

DECISION MEMORANDUM

TO: COMMISSIONER ANDERSON
COMMISSIONER CHATBURN
COMMISSIONER HAMMOND
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: DAYN HARDIE
DEPUTY ATTORNEY GENERAL

DATE: JUNE 14, 2022

SUBJECT: IN THE MATTER OF COMMISSION STAFF'S FORMAL COMPLAINT
CONCERNING INTERMOUNTAIN GAS COMPANY'S PRACTICES OF
ALLOWING UNQUALIFIED OPERATORS TO PERFORM LIVE METER
EXCHANGES; CASE NO. INT-G-22-01.

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. Through investigation and self-reporting by the Company, Commission Staff ("Staff") discovered 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. *See* Summons to Intermountain Gas Company.

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. *See* Company's Request for Extension of Time. 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 (“Parties”) filed a Joint Stipulated Motion to Approve Settlement and Stipulation and Settlement (“Settlement”) entered between Staff and the Company.

BACKGROUND

During February and March 2022, the Parties worked together and engaged in multiple settlement conferences. During those discussions, 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 envelopes and 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 has 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 procedures are reducing 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 summarized below:

1. Training, quarterly audits, and other actions. The Company agrees to 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 agrees to 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. These 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 agrees to 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, discussed below, 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, described below. 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 RECOMMENDATION

Staff recommends the Commission issue a Notice of Proposed Settlement and Notice of Modified Procedure establishing a 14-day public comment period and 7-day reply period for the Parties.

COMMISSION DECISION

Does the Commission wish Staff recommends the Commission issue a Notice of Proposed Settlement and Notice of Modified Procedure establishing a 14-day public comment period and 7-day reply period for the Parties?



Dayn Hardie
Deputy Attorney General