

DECISION MEMORANDUM

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

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: FEBRUARY 5, 2009

SUBJECT: EAGLE WATER COMPANY'S APPLICATION FOR A SURCHARGE,
CASE NO. EAG-W-09-01

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. Eagle Water requests that its Application be processed via Modified Procedure.

BACKGROUND

In the Company's last case, the Commission allowed the Company 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).

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

In its Application, Eagle Water seeks to recover the costs of constructing several capital projects that are either completed or in the process of 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 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.

To recover 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 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 discontinue its tie-in agreement with the City of Eagle, thereby saving \$10,000 per month.

Even if the surcharge is approved, Eagle Water states 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.*

STAFF RECOMMENDATION

After reviewing the Company’s Application, the completed capital projects and the capital projects currently underway, the Staff does not oppose the Company’s request to implement the requested surcharge (subject to refund) effective February 23, 2009. Although the 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 making the surcharge subject to refund. As indicated in the Company’s Application, “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 Staff’s initial review, it appears that 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.

Staff also recommends 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.

The Staff believes that 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 could then meet informally to establish a schedule to process this case via Modified Procedure.

COMMISSION DECISION

1. Does the Commission find that there is sufficient cause to allow Eagle Water to implement its proposed 48.075% surcharge (subject to refund) for customers who consume more than 600 cubic feet of water per month? If not, then does the Commission wish to suspend the proposed surcharge?

2. If the Company's surcharge request is approved, does the Commission approve the loan request for \$995,000 and allow Eagle Water to use the surcharge revenue (and its revenue stream) as collateral for the loan?

3. Does the Commission wish to expressly reserve its right to review the capital expenditures and other expenses for reasonableness and prudence? Should Eagle Water be required to reconcile the surcharge and authorized improvements/expenses, and if necessary, repay any costs disallowed by the Commission?

4. Does the Commission adopt Staff's recommendation regarding the review and reporting requirements for the loan?



Don Howell
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