

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

DONALD SORRELLS,)	
)	CASE NO. GNR-U-22-03
COMPLAINANT,)	
)	
vs.)	ORDER NO. 35681
)	
SUNNYSIDE PARK UTILITIES, INC.,)	
)	
RESPONDENT.)	
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On March 9, 2022, Donald Sorrells (“Complainant” or “Sorrells”) filed a complaint (“Complaint”) against Sunnyside Park Utilities (“Company” or “SPU”), an un-regulated small water company, with the Idaho Public Utilities Commission (“Commission”). Sorrells alleged that SPU had notified him that it intended to terminate his water service pursuant to violations of IDAPA 31.21.01.302, and Sorrells requested the Commission prohibit SPU from terminating his service. Sorrells further requested the Commission find that SPU was a regulated utility under the regulatory authority of the Commission.

After reviewing the record and the arguments of the parties, on August 23, 2022, the Commission issued Order No. 35513. The Commission found that, based upon the evidence submitted, the Company was subject to the Commission’s regulatory authority. The Commission gave the Company until September 23, 2022, to file for a Certificate of Public Convenience and Necessity (“CPCN”).

On September 7, 2022, the Company filed a motion to amend its answer, a petition to stay Order No. 35513, and a petition to review Order No. 35513. The Company represented that it had transitioned into a nonprofit corporation that was statutorily exempt from Commission regulation. The Company submitted new documentation in support of its motion, petitions, and amended answer.

On September 20, 2022, the Commission considered the Company’s motion and petitions during the Commission’s decision meeting and, upon motion therein, granted the Company’s motion to amend its answer; granted the Company’s petition to review Order No. 35513, setting an initial comment deadline of October 13, 2022, and a Company reply comment deadline of

October 20, 2022; and granted the Company's petition to stay Order No. 35513 for ninety (90) days, or the Commission issues an earlier order.

On September 26, 2022, the Commission issued Order No. 35534 granting the Company's petition for review, motion to amend, and petition to stay. After reviewing the record and the arguments of the parties, on December 27, 2022, the Commission issued Order No. 35645 affirming Order No. 35513 and ordering the Company to file an Application for a CPCN.

On January 17, 2023, the Company filed a petition for review of Order No. 35645, a petition to stay Order No. 35645, a petition to designate this Order as final, and a request for a Regulatory Taking Analysis.

On February 7, 2023, the Commission considered the Company's petitions and request during the Commission's decision meeting. The Commission noted the Company's desire to not be a regulated utility, and the Commission reasoned that the Company's claim of exemption from regulation pursuant to *Idaho Code* § 61-104 might be dispositive of the matter if given further evidentiary support. The Commission found that all parties would be best served if the Company worked with Commission Staff to address potential evidentiary support for the Company's *Idaho Code* § 61-104 claim.

Upon motion therein, the Commission granted the Company's petition to review Order No. 35645 and the Commission directed the Company to work with Commission Staff to address the evidentiary issues. Further, the Commission granted the Company's petition to stay Order No. 35645 for ninety (90) days, or until the Commission issues an earlier order, and the Commission suspended consideration of the Company's request for a Regulatory Takings Analysis until a final decision has been issued.

The Commission now enters this order in conformity with its decision.

ORDER

IT IS HEREBY ORDERED that the Company's petition to review Order No. 35645 is granted. The Company is granted thirty (30) days from the date of this order to present evidence to support its claim of exemption from Commission jurisdiction.

IT IS FURTHER ORDERED that the Company shall work with Commission Staff during that thirty (30) day period to receive advice and assistance in submitting any such evidentiary support.


IT IS FURTHER ORDERED that the Company's petition to stay Order No. 35645 is granted. Order No. 35645 is stayed for ninety (90) days, or until the Commission issues an earlier order.

IT IS FURTHER ORDERED that the Company's request for a Regulatory Takings Analysis is suspended until the Commission issues a final decision on the issue of jurisdiction. If the Commission issues a final decision favorable to the Company, the Commission will dismiss the request for a Regulatory Takings Analysis unless the Company submits a new request for an analysis. If the Commission issues a final decision unfavorable to the Company, the Commission will consider the request in due course.

IT IS FURTHER ORDERED that parties comply with Order No. 35375, issued April 21, 2022. Generally, all pleadings should be filed with the Commission electronically and will be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should continue to be accomplished electronically when possible. However, voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

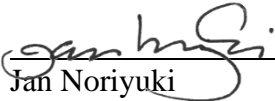
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 17th day of February 2023.


ERIC ANDERSON, PRESIDENT


JOHN R. HAMMOND JR., COMMISSIONER


EDWARD LODGE, COMMISSIONER

ATTEST:


Jan Noriyuki
Commission Secretary

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