

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF COMMISSION)	CASE NO. INT-G-22-01
STAFF’S FORMAL COMPLAINT)	
CONCERNING INTERMOUNTAIN GAS)	
COMPANY’S PRACTICE OF ALLOWING)	ORDER NO. 35492
UNQUALIFIED OPERATORS TO PERFORM)	
LIVE METER EXCHANGES)	
)	

On April 23, 2021, Jesse Urzua (“Urzua”) contacted the Commission expressing concern that he was an unqualified operator who was performing live residential meter exchanges while employed by Intermountain Gas Company (“Company”). Through investigation and self-reporting by the Company, Commission Staff (“Staff”) learned that the Company had violated pipeline safety requirements by allowing 1,847 work orders to be issued and performed by unqualified operators.

On March 1, 2022, the Commission accepted Staff’s formal complaint (“Complaint”). On March 3, 2022, the Commission issued a Summons to the Company requiring it to respond to Staff’s Complaint within 21 days.

On March 11, 2022, Staff notified the Commission’s Secretary that it had entered into Settlement discussions with the Company pursuant to Rule 272 of the Commission’s Rules of Procedure, IDAPA 31.01.01.272.

On March 16, 2022, the Company petitioned for an extension of time to answer Staff’s Complaint. The Company requested that the Commission allow it until April 25, 2022 to respond to Staff’s Complaint. The Company represented that it was engaged in active settlement discussions with Staff and hoped to achieve a mutually agreeable solution prior to filing a formal answer to Staff’s Complaint.

On March 30, 2022, the Commission granted the Company’s Request for Extension of Time—allowing the Company until April 25, 2022, to file an answer to the Summons. Order No. 35358.

On April 25, 2022, the Company and Staff (collectively, the “Parties”) filed a Joint Stipulated Motion to Approve Settlement and Stipulation and proposed Settlement (“Settlement”).

On June 17, 2022, the Commission issued a Notice of Proposed Settlement and Notice of Modified Procedure, establishing a public comment deadline and a Parties' reply deadline. Staff filed the only comments.

Having reviewed the record in this case, we now issue this Order approving the Settlement as filed.

BACKGROUND

During February and March 2022, the Parties worked together and engaged in multiple settlement conferences. During those conferences, the Parties discussed the issues concerning the Company's practices of allowing unqualified operators to perform live meter exchanges and possible solutions to prevent future occurrences. The Parties came to mutually agreeable terms on a solution that ensures these issues do not occur again plus interim measures the Company will incorporate to ensure compliance. Accordingly, the proposed Settlement was produced.

THE SETTLEMENT

The Settlement proposed an overarching solution that revises the Company's internal practices. The Settlement involves several action items with the highlight being the revision of the Company's OPS 800 – Operator Qualification Plan. In addition, the Company agreed to file quarterly safety audit reports to verify the number of safety incidents in any quarter. The Parties anticipate this process will help the Commission track the Company's progress and ensure that its newly implemented processes and procedures reduce the number of safety violations. The Company committed to implementing several policies, procedures, and plans through its departments to not only notify all personnel of safety requirements, but also to update the training of required personnel to ensure safety compliance. Relevant issues addressed in the Settlement are described below:

- 1. Training, quarterly audits, and other actions.** The Company will implement the following action items:
 - a. Evaluate and decide which department will be responsible for Operator Qualifications. Specify roles under which the MDU Utilities Group (the Company's parent) will adhere.

- b. Align the requirements of each Covered Task¹ to coincide with Service Technician work orders and conduct and file quarterly audits.
 - i. The Company will perform quarterly audits of service orders to ensure that Service Technician Apprentices and Service Technicians are qualified to perform the work associated with the service orders. The first quarterly audit will include the period immediately following the conclusion of the Company’s initial audit on June 23, 2021 through June 30, 2022. The results of this audit will be provided to Staff no later than August 29, 2022. The results of subsequent quarterly audits will be provided to Staff no later than 30 days after the last day of the preceding quarter. Instances of noncompliance identified in the quarterly reports may be subject to penalty under *Idaho Code* § 61-712A.
 - ii. Quarterly audits will continue until the issue can be resolved by computer software that ensures work orders are assigned only to qualified service technicians. However, the Company may request that the Commission terminate its obligation to conduct quarterly audits either 1) after two consecutive quarters that indicate zero violations related to the qualifications of Service Technicians or 2) at any time beginning 24 months after the effective date of an order approving this Settlement.
- c. Update, maintain, and provide annual training to the Company’s supervisors, focusing on Covered Tasks.
- d. Further define ‘Expired’ and establish procedures for supervisors to follow if an Employee—anyone employed by the Company who performs Covered Tasks—has expired qualifications.
 - i. The definition of ‘Expired’ will be included in the OPS 800 – Operator Qualification Plan revisions and the Company’s supervisor training.
- e. Establish an annual Operator Qualification and OPS procedure calendar for supervisor reference and support.
- f. Establish a firm deadline for Performance Evaluations to be completed once Computer Based Training (“CBT”)/Classroom training has been completed. Lock-down

¹ The Safety & Technical Training department is developing the list of Covered Tasks required to perform Service Technician and Service Technician Apprentice work orders.

Performance Evaluations will be blocked or not allowed until CBT/Classroom training has been completed.

- g. Pursue additional hierarchical review of Operator Qualifications. Example: Regional Director can review District Manager staff and below.
- h. Develop and review Energy WorldNet CBT modules and incorporate with MDU Utilities Group trainings modeled after OPS Procedures.
- i. Review MDU Utilities Group training for newly hired Employees who perform Covered Tasks.
- j. Review and re-write OPS 800 - Operator Qualification Plan to incorporate the above recommendations.
- k. Training provided will identify the avenues for reporting concerns regarding operator qualifications.

2. **Quarterly reports.** The Company will provide quarterly reports regarding its implementation of the action-items described above to the Executive Director of Idaho Public Utilities Commission no later than the 15th day after the last day of the preceding quarter. Quarterly reports for each action item will continue to be filed until (i) the action item is complete; (ii) a completion report is approved by the Commission; or (iii) this Settlement is otherwise terminated by the Commission.
3. **Abeyance and waiver of penalty.** The penalty proposed in the Complaint shall be held in abeyance pending successful implementation of the action items described above. The penalty shall be waived upon termination of the Settlement. If the Company violates any term of this Settlement, Commission Staff may request imposition of the entire penalty amount alleged in the Complaint. Any dispute regarding the Company's compliance with this Settlement shall be submitted to the Commission for resolution.
4. **Termination of Settlement.** This Settlement shall terminate upon the earlier of (i) completion of the action items described above as indicated by the filing and final approval by the Commission of a completion report or similar document agreed to by the Parties; (ii) upon stipulation of the Parties approved by the Commission; or (iii) upon approval by the Commission of a petition filed by the Company.
5. **Extension of deadlines.** The dates agreed to in the Settlement can be extended only upon request of the Company, based on the occurrence of an event that cannot be anticipated or

controlled by the Company. A request to extend a deadline shall be supported by an explanation of the circumstances justifying an extension and must be approved by the Commission.

STAFF COMMENTS

Staff filed comments in support of the Settlement. Staff offered that while it had hoped a software solution would be available to ensure operators were not assigned to jobs they were unqualified to perform, the technology does not currently exist and the Settlement provides a mechanism to guide the Company to full compliance. Staff noted that it was confident that the commitments the Company made and the reports that will follow will—in the absence of a technology solution—put the Company on track to eliminate the safety violations at issue.

Staff also supported the Settlement because it does not propose to withdraw or eliminate the proposed fine, but instead holds it in abeyance pending the Company successfully remedying the safety violations according to the terms of the Settlement and meeting the reporting requirements described above. Staff also noted that the Settlement does not foreclose the possibility of additional penalties being imposed if the Company continues to have safety violations. For the reasons stated above, Staff believed the Settlement was in the public interest and offers the Company an opportunity to correct its processes and procedures while eliminating safety violations.

COMMISSION DECISION AND FINDINGS

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-302, 61-501, 61-515, and 61-712A. Each regulated utility must maintain its facilities to promote the health and safety of its customers, employees, and the public *Idaho Code* § 61-301. The Commission has the express statutory authority to regulate every public utility in Idaho. *Idaho Code* §§ 61-501. The Commission can require every regulated utility to maintain and operate its system to “promote and safeguard the safety of its employees, customers, and the public” and may fine any regulated utility that violates title 61 or the Commission’s authority governing pipeline safety. *Idaho Code* §§ 61-515 and 61-712A.

The Commission’s process for considering settlement stipulations is set forth in its Rules of Procedure 271-277, IDAPA 31.01.01.271-277. When a settlement is presented to the Commission, it “will prescribe the procedures appropriate to the nature of the settlement to consider the settlement.” IDAPA 31.01.01.274. Proponents of a proposed settlement must show

“that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” IDAPA 31.01.01.275. Finally, the Commission is not bound by settlement agreements. IDAPA 31.01.01.276. Instead, the Commission “will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” *Id.*

The Commission has reviewed the record, including the Application, Settlement, and Staff’s comments. The Parties have established a record that sets forth their justifications for signing and supporting the Settlement. We appreciate the investment of time and resources the Parties have made to participate in this case and explore the options available to correct the Company’s safety violations. The record, as presented, assisted the Commission in understanding the challenges with establishing a software solution to ensure no unqualified operators are assigned to covered tasks. While we are disappointed that no software exists to aid the Company’s compliance efforts, we were persuaded by the terms agreed to in the Settlement that compliance with safety rules and regulations will be achieved going forward. We anticipate the Company will strictly monitor how jobs are assigned to specific personnel and only qualified technicians or apprentices will complete those tasks. We remind the Company that if it continues to experience safety violations that we may enforce the fine currently held in abeyance or impose new penalties for continuing violations. Based on our review of the record, we find that the Settlement is fair, just, and reasonable, in the public interest. Accordingly, we approve the Settlement as filed.

Finally, we wish to note our appreciation of Mr. Urzua, who took time to inform the Commission of the safety violations.

ORDER

IT IS HEREBY ORDERED that the Settlement is approved as filed.

IT IS FURTHER ORDERED that the Company must continue to file the agreed upon reports until such time as the Commission grants its release from the terms of the Settlement.

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 about 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 5th day of August 2022.



ERIC ANDERSON, PRESIDENT

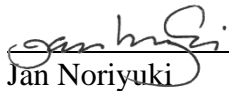


JOHN CHATBURN, COMMISSIONER

//ABSTAINED//

JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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