

DECISION MEMORANDUM

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

**FROM: CHRIS BURDIN
DEPUTY ATTORNEY GENERAL**

DATE: MARCH 28, 2023

**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 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 motions and amended answer.

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 order as final, and a request for a regulatory taking analysis. On February 17, 2023, the Commission issued Order No. 35681 granting the Company's petition to review Order No. 35645 and granting the Company an additional thirty (30) days to present additional evidence in support of its claim of exemption from Commission jurisdiction. The Commission ordered the Company to work with Commission Staff ("Staff") to receive advice and assistance in submitting any additional evidentiary support.

On March 20, 2023, the Company filed additional evidentiary documents in support of its claim of exemption from Commission jurisdiction. The Company represents that pursuant to Order No. 35681, the Company worked with Staff regarding its submission.

LEGAL STAFF RECOMMENDATION

The Deputy Attorney General assigned to the case ("Legal Staff") reviewed the Company's submission and confirms that the Company worked with Staff prior to its submission as required by Order No. 35681. Legal Staff recommends that the Commission accept the Company's submission.

COMMISSION DECISION

1. Does the Commission wish to accept the Company's additional evidentiary submission?



Chris Burdin
Deputy Attorney General