

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN RE ADOPTING THE COMMISSION’S) CASE NO. GNR-U-21-01
SAFETY REGULATIONS BY ORDER)
) NOTICE OF PETITION
)
) NOTICE OF MODIFIED
) PROCEDURE
)
) ORDER NO. 35068

In a May 28, 2021, decision memorandum, Commission Staff proposed the Commission adopt its safety rule chapters—IDAPA 31.11.01 (Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission) and IDAPA 31.71.01 (Railroad Safety Rules)—by order instead of promulgating these rule chapters under the Idaho Administrative Procedure Act (“APA”).

We find Staff’s proposed regulatory change is a petition. The Commission now sets comment deadlines for the public to comment on the Petition and for Staff to respond.

NOTICE OF PETITION

YOU ARE HEREBY NOTIFIED that under the APA the Legislature each session must extend by statute administrative rules promulgated under the APA. *Idaho Code* § 67-5292. If the Legislature fails to extend by statute the State’s administrative rules, all administrative rule chapters expire on July 1st. The Legislature adjourned/recessed its 2021 Legislative Session without extending agency rules by statute. At the direction of the Division of Financial Management, the Commission adopted all but two of its existing rule chapters as temporary rules at its June 1, 2021, decision meeting to avoid regulatory lapse. *See Idaho Code* § 67-5226.

YOU ARE FURTHER NOTIFIED that the Commission has not yet adopted as temporary rules two of its existing rule chapters: IDAPA 31.11.01 (Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission) and IDAPA 31.71.01 (Railroad Safety Rules). At the Commission’s June 1, 2021, decision meeting, Commission Staff pointed out that the Commission has express statutory authority under *Idaho Code* § 61-515 to adopt safety regulations “by general or special orders.” Staff asserted IDAPA 31.11.01 and IDAPA 31.71.01 can reasonably be described as safety regulations. Staff recommended the Commission

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allow IDAPA 31.11.01 and IDAPA 31.71.01 to expire on July 1, 2021, and instead adopt the rule chapters by order, consistent with *Idaho Code* § 61-515.

YOU ARE FURTHER NOTIFIED that Staff identified several advantages to adopting IDAPA 31.11.01 and IDAPA 31.71.01 by order. Staff asserted the rules could be more easily updated than under the APA. Staff also argued that “State funds will be saved by not having to publish these rule chapters in the Idaho Administrative Bulletin this year and any subsequent year in which the Legislature fails to extend the State’s administrative rules by statute.” Petition at 2.

YOU ARE FURTHER NOTIFIED that the Petition is available for public inspection during regular business hours at the Commission’s office. These documents are also available on the Commission’s web site at www.puc.idaho.gov. Click on the “MULTI-UTILITY” icon, select “Open Cases,” and click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Titles 61 and 62 of the Idaho Code.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter, and that it will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Commission’s Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that persons desiring to state a position on this Petition may file a written comment explaining why the person supports or opposes the Petition. Persons who would like a hearing must specifically request a hearing in their written comments. **Persons shall have until June 18, 2021, to file written comments.** Comments must be filed through the Commission website or by e-mail unless computer access is unavailable. To comment electronically, please access the Commission’s home page at www.puc.idaho.gov. Click the “Case Comment Form” and complete the form using the case number as it appears on the front of this document. To file by e-mail, the customer must e-mail the comments to the e-mail

addresses listed below. If computer access is unavailable, then comments may be mailed to the Commission at this address:

Commission Secretary
Idaho Public Utilities
Commission
P.O. Box 83720
Boise, ID 83720-0074
secretary@puc.idaho.gov
Street Address for Express Mail:

11331 W. Chinden Blvd.
Building 8, Suite 201-A
Boise, Idaho 83714

YOU ARE FURTHER NOTIFIED that Staff must file any reply comments **by June 24, 2021.**

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.


ORDER

IT IS HEREBY ORDERED that Staff's Petition be processed by Modified Procedure, Rule 201-204 (IDAPA 31.01.01.201-.204). Persons interested in submitting written comments must do so by June 18, 2021. Staff must file any reply comments by June 24, 2021.

IT IS FURTHER ORDERED that parties should continue to comply with Order No. 35058, issued June 3, 2021. All pleadings should be filed with the Commission electronically and shall be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should also be accomplished electronically. Voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

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DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 4th day of June 2021.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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