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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF COMMISSION STAFF'S)
FORMAL COMPLAINT CONCERNING) CASE NO. INT-G-22-01
INTERMOUNTAIN GAS COMPANY'S)
PRACTICES OF ALLOWING UNQUALIFIED)
OPERATORS TO PERFORM LIVE METER) FORMAL COMPLAINT
EXCHANGES)
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COMES NOW, the Staff of the Idaho Public Utilities Commission, Pipeline Safety Division (“Staff”), by and through its attorney of record, Taylor R. Brooks, Deputy Attorney General, to file this Formal Complaint concerning Intermountain Gas Company’s (“Company”) practices of allowing unqualified operators to perform live residential meter exchanges.

Staff and the Company have engaged in informal discussions concerning the matters set forth in this Formal Complaint. These discussions with the Company have been productive and the Company has been responsive and transparent regarding the issues set forth below. However, due to the scope and seriousness of matters addressed herein Staff believes resolution of the issues must be addressed through a formal proceeding.

Staff requests that the Idaho Public Utilities Commission (“Commission”) enter an Order, consistent with its authority under *Idaho Code* §§ 61-501, 61-515 and 61-701 *et seq.* to require the Company to pay a penalty to be determined based on the facts of this case which could

be reduced or suspended dependent on the Company producing and filing a plan with the Commission that provides how the Company will ensure that all personnel performing live meter exchanges are operator qualified; that the Company file quarterly reports of its safety briefings and operator qualification trainings verifying each employee that has been trained and operator qualified; and that all employees of the Company are qualified and fully trained to perform the work asked of them.

JURISDICTION

1. The Company is a gas corporation and a public utility, and the Commission has jurisdiction over it and the issues in this case under Title 61, Idaho Code. *See Idaho Code* §§ 61-117, 61-129, 61-501, 61-503, and 61-515.

2. When a complaint is filed concerning the safety and adequacy of a public utility's service the Commission has the power and authority to investigate the matter and require the "public utility to maintain and operate its line, plant, system, equipment, apparatus and premises in such manner as to promote and safeguard the health and safety of its employees, customers and the public[.]" *See Idaho Code* § 61-515; *see also Idaho Code* § 61-302.

3. During the time period in which these safety incidents occurred, the Commission followed the Idaho Administrative Procedures Act ("IDAPA"), specifically, section 31.11.01 which governed safety and accident reporting rules for regulated utilities.

a. Pursuant to *Idaho Code* § 61-515 on June 30, 2021, the Commission issued Order No. 35095, in Case No. GNR-U-21-01 adopting the Commission's Safety and Accident Report Rules for Utilities Regulated by the Idaho Public Utilities Commission. *See Order No. 35095* at 2. Rule 201 of these Rules incorporates by reference Part 260.9, Title 18 and Parts 191, 192, 193, 195, and 199, Title 49 of the Code of Federal Regulations concerning pipeline safety.

4. *Idaho Code* § 61-701 *et. seq.* provides the Commission with the authority to enforce "the constitution and statutes of this state affecting public utilities, the enforcement of which is not specifically vested in some other office or tribunal" and to seek the imposition of penalties for violations of these authorities if deemed necessary.

5. All acts complained of herein took place in the State of Idaho.

BACKGROUND

6. Paragraphs 1 through 5 above are incorporated herein by this reference as though fully set forth in this paragraph.

7. On April 23, 2021, Jesse Urzua, (“Urzua”) a former employee of the Company, contacted Darrin Ulmer, Pipeline Program Manager at the Idaho Public Utilities Commission (“Commission”) and expressed concern that he was an unqualified operator who was performing live residential meter exchanges as directed by the Company’s Lead Service Technician, Jason Wixom. *Affidavit of Maria Barratt-Riley* at 2, ¶ 7.

8. On April 26, 2021, Mr. Ulmer spoke with Urzua and asked for further documentation and a formal statement regarding his concerns. *Id.* at ¶ 8.

9. On April 28, 2021, Urzua sent Mr. Ulmer his official statement about completing residential meter exchanges as well as supporting documentation. *Id.* at ¶ 9.

10. On May 7, 2021, Maria Barratt-Riley, Executive Director and Head of Pipeline Safety at the Commission, contacted Patrick Darras—the Vice President of Operations at the parent corporation of the Company (“MDU”)—and notified him of Urzua’s complaint. *Id.* at ¶ 10. Ms. Barratt-Riley requested a written response within twenty-one (21) days from the Company. *Id.*

11. On May 28, 2021, the Company responded to Ms. Barratt-Riley and informed the PUC that “it was possible” that Urzua had performed 97 live residential meter exchanges while not being fully qualified and/or “operating with another qualified individual under span of control.” *Id.* at ¶ 11.

12. On July 29, 2021, Ms. Barratt-Riley replied to the Company and requested additional information regarding the Company’s response. *Id.* at ¶ 12.

13. On August 31, 2021, the Company replied to Ms. Barratt-Riley and stated that through its own investigation, Urzua was not operator-qualified for 124 of the 912 work orders he completed during his employment with the Company. *Id.* at ¶ 13. Additionally, the Company reported that from August 3, 2020, through June 23, 2021, 15,940 work orders were completed by Apprentice Service Technicians—1,847 of which were not completed by operator-qualified technicians. *Id.*

14. The Company has put these 1,847 work orders in review with its Safety Management and Quality Assurance Teams. *Id.* This review was scheduled to be completed by

September 24, 2021. *Id.* The Company titled this review “OPS 800,” which is a program for implementing training that prevents technicians from performing work they are unqualified for. *Id.*

15. On October 21, 2021, the Company notified Ms. Barratt-Riley that its’ safety recommendation team (“ACE”) had completed its’ initial review process and included several further recommendations that required the Company to delay implementing OPS 800. *Id.* at ¶ 14.

16. The revised deadline is now June 30, 2022. However, the Company has met with its Field Operations Directors and Managers to ensure that management is verifying employee Operator Qualification statuses and complying with all current safety recommendations. *Id.*

VIOLATIONS

Violations of Idaho Code § 61-302, Maintenance of Adequate Service

17. Paragraphs 1 through 16 above are incorporated herein by this reference as though fully set forth in this paragraph.

18. The Company failed to maintain service of gas meters in a manner that promotes the safety, health, and comfort of its customer by allowing unqualified personnel to perform at least 1,847 live gas meter exchanges has failed to maintain service of gas meters in a manner that promotes the safety, health, and comfort of its customers. *See Idaho Code § 61-302*

19. As a direct and proximate result of the Company’s failures it could be subject to a penalty of up to \$2,000.00 for each of the 1,847 violations of *Idaho Code § 61-302* for each day that the violation persisted up to a maximum amount of \$200,000.00. *See Idaho Code § 61-712A.*

Violations of IDAPA 31.11.01

20. Paragraphs 1 through 19 above are incorporated by reference herein as though fully set forth in this paragraph.

21. The Commission’s Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission were in effect when the Company allowed unqualified personnel to perform at least 1,847 live gas meter exchanges. *See IDAPA 31.11.01 (2020 version).*¹ IDAPA 31.11.01 adopted by reference all federal pipeline safety regulations.² Federal pipeline safety regulations are contained in Title 49 of the Code of Federal Regulations. The Company failed to comply with federal pipeline safety regulations, and thereby failed to comply with IDAPA 31.11.01

¹ The Commission adopted the rules promulgated in IDAPA 31.11.01 by Special Order in 2021. *See* Order No. 35095.

² *See* Rule 201. (<https://adminrules.idaho.gov/rules/2018%20Archive/31/311101.pdf>).

by allowing personnel to perform 1,847 work orders while failing to have the proper qualifications to do so.

22. The Company violated federal pipeline safety regulations, by allowing 1,847 work orders—which includes live gas meter exchanges—to be completed by unqualified operators. *See* 49 C.F.R. § 192.805 *et seq.*

23. The Company has violated federal pipeline safety regulations by failing to follow and obey its own written procedures known as OPS 800 concerning live meter exchanges—namely, that each individual performing live meter exchanges be fully qualified. *See* 49 C.F.R. § 192.605 *et seq.*

24. The Company failed to timely report the existence of possible safety conditions that could have caused an imminent hazard and a 20% or more reduction in operating pressure or shutdown of a pipeline. *See* 49 C.F.R. § 191.23(a)(9).

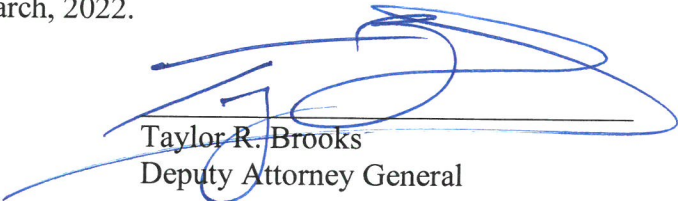
25. As a direct and proximate result of the Company's failures it could be subject to a penalty of up to \$2,000.00 for each of the 1,847 violations for each and every day that the violation persisted without correction, up to a maximum amount of \$200,000.00. *See Idaho Code* § 61-712A.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for entry of a Commission order:

1. Imposing penalties on the Company pursuant to *Idaho Code* § 61-712A for its violations of Commission's authorities and rules in the amount of \$200,000.00; or
2. Require the Company to submit its ACE review plan that clearly defines ownership and delineation of roles and responsibilities related to operator qualifications to the Commission and submit quarterly reports that demonstrate the Company is following the ACE review safety recommendations.
3. For such other and further relief as the Court may deem just and proper in these premises.

DATED this 3rd day of March, 2022.


Taylor R. Brooks
Deputy Attorney General