

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>JOHN NAUMANN,</b>	)	<b>CASE NO. IPC-E-24-34</b>
	)	
<b>COMPLAINANT,</b>	)	<b>ORDER NO. 36444</b>
	)	
<b>vs.</b>	)	
	)	
<b>IDAHO POWER COMPANY,</b>	)	
	)	
<b>RESPONDENT.</b>	)	
	)	

---

On August 14, 2024, Jim Naumann filed a formal complaint with the Idaho Public Utilities Commission (“Commission”) against Idaho Power Company (“Company”). Mr. Naumann alleges that the Company needlessly required him to replace a power cable running from the street to his meter base, resulting in him incurring approximately \$15,000 in unnecessary costs.

At its August 27, 2024, Decision Meeting, the Commission accepted the Complaint, issued a Summons to the Company, and gave the Company twenty-one days to answer or otherwise respond.

On September 18, 2024, the Company filed an answer (“Answer”) to the Complaint that requested denial of the relief Naumann 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 acted in accordance with its tariffs and normal business practices. No other materials were filed. No other comments were filed.

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

**THE FORMAL COMPLAINT**

Mr. Naumann alleged that he had to move his electrical meter box while expanding his garage sometime before June 15, 2024, to keep the meter outside the garage. After the concrete pad and footings for the expanded garage were poured, a Company representative informed Mr. Naumann’s electrician that a new underground cable from the distribution box near the street to the meter box was necessary. According to Mr. Naumann, he was out of state when this disclosure occurred. However, because construction could not be delayed, a new underground power cable

was installed from the distribution box near the street to his new meter box, resulting in approximately \$15,000 in installation costs and damage to his sprinkler system and old sage.

Mr. Naumann alleged that he later learned that the Company claimed installation of the new cable was necessary because the existing cable was too short, could not be spliced, and was encased in the newly poured concrete pad and footings for the expanded garage. Mr. Naumann asserted that both these claims are false. According to Mr. Naumann, the original underground cable was in conduit and could not be too short because his new meter box was *closer* to the distribution box than his old one. Mr. Naumann requested financial compensation from the Company for the allegedly unnecessary installation of the power cable.

### **THE COMPANY'S ANSWER**

The Company requested that the Commission deny the relief Mr. Naumann requested and dismiss his Complaint. The Company acknowledged that it required Mr. Naumann to install new cable from the distribution box to his meter. However, as set forth in detail below, the Company asserts that its tariffs compelled installation of the new cable and that it was workers hired by Mr. Naumann who damaged his property during the installation.

According to the Company, it was unaware that Mr. Naumann was expanding his garage until his electrician called the Company on May 7, 2024. After Mr. Naumann's electrician disclosed during this call that he believed there was a direct buried cable between the distribution box and Mr. Naumann's existing meter, a Company representative explained that installation of a new cable in conduit was likely necessary. This was so because, after uncovering the existing cable and pulling it back from the new foundation, there would not be enough cable to connect it to the new meter without performing a splice that would impact the integrity of the cable. The Company representative also advised Mr. Naumann's electrician that a Company field employee would be coming to Mr. Naumann's residence to further assess the situation.

The following day, the field employee visited the garage work site at Mr. Naumann's residence. During that visit, the employee confirmed that Mr. Naumann's existing meter was inside his expanded garage, necessitating its relocation to an exterior wall. The field employee further observed that the concrete pad and footings for the expanded garage had already been poured over

the buried cable, preventing it from being pulled back to connect to the new meter.<sup>1</sup> This necessitated installation of a new cable, which had to be buried in conduit at Mr. Naumann's expense and in compliance with both the National Electric Code and Company standards. Following the installation of a new underground cable in conduit by Mr. Naumann's third-party contractors, the Company connected the new cable to the relocated meter outside the expanded garage— billing Mr. Naumann \$838.74 for the service.

The Company contended that it complied with its tariffs throughout the above-described interactions with Mr. Naumann. Under Rule C of its Tariff, the Company does not have to install extension or additional service facilities except in accordance with Rule H of the Company's tariff and consistent with its construction standards. Rule H gives the Company the discretion to permit customers to provide trenches and backfill for underground lines, like Mr. Naumann was allowed to do. Furthermore, the Company stated that its construction standards, which necessitated the reinstallation of an underground cable in conduit between the distribution box and Mr. Naumann's meter, are both reasonably necessary to ensure safe, reliable service is provided to customers who contact the Company about changing their service and published on the Company's website.

The Company noted that it did not dig the trench that allegedly damaged Mr. Naumann's sprinkler system and old sage. Rather, the Company asserted that its employees merely pulled the new cable through the conduit and trench provided by workers Mr. Naumann hired. Thus, the Company reasoned that any claim for damages resulting from the digging of that trench must be brought against those workers or their employer—not the Company.

Furthermore, the Company contended that the Complaint should be dismissed because it fails 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 reasoned that the Complaint fails to present a claim the Commission has authority to redress. To support this argument, the Company cited orders in which the Commission determined it lacks the authority to award civil damages. Thus, the Company argued that Mr. Naumann must seek redress through the courts for the damage to his sprinklers and sage brush caused by his agents.<sup>2</sup>

---

<sup>1</sup> The Company submitted photos that it asserted depict both Mr. Naumann's meter inside his expanded garage before it was relocated and the old cable underneath the new garage foundation and footings. *See* Company's Answer - Attachment 5.

<sup>2</sup> *Idaho Code* § 61-702 authorizes those injured by the conduct of a public utility to bring an action in any court of competent jurisdiction.

## COMMISSION DISCUSSION AND FINDINGS

The Commission has jurisdiction over this matter under Idaho Code Title 61 and IDAPA 31.01.01, *et. seq.* 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 procedural 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. However, Mr. Naumann has not identified a specific statute, regulation, or tariff provision the Company allegedly violated. Instead, Mr. Naumann seeks to recover civil damages the Company allegedly caused.

Contrary to Mr. Naumann'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 Mr. Naumann the relief he seeks, we find it appropriate to dismiss Mr. Naumann'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.

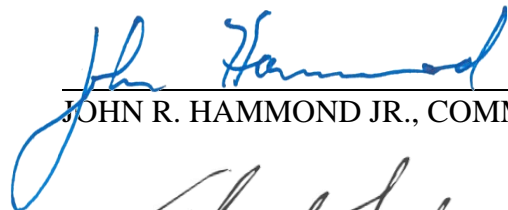
## ORDER

IT IS HEREBY ORDERED that the formal complaint filed by Jim Naumann 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.

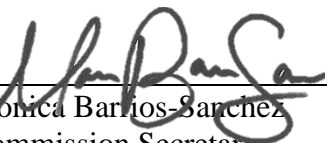
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27<sup>th</sup> day of January 2025.

  
ERIC ANDERSON, PRESIDENT

  
JOHN R. HAMMOND JR., COMMISSIONER

  
EDWARD LODGE, COMMISSIONER

ATTEST:

  
Monica Barrios-Sanchez  
Commission Secretary

I:\Legal\ELECTRIC\IPC-E-24-34\_Naumann Complaint/orders\IPCE2434\_final\_at.docx