

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF MARK)
PECCHENINO’S FORMAL COMPLAINT) **CASE NO. IPC-E-20-29**
AGAINST IDAHO POWER COMPANY)
) **ORDER NO. 35292**
)

On July 15, 2020, Mark Pecchenino (“Petitioner”) filed a formal complaint (“Complaint”) against Idaho Power Company (“the Company”) alleging that the Company damaged his trees and property. Mr. Pecchenino complained that “the [Company’s] policies and Section 7 of [Idaho Public Utilities Commission] No. 29. Tariff No. 101 are arbitrary, capricious and in violation of Idaho Statutes and ordinances.” Mr. Pecchenino also alleged that the Company violated his state and federal constitutional rights under the 14th Amendment of the US Constitution and Article I—Declaration of Rights, Section’s 1, 3 and 14 of the Constitution of The State of Idaho.

At the Commission’s August 13, 2020 Decision Meeting, Staff recommended the Commission issue a Summons to the Company requiring an answer to the Petitioner’s Complaint within 35 days and granting Petitioner a 21-day reply deadline.

On September 25, 2020, the Company filed an answer to Petitioner’s formal complaint and a Motion to Dismiss. On October 5, 2020, Petitioner filed a reply to the Company’s Motion to Dismiss.

Having reviewed the record in this case, we now issue this Order granting the Company’s Motion to Dismiss.

BACKGROUND

The Complaint stems from two incidents roughly three years apart. The first incident occurred between 2017 and 2018. The Second incident occurred on April 27, 2020.

1. Incident One

During the first incident, Petitioner alleged that the Company “topped” four of his Lombardy Poplar trees—ultimately killing them. Petitioner argued that the death of those four trees was the direct result of the Company’s trimming practices which did not comply with ANSI A300 standards. Petitioner also noted that he was not provided notice to the Company’s trimming

dates and that three other trees were severely damaged by the Company's use of "lion's tailing" trimming during this incident.¹ See *Petitioner's Complaint*, p. 6.

2. Incident Two

In the second incident, Petitioner alleged that he was not notified when the Company or its agents would be trimming trees on his property. *Id.* Petitioner stated that his first notice of Company activity was when two contractor employees from the tree trimming company knocked on his door and notified him that they had broken an irrigation pipe. *Id.* Petitioner claimed that the workers had no identifying information that provided proof of company employment. *Id.* Petitioner also stated that the workers had no permission slip, contract, or other type of identifying information to signify that they were agents of the Company. *Id.* at 7. One of the workers showed Petitioner the broken irrigation pipe. *Id.* However, Petitioner did not submit a claim for the broken irrigation pipe to the Company. *Id.* at 8. Instead, one of the contractor employees offered—and did—pay for a replacement pipe.² *Id.* Petitioner accepted this as a replacement because it was hot, and he had irrigation water scheduled to be delivered. Petitioner alleged that he felt pressure to accept the pipe. *Id.* at 9.

Additionally, Petitioner stated that the tree-trimming company left debris in his hay field. *Id.* at 10. He requested that the tree trimming employees remove the debris because of he and his wife's disabilities and subsequent inability to do so. *Id.* However, Petitioner alleged that the employees refused, stating that he was told it was not included in their scope of work. *Id.* Petitioner contacted the Company and informed it of the disability; an employee of the Company then visited the property and indicated that—per the Company's policy—the debris was left in manageable sizes. *Id.* at 11.

THE COMPLAINT

The Complaint addressed several issues: (1) easement/right-of-way; (2) trespass; (3) tree trimming policies; (4) due process; (5) Company notice; (6) the Respondent's complaint procedure; (7) damage to personal property; (8) the Company's contractor training; (9) tree removal policy; (10) inspection of contractor's or Company's work; and (11) debris removal policy

¹ Lion's Tailing is the phrase used by Petitioner but is also a recognized term in Arbor work meaning to over-prune a tree by removing a large number of inner branches.

² The broken pipe was 8" transfer irrigation pipe. The only 8" replacement pipe located in the geographical area was gated pipe. The Petitioner accepted this so that water could continue to irrigate his hay field.

and ADA requirements.³ Additionally, the Complaint included a request for relief along with all remedies that the Petitioner desired to amicably resolve the Complaint.

Easement/Right-of-Way

Petitioner alleged that the Company's policies and Rule C of its tariffs, are arbitrary and capricious by providing no consideration for private property rights and violating state statutes.⁴ *Petitioner's Complaint*, at 15. Petitioner contended that Rule C implies that the Company's employees can enter private property at any time and for any reason. *Id.* He also suggested that the Company's interpretation of Rule C allows its agents and employees to enter any property outside the easement for any reason. *Id.* Petitioner cited the Company's policy and stated that the Company's language is arbitrary and capricious. *Id.* at 16-17.⁵

1. Trespass

Petitioner alleged that the Company committed trespass when it strayed from the utility easement to trim his trees, having done so without his permission. *Id.* at 20. Petitioner claimed that the Company's tariff Rule C violates *Idaho Code* § 18-7001 *et seq.* *Id.* Petitioner cited *Idaho Code* § 18-7008—criminal trespass and interpreted the statute to allow *only* power company employees, not third-party contractors to enter the property and prune trees. *Id.* *See also* p. 26. Petitioner claimed the trees were outside of the easement and the irrigation pipe was farther outside the easement. *Id.* at 20. Therefore, in Petitioner's view, because the Company sent independent contractors to trim the trees and not its own employees, the Company committed criminal trespass.

2. Tree Trimming Policies

Petitioner claimed that the Company's publicly posted tree trimming policies are "arbitrary and capricious" and have "no consideration for private property rights." *Id.* at 28. Petitioner alleged that seven of his trees were "topped or lions-tailed" and that the Company's failure to develop ethical standards and policies in addition to providing proper training caused the

⁴ Tariff Rule C states "The Customer shall, without cost to the Company, grant the Company a right of way for the Company's lines and apparatus across and upon the property owned or controlled by the Customer, necessary or incidental to the supplying of Electric Service and shall permit access thereto by the Company's employees at all reasonable hours. The Customer shall also permit the Company to trim trees and other vegetation to the extent necessary to avoid interference with the Company's lines and to protect public safety."

⁵ The Company stated its policy "that it has easements to property allowing it to maintain its lines and that while it does not need permission to prune, it likes to notify customers when access is necessary for the safety and reliability of our powerlines."

death of the trees. *Id.* Petitioner asserted that the Company’s failure to comply with, enforce, and monitor its own policies and contractors jeopardized his private-property rights. *Id.* at 28-29.

3. Takings (Due Process)

Petitioner alleged that the conditions and the amount offered for compensation of his dead trees were “unreasonable, unjustifiable, and amounted to a taking without due process or just and fair compensation.” *Id.* at 29-30. Petitioner alleged that the \$50.00 voucher offered for the trees was arbitrary and capricious because the Company has no valuation process for the “condemned” trees. *Id.* at 29.

4. Company Notice

Petitioner argued that his due process rights were violated because of the Company’s lack of notice. *Id.* at 32. Petitioner alleged that the Company’s policies were arbitrary because they had no noticing requirements and the methods of noticing differed between written policies. *Id.* He additionally stated that the Company’s policies lack content and have no effective way to monitor or prove whether noticing has actually happened either by staff or third-party contractors. *Id.* In essence, Petitioner argued his due process rights were violated because he had no opportunity to grant or deny access to the Company or its agents onto his property.

5. The Company’s Complaint Procedure

Petitioner stated that the Company only has one written publicly available policy for handling complaints.⁶ *Id.* at 33. Petitioner noted that two different staff members from the Company handled his complaint, and each had a different method for how to handle it—making the complaint process arbitrary and capricious. *Id.*

6. Damage to Petitioner’s Personal Property

Petitioner stated in Incident 2, that the tree trimming crew did not know the Company’s policy on handling damaged property or who was responsible for replacing damaged property. *Id.* at 34. Petitioner stated that without a policy, it leaves the customer in a position to deal with a third-party contractor to replace damaged property. *Id.* Petitioner asserts that he was pressured by the third-party contractor to accept a replacement irrigation pipe which was not the same as the damaged irrigation pipe. *Id.* at 34-35.

⁶ The policy states “if it is clear that pruning killed the tree, Idaho Power will cut it to a stump and provide the customer a voucher to replace the tree.”

7. The Company's Contractor Training Requirements

Petitioner stated that the Company's policies for "contractor training: training verification, certification, and identification" were "arbitrary and capricious with no merit." *Id.* at 39. Petitioner asserted that the policies were ambiguous because they did not define training specifications or certifications that are required. *Id.* at 36-37. Petitioner stated the Company's policies reference several pruning methods and standards that are not actually followed in the field. *Id.* at 38. Petitioner asserted that this lack of training and certifications led to arbitrary and capricious decisions made by third-party contractors. *Id.* at 39.

8. Tree Removal Policy

Petitioner alleged that third-party contractors topped his trees—contrary to the Company's policies—which killed said trees (making them hazardous trees) then left them for him to deal with instead of cutting them down per the Company's policy. *Id.* at 40. Petitioner quoted the Company's policy regarding removal of trees:

"[s]ometimes it's necessary to remove a tree that has become a hazard to the public or the energy system. If a tree or trees are classified as hazardous, Idaho Power will remove the tree and discuss replacement options with the property owner. Customers may plant a new tree in the same spot *only* if they select a low-growing, or Class I tree. Class I trees grow to a maximum height of 25 feet."

Id. at 39.

Petitioner disagreed that the Company should be the one to classify the trees because it only benefits the Company and not the Customer. *Id.* See also *Petitioner's Reply*, p. 3.

9. Inspection of Contractor's or Company's Work

Petitioner cited Rule C Section 7 of the Company's tariff as the basis for alleging that only the Company, *but not* third-party contractors, could enter the property to trim trees. *Id.* at 41. Rule C Section 7 states:

The Customer shall, without cost to the Company, grant the Company a right of way for the Company's lines and apparatus across and upon the property owned or controlled by the Customer, necessary or incidental to the supplying of Electric Service and shall permit access thereto by the Company's employees at all reasonable hours. The Customer shall also permit the Company to trim trees and other vegetation to the extent necessary to avoid interference with the Company's lines and to protect public safety.

Id. (emphasis added).

Additionally, Petitioner stated that it is the Company that has a responsibility and duty to ensure its contractors are performing according to stated policies and guidelines—not the property owner. *Id.* at 42

10. Debris Removal Policy and ADA Requirements

Finally, Petitioner alleged that the Company’s debris removal policy in relation to the Americans with Disabilities Act (“ADA”) is arbitrary and capricious. *Id.* at 42. Petitioner stated that the policy placed an undue burden on the landowner.⁷ *Id.* at 43. Petitioner stated that the Company is a quasi-government entity, and therefore must incorporate ADA compliance into its policies. *Id.* He stated that “reasonable accommodation requests without proper consideration is a violation of [the [ADA].” *Id.* Petitioner further stated that the Company is not released from providing auxiliary aid, if available, under the ADA. *Id.* He complained that no aid was offered, and no Company policy existed regarding a request for aid. *Id.*

11. Petitioner Reply

On October 5, 2021, Petitioner filed a Reply brief to the Company’s response which reiterated the basis of Petitioner’s Complaint.

THE COMPANY’S ANSWER

I. Overview

The Company’s Answer provided background on its vegetation management duties and practices. The Answer also provided response to certain allegations made in the Complaint.

A. Vegetation Management Authority and Practices

The Company addressed Petitioner’s Complaint by first stating its authority to trim Petitioner’s trees. The Company cited *Idaho Code* § 61-302 which requires a public utility to provide safe and adequate service, facilities, and equipment, promoting “the safety, health, comfort and convenience” of the public. *See Idaho Power’s Response*, p. 2. The Company stated that Commission Rules 31.11.01 promulgate the Safety and Accident Reporting Rules for Utilities Regulated by the Commission. Commission Rule of Procedure 31.11.01.101 adopts the provisions of the 2017 National Electric Safety Code (“NESC”). *Id.* at 3. NESC Rule 218.A states:

⁷ “Our policy is to chip any small limbs, branches and brush from landscaped settings. Idaho Power will haul this material away or leave the mulch with the property owner at their request. Any wood larger than four inches in diameter is cut into manageable lengths for the property owner. Dead wood cannot be chipped and will be left on the property.”

“[v]egetation management should be performed around supply and communication lines as experience has shown to be necessary.” *Id.* at 3; *see also Idaho Code* § 52-111.

To comply with NESC Rule 218, the Company performed vegetation management around distribution lines approximately every three years. *See IPC-E-20-02; Idaho Power’s Response*, p. 4. To accomplish its vegetation management, the Company contracted with third party contractors and required specific training and certification. *Id.* at 4, ¶ 9. The Company stated that third-party contractors are its agents and have the same rights and authority as the Company’s employees, including authority pursuant to Rule C of the Company’s tariff. *Id.*

The Company stated that its notice requirements are as follows: (1) Prior to any vegetation management activities, an informational email is sent to all customers who have a valid email address on record with the Company’s listserv; (2) a contractor patrols the area to identify areas that need tree trimming to avoid contact with power lines over the next three years. *Id.* at 4-5, ¶ 9. The Company or contractor then provides notice to the owner or occupier of the property where work will occur; (3) the contractor then notifies the affected property-owners in-person or via door-hanger and pamphlet describing the Company’s vegetation management activities and contact information for interested persons to call. *Id.* at ¶ 10. Next, the contractor creates a work plan in the Company’s vegetation management software that is then provided to the assigned crew. *Id.* at ¶ 11.

B. Pruning Practices

Next, the Company responded that its contractors make cuts according to American National Standards Institute (“ANSI”) A300 standards. *Id.* at 5, ¶ 12. The contractors follow directional pruning techniques which means they make cuts that train the tree limbs to grow away from the power lines. *Id.* Contractors directionally prune trees, maintain appropriate clearance from powerlines until the next trimming cycle, and minimize impacts to tree health through this method. *Id.* The distance created by the tree trimming depends on the growth pattern of each specific tree. *Id.* The analysis includes species, branch structure, local environment conditions, tree health, access to nutrients and water, potential branch displacement due to wind, powerline voltage, and possible powerline displacement due to wind. Fast growing trees—including poplars—are pruned to create a greater distance from powerlines. *Id.* at 6, ¶ 13. The Company stated that following these procedures accommodates the different growth rates of these species and avoids contact with the power lines between trimming cycles. *Id.* Contractors are trained to

use their professional judgment in addition to the ANSI A300 standards for each tree requiring maintenance. *Id.*

At the contractor's discretion, if the contractor decides reduction, or crown reductions, are appropriate, these practices are done in accordance with paragraph 10.38. *Id.* at 7, ¶ 14. Paragraph 10.38 of the ANSI A300 standards defines reduction as an "arboricultural term referring to decreasing branch length, or plant height and/or spread." *Id.* at 8, ¶ 16-17. The Company stated that topping, rounding, and lions-tailing are not performed by the contractors. *Id.* However, the Company stated that hazardous trees are those that "pose a real and impending threat of structural failure that could result in falling across a power line." *Id.* at 9, ¶ 18. Hazardous trees that are within striking distance of power lines and are dead, in poor health, or exhibiting structural problems are likely to result in falling into the power line. *Id.* NESC Rule 218 states that hazardous trees must be removed, either partially, or entirely, during the vegetative management cycle. *Id.*

C. Debris Cleanup

The Company's debris removal procedures were stated to include hauling away the trimmed and pruned deadwood. *Id.* at 9, ¶ 20. The contractors will leave any wood larger than four inches in diameter for the landowners' use. *Id.* The contractor will cut these pieces into manageable lengths and leave them on the property. *Id.* If the wood is in a landscaped area, the contractor will stack the wood near the downed tree. *Id.* However, if the wood is located in an un-landscaped area, contractors are not required to stack the wood neatly, but may do so as a courtesy. *See Idaho Power E-mail*, ¶ 2. Deadwood cannot be chipped because it could damage the wood chipping equipment and present a hazard to the chipper operator. *Idaho Power's Response*, p. 9, ¶ 21.

II. The Company's Specific Responses to the Complaint

1. Public Rights of Way

In response to Petitioner's first allegation, the Company stated that for power lines located in the public road right-of-way ("ROW"), it trims branches that cross the vertical boundary of the ROW. *Id.* at 10, ¶ 22. The Company noted that the power line referenced in the Complaint sits in the Ten Mile Road ROW and meets all NESC electrical requirements. *Id.* The Company also stated that Section 7 of Rule C requires customers to grant the Company a ROW at no cost and the ROW grants Company personnel (and its contractors/agents) reasonable access to facilities located on the customers' property for maintenance and vegetation management. *Id.* at 10, ¶ 23.

Additionally, the Company noted that it has a valid subdivision utility easement for managing vegetation and trimming trees on Petitioner's property. *Id.* According to the Amended Plat of the McClure Subdivision, wherein Petitioner's property is located, Idaho Power has a ten-foot utility easement along the exterior boundary. *Id.* at 11, ¶ 24-25.

2. Trespass

In response to Petitioner's allegation of trespass, the Company first noted that in 2018, the Idaho Legislature exempted certain activities from civil and criminal trespass claims when individuals have lawful or public safety authority to access the private property. *Id.* at 11, ¶ 27. The Company cited *Idaho Code* §§ 6-207(7) (civil) and 18-7008(6) (criminal) as the statutes that exempt certain persons from trespass. *Id.* at 12, ¶ 28. The statutes give examples including "a meter reader in the scope and course of his employment and power company personnel fixing downed powerlines."⁸ *Id.*

The Company denied that it exceeded its tree-trimming authority with respect to Petitioner's trees, or that it trespassed on the Petitioner's real property. *Id.* at 13, ¶ 31. The Company noted that Brent Van Patten has managed the Company's vegetation management team since June 2018. *Id.* at ¶ 32. Tyler Hopper completed the Utility Vegetation Management Professional Course and is an ISA Certified Arborist, ISA Certified Utility Specialist, and ISA Certified Tree Risk Assessor. *Id.* at 13, ¶ 33.

3. Incident One

The Company's records suggested Incident One occurred on July 6, 2016. *Id.* at 14, ¶ 34. In response to Petitioner's claim that the Company's pruning techniques killed his trees, the Company denies that its actions in 2016 caused the deaths and declining health of Petitioner's trees. *Id.* at 17, ¶ 36. The Company listed several factors that could cause the declining health, including water shortage, nutrient deficiency, incompatible soil pH, disease, pests, herbicides applied along the road for weed control, and ice melt chemicals applied to the road in winter. *Id.* The Company admitted that trees 3 and 4 are dead, and tree 2 is in poor health, but denied any wrongdoing associated with the trees. *Id.*

The Company stated that its contractor used a bucket truck and flaggers to perform vegetation management on Petitioner's property. *Id.* at 14, ¶ 34. The specific work done, according to the Company's records, included side trims on six poplar trees, crown reductions on three poplar

⁸ *Idaho Code* §§ 6-202(8) and 18-7008(7).

trees and a side trim on one willow. *Id.* The Company stated that crown reductions are an ANSI-A300-approved form of pruning. *Id.* at 18, ¶ 37. This type of pruning generally shortens branches back to the appropriate lateral branch—sometimes to the trunk—to achieve proper clearance. *Id.* This style of trimming is clearance pruning and is performed in accordance with paragraph 8.4.1 of ANSI A300 standards. *Id.*

In response to Petitioner’s allegation regarding notice, the Company responded that its records indicated that Petitioner received notice about the planned work on May 12, 2016. *Id.* at 17, ¶ 35. Additionally, the Company provided a survey of Petitioner’s property which provided specific locations and spacing of the subject trees. *Id.* at 14-15, ¶ 34. The survey shows road ROW, distribution line, tree locations, and utility easement to scale. *Id.*

4. Incident Two - Overview

The Company stated that its records indicated that Incident Two occurred on April 27, 2020. *Id.* at 20, ¶ 39. The Company admitted that on April 27, 2020, its vegetation management contractor used a bucket truck and flaggers to perform side trims on five poplar trees and a willow tree, and crown reductions on two poplar trees. *Id.* The Company stated that dead tops in trees 1, 5, and 6 were at risk of falling into the Company’s power lines and were removed by crown reduction to mitigate risk. *Id.* The Company noted that the performed crown reductions were consistent with Section 4.2 of ANSI standards by managing risk and tree health and ensuring safe and reliable service. *Id.* The Company stated that it did not have the remaining portion of the trees removed because they did not meet the criteria for a hazardous tree. *Id.* The Company asserted that based on its survey, all tree canopies extend into the utility easement and trees 1 through 4 were planted in the utility easement. *Id.* One tree, No. 13, even grows into the road ROW. *Id.* at 21, ¶ 39.

The Company responded to Petitioner’s charge that it was not authorized to trim trees outside of the ten-foot utility easement by stating that based on the survey the Company conducted, it did not trim Petitioner’s trees beyond the utility easement. *Id.* The Company stated that Petitioner allowed his trees to grow into and beyond the utility easement and into the adjacent ROW. *Id.* The Company stated it had a right to trim trees where it did. *Id.* The Company noted that several of the tree-species planted by the Petitioner are fast growing trees and were planted either in or near the utility easement which necessitates vegetation management. *See generally, id.*

i. Notice

With regard to notice, the Company stated that it provided notice to Petitioner on either March 27, 2020, or March 30, 2020, before beginning the April 2020 tree trimming. *Id.* at 21, ¶ 40. The Company’s contractor “confirmed that they walked from the end of the road up the lane to the front door of the residence and placed the hanger on the door without knocking to avoid making contact with the homeowner pursuant to social distancing guidelines put in place through COVID-19.”⁹ *Id.* The contractor entered this record into the Company’s electronic database. *Id.*

ii. Derogatory Statements

The Company denied that it made any derogatory statements as alleged by Petitioner. *Id.* at 22, ¶ 41. The Company admitted that discussions involving the Company’s employees and the Petitioner “involved opinions about completed work, impacts to the trees, proper pruning techniques, notification practices, and Idaho Power’s easement and rights to prune Petitioner’s trees on private property.” *Id.* The Company investigated the specific instances with its vegetation management contractor and its findings suggest no derogatory statements were made. *Id.*

iii. The Damaged Irrigation Pipe

The Company denied Petitioner’s version of events on April 27 and 28, 2020 as depicted in the Complaint. *Id.* at 24, ¶ 47. The Company stated that Petitioner failed to raise the issue of the replacement pipe being insufficient or the additional costs associated at the April 28, 2020, meetings with Mr. Hopper and Mr. Van Patten. *Id.* at 26, ¶¶ 51-52. The Company stated that it holds monthly meetings with its vegetation management contractors and regularly discusses damage claims made by customers. *Id.* Had the Petitioner contacted the Company or the contractor, the damaged pipe would have been discussed. *Id.* The Company contacted Petitioner after the Complaint was filed with the PUC to gather more information and schedule replacement of the pipe. *Id.* The Company stated further that on November 23, 2020, the pipe necessary to repair/replace was delivered and installed to the Petitioner’s satisfaction. *See Idaho Power E-mail*, ¶ 1.

iv. Property Visit by Mr. Hopper

The Company admitted that Mr. Hopper met with Petitioner the morning of April 28, 2020. During this conversation, Mr. Hopper expressed to Petitioner that in his professional

⁹ The Company requested any audio or video footage in possession of the Petitioner during these two days to confirm whether the contractor did in fact provide notice. The Petitioner referenced recordings on page 11 of his Complaint but declined to provide them in response to Idaho Power’s Production Requests #1 and #2.

opinion, the work completed by the vegetation management crew was “appropriate and met the [Company’s] requirements.” *Idaho Power Response*, pp. 24-25, ¶ 47. Mr. Hopper ultimately referred Petitioner to his supervisor, Mr. Van Patten. *Id.* The Company then admitted that during the afternoon of April 28, 2020, Mr. Van Patten met with Petitioner at his property. *Id.* at 25, ¶ 48. During this conversation, Mr. Van Patten determined that the work generally met the Company’s requirements. *Id.* However, Mr. Van Patten did suggest that some of the trees (Nos. 13 and 14) could use additional trimming to minimize possible encroachment between trimming cycles. *Id.* Mr. Van Patten also mentioned he would have preferred that the deadwood be cut and arranged neatly near the base of the trees, even though the deadwood was in the non-landscaped area. *Id.*

v. Remediation Efforts

The Company stated that it offered to have a crew return to the property and trim more branches on trees 13 and 14, haul away the dead debris left on the property, and remove the two dead trees (Nos. 3 and 4), but Petitioner declined. *Id.* at 25-26, ¶ 49. The Company also offered standard vouchers for trees 3 and 4. *Id.* at 26, ¶ 50. The Company noted that after declining the Company’s offer, Petitioner requested the Company remove all damaged trees and compensate him with the value of mature trees. *Id.* The Company stated that aside from trees 13 and 14, all trees were alive and could be managed with trimming, therefore, the Company did not agree to Petitioner’s request. *Id.*

COMMISSION FINDINGS AND DECISION

The Commission has reviewed the record, including the Complaint, Company Response, and Petitioner Reply. The Commission has jurisdiction over the issues in this case under Title 61 of the Idaho Code, and more specifically, *Idaho Code* §§ 61-501, 61-503, and 61-517.

The Commission finds that Idaho Power’s policies and procedures for tree removal are reasonable and in accordance with the laws of the State of Idaho.

The Commission finds that Idaho Power acted in accordance with its policies and procedures and in accordance with the Idaho Public Utilities laws.

The Commission finds that the irrigation pipe damaged by the Company has been sufficiently and appropriately replaced by the Company.

The Commission finds that the debris and deadwood that remained on Petitioner’s property was not left in a worse condition than similarly situated customers. The Company, therefore, behaved consistently with its policies. Mr. Van Patten’s desires that it be left more neatly

was a courtesy but not a requirement under the Company's policies nor under Idaho Public Utilities Law.

ORDER

IT IS HEREBY ORDERED that Petitioner's requests for relief contained in his Complaint are denied.

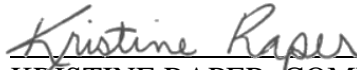
IT IS FURTHER ORDERED that the Company's Motion to Dismiss is granted.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code §§ 61-626 and 62-619.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21st day of January 2022.

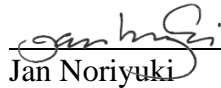


ERIC ANDERSON, PRESIDENT



KRISTINE RAPER, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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