

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0128W

IN THE MATTER OF THE APPLICATION OF PAPASON LLC DBA BAXTER WATER AND SERVICES FOR AUTHORITY TO TRANSFER ALL ASSETS, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCOMPANYING WATER AND WELL RIGHTS FROM GREENWELL ENERGY INC AKA GREENWELL ENERGY LLC AKA OCTAL RESOURCES INC DBA ONEAL WATER WORKS AKA ONEAL WATER INC AKA ONEAL WATER TO PAPASON LLC DBA BAXTER WATER AND SERVICES.

**COMMISSION DECISION DENYING
MOTION TO PLACE INTERIM RATES INTO EFFECT**

Mailed Date: January 11, 2024

Adopted Date: January 10, 2024

I. BY THE COMMISSION

A. Statement

1. On January 3, 2024, Papason LLC dba Baxter Water and Services (Baxter) filed its Motion to Place Interim Rates Into Effect On February 1, 2024, and For Waiver of Response Time (Motion). By this Decision, we deny the Motion and invite Baxter to file a rate case.

B. Discussion

2. Baxter is a water utility providing service in Pueblo, Colorado. Ownership of the utility changed hands, leading Baxter to file the Application for Authority to Transfer Assets and for a Certificate of Public Convenience and Necessity (CPCN) that was the subject of this proceeding. On September 18, 2023, the Application was granted with certain conditions by Recommended Decision No. R23-0629.

3. On January 3, 2024, Baxter filed the instant Motion in this now-closed CPCN and transfer proceeding. The Motion asks the Commission to approve a 300 percent interim rate increase and to waive response time to the Motion. Baxter indicates that it has capital projects both completed and on the horizon and its financial position may be strained.

4. On January 9, 2024 Commission Trial Staff filed a brief in response to the Motion. Trial Staff argues that the Commission should deny the Motion. In support of its position, Trial Staff makes a number of arguments: first, the Motion is procedurally improper; second, Baxter appears not to have provided the required notice to its customers; and third, litigating a rate increase in a proceeding that started as a CPCN approval and is now closed presents due process issues. Trial Staff also points out that while Baxter provided some financial data with its Motion, that data falls short of what would be required in a rate case. For these reasons Trial Staff requests that the Commission deny the Motion and invite Baxter Water to file a rate case.

C. Findings and Conclusions

5. We agree with the arguments put forth by Trial Staff and therefore deny the Motion in its entirety.

6. Baxter is welcome to initiate a formal rate case where its proposal to implement a three-hundred percent increase in rates can be properly noticed and more thoroughly evaluated. Commission Rules 5109, 5110, and 5112 may be applicable to Baxter as a smaller water utility. Baxter may file a new tariff and advice letter in a new proceeding, or, if it qualifies, Baxter may file an application for small water utility simplified regulatory treatment along with supporting data for its proposed rate change.

II. ORDER

A. The Commission Orders That:

1. The Motion to Place Interim Rates Into Effect On February 1, 2024, and For Waiver of Response Time filed by Baxter Water and Services on January 3, 2024, is denied.
2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 10, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners