

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

PAUL MADALENA,)	CASE NO. IPC-E-24-03
)	
COMPLAINANT,)	ORDER NO. 36173
)	
vs.)	
)	
IDAHO POWER COMPANY,)	
)	
RESPONDENT.)	
)	

On January 16, 2024, Paul Madalena filed a formal complaint (“Complaint”) with the Idaho Public Utilities Commission (“Commission”) against Idaho Power Company (“Company”). The Complaint alleges that the Company’s failure to discover and repair a faulty “neutral on their end” resulted in damage to several electronic devices in his home, including two power strips and a garage door opener. Complaint at 1. Madalena filed the Complaint after becoming dissatisfied with the outcome of informal proceedings.

At its January 30, 2024, Decision Meeting, the Commission accepted the Complaint, issued a Summons to the Company, gave the Company 21 days to answer or otherwise respond, and gave Commission Staff and Madalena 14 days to respond to the Company’s answer.

On February 21, 2024, the Company filed an answer (“Answer”) to the Complaint that requested denial of the relief Madalena sought and dismissal of the Complaint, arguing that it sought relief outside the Commission’s jurisdiction, was procedurally deficient, and failed to state a claim. Alternatively, the Company argued that the Complaint should be dismissed because the Company followed its tariffs and normal business practices.

On February 29, 2024, Madalena filed a written statement from the electrician he hired after experiencing electrical anomalies at his home that ultimately were connected to the faulty neutral. This document recounted the electrician’s recollection of events and opinion that the Company’s equipment was defective. No other comments were filed.

Having reviewed the record in these cases, we now issue this Final Order dismissing the Complaint.

THE FORMAL COMPLAINT

The Complaint described two separate incidents in August of 2023 about a week apart during which Madalena alleged to have experienced electrical anomalies at his home. Although an electrician who examined Madalena's home following the first incident concluded the Company's equipment was the source of the problem, a Company technician concluded the problem was somewhere on Madalena's end. After the second incident, the Company's technicians discovered and repaired a faulty neutral.

Madalena asserted that the Company reimbursed him for some items that were damaged following the first incident, but did not reimburse him for an electric garage door opener that Madalena alleged failed after the first incident. Madalena wanted the Company to "take FULL responsibility for [its] faulty equipment" and perform sufficient testing to ensure problems are fixed earlier. Complaint at 2.

THE COMPANY'S ANSWER

The Company's Answer requested that the Commission deny the relief Madalena sought and dismiss the Complaint. The Company acknowledged that it dispatched technicians to Madalena's residence twice and that an issue with the Company's equipment was identified and resolved during the second visit. The Company further noted that, to keep rates low for all customers, it does not pay damage claims without justification and full documentation that it was negligent. When a Company technician fails to identify an issue that is later identified and corrected, the Company stated it will pay the actual cash value for damages occurring *after* the Company's initial visit. Following the above-described policy, the Company offered to reimburse Madalena the actual cash value for those items damaged between the Company's two visits to Madalena's residence.

The Company contended that the Complaint should be dismissed because it failed to reference a specific provision of law that the Company allegedly violated as required by the Commission's Rule of Procedure 54. IDAPA 31.01.01.054. In a similar vein, the Company further argued that the Complaint failed to present a claim the Commission has authority to redress. In support of this argument, the Company cited Order No. 31099 in which the Commission stated that the Telecommunications Act, *Idaho Code* §§ 62-601 *et seq.*, did not authorize the Commission to award civil damages. The Commission further observed in Order No. 31099 that, despite being

a quasi-judicial agency, it is not a judicial court. Thus, the Commission reasoned those seeking redress for injuries caused by public utilities must do so through the courts.¹

The Company characterized the essence of the Complaint as a tort claim for damage to personal property. Because such claims are outside the Commission's purview, the Company asserted that the Complaint is fatally defective and should be dismissed.

The Company argued that Madalena is not entitled to relief because it complied with its tariffs and normal business practices in responding to Madalena's Complaint. The Company asserted that it investigated Madalena's claim and, based upon the information obtained, denied a portion of the claimed damages in accordance with its standard practices and tariff. The Company noted that, when establishing a timeline of events with the Company's damage claims representative, Madalena's wife indicated that the garage door malfunctioning prompted the Company's initial visit to Madalena's residence. According to the Company, it was only after learning that damages occurring during the incident that precipitated the Company's first visit would not be reimbursed that Mrs. Madalena claimed that issues with the garage door arose after that visit.

Due to the inconsistencies and discrepancies in the record, the Company's damage claims representative determined that the record did not support a finding that the garage door was damaged after the Company's initial visit to Madalena's home. The Company believed that its investigation and partial denial of Madalena's claim complied with its tariffs and argued that deviating from its normal practices to accommodate Madalena would impermissibly benefit a single customer in violation of the filed rate doctrine.

COMMISSION DISCUSSION AND FINDINGS

The Commission has jurisdiction over this matter under Idaho Code Title 61 and IDAPA 31.01.01. The Commission is charged with determining all rules and regulations of a public utility are just and reasonable. *Idaho Code* § 61-303. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of all public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provisions of law, and to fix the same by order. *Idaho Code* §§ 61-501 through 503. The Commission addresses informal and formal complaints through the process outlined in its

¹ *Idaho Code* § 61-702 authorizes those injured by the conduct of a public utility to bring an action in any court of competent jurisdiction.

administrative rules and does not provide preferential treatment to any participating party. IDAPA 31.01.01.054 and .057.02.

The Commission is an agency of limited jurisdiction and may only exercise that authority delegated to it by the Legislature. *Washington Water Power v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). The Commission has authority to investigate and modify by order the rates, regulations, and practices of public utilities. *See Idaho Code* §§ 61-501 through 503. Madalena has not identified a specific statute, regulation, or tariff provision the Company allegedly violated. Instead, Madalena seeks recovery of damages he alleges resulted from the Company's negligence.

Contrary to Madalena's request, the Public Utilities Law, *Idaho Code* § 61-101, *et seq.*, does not authorize the Commission to award civil damages. Rather, persons harmed by the conduct of a public utility have recourse through the courts. More specifically, *Idaho Code* § 61-702 provides that "any corporation or person" injured by the conduct of a public utility may file an "action to recover such loss , damage or injury. . . in any court of competent jurisdiction" Although the Commission is often described as a quasi-judicial agency, it is not a judicial court. Thus, the Commission lacks authority over claims of civil tort liability.

In summary, the Commission does not have authority to award damages caused by the actions of a regulated public utility. That power rests with the courts of this State. Because we lack authority to grant Madalena the relief he seeks, we find it appropriate to dismiss Madalena's complaint without expressing an opinion on whether the Company is liable for any civil damages. That issue can properly be addressed by a judicial court.

ORDER

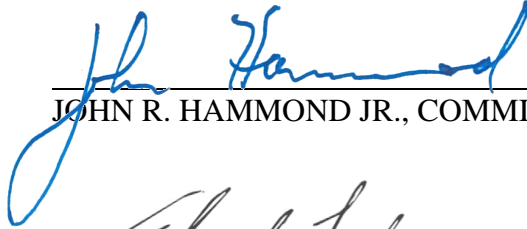
IT IS HEREBY ORDERED that the formal complaint filed by Paul Madalena against Idaho Power Company is dismissed for the reasons set forth above.

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 regarding any matter decided in 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.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14th day of May 2024.



ERIC ANDERSON, PRESIDENT

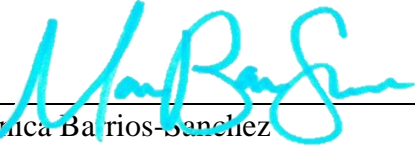


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Barrios-Sanchez
Commission Secretary

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