

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

INVESTIGATION INTO VALIANT IDAHO,) CASE NO. GNR-W-24-01
INC. AND TIC UTILITIES, LLC, OWNERS)
OF A NORTHERN IDAHO WATER SUPPLY) NOTICE OF INVESTIGATION
AND DISTRIBUTION SYSTEM)
ORDER NO. 36149
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Valiant Idaho, Inc. (“Valiant”) and TIC Utilities, LLC (“TIC Utilities”) (collectively the “Companies”) own and operate a water supply and distribution system that serves customers in a development and golf club called the Idaho Club in or near Bonner County, Idaho. Valiant obtained the water system assets along with an undeveloped portion of the Idaho Club and land comprising the golf course in a 2016 sheriff sale.¹ Ownership of the water system assets and service to the parcels Valiant owns has been the subject of litigation in state court.²

On April 11, 2022, legal counsel for the Commission sent a letter (“Letter”) to the Companies, inquiring into the water system’s regulatory status. The Letter asked: “Does Valiant and/or Tic intend to provide water to customers as a Commission regulated utility?” In a subsequent email to the Commission Staff (“Staff”), a representative of Valiant expressed the intent to operate the system as a Commission regulated utility. However, the Companies did not subsequently apply for a Certificate of Public Convenience or Necessity as they had entered negotiations to sell the system to Gem State Water Company, LLC (“Gem State”).³ Although the Commission approved Gem State’s acquisition of the water system in Order No. 35971, Gem State subsequently filed a notice indicating it had terminated the agreement to purchase the system and the sale would not proceed. The Commission responded by issuing Order No. 36099 which released Gem State from any further obligations in the proceeding and directed Staff to contact the Companies regarding their regulatory status.

On March 25, 2024, following an initial telephone conversation with Staff and Staff’s counsel, the Companies’ counsel represented by email that the Companies had elected “to sell and

¹ See Case No. GNR-W-17-01 (Sept. 14, 2017, Decision Memo at 1).

² See *Genesis Golf Builders v. Pend Oreille Bonner, et al.*, Case No. cv-2009-0001819 (Idaho 1st Dist., April 2017) (order granting injunction).

³ See Case No. GSW-W-23-01 (Application for Approval of Acquisition at 1).

transfer the Idaho Club water system to the Idaho Club Homeowners Association [(“HOA”).” The email further indicated the Companies had put the purchase of the water system on the HOA’s agenda and expected its members to approve the sale and transfer which would be completed by July 31, 2024. However, soon after learning of the likely sale and transfer to the HOA, Staff received information that called the likelihood of the sale and transfer being completed into question.

Considering the lengthy and continuing uncertainty surrounding the Companies’ regulatory status, the Commission finds it reasonable to investigate if one or both of the Companies should be a regulated utility under the Idaho Code and if any steps should be taken by the Companies to comply with Idaho Public Utilities Law. *See Idaho Code* § 61-501 et. seq.

Staff’s investigation should include whether Valiant, TIC Utilities, or both are public utilities and should be directed to apply for a Certificate of Public Convenience and Necessity, and what further steps, if any, the Companies should take to comply with Idaho law.

We direct the Companies to respond to discovery questions and inquiries made by Staff. Once Staff completes its investigation it shall make a recommendation to the Commission regarding the Companies’ regulatory status, a requirement of a Certificate of Public Convenience and Necessity, and any further recommendations regarding the adequacy of service, and rate setting.

ORDER

IT IS HEREBY ORDERED that Staff shall investigate the status of Valiant Idaho, Inc. and TIC Utilities, LLC. Staff shall provide a recommendation to the Commission for further action when it has concluded its investigation.

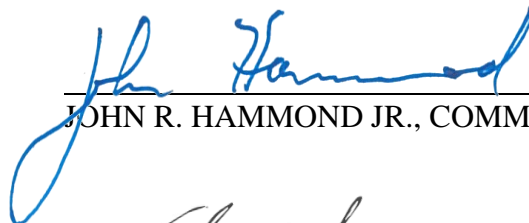
IT IS FURTHER ORDERED that Valiant Idaho, Inc. and TIC Utilities, LLC respond to Staff inquiries. Valiant Idaho, Inc. and TIC Utilities, LLC are directed to cooperate with the Staff’s investigation. Staff is directed to issue production requests, written interrogatories or other forms of discovery and pursue its statutory right to examine and audit the records of the Companies as they relate or pertain to the sale of water.

IT IS FURTHER ORDERED that parties comply with Order No. 35375, issued April 21, 2022. Generally, all pleadings should be filed with the Commission electronically and will be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between

parties should continue to be accomplished electronically when possible. However, voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23rd day of April 2024.


ERIC ANDERSON, PRESIDENT


JOHN R. HAMMOND JR., COMMISSIONER


EDWARD LODGE, COMMISSIONER

ATTEST:


Monica Barrios Sanchez
Commission Secretary

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