

DECISION MEMORANDUM

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

FROM: CLAIRE SHARP
DEPUTY ATTORNEY GENERAL

DATE: JANUARY 31, 2023

SUBJECT: IN THE MATTER OF ISLAND PARK WATER COMPANY'S FAILURE TO COMPLY WITH IDAHO PUBLIC UTILITIES COMMISSION REPORTING AND FISCAL REQUIREMENTS; CASE NO. ISL-W-23-01.

Island Park Water Company, Inc. ("Island Park" or "Company") operates a "Water system" as a "Water corporation" as defined by *Idaho Code* §§ 61-124 and 61-125 and is a public utility subject to the jurisdiction of the Commission under *Idaho Code* § 61-129. The Company operates under Certificate of Public Convenience and Necessity No. 317. Island Park's service area comprises seven separate water systems located in Fremont County, Idaho.

This matter comes before the Commission due to the Company's failure to respond to audit requests from Commission Staff and file required annual reports, notwithstanding multiple requests and extensions from Commission Staff.¹ Affidavit of Joseph Terry. **Exhibit 1.**

THE NOTIFICATION OF ISLAND PARK

On July 14, 2022, Commission Staff ("Staff") sent an Audit Request to the Company. **Exhibit 2.** The Company did not respond despite multiple communications from Staff about the Audit Request. On August 1, 2022, Counsel mailed a demand letter alerting the Company of its failure to submit its 2021 Gross Intrastate Operating Revenue & Audit Request ("GIOR") report and respond to Staff's Audit Request. **Exhibit 3.** The August 1, 2022, demand letter was sent to the Company's address of record at the Commission but was returned as undeliverable.

¹ The Company failed to file its annual Gross Intrastate Operating Revenue ("GIOR") reports in a timely manner.

On August 11, 2022, and August 18, 2022, Staff communicated with the Company through email about complying with the Commission’s Audit Request. **Exhibit 4.** The Company did not provide its 2021 GIOR report or respond to Staff’s Audit Request

On August 29, 2022, Staff’s Counsel sent a demand letter entitled, **Re: Gross Intrastate Operating Revenue & Audit Request – Notice of Possible Legal Action** via process server to the Company.² **Exhibit 5.** The August 29, 2022, demand letter alerted the Company of its responsibility to update its address of record with the Commission, submit its 2021 GIOR report, and respond to Staff’s Audit Request, as follows:

Commission Staff made efforts to contact Island Park through email, and allowed a brief extension for Island Park to respond. That extension has now expired, and Island Park must respond to the audit request or face penalties under *Idaho Code* § 61-706.

Id.

On September 12, 2022, the Company submitted its 2021 GIOR report. On September 14, 2022, Staff mailed an invoice for the late GIOR report.³ The Company did not respond to the Audit Request.

On September 19, 2022, Island Park informally requested a 90-day extension of time from Staff to become compliant due to the personal circumstances of the operator. **Exhibit 6.**

On October 4, 2022, Counsel responded to the Company’s extension request via process server, entitled **Re: Failure to Respond to Audit Request – Notice of Possible Legal Action.** **Exhibit 7.** Counsel reminded the Company that its request for an extension was untimely under the Commission’s Rule of Procedure 225.03, IDAPA 31.01.01.225.03, which allows “14 days for [the Company] to object or explain why the questions cannot be answered.” *Id.* The 14-day period to request an extension for the July 14, 2022 Audit Request needed to be filed by July 28, 2022. *Id.* The Company’s failure to maintain current contact information on file caused delays and required a process server to deliver routine correspondence. *Id.* Counsel’s October 4, 2022, demand letter continued:

Further, it is inexplicable why the Company only responds to selected emails from Commission Staff sent to the email addresses on file, but later claims to be unable to use those email addresses. For example, the email address the Company used to contact Nancy Ashcraft and Terri Carlock is the exact same email address that

² The process server confirmed delivery of the letter on September 7, 2022.

³ The Company submitted payment of the invoice for the GIOR on September 29, 2022.

received the audit emails on July 28, 2022, as well as the reminder email on August 11, 2022. This was also the same email address used in the 2020 audit of Island Park, with which the Company had responded to during that audit. In any case, it is expected that all regulated utilities keep current contact information on file with the Commission, and the Company's failure to update this information does not excuse the Company from its responsibilities.

Exhibit 6 at 2.

Counsel reminded the Company its responses were "overdue on these statutorily required reports." *Id.* Because the Company indicated that a medical issue of the operator was preventing it from responding to audit requests, Counsel and Staff postponed initiating a show cause recommendation while reminding the Company of the need to meet statutory responsibilities under *Idaho Code* § 61-302. *Id.* The Company was given ten days to explain how it intended to maintain the service quality required under Idaho law, and told that the Company's failure to respond "will result in Staff requesting a motion to show cause with the Commissioners." *Id.* Finally, Counsel notified the Company that its "failure to comply with the requirements of Idaho Code and the Commission's Rules of Procedure may result in the Commission imposing penalties under *Idaho Code* §§ 61-706 and 61-707," and that employees and officers can also be subject to penalties under *Idaho Code* § 61-709. *Id.*

On October 13, 2022, Counsel, Staff and the Company discussed the importance of regulatory compliance and proposed potential paths forward to ensure regulatory compliance. The Company indicated that it would become compliant.

On November 28, 2022, the Company filed its 2020 and 2021 annual reports. Staff again reminded the Company of its outstanding response to the Audit Request. Since that time, Staff continued to remind the Company of the need to comply with the Commission's regulatory requirements.

On December 27, 2022, Counsel sent another demand letter via Process Server, entitled **Re: Second Notice of Failure to Respond to Audit Request – Notice of Possible Legal Action. Exhibit 8.** This demand letter notified the Company that:

Because of Island Park's continued delays and failure to comply with the requirements of Idaho Code and the Commission's Rules of Procedure, we are recommending that the Commission pursue a show cause hearing and penalties under *Idaho Code* §§ 61-706, 61-707 and 61-709.

If Island Park wishes to avoid a show cause hearing, the Company needs to submit a full and complete response to the Audit Request within ten (10) days from the receipt of this letter.

Exhibit 8.

The Company acknowledged receipt of the December 27, 2022, demand letter on January 3, 2023. **Exhibits 9-10.** On January 9, 2023, the Company notified Counsel that its audit responses were being sent to the Commission via tracked mail.

THE COMPANY'S JANUARY 10, 2023, AUDIT RESPONSES

Staff reviewed the Company's responses, and determined that only three responses to the ten audit requests ("AR") were adequate (Responses Nos. 2, 5, and 8). **Confidential Exhibit 11.** There were three responses that incompletely addressed the requests (Responses Nos. 6, 7 and 10), and four responses that did not address the substance of the requests (Responses Nos. 1, 3, 4 and 9), as follows:

AR No 1: Please provide a customer list broken out by subdivision.

The Company did not provide an updated customer list.

AR No. 3: Please provide a schedule showing all non-recurring fees charged to customers in 2020 and 2021.

The Company denied having a schedule of non-recurring expenses. The Company's denial is inconsistent with Company records, i.e., the deposit fees being charged to customers on the Company bank statements.

AR No. 4: Please provide a copy of all bills sent to customers in 2020 and 2021.

The Company did not provide a list of any customers billed or acknowledge any of the amounts billed. This response is implausible and reflective of poor bookkeeping practices, because the Company is billing its customers and must have some documentation of who and what it charges.

AR No. 6: Please provide a listing of plant-in-service for the Company as of the end of 2021.

Although the Company's narrative response partially addressed this request for information, the Company did not provide a list or provide historical cost for the Company's plant-in-service.

AR No. 7: Please provide a list of all customer complaints received in 2020 and 2021, along with each complaint's resolution.

The Company did not provide a list of customer complaints for 2020 and 2021. This response is not well taken because the Company is expected to maintain an independent log of customer relations issues. The Commission has pending informal complaints against the Company that the Company must document in its records.

AR No. 9: Please provide an accounts receivable aging report for the years ending 2020 and 2021.

An accounts receivable aging report would list customers who have not paid their bills in a timely manner. The Company did not provide an accounts receivable aging report.

Audit Request No. 10: Please provide all Company bank statements for 2020 and 2021.

The Company provided bank statements that have signs of alterations (sections were covered with white-out or otherwise obscured).

At this point, the deadlines to respond to Staff's ARs have passed, and the Company has failed to provide the needed information for Staff to complete its audit. Staff and Counsel have spent a considerable amount of time and energy encouraging the Company's compliance, without success. Counsel has notified the Company on several occasions that failure to comply with the requests for information may result in the imposition of penalties under *Idaho Code* §§ 61-706 and 61-707, and that employees and officers can also be personally subject to penalties under *Idaho Code* § 61-709.

Staff believes that the factual circumstances, along with the adequate notices provided to the Company, warrant a Notice of Hearing and Order to Show Cause on why the Company should not be subject to a \$2,000.00 penalty per day, and all accrued interest, under *Idaho Code* §§ 61-706 and 61-707, and possible additional penalties under *Idaho Code* § 61-709.

STAFF RECOMMENDATION

Staff recommends that the Commission issue a Notice of Hearing and Order to Show Cause why the Company should not be required by the Commission to:

1. Immediately provide full and complete responses to the Audit Request Questions 1, 3, 4, 6, 7, 9 and 10;
2. Pay up to a \$2,000.00 penalty per day, and all accrued interest, under *Idaho Code* §§ 61-706 and 61-707, and any additional penalties under *Idaho Code* § 61-709 against Company employees and officers, for each day that responses to the ARs were late in breach of a statutory duty.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Hearing and Order to Show Cause for this matter for **FEBRUARY 22, 2023, at 1:00 pm (MST)** directing the Company to appear and explain why it should not be required to:

1. Immediately provide full and complete responses to the Audit Request Questions 1, 3, 4, 6, 7, 9 and 10;
2. Pay up to a \$2,000.00 penalty per day, and all accrued interest, under *Idaho Code* §§ 61-706 and 61-707, and additional penalties under *Idaho Code* § 61-709 against Company employees and officers, for each day that responses to the ARs were late in breach of a statutory duty;
3. Anything else?



Claire Sharp
Deputy Attorney General

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EXHIBIT 1

The Company responded to this letter on September 19, 2022, claiming that it had not received any of the previous attempts to contact it about the audit request. A true and correct copy of the Company response letter is attached hereto and incorporated by reference herein as **Exhibit 6**. In this response the Company requested a 90-day extension to answer the audit requests. I wish to note that the email address used to respond to Staff was the same email address I used in my attempts to contact the Company described in **Exhibits 4, 6**.

8. On November 28, 2022, the Commission received the Company's annual reports for 2020 and 2021. This fulfilled Audit Request No. 2.
9. Again, on December 27, 2022, Staff sent notice of potential legal action through its Counsel and notified the Company that it would be recommending a show cause hearing and penalties under *Idaho Code* §§ 61-706, 61-707, and 61-709.
10. The Company responded to the December 27, 2022 notice via email on January 9, 2023, stating its responses had been mailed. The Commission received the Company's responses on January 11, 2023. A true and correct copy of the Company's response is attached as **Confidential Exhibit 11**.
11. I reviewed these responses on January 12, 2023. Overall, three responses were adequate, three responses were somewhat adequate, and four responses were inadequate.
12. The response to Audit Request No. 1 was inadequate. The Company stated the Commission should already have that information because it claimed we did not return the previous audit information. This is inadequate because I returned the information after the audit was completed as requested by the Company. Additionally, the information previously provided is outdated, and I wanted a current customer list.
13. The response to Audit Request No. 2 was adequate. The Company provided Annual Reports on November 28, 2022, and included copies of the Annual Reports with its response.
14. The response to Audit Request No 3. was inadequate. The Company claims to not have a schedule of its non-recurring expenses. Referencing the Company's tariff and annual report, the Company is charging customers something that is not in the \$280 per year water rate.

15. The response to Audit Request No. 4 was inadequate. The Company sent a blank copy of a bill and claimed to keep no record of the bills it sends to the customers.
16. The response to Audit Request No. 5 was adequate. The Company supplied two sets of minutes. One for 2020 and one for 2021. Both sets of minutes were identical except for the title that included different years. However, the first line in both sets of the minutes stated the minutes were for 2020. These are red flags for Staff, but still a complete answer.
17. The response to Audit Request No. 6 was somewhat adequate. The Company provided a narrative of what plant in service the Company has. However, the response did not include any values associated with that plant.
18. The response to Audit Request No. 7 was somewhat adequate. The Company did not provide a list of customer complaints received in 2020 and 2021 as requested. The Company asserted that the Commission has the list of complaints against the Company. While the Commission has records on informal and formal complaints against the Company, the Company has an obligation to document complaints, including those complaints which are not escalated to the Commission.
19. The response to Audit Request No. 8 was adequate. The Company stated it does not set budgets.
20. The response to Audit Request No. 9 was inadequate. The Company claims to not have any accounts receivable, aging reports and claims that it lacks the ability to build such a report. The Company cannot support this assertion without additional documentation, which it failed to provide.
21. The response to Audit Request No. 10 was somewhat adequate. The Company sent copies of its bank statements, but the Company redacted information from those bank statements. These redactions were not serious, primarily redacting payees for cleared checks and details of the deposit slips. However, these redactions do compromise the value of the response for reporting purposes.
22. The Company stated it denies permission for anyone to retain any of their responses in any manner. However, there was no explanation on why these responses would be confidential per IDAPA 31.01.01.67.

Dated this 24 day of January 2023.



Joseph Terry
Public Utilities Auditor
Idaho Public Utilities Commission

SUBSCRIBED AND SWORN to before me this 24th day of January 2023.



Notary Public for Idaho

Residing at: Boise, ID

Commission expires: March 15, 2025

EXHIBIT 2



Idaho Public Utilities Commission

PO Box 83720, Boise, ID 83720-0074

Brad Little, Governor

Paul Kjellander, Commissioner
Kristine Raper, Commissioner
Eric Anderson, Commissioner

July 14, 2022

Dorothy McCarty
Island Park Water Company
P.O. Box 2521
Idaho Falls, ID 83403

Dear Ms. McCarty:

It is the policy of the Idaho Public Utilities Commission Staff to do periodic financial and operating audits of companies under the Commission's jurisdiction. The Idaho Public Utilities Commission Staff will be conducting an audit of the financial and other records of Island Park Water Company for the calendar years ending December 31, 2020, and 2021. As part of this audit, an onsite visit and observation of facilities may be arranged at a later date. Staff requests that Island Park Water Company provide the following data, copies of records, and other information not later than **Thursday, August 4, 2022**:

Audit Request No. 1: Please provide a customer list broken out by subdivision.

Audit Request No. 2: Please provide annual reports for the years ending 2020 and 2021.

Audit Request No. 3: Please provide a schedule showing all non-recurring fees charged to customers in 2020 and 2021.

Audit Request No. 4: Please provide a copy of all bills sent to customers in 2020 and 2021.

Audit Request No. 5: Please provide a copy of the minutes for every Board of Directors Meeting from 2020 to present.

Audit Request No. 6: Please provide a listing of plant-in-service for the Company as of the end of 2021.

Audit Request No. 7: Please provide a list of all customer complaints receive in 2020 and 2021, along with each complaint's resolution.

Audit Request No. 8: Please provide a copy of the Company's budgets for the years 2020 and 2021.

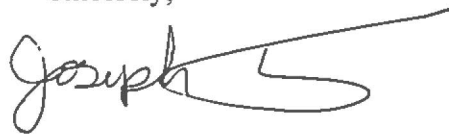
Dorothy McCarty
Island Park Water Company
July 14, 2022
Page 2

Audit Request No. 9: Please provide an accounts receivable aging for the years ending 2020 and 2021.

Audit Request No. 10: Please provide all Company bank statements for 2020 and 2021.

If it appears that a response will take longer, please call me to work out any necessary timing changes. Review of the requested documents may require additional written (e-mail) or verbal inquiries. If you have any questions regarding the above audit requests, please do not hesitate to contact me at (208) 334-0349 or by e-mail at joseph.terry@puc.idaho.gov. You may also contact Donn English at (208) 344-0362 or donn.english@puc.idaho.gov. Thank you for your cooperation and assistance.

Sincerely,

A handwritten signature in black ink that reads "Joseph Terry". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Joseph Terry
Senior Auditor

e-mail: waterbill@ida.net

EXHIBIT 3



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

VIA CERTIFIED MAIL

August 1, 2022

Island Park Water Company
Dorothy McCarty
P.O. Box 2521
Idaho Falls, ID 83403

Re: Gross Intrastate Operating Revenue Report – Notice of Possible Legal Action

Dear Ms. McCarty:

The Office of the Attorney General for the State of Idaho has been made aware that Island Park Water Company (“Island Park”) has failed to submit its 2021 Gross Intrastate Operating Revenue (“GIOR”) Report as required by Idaho Law. *Idaho Code* § 61-1003 provides that, “[o]n or before April 1st of each year, each public utility and railroad corporation subject to the jurisdiction of the commission, shall file with the commission a return verified by an officer or agent ... showing its gross operating revenues from its intrastate utility or railroad business in Idaho for the preceding calendar year.” We are aware that Commission Staff has notified Island Park of its reporting requirements, but that it has chosen to ignore the April 1 deadline and has yet to file a GIOR report.

Island Park’s failure to file its annual verified return violates § 61-1003, giving rise to a cause of action that may result in the imposition of civil penalties. *Idaho Code* § 61-706 states that any public utility that fails to comply with the state’s Public Utilities Law “is subject to a penalty of not more than \$2,000 for each and every offense.”

Idaho Code § 61-1005 authorizes the Attorney General to commence an action to enforce GIOR reporting and collect unpaid regulatory assessments and associated penalties “for failure, refusal or neglect of any public utility . . . to pay such fee . . .” To avoid further proceedings and court action, Island Park must immediately file its GIOR Report. For your convenience, you will find a

GIOR Report form for Island Park attached to this letter. Please fill it out completely **and return it within ten days** to the Commission at the address listed above. Any questions concerning the payment may be directed to Maria Barratt-Riley, (208) 334-0337, or by email: maria.barratt-riley@puc.idaho.gov.

Sincerely,

Claire Sharp
Deputy Attorney General



Enclosures

cc: Maria Barratt-Riley, Claire Sharp

Island Park GIOR Demand Ltr_cs

Idaho Gross Intrastate Operating Revenues Statement for Calendar Year 2021

P.O. Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0325 Fax: (208) 334-3762
E-mail: nancy.ashcraft@puc.idaho.gov

Company Name: _____

Street Address: City: _____

State: _____

Zip Code: _____

Idaho Code §§ 61-1003 and 62-611 require that public utility corporations annually report their gross operating revenues derived from business in Idaho during the preceding calendar year to the Commission. We request that your calendar year 2021 gross intrastate revenues be provided to the Commission on or before April 1, 2022. You must report even if you had zero gross intrastate operating revenues during the preceding calendar year.

This form is for your convenience. Please complete it by entering the relevant information in the shaded boxes. Please note the law requires information on the return be verified by an officer, or agent, of your company. The Commission's contact information is given above. Should you have any questions or comments, please contact me.

Sincerely,

Maria Barratt-Riley

Maria Barratt-Riley, Deputy Administrator

Certification:

Our Idaho Gross Intrastate Revenue for the Calendar Year 2021 was _____

I certify that the foregoing statement is true and correct to the best of my knowledge, information, and belief.

By checking this box, I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Additional Information: The person within your company to contact should we have questions regarding this form is:

Name: _____

Telephone Number: _____ E-Mail Address: _____

EXHIBIT 4

Joseph Terry

From: Joseph Terry
Sent: Thursday, August 11, 2022 3:35 PM
To: waterbill@ida.net
Subject: Public Utilities Audit Request Response
Attachments: Island Park Audit Req 1.pdf

Dorothy,

I had a Audit Request Sent to you on July 14th with a due date of August 4th.

I haven't heard anything yet, so I wanted to drop a line and see if there were any questions on this. I have included a copy of the request to this email.

Thanks,

Joe Terry, CRRA
Auditor
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720
Ph: (208) 334-0349
Fax: (208) 334-3762

Joseph Terry

From: Joseph Terry
Sent: Thursday, August 18, 2022 4:13 PM
To: waterbill@ida.net
Cc: Donn English; Terri Carlock
Subject: RE: Public Utilities Audit Request Response

Dorothy,

This is another reminder about the Audit Request that was due on August 4th.

I really need to hear from you about this. It's two weeks late at this point.

Thanks,

Joe Terry, CRRA
Auditor
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720
Ph: (208) 334-0349
Fax: (208) 334-3762

From: Joseph Terry
Sent: Thursday, August 11, 2022 3:35 PM
To: waterbill@ida.net
Subject: Public Utilities Audit Request Response

Dorothy,

I had a Audit Request Sent to you on July 14th with a due date of August 4th.

I haven't heard anything yet, so I wanted to drop a line and see if there were any questions on this. I have included a copy of the request to this email.

Thanks,

Joe Terry, CRRA
Auditor
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720
Ph: (208) 334-0349
Fax: (208) 334-3762

EXHIBIT 5



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 29, 2022

VIA PROCESS SERVER

Island Park Water Company
Dorothy McCarty
P.O. Box 2521
Idaho Falls, ID 83403

Re: Gross Intrastate Operating Revenue Report & Audit Request – Notice of Possible Legal Action

Dear Ms. McCarty:

The Office of the Attorney General for the State of Idaho submitted its August 1, 2022, demand letter alerting you that Island Park Water Company ("Island Park") has failed to submit its 2021 Gross Intrastate Operating Revenue ("GIOR") Report as required by Idaho Law. That demand letter was sent via Certified Mail to Island Park's address of record at the Commission. The August 1, 2022, letter was returned as undeliverable, even though it was sent to your address of record. Please update your address of record with the Commission as soon as possible.

We are also aware that Commission Staff sent an audit request to Island Park's address of record at the Commission. Commission Staff made efforts to contact Island Park through email, and allowed a brief extension for Island Park to respond. That extension has now expired, and Island Park must respond to the audit request or face penalties under *Idaho Code* § 61-706.

Sincerely,

A handwritten signature in blue ink that reads "Claire Sharp".

Claire Sharp
Deputy Attorney General

Enclosures

cc: Maria Barratt-Riley, Claire Sharp

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EXHIBIT 6

Ref: Audit Request Extension for 90 days due to medical reason

Dear Nancy Ashcraft,

I have been out of my office the past two weeks due to a death in my family and funeral. I sent a previous request to you on Friday which was returned stating you would be out of the office until Sept 16th. Thus I am writing again to make certain you receive my request for a 90 day extension for the audit.

A letter was received (*for the first time) while I was gone on Sept 8 referencing an audit. It said to contact you if I needed an extension of time in order to comply with the request. I have not received any previous letter from you regarding this audit. Please note we do not receive mail except at the above address. Due to my medical issues, contact is by phone 208-521-2369 only right now.

I am requesting a 90 day audit delay for the audit request for personal medical issues and because I am the only person who can do this. * I will be unable to comply with the request until after that time as I am currently undergoing medical treatments that interferes with my ability to comply. I am advised by my Doctors to request at least a 90 day extension.

I am hopeful that after 90 days I will be able to proceed with the request. I will be answering calls remotely as I will be out of state from time to time for additional treatments. Please text me or leave a message at 208-521-2369

Please note: I am the only person who can do this and due to extent of the treatment/surgery I simply can't meet your current request timeline.

Thank you in advance.

Sincerely,

Dorothy McCarty
208-521-2369

Cc: Terri Carlock

EXHIBIT 7



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

VIA PROCESS SERVER

October 4, 2022

Island Park Water Company
Dorothy McCarty
155 E. 23rd Street
Idaho Falls, ID 83404

Re: Failure to Respond to Audit Request – Notice of Possible Legal Action

Dear Ms. McCarty:

We received your responses to our correspondence on September 12, 2022 and September 19, 2022 and Island Park Water Company's ("Island Park" or "Company") Gross Intrastate Operating Revenue ("GIOR") report. We also understand that you are requesting a 90-day extension to respond to the audit request.

The Company's request for an extension of time is not well-taken. First, the Company's September 19, 2022 request for an extension to respond to the audit request is untimely. IDAPA 31.01.01.225.03 allows 14 days for you to object or explain why the questions cannot be answered. The Audit Request was sent on July 14, 2022. Therefore, an objection to these questions would have needed to be lodged by July 28, 2022. Second, the Company has not complied with routine audit requests and its responses are long overdue.

The Company's failure to maintain current contact information on file caused delays and required the Commission to obtain a process server to deliver routine correspondence to the Company. Your most recent annual report from the Company, filed August 3, 2020 for the year ending 2019, stated that your contact address was P.O. Box 2521, Idaho Falls, ID 83403. Commission Staff sent a physical copy of the audit request to that address. Commission Staff acted in good faith based on the information you provided, and that you had signed claiming to be a correct statement. If this address became invalid, then it was incumbent upon the Company to provide the new address to the Commission.

Further, it is inexplicable why the Company only responds to selected emails from Commission Staff sent to the email addresses on file, but later claims to be unable to use those email addresses. For example, the email address the Company used to contact Nancy Ashcroft and Terri Carlock is the exact same email address that received the audit emails on July 28, 2022, as well as the reminder email on August 11, 2022. This was also the same email address used in the 2020 audit of Island Park, with which the Company had responded to during that audit. In any case, it is expected that all regulated utilities keep current contact information on file with the Commission, and the Company's failure to update this information does not excuse the Company from its responsibilities.

Audit Request No. 2 requests you to provide the Annual reports for years 2020 and 2021, which were due, per *Idaho Code* § 61-405, to the Commission on April 15, 2021, and April 15, 2022, respectively. The Company response is overdue on these statutorily required reports.

Ms. McCarty has indicated that a medical issue is preventing the Company from responding to audit requests. If so, and if this medical issue is expected to persist such that the Company is unable to meet its statutory responsibilities under *Idaho Code* § 61-302, the Company needs to immediately implement a plan to remedy this situation. Staff requests that the Company respond within ten (10) days explaining how the Company intends to maintain the service quality required under Idaho law, including, but not limited to responding to customer complaints, emergencies, and water quality testing. Failure to respond within the requested timeline will result in Staff requesting a motion to show cause with the Commissioners.

The Company's failure to comply with the requirements of Idaho Code and the Commission's Rules of Procedure may result in the Commission imposing penalties under *Idaho Code* §§ 61-706 and 61-707. Additionally, *Idaho Code* § 61-709 states that employees and officers can also be subject to penalties. The Company must respond promptly to avoid being subject to penalties. For your convenience the audit request has been attached to this letter.

Sincerely,



Claire Sharp
Deputy Attorney General

Enclosures

20221004_Follow-up Demand Ltr_Audit Req.docx



Idaho Public Utilities Commission

PO Box 83720, Boise, ID 83720-0074

Brad Little, Governor

Paul Kjellander, Commissioner
Kristine Raper, Commissioner
Eric Anderson, Commissioner

July 14, 2022

Dorothy McCarty
Island Park Water Company
P.O. Box 2521
Idaho Falls, ID 83403

Dear Ms. McCarty:

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Audit Request No. 2: Please provide annual reports for the years ending 2020 and 2021.

Audit Request No. 3: Please provide a schedule showing all non-recurring fees charged to customers in 2020 and 2021.

Audit Request No. 4: Please provide a copy of all bills sent to customers in 2020 and 2021.

Audit Request No. 5: Please provide a copy of the minutes for every Board of Directors Meeting from 2020 to present.

Audit Request No. 6: Please provide a listing of plant-in-service for the Company as of the end of 2021.

Audit Request No. 7: Please provide a list of all customer complaints receive in 2020 and 2021, along with each complaint's resolution.

Audit Request No. 8: Please provide a copy of the Company's budgets for the years 2020 and 2021.

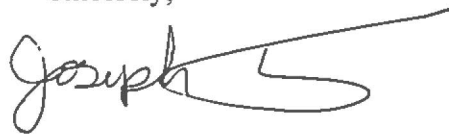
Dorothy McCarty
Island Park Water Company
July 14, 2022
Page 2

Audit Request No. 9: Please provide an accounts receivable aging for the years ending 2020 and 2021.

Audit Request No. 10: Please provide all Company bank statements for 2020 and 2021.

If it appears that a response will take longer, please call me to work out any necessary timing changes. Review of the requested documents may require additional written (e-mail) or verbal inquiries. If you have any questions regarding the above audit requests, please do not hesitate to contact me at (208) 334-0349 or by e-mail at joseph.terry@puc.idaho.gov. You may also contact Donn English at (208) 344-0362 or donn.english@puc.idaho.gov. Thank you for your cooperation and assistance.

Sincerely,

A handwritten signature in black ink that reads "Joseph Terry". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Joseph Terry
Senior Auditor

e-mail: waterbill@ida.net

EXHIBIT 8



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

VIA PROCESS SERVER

December 27, 2022

Island Park Water Company
Dorothy McCarty
155 E. 23rd Street
Idaho Falls, ID 83404

Re: Second Notice of Failure to Respond to Audit Request – Notice of Possible Legal Action

Dear Ms. McCarty:

The Commission has not received Island Park Water Company's ("Island Park" or "Company") response to Staff's Audit Request, notwithstanding a generous time extension to accommodate the operator's personal circumstances. Because of Island Park's continued delays and failure to comply with the requirements of Idaho Code and the Commission's Rules of Procedure, we are recommending that the Commission pursue a show cause hearing and penalties under *Idaho Code* §§ 61-706, 61-707, and 61-709.

If Island Park wishes to avoid a show cause hearing, the Company needs to submit a full and complete response to the Audit Request within ten (10) days from the receipt of this letter.

As a courtesy reminder, filings of applications and other pleadings with the Commission will be deemed filed when the electronic submission is received by the Commission Secretary. See Commission Rule of Procedure 14.02, IDAPA 31.01.01.014.02. The Commission does not accept filings or responses sent to personal phone numbers of Commission Staff. Please send all correspondence by email to secretary@puc.idaho.gov or by mail to: Public Utilities Commission, 11331 W. Chinden Blvd. Building 8, Suite 201-A, Boise, ID 83714.

Sincerely,

A handwritten signature in blue ink that reads "Claire Sharp".

Claire Sharp
Deputy Attorney General

Enclosures

I:\Legal\WATER\Island Park Demand Letter GIOR\word docs\20221227_Follow-up Demand Ltr_Audit Req.docx

EXHIBIT 9

Claire Sharp

From: water@ida.net
Sent: Wednesday, January 4, 2023 3:25 PM
To: Claire Sharp
Cc: water@ida.net
Subject: Receipt of Letter

Importance: High

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Island Park Water Company

Attention Claire Sharp

Date January 4, 2023

This email acknowledges that I received your letter today regarding the requested information for the Audit and to assure you that I will do everything possible to see that the information is sent to you within the next ten days. I just wanted to clarify this so you know.

I sincerely appreciate your patience and understanding. Please know I was not ignoring this and had reached out to Joseph Terry via email but had not heard a response back from him.

Please know that I will inform you the day the information is mailed and will send via overnight delivery directly to Joseph Terry at the address provided.

Thank you again for your patience.

Sincerely,

Dorothy McCarty
Island Park Water Company

EXHIBIT 10

DECLARATION OF SERVICE

IDAHO PUBLIC UTILITIES COMMISSION,

Plaintiff(s),

vs.

ISLAND PARK WATER COMPANY,

Defendant(s).

**DECLARATION OF
SERVICE**

Case Number:

I, Marc Jorgensen, hereby declare as follows:, on January 03, 2023 at 7:16 PM, I served a true and correct copy of the: Letter (2nd Notice of Failure to respond to audit request, Notice of Possible Legal Action); Letter (Audit Requests) in the above entitled matter for:

Island Park Water Company by delivering to and leaving with: Ray McCarty, (Director) a person authorized to accept service on behalf of Island Park Water Company.

Said service was effected at: 155 E 23rd St. , Idaho Falls, ID 83404.

I am over the age of 18, a resident of the State of Idaho, I am not a party to or related to any of the parties in the above entitled action and I am a Process Server, in good standing, in the judicial district in which the process was served.

I declare under penalty of perjury pursuant to the Law of the State of Idaho that the foregoing is true and correct.

Date:

1/4/23

X


Marc Jorgensen

Bulldog Legal Support, Inc.
P.O. Box 176
Blackfoot, ID 83221-0176
208-782-3530
Our Job # 30663
Client File:



EXHIBIT 11
CONFIDENTIAL