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Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE COMMISSION'S</b>	)	
<b>INVESTIGATION OF ISLAND PARK</b>	)	<b>CASE NO. ISL-W-11-01</b>
<b>COMPANY, INC.'S BILLING PRACTICES</b>	)	
	)	
	)	<b>COMMENTS OF</b>
	)	<b>THE COMMISSION STAFF</b>
	)	

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The Staff of the Idaho Public Utilities Commission submits the following comments regarding the above referenced case.

**BACKGROUND**

Island Park Water Company, Inc. ("Company") is located in eastern Idaho near West Yellowstone, where it provides water services to its customers. In 2010 and 2011, Company's customers complained to the Commission that the Company was charging them a different annual rate than the rate specified in the Company's tariff schedule. The Company had issued annual water bills charging customers on a "per lot basis" instead of a "per customer" or per connection basis. The Commission Staff ("Staff") investigated the complaints and obtained substantiating information.

Based on the complaints and Staff's investigation, the Commission issued an emergency Order directing the Company to: (1) cease all billing practices that conflict with the tariff; (2)

refrain from terminating service to customers who did not pay annual bills that conflict with the tariff; (3) send corrected invoices to all customers who were billed incorrectly and simultaneously provide copies to the Commission; (4) repay customers for any amounts collected based on a rate exceeding the rate allowed by the tariff; (5) send a copy of its current customer list to the Commission; and (6) provide Staff with a specific date and time that the Commission's auditors may visit the Company. Order No. 32268 at 1-3.

This matter comes to the Commission for review for it to determine whether the Company has complied with the directives in Order No. 32268. If the Company has complied with these directives or sufficient, substantial progress has been made by the Company toward compliance the Commission will consider whether this case can be closed. *See* Order No. 34662.

## **STAFF ANALYSIS**

Upon review of the audit files and workpapers prepared by Staff in 2011 and responses to Audit Requests, the Company appears to have made reasonable progress to comply with the directives in Order No. 32268. Accordingly, Staff recommends the Commission close this case. Staff performed a financial and operation audit of the Company in 2011 with a goal to determine, in part, if the Company's billing practices comply with the tariffs and Commission rules. The results of the audit are discussed in the comments below.

### **Commission Order No. 32268**

After receiving several complaints from customers in 2010-2011 about the Company's billing practices and subsequent Staff investigation that substantiated the complaints, the Commission issued Order No. 32268. The Order specifically directed the Company to:

1. Cease all billing practices that conflict with the tariff.
2. Refrain from terminating service to customers that did not pay their annual bills that conflict with the tariff.
3. Send corrected invoices to customers who were billed incorrectly and simultaneously provide copies to the Commission.
4. Repay customers for any amounts collected based on a rate exceeding the rate allowed by the tariff.

5. Send a copy of its current customer list to the Commission.
6. Provide Staff with a specific date and time that Commission's auditors may visit the Company.

Staff has determined that the Company has generally complied with the requirements of Order No. 32268, although several issues remain unresolved.

*Requirement No. 1 – Cease all billing practices that conflict with the tariff*

Since September 2016, the Commission has received 17 customer complaints, 11 of which were related to the Company's billing practices and policies. Additionally, the Commission has received 10 inquiries from customers, 8 of which were specifically related to billing issues. Complaints and inquiries prior to September 2016 have been purged from Staff's complaint tracking system in accordance with the Commission's record retention policies. Except for one open complaint, all have been resolved between the Company and the customer directly. Although Staff believes the Company has improved the billing processes that led the Commission to open this docket, the number of customer complaints received regarding billing practices indicates that the Company may be loosely interpreting the Commission approved tariffs.

*Requirement No. 2: Refrain from terminating service to customers that did not pay their annual bills that conflict with the tariff.*

Staff was unable to determine if the Company terminated service for any customers who did not pay the incorrect bill back in 2010 and 2011. The Company does not have shutoff valves on most of its connections, and therefore does not have the ability to terminate service to most customers. In Order No. 30668 (Case No. ISL-W-08-01), the Company was given the authorization to charge customers who were more than 15 months past due \$1,100 to recover the cost of installing a shut off valve. The customer would have to pay the \$1,100 charge plus all past due charges and late fees before the Company would reconnect service. Staff has no record that the Company has ever used this authorization to collect past due charges. Staff has not received any information regarding termination of service for the customers with shutoff valves installed.



Requirement No.3: Send corrected invoices to customers who received incorrect bills and simultaneously send copies to the Commission

Staff has no evidence of corrected bills being sent out to customers, and the Commission did not receive copies of any corrected bills. However, this issue seems to have been resolved directly between the Company and the customers. Staff discovered during its audit that credits were posted to the customers' accounts correcting for the erroneous bills.

Requirement No. 4: Repay customers for any amounts collected based on a rate exceeding the rate allowed by the tariff

In 2013, Staff verified that the Company had credited the accounts of those customers who were billed above the \$280 per customer rate allowed in the tariff. While this does not completely comply with the order to issue refunds to customers, customer accounts were credited by the amount they paid above the authorized tariff amount.

Requirement No. 5: Send a copy of its current customer list to the Commission

The Company provided Staff a customer list in August 2011, and an updated list in 2013. Staff has not been able to verify that the lists are accurate and complete based on an extensive examination of Jefferson County Assessors records.

Requirement No. 6: Provide Staff with a specific date and time that the Commission's auditors may visit the Company

Staff requested five days to complete the onsite audit. The Company replied that it would only allow three days, with the third day ending at noon. Staff conducted its onsite audit on August 30, 2011 to September 2, 2011. The Company complied with the Commission's directive in providing specific date and time for the on-site audit, however given the limited time available Staff was unable to resolve specific concerns including:

1. A lack of internal controls in place for financial transactions and records, and those that were in place appeared to be bypassed regularly.
2. Cash deposit documentation was not sufficient for reasonable assurance.
3. The Company did not have written policies or procedures for collection of past due accounts causing collections to be randomly and inconsistently pursued.

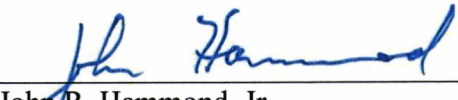
4. Obstructive behavior from Company personnel that limited the scope and ability to perform the audit.

Given the age of this case and the scarcity of the record, Staff believes it would be appropriate to close this docket. Although Staff continues to have concerns with the billing practices and operations of the Company, Staff believes that the issues that caused the Commission to initiate this docket have been resolved. Staff has initiated a new audit to investigate the financial management and operation of the Company and to determine if the Company's billing practices comply with Commission approved tariffs and customer relations rules. The initial audit request was sent out on April 8, 2020, with responses due on May 1, 2020. When inquiring about the lack of response, the owner of the Company claimed that the audit request was never received. Staff has proposed a six-week extension for responding to the April 8, 2020, audit request until June 15, 2020. The Company has not replied to Staff's proposal. If the current audit determines that the Company is not in compliance with Commission rules, or that customers have been billed amounts that do not conform to Commission approved tariffs, Staff will seek to initiate a new proceeding to inform the Commission of the results of Staff's investigation.

## **STAFF RECOMMENDATIONS**

Based on Staff's review of the audit performed in 2011, the age of this case, and the lack of a developed record, Staff recommends the Commission issue an Order acknowledging that the Company complied with the directives of Order No. 32268 and close this docket. Additionally, Staff also recommends that the Commission reminds the Company of its obligation under *Idaho Code* § 61-313 to charge only tariff rates on file, *Idaho Code* § 61-520 allowing Staff to enter the premises of utilities to carry out the provisions of the Public Utilities Act, and *Idaho Code* § 61-610 providing the right to inspect books and examine employees.

Respectfully submitted this 27<sup>th</sup> day of May 2020.



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John R. Hammond, Jr.  
Deputy Attorney General

Technical Staff: Chris Hecht  
Joe Terry

i:umisc/comments/islw11.1jhchjt



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 27<sup>th</sup> DAY OF MAY 2020,  
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN  
CASE NO. ISL-W-11-01, BY E-MAILING A COPY THEREOF, TO THE  
FOLLOWING:

DOROTHY McCARTY  
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PO BOX 2521  
IDAHO FALLS ID 83403  
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/s/ Reyna Quintero

SECRETARY

CERTIFICATE OF SERVICE