

DECISION MEMORANDUM

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

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: AUGUST 1, 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 a 48.075% surcharge on customers that use more than 600 cubic feet of water per month. The Company also requested permission to access existing funds in its surcharge account. The new surcharge and the balance remaining in the previous surcharge account would be used by Eagle Water to defray the costs of several capital improvement projects and expenses totaling more than \$1.6 million. Application at 3-5. The Company stated 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 requested that its Application be processed via Modified Procedure.

On February 23, 2009, the Commission issued Order No. 30734 granting the Company's request for surcharge, subject to refund. The Commission also set a deadline for interested persons to intervene in this case. No Petitions to Intervene were filed. Staff has completed its review of the Company's Application and has discussed with the Company how this case should be processed. The Company and the Staff recommend that the case be processed under Modified Procedure.

BACKGROUND

A. The Application

In its Application, Eagle Water sought to recover the costs of constructing several capital projects that are either complete or under construction. In addition, the Company

requested recovery of its \$10,000 per month “tie-in” expense with the City of Eagle¹, \$600 in accounting fees, and approximately \$37,500 in legal fees. As set out in the Application, the projected 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 (\$10,000/mo. x 6 mos.)	<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; Order No. 30734 at 2.

To defray the costs set out above, the Company proposed 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 proposed to implement an immediate surcharge of 48.075% for usage above 600 cubic feet per month. In addition to the surcharge, the Company also requested permission to access the remaining balance in the surcharge account. At the time of the Application, the Company reported the current balance in the surcharge account was approximately \$218,000. Application at n.3. The Company proposed to use these surcharge account funds to complete

¹ In Case No. EAG-W-08-01, the Company agreed to interconnect its system with the City of Eagle’s water system so that the utility could serve the Floating Feather Mobile Home Park.

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. Order No. 30734 at 3.

Even with the surcharge, Eagle Water asserted that its overall rates “would remain well below those of the City of Eagle and United Water of Idaho.” Application, Exh. H. Eagle Water maintained 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 requested that the surcharge take immediate effect. *Id.*

B. The Commission’s Prior Order

In Order No. 30734 issued February 23, 2009, the Commission allowed Eagle Water to implement its surcharge subject to refund. The Commission observed that because the surcharge is subject to refund, “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.” Order No. 30734 at 4.

The Commission also found it was reasonable to allow the Company to execute the bank loan and access the remaining balance in the surcharge account to pay for the capital costs and expenses set out in the Application. The Commission observed that completing Well No. 8 would allow Eagle Water to save \$10,000 per month by eliminating the monthly tie-in expense. The surcharge would provide the revenue to pay back the loan. *Id.* The Commission expressly reserved the right to subsequently determine the reasonableness and prudence of the capital costs and expenses. *Id.* at 6.

THE PROPOSED SCHEDULE

The Staff and Company have devised a recommended schedule to process this case. The parties recommend that this case be processed under Modified Procedure with initial comments due August 27, 2009. The parties also agree that Eagle Water be allowed to file reply comments no later than September 18, 2009. The parties also recommend that the Commission direct Staff to hold a public workshop to provide information and answer any customer questions regarding the Company’s Application.

COMMISSION DECISION

1. Given the agreement of the parties, does the Commission wish to process this Application via Modified Procedure with the schedule proposed by the parties?
2. Does the Commission want the Commission Staff to hold a public workshop regarding the Company's Application?



Don Howell
Deputy Attorney General

bls/M:EAG-W-09-01_dh3