

## **DECISION MEMORANDUM**

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

**FROM:       CHRIS BURDIN  
DEPUTY ATTORNEY GENERAL**

**DATE:       SEPTEMBER 20, 2022**

**SUBJECT:   IN THE MATTER OF DONALD SORRELL’S COMPLAINT AGAINST  
SUNNYSIDE PARK UTILITIES; CASE NO GNR-U-22-03.**

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 that the Commission prohibit SPU from terminating his water service. Sorrells further requested the Commission find that SPU was a regulated public utility subject to 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 as a public utility. 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 motions to amend its answer, to stay Order No. 35513, and to review Order No. 35513. The Company represents that it has transitioned into a nonprofit corporation that is statutorily exempt from Commission regulation. The Company submitted new documentation in support of its motions and amended answer.

### **LEGAL STAFF RECOMMENDATION**

The Deputy Attorney General assigned to the case (“Legal Staff”) reviewed the Company’s motions and recommends as follows:

**A. Motion to Amend Answer**

Pursuant to the Idaho Public Utilities Commission Rule of Procedure 66:

The Commission may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect parties' substantial rights will be disregarded.

IDAPA 31.01.01.066. Based upon a review of the record, it is recommended that the Commission grant SPU's motion to amend its answer on the issue of the Commission's jurisdiction.

**B. Motion to Review interlocutory Order**

Pursuant to the Idaho Public Utilities Commission Rule of Procedure 322:

Any person may petition to review any interlocutory order. The Commission may rescind, alter or amend any interlocutory order on its own motion, but will not on its own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment.

IDAPA 31.01.01.322. Based upon a review of the record, it appears that SPU has submitted additional documentation that may call into question the Commission's jurisdiction to regulate SPU.

It is recommended that the Commission grant SPU's motion to review Order No. 35513 and establish a new comment period for Commission Staff and parties to provide additional comments on the amended answer. It is recommended that the Commission set an initial comment deadline of October 13, 2022, and a Company reply deadline of October 20, 2022.

**C. Motion to Stay**


Pursuant to the Idaho Public Utilities Commission Rule of Procedure 324:

Any person may petition the Commission to stay any order, whether interlocutory or final. Orders may be stayed by the judiciary according to statute. The Commission may stay any order on its own motion.

IDAPA 31.01.01.324. Based upon the above recommendations, it is recommended that the Commission grant SPU's motion to stay Order No. 35513 for ninety (90) days unless the Commission issues a new order on the issue.

## COMMISSION DECISION

1. Does the Commission wish to grant SPU's motion to amend its answer?
2. Does the Commission wish to grant SPU's motion to review Order No. 35513 and set an initial comment deadline of October 13, 2022, and a Company reply deadline of October 20, 2022?
3. Does the Commission wish to stay Order No. 35513 for ninety (90) days unless the Commission issues a new order on the issue?

  
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Chris Burdin  
Deputy Attorney General

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