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IDAHO PUBLIC UTILITIES COMMISSION  
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RECEIVED  
2022 MAY 17 PM 4:42  
IDAHO PUBLIC  
UTILITIES COMMISSION

Street Address for Express Mail:  
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A  
BOISE, ID 83714

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE FORMAL** )  
**COMPLAINT OF KAREN ERICKSON.** ) **CASE NO. IPC-E-22-09**  
)  
)  
) **COMMENTS OF THE**  
) **COMMISSION STAFF**  
)  
\_\_\_\_\_ )

**STAFF OF** the Idaho Public Utilities Commission (“Commission”), by and through its Attorney of record, Riley Newton, Deputy Attorney General, submits the following comments.

**BACKGROUND**

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

At the March 29, 2022, Decision Meeting, the Commission agreed, consistent with Staff’s recommendations, to treat the emails as a formal complaint, accept the formal complaint, issue a Summons to the Company, give the Company 35 days to answer or otherwise respond to the formal complaint, and set a 14-day comment reply period.

On May 3, 2022, the Company filed an answer to the formal complaint (“Complaint”) along with the Declaration of Dan Smith.

### **FORMAL COMPLAINT**

In the Complaint<sup>1</sup>, the Complainant asserts that the Commission has and continues to violate federal Americans with Disabilities Act (“ADA”) requirements. February 25, 2022, Email from Karen Erickson.

The Complainant further asserts that Idaho Power “has demonstrated, before witnesses, unjust and unreasonable practices which are prohibited according to Idaho Statutes.” *Id.* The Complainant continues, stating that Idaho Power has “demonstrated disregard for [Complainant’s] safety, health, comfort and convenience” in violation of Idaho Statutes. *Id.* The Complainant asserts that the Company has violated state and federal law for the last 8 years. *Id.*

The Complainant requests “Auxiliary aids and services” specified by the ADA and additional “case management services because of the complexity of the current unaddressed complaints and ADA violations.” *Id.*

### **IDAHO POWER’S ANSWER**

The Company responds that the Complainant’s claim of Disability Discrimination under Title II of the ADA, to the extent she is making such a claim, fails because the Company is not a “Public Entity” under Title II of the ADA and, therefore, not beholden to the Title II requirements. Idaho Power Company’s Answer at 18. The Company further replies that the Complainant has failed to establish that “she is an individual with a ‘disability’ . . . entitled to the protections of the ADA.” *Id.* at 19. The Company contends because the Complainant has not established she has a physical or mental impairment that substantially limits a major life activity, her claim under the ADA must be dismissed. *Id.*

The Company notes that, based on its interactions with the Complainant, it appears to the Company that the Complainant “is very articulate when conversing and seemingly has the capability, or necessary assistance, to submit payment, send electronic

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<sup>1</sup> The Complainant insists that she does not give permission for a Deputy Attorney General (“DAG”) to represent the Complaint to the Commission. The DAG does not represent complainants or their complaints before the Commission. Rather, the DAG represents Commission Staff and the Commission.



correspondence (e.g., submitting iWebster complaints to the Company and emails to Staff), drive to the [Company’s Canyon Operations Center in Nampa] or [corporate headquarters in downtown Boise], or call the Company when it suits her to do so.” *Id.* at 19-20. The Company states that the Complainant “has also clearly demonstrated in front of Staff her ability to read and understand the Company’s text message notifications.” *Id.* at 20 (citing *In the Matter of Karen Erickson's Petition that the Idaho Public Utilities Commission Require Public Utilities to Comply with the Americans with Disabilities Act*, Case No. IPC-E-21-22, Staff Decision Memorandum at 2 (July 9, 2021)).

The Company further explains that, even if the Complaint was meritorious under the ADA, and the Company was required to follow ADA protocol in providing service to the Complainant, that the Company has offered “Accommodations” and “Auxiliary Aids.” Specifically, the Company states that for the past six years it has continually ensured that its website is accessible to disabled customers, consistent with federal government standards. *Id.* at 21. The Company details its history of “communicating in multiple formats, meeting with [the Complainant] in person, offering multiple dedicated individuals to explain her bill and services to her, offering regular meetings at locations convenient to her, and also offering to provide technical solutions to purported communication barriers, such as software or relay telephones.” *Id.* at 22.

In sum, the Company claims that the Complainant’s claim of disability discrimination under the ADA, to the extent she is making such a claim, must fail.

In addition to failing to make out a claim under the ADA, the Company raises the following affirmative defenses: (1) that the Complainant does not present a claim the Commission is empowered to remedy; and (2) the Complainant does not allege violations of Idaho Public Utilities Law or Commission Rules.

### **STAFF ANALYSIS**

Staff notes that the Complaint reiterates claims identical to the claims made in Case No. IPC-E-21-22, issued on August 4, 2021. In that case, the Commission stated Ms. Erickson requested the Commission: (1) require public utilities to comply with the federal ADA and provide disabled persons equal access to utility services; and (2) itself comply

with the accessibility requirements of the ADA. Order No. 35124 at 1. The Commission declined to enforce ADA-based claims against public utilities because it lacks the statutory authority to do so. *Id.* The Commission further explained, in Order No. 35124, that the Complainant's Petition referred to the ADA and 'ADA Regulations' but did not refer to any particular provisions of statute or rule upon which the Petition was based. *Id.* at 2.

Regarding Ms. Erickson's request that the Commission itself comply with the accessibility requirements of the ADA, the Commission noted that she failed to provide facts "upon which this request [was] based and fail[ed] to refer to any particular provisions of statute and regulation upon which her request [was] based." *Id.* at 2-3. The Commission noted that Staff "went to great lengths to try to reach Ms. Erickson so that Staff could determine what reasonable accommodation she needed" and "would 'continue to work with Ms. Erickson to determine what reasonable accommodations she requires to participate in and enjoy the services, programs, or activities' of the Commission." *Id.* at 3.

Staff notes that, on December 17, 2021, Commission legal counsel served a letter by process server to Ms. Erickson's address ("Letter"). *See* Attachment 1 to these Comments. The process server offered to read the Letter out loud to Ms. Erickson and she declined. *See* Attachment 2 to these Comments. The Letter outlined resources and options available to Ms. Erickson to pay and understand her bill, including Caption Call, Hamilton Relay, smart dictation applications for Androids, iPhones or iPads, Idaho Assistive Technology Project, payment options allowing her to make payment to the Company in person or by courier, and a third-party notification system. The Letter also stated that Staff had continued to meet with Ms. Erickson and her representatives on several occasions and corresponded with Ms. Erickson in an effort to assist her.

Staff believes the current Complaint fails to state any facts, allegations, or issues not previously addressed by Case No. IPC-E-21-22. Staff notes the Company's extensive efforts in communicating with Ms. Erickson and assisting her with paying her bill. Staff sees no evidence that the Company has violated any of its tariffs or failed to accommodate or interface with Ms. Erickson in a reasonable manner. Furthermore, as it previously stated,



the Commission does not have the jurisdiction to investigate whether it or a regulated utility has violated the ADA.

**STAFF RECOMMENDATION**

Staff believes the Complaint fails to state any facts upon which it is based or “refer to the particular provisions of statute, rule, order or controlling law” as required by procedural Rule 53, IDAPA 31.01.01.053. For this reason, Staff believes the Complaint should be dismissed with prejudice under procedural Rule 65, IDAPA 31.01.01.065.

Respectfully submitted this 17<sup>th</sup> day of May 2022.



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Riley Newton  
Deputy Attorney General

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 17<sup>th</sup> day of May, 2022, I served a true and correct copy of the foregoing *Staff's Comments* upon the following named parties by the method indicated below, and addressed to the following:

Karen Erickson  
3327 N. Eagle Road, Suite 110  
Meridian, ID 83646-6142

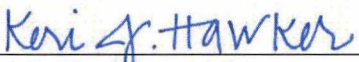
Hand Delivery  
 Certified U.S. Mail  
 U.S. Mail  
 Overnight Mail

Karen Erickson  
*Additional Address on Record*

Fax  
 Email [karen.healthybynature@gmail.com](mailto:karen.healthybynature@gmail.com)

Lisa D. Nordstrom  
Idaho Power Company  
1221 W. Idaho St. (83702)  
P.O. Box 70  
Boise, ID 83707

Hand Delivery  
 Certified U.S. Mail  
 U.S. Mail  
 Overnight Mail  
 Fax  
 Email [lnordstrom@idahopower.com](mailto:lnordstrom@idahopower.com)

  
\_\_\_\_\_  
Keri J. Hawker  
Legal Assistant to Riley Newton

# **ATTACHMENT 1**



## Idaho Public Utilities Commission

PO Box 83720, Boise, ID 83720-0074

Brad Little, Governor

Paul Kjellander, Commissioner  
Kristine Raper, Commissioner  
Eric Anderson, Commissioner

December 16, 2021

Via Certified Mail, U.S. Mail and Electronic Mail

[karen.healthybynature@gmail.com](mailto:karen.healthybynature@gmail.com)

Karen Erickson  
3327 N. Eagle Road, Suite 110  
Meridian, ID 83646-6142

Karen Erickson  
[REDACTED]  
[REDACTED]

Ms. Erickson,

On November 5, 2021, Commission Staff sent you correspondence to assist you with your bill for electric service you receive from Idaho Power Company (“Idaho Power” or “Company”). Staff has also met with you and your representatives in person to assist you. It is our understanding that Idaho Power has also attempted to engage with you to assist you. This correspondence attempts to provide you with further assistance.

By way of background, Idaho Power represented that it mailed a reminder notice on October 21, 2021, to you about your bill, and the final disconnect notice on October 29, 2021, to mailing address 3327 N. Eagle Road, Suite 110, Meridian, Idaho 83646-6142. Idaho Power represented that it made two phone calls to you at [REDACTED] on October 20, 2021, about your bill. At the time of disconnection, your account balance was [REDACTED], which is past due. It is our understanding, that despite this past due balance, Idaho Power reconnected electric service to your residence.

In response to your continued inquiries, the Commission Staff offers the following information and options that could assist you with your Idaho Power bill and electric service.

### **1. CASE NO. IPC-E-21-22 AND COMPLAINTS**

On August 4, 2021, the Commission issued Order No. 35124 on your formal complaint. A copy of that Order is enclosed for your convenience and can also be found at [https://puc.idaho.gov/Fileroom/PublicFiles/ELEC/IPC/IPCE2122/OrdNotc/20210804Final\\_Order\\_No\\_35124.pdf](https://puc.idaho.gov/Fileroom/PublicFiles/ELEC/IPC/IPCE2122/OrdNotc/20210804Final_Order_No_35124.pdf). Order No. 35124 was served on August 4, 2021, to your email address



[karen.healthybynature@gmail.com](mailto:karen.healthybynature@gmail.com). Order No. 35124 provided that a petition for reconsideration of this Order must be filed within 21 days of its issuance (August 4, 2021).

You have also indicated a desire to file a new complaint with the Idaho Public Utilities Commission. The Commission's Rules of Procedure contemplate both informal and formal complaints and information on each and is found at:

<https://adminrules.idaho.gov/rules/current/31/310101.pdf>.

## **2. RESOURCES AND OPTIONS**

### **a. CaptionCall**

Sorenson Communications, LLC, branded as CaptionCall, provides a federally administered service through the Federal Communications Commission that is designed to provide voice amplification for the hearing impaired and turns a caller's voice into written text to assist individuals with hearing loss or speech impairment. According to CaptionCall this service can be obtained at no cost to a person who qualifies for the service. CaptionCall has informed Staff that only the individual who wishes to obtain this service can certify their hearing impairment personally or through their physician. We encourage you to contact CaptionCall at 1-877-557-2227 or on their webpage at [www.captioncall.com](http://www.captioncall.com) to explore whether the equipment and service they provide might assist you and to determine if you qualify to obtain it. We have also enclosed a brochure we obtained from CaptionCall that provides useful information.

### **b. Hamilton Relay**

Hamilton Relay provides telecommunications relay services for the state of Idaho including Text Telephone (TTY), Voice Carry Over (VCO), Hearing Carry Over (HCO), Speech-to-Speech (STS), Visually Assisted Speech-to-Speech (VA STS), Spanish and CapTel®. The Commission Staff encourages you to contact Hamilton Relay to see if they can assist you at any of the following contact means:

<https://hamiltonrelay.com/idaho/index.html>

[relay@hamiltonrelay.com](mailto:relay@hamiltonrelay.com)

TTY 1-800-377-3529

Voice 1-800-377-1363

Speech to Speech 1-888-791-3004

Visually Assisted Speech to Speech 1-800-855-9400

### **c. Applications for Android, iPhones or Ipads**

An alternative to CaptionCall might be to use applications like Google Live Translate, Otter AI, or other dictation applications on a smart phone or tablet to convert speech to text. For

face-to-face conversations, on an Android device, Google Live Translate is a free Android application that automatically types out what is being said, along with the punctuation. [www.play.google.com/store/apps](http://www.play.google.com/store/apps). Live Transcribe offers transcription on an iPhone and costs \$49.99 a year. [www.get.verbit.ai](http://www.get.verbit.ai). Otter AI offers transcription of 600 minutes per month for free. [www.otter.ai](http://www.otter.ai).

**d. Idaho Assistive Technology Project**

The Idaho Assistive Project provides support for individuals with disabilities and older persons in their personal selection of assistive technology. This organization can be contacted at [www.idahoat.org/Contact/Contact-Us](http://www.idahoat.org/Contact/Contact-Us). The organization's phone number is 1-800-432-8324.

**e. Energy Assistance**

Western Idaho Communication Action Agency ("WICAP") provides energy assistance and crisis funding grants for individuals who qualify based on income. The agency is at 502 Main Street, Caldwell, Idaho 83605 or can be reached at (208) 454-0675. WICAP informed us they would work with you to address your past due balance and to possibly provide other assistance.

Project Share/Salvation Army is another organization that could provide energy assistance. Its contact information is 1023 E. Chicago, Caldwell, Idaho or can be reached at (208) 459-2011.

Idaho Power also lists helpful information on energy assistance and making payments on its webpage at [www.idahopower.com/accounts-service/make-payment/help-paying-bill/idaho-assistance/](http://www.idahopower.com/accounts-service/make-payment/help-paying-bill/idaho-assistance/).

**f. Payment Options**

Idaho Power has agreed to accept payments from you in person or by courier at its Canyon Operations Center at 2420 Chacartegui Ln., Nampa, Idaho. Idaho Power asks that you include the account number with all payments so the funds can be attributed to and applied to your account. Idaho Power has suggested calling the receptionist at (208) 465-8603 to let them know you or your courier may be coming to this office.

The Company also offers the ability for customers to pay their bills by auto pay, online, by phone, or by U.S. Mail or at <https://www.idahopower.com/accounts-service/make-payment/>. Idaho Power also allows customers to pay their bill in person at certain locations in Nampa, Idaho. [www.idahopower.com/accounts-service/make-payment/pay-in-person/](http://www.idahopower.com/accounts-service/make-payment/pay-in-person/). Idaho Power indicated that you have successfully used a pay station in the past.



**g. Medical Certificate**

If disconnection occurs, if there is a medical need in your household, you may request that Idaho Power fax a medical certificate to your doctor/medical provider. The doctor/medical provider must sign the certificate and fax it back to Idaho Power. Service will then be reconnected for 30-days.

**h. Third-Party Notification**

Each gas and electric utility must provide a program for its residential customers known as Third-Party Notification. Under this program, the utility will, at the request of the customer, notify orally or in writing a third-party designated by the customer of the utility's intention to terminate service. The third-party will be under no obligation to pay the bill, but as provided in UCCR Rule 313.08, no customer can be considered to have refused to enter a payment arrangement unless either the customer or the designated third-party has been given notice of the proposed termination of service and of the customer's opportunity to make payment arrangements. Third-Party notification may prevent a disconnection without you being aware.

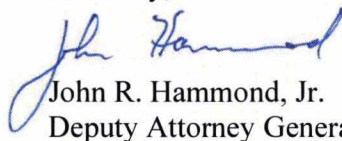
**i. Commission Staff Interactions**

You have requested that the Commission provide you with a "case manager". It is unclear exactly what your request entails. However, the Commission Staff has made a significant effort to listen, discuss, assess, and evaluate resources and options to facilitate solutions in your dispute with Idaho Power and the Commission for your benefit. The Commission Staff has met with you and your representatives on several occasions to attempt to assist you. Further, the Commission Staff has also corresponded with you to try to assist you on several occasions. Finally, the Commission Staff is aware that Idaho Power has also attempted to assist you in person and through other means of communications.

**3. CITY OF NAMPA**

Recently, we have received correspondence from you about utility services you receive from the City of Nampa. The Commission's enabling statutes do not provide it with jurisdiction to regulate the services this municipality provides.

Sincerely,

  
John R. Hammond, Jr.  
Deputy Attorney General



## **ATTACHMENT 2**

RECEIVED

2021 DEC 21 AM 9:27

IDAHO PUBLIC  
UTILITIES COMMISSION

To:

**DECLARATION OF SERVICE**

Karen Erickson

For:

Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, ID 83720

Received by Tri-County Process Serving LLC on December 16, 2021 to be served on **KAREN ERICKSON**.

**I, Antonio Roque, state that on Friday, December 17, 2021, at 9:08 AM, I served the within named person(s) by delivering to and leaving with KAREN ERICKSON a true copy of the Letter. Said service was effected at [REDACTED]**

I offered to read the letter aloud to Karen Erickson and she declined.

Approximate description of Karen Erickson

Female 59 years old, 5' 8" Tall, 180 lbs, Blonde Hair, Blue eyes.

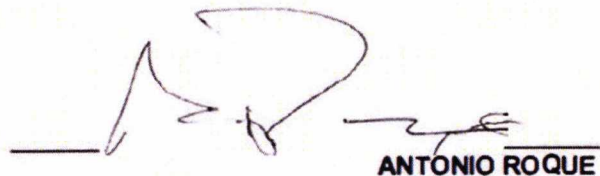
I hereby acknowledge that I am a Process Server in the county in which service was effected. I am over the age of eighteen years and not a party to the action. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Our Reference Number: 193334

Client Reference:

Friday, December 17, 2021

**TRI-COUNTY PROCESS SERVING LLC**  
P.O. Box 1224  
Boise, ID, 83701  
(208) 344-4132

  
**ANTONIO ROQUE**