLINE FOR INTERVENTION

YOU ARE FURTHER NOTIFIED that persons desiring to intervene in this matter for the purpose of presenting evidence or participating as a party must file a Petition to Intervene with the Commission pursuant to this Commission's Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and -.073. Persons intending to participate at the prehearing must file a Petition to Intervene **no later than 14 days from the service date of this Order**. Persons seeking intervenor status shall also provide the Commission Secretary with an electronic mail address to facilitate further communications in this matter.

YOU ARE FURTHER NOTIFIED that persons desiring to present their views without parties' rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or to other parties.

YOU ARE FURTHER NOTIFIED that once the deadline for intervention has passed, the Commission Secretary shall issue a Notice of Parties. The Notice of Parties shall assign exhibit numbers to each party in this proceeding.

YOU ARE FURTHER NOTIFIED that after the Notice of Parties is issued, the Commission directs that the parties informally convene to devise a recommended schedule to process this case. The Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204, IDAPA 31.01.01.201-204. The Commission notes that Modified Procedure and written comments have proven to be an effective means to obtain public input and participation.

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter under Title 61 of the Idaho Code, and specifically *Idaho Code* §§ 61-302, 61-307, 61-502, 61-503, 61-507, and 61-622. The Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

IT IS HEREBY ORDERED that Eagle Water Company's request to implement a 48.075% surcharge (subject to refund) for consumption above 600 cubic feet of water per month

is approved. The surcharge shall become effective February 23, 2009. Eagle Water is directed to file conforming rate schedules to reflect the new surcharge and its effective date within seven (7) days of this Order.

IT IS FURTHER ORDERED that persons desiring to intervene in this case for the purpose of presenting evidence or participating as a party shall file a Petition to Intervene with the Commission no later than fourteen (14) days from the service date of this Order.

IT IS FURTHER ORDERED that after the Notice of Parties is issued, Staff shall convene an informal prehearing conference with the parties to discuss the processing of this case via Modified Procedure.

IT IS FURTHER ORDERED that Eagle Water Company's request for authority to borrow up to \$995,500 is granted. The Company is also granted authority to access the existing and future surcharge account funds subject to our subsequent review and final reconciliation as proposed by Staff.

IT IS FURTHER ORDERED that Eagle Water provide the final draft loan documents for Staff's review. The Company shall also file copies of all executed agreements for the loan with the Commission.

IT IS FURTHER ORDERED that the Commission specifically reserves the right to determine the reasonableness and prudence of the capital costs and expenses for which the Company currently seeks recovery. In the event the Commission subsequently disallows recovery of any portion of the costs or expenses, the amount disallowed will be solely the responsibility of Eagle Water Company and not recoverable from customers. Eagle Water may be required to reimburse the surcharge account or customers 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.

IT IS FURTHER ORDERED that nothing in this Order or any act or deed done or performed in connection with this Order shall be construed to obligate the State of Idaho to pay or guarantee in any manner whatsoever any loan authorized under this Order.

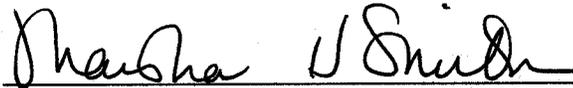
IT IS FURTHER ORDERED that the loan authorized in this Order is without prejudice to the regulatory authority of the Commission with respect to rates, services, accounts or determination of costs or any other matter which may become before the Commission pursuant to its jurisdiction and authority as provided by law.

IT IS FURTHER ORDERED that the issuance of this Order does not constitute acceptance of Eagle Water's materials accompanying the Application for any purpose other than the issuance of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23rd day of February 2009.



MACK A. REDFORD, PRESIDENT

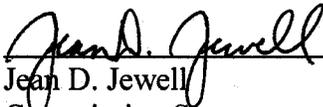


MARSHA H. SMITH, COMMISSIONER



JIM D. KEMPTON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:EAG-W-09-01_dh