

DECISION MEMORANDUM

TO: COMMISSIONER ANDERSON
COMMISSIONER CHATBURN
COMMISSIONER HAMMOND
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: RILEY NEWTON
DEPUTY ATTORNEY GENERAL

DATE: MARCH 29, 2022

SUBJECT: IN THE MATTER OF THE FORMAL COMPLAINT OF KAREN ERICKSON; CASE NO. IPC-E-22-09.

On February 25, 2022, and March 23, 2022, Karen Erickson (“Complainant”) submitted emails to the Commission alleging, in part, that Idaho Power (“Company”) violated Idaho statutes and federal law.

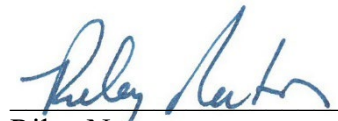
STAFF RECOMMENDATION

Staff recommends the Commission treat the emails as a formal complaint. Staff further recommends the Commission accept the formal complaint, issue a Summons to the Company and modify the response time by giving the Company 35 days to answer or otherwise respond to the Complaint under Rule 57 (IDAPA 31.01.01.57).¹ Staff also recommends that, after the Company’s response time expires, the Commission set a 14-day comment reply period.

COMMISSION DECISION

Does the Commission wish to:

- (1) treat the emails as a formal complaint?
- (2) accept the formal complaint?
- (3) issue a Summons to the Company?
- (4) give the Company 35 days to answer or otherwise respond to the Complaint?
- (5) set a 14-day comment reply period?
- (6) Anything else?



Riley Newton
Deputy Attorney General

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¹Rule 57.02 of the Commission’s Rules of Procedure (IDAPA 31.01.01.57.02) states “[a]nswers to complaints . . . must be filed with the Commission and served on all parties of record within twenty-one (21) days after service of the complaint . . . unless the Commission modifies the time within which answer may be made.”

From: Karen Erickson <karen.healthybynature@gmail.com>

Sent: Friday, February 25, 2022 4:22 PM

To: Karen Erickson <karen.healthybynature@gmail.com>

Cc: Ryan Beus <Ryan.Beus@puc.idaho.gov>; Chris Hecht <Chris.Hecht@puc.idaho.gov>; Adam Rush <adam.rush@puc.idaho.gov>; Jan Noriyuki <jan.noriyuki@puc.idaho.gov>

Subject: ADA request, ADA Complaint, PUC complaint, Idaho Power Complaint

I have submitted repeated ADA requests without response. I am unable to access the Consumer Complaint Process without Accommodation. It appears the IPUC is non compliant with the ADA and are excluding disabled adults from the Public Consumer Complaint Process because of disability as a result of non compliance with Federal ADA Requirements. I have been requesting ADA provisions for access and effective communication for almost a full year without any Accommodation being provided or effective communication being established.

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. 28 CFR § 35.130

I have submitted numerous ADA Grievances which have not been addressed by the IPUC. The IPUC is in violation of Federal ADA Requirements, these violations have been submitted in writing, and the IPUC has a legal requirement to address these complaints.

A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part.

A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part. 28 CFR § 35.107

The IPUC mishandled my previous complaints and fraudulently presented complaints in my name without my knowledge or permission. Meanwhile my actual complaints were not presented or addressed. I was not notified of outcome, was not provided the right to be heard, and was not permitted appeal. I submitted several complaints regarding these issues without response. This is probably a result of the failure of the IPUC to comply with Federal ADA requirements for Title 2 entities. The actions of the Commission resulted in injuries that have not been addressed or remedied because the IPUC is not ADA Compliant. Please respond to my complaints about the fraudulent complaint process.

I am submitting another complaint about Idaho Power. Idaho power has demonstrated, before witnesses, unjust and unreasonable practices which are prohibited according to Idaho Statutes. They have demonstrated disregard for my safety, health, comfort and convenience also a violation of Idaho Statutes. They have demonstrated non compliance with Federal Law before multiple witnesses. And these violations have been continuous for 8 years without remedy, *each day's continuance thereof shall be and be deemed to be a separate and distinct offense.*

Idaho Power has received repeated notices of their illegal activity and the undue harm they cause me and have refused to comply with Federal ADA Requirements - another violation of Federal Law.

Obviously the ADA violations are the same as the ADA violations being committed by the IPUC, creating a conflict of interest by virtue of both entities violating the same Federal ADA Law. In addition the Remedy noted in both Idaho Statutes and the ADA for private action is unavailable to disabled adults because Idaho Courts are also non compliant with the ADA. This means, in the state of Idaho, disabled adults are denied access to public utilities, denied access to the Idaho PUC and denied access to the Idaho Court; all of whom are in violation of Federal ADA Requirements creating a significant blockade for disabled adults seeking equal access to Public Utilities, accountability from the IPUC and remedy or emergency injunction from Idaho Courts. This is an extreme level of discrimination and a significant conflict of interest.

I want to be very clear that I do not give permission for any DAG to represent my complaint to the PUC. I have the right to be heard. And I have requested Accommodation for equal access and effective communication according to Federal Law so I can be heard. I am still incapacitated as a result of the injuries caused by Idaho Power that were previously misrepresented by Matt Hunter without my permission. I need these injuries, the ADA Complaints against the PUC and the complaints regarding the previous unauthorized and fraudulent complaint process addressed immediately so that I can proceed with this current complaint. Obviously this is only possible if the IPUC complies with Federal Regulations and grants me the Auxiliary aids and services I have requested which are specified by the ADA. At present I will require additional case management services because of the complexity of the current unaddressed complaints and ADA violations. This is standard practice. When I was at my Federal Disability Hearing I was provided 2 case managers and an Attorney; when I was approved for the A and D waiver in Idaho I was provided 2 case managers and a service coordinator; and when Idaho Health and Welfare investigated the HIPAA violations I was assigned 4 case managers. IPUC is required to give primary consideration to my request.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. 28 CFR § 35.160

Karen Erickson
2/25/22
Sent from my iPad

From: Karen Erickson <karen.healthybynature@gmail.com>

Sent: Wednesday, March 23, 2022 2:27 PM

To: Karen Erickson <karen.healthybynature@gmail.com>

Cc: Ryan Beus <Ryan.Beus@puc.idaho.gov>; Chris Hecht <Chris.Hecht@puc.idaho.gov>; Adam Rush <adam.rush@puc.idaho.gov>; Jan Noriyuki <jan.noriyuki@puc.idaho.gov>

Subject: Re: 3 complaints submitted to the PUC

I am following up on complaints submitted to the IPUC including ADA Grievances, Complaints about unfair and unjust practices by Idaho Power, and complaints of misconduct and fraud with respect to the IPUC consumer complaint process. A year has passed without the IPUC establishing the requirement for 'effective communication' or 'equal access' which is a Federal Law for all Public Entities.

I have made ongoing ADA requests, submitted repeated ADA Grievances, relayed how fraudulent behavior during the complaint process resulted in undue harm to me. I enlisted the assistance of numerous other persons to convey correspondences, advocate, supply evidence and complaints. But there has been no establishment of effective communication, no access to any complaint process, and no relief from the ongoing unfair, unjust and illegal practices by Idaho Power.

The IPUC makes it clear that access to public utilities for disabled adults is not important. The IPUC makes it clear that illegal activity and unjust practices targeting disabled adults by Idaho utilities will not be addressed. And the IPUC makes it clear that a significant conflict of interest exists since the same illegal activity that Idaho Power engages in is demonstrated by the IPUC.

The Public Utilities Commission discriminates against disabled adults because the ADA requires affirmative action - and none of the actions specifically required by Federal Law (effective communication, equal access, material in accessible formats, etc) have been provided. Rather than address these issues according to Federal Regulations, the IPUC has continued to cover up their illegal and discriminatory behavior by disregarding the requirement for the Mandatory ADA Grievance Procedure, which is also a Federal Requirement.

My circumstances have become significantly more desperate over the past year because of the daily injury caused by discrimination from both Idaho Power and the IPUC. This has created additional barriers to access since I am presently incapacitated at home without access to food, water or sanitation. I have lost the capacity for therapeutics I employ to address uncontrolled seizures. And my situation is critical and life threatening. This occurred from the most recent ADA retaliation by Idaho Power. This has been made clear to you in writing by me, but also by numerous witnesses who observed the unfair, unjust and discriminatory practices by Idaho Power and reported them to you directly in writing.

I am making an urgent plea for the IPUC to recognize the extreme consequences of 8 years of ongoing unaddressed discrimination targeting a disabled adult by an Idaho public utility. I am also reminding you that all other remedies have been addressed over a ten year period and that disabled adults in Idaho do not have access to police services, protective services, 911 emergency services, or other entities designed as a safety net to protect citizens from harm in the event that the PUC fails to protect the public. None of these emergency services comply with Federal ADA requirements - just as the IPUC and Idaho Power are refusing to comply with Federal ADA Requirements.

I want to make it clear that the ADA wasn't written for people with minor disabilities. It was written to support access for people who were excluded from public services because of disability. It appears I am being excluded from ADA provisions by IPUC because of the severity of my disability. By doing so, the IPUC violates the Integration Mandate, which essentially requires that this community allow disabled adults

to be fully integrated into the community. How can disabled adults be integrated into a community setting without access to utilities? How can disabled adults live here safely when we experience ongoing discrimination without the opportunity for complaint or relief? The IPUC is making it clear that people with significant disabilities will be excluded from this community, robbed of civil rights, and continually put in dangerous and life threatening situations by agencies charged with protecting public safety.

Please submit this directly to each of the Commissioners. I hope the Commissioners will recognize the severe consequences that result by violating ADA requirements and employing targeted discriminatory behavior against vulnerable disabled adults.

Karen Erickson
March 23, 2022
Sent from my iPad