

DECISION MEMORANDUM

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

FROM: CLAIRE SHARP
DEPUTY ATTORNEY GENERAL

DATE: FEBRUARY 10, 2023

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

BACKGROUND

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.

On January 31, 2023, the Commission issued a Notice of Hearing and Order to Show Cause requiring the Company appear on February 22, 2023, and explain why it should not face penalties under *Idaho Code* §§ 61-706, 61-707, and 61-709, for failures to provide the Commission with adequate responses to its Audit Request Questions 1, 3, 4, 6, 7, 9, and 10. Order No. 35675.

Commission Staff's ("Staff") investigation of Island Park subsequently revealed allegations of improper customer billing, improper handling of customer complaints, threats of retaliation against customers, and failure to provide safe and reliable services—all in violation of *Idaho Code* §§ 61-301 and 61-302.

ALLEGATIONS AGAINST ISLAND PARK

Customer Billing Discrepancies. Staff requested copies of actual customer bills. The Company failed or refused to provide Staff with actual customer bills, and the ledger and statement provided to Staff did not show enough detail to reconcile the accounts. As part of an ongoing

investigation of Company practices, Island Park's customers submitted statements that the Company is charging more than the tariff-approved rate of \$280 annually, including allegedly charging some customers approximately \$1,400 per year, charging customers for previous customers' use, and connection fees of \$1,100 to \$6,600 for service. Additionally, Staff learned that some customers who disagree with the Company's fees are allegedly threatened with termination of water service.

Customer Complaints Log

Staff asked the Company to provide a copy of their complaint log for all customers. The Company failed or refused to provide any documentation of customer complaints to Staff. Multiple customers complained that the Company refuses to discuss or resolve customer service issues, including concerns about billing, water quality, and safe and reliable service.

Staff notes that documenting complaints was required by Order Nos. 30668 and 32268. Notwithstanding these Orders, Staff has obtained numerous complaints from customers that the Company has not disclosed and were only apparent after the customer escalated the matter to the Commission.

Failure to Provide Safe and Reliable Services

The most pressing complaint from customers is that the Company is not providing safe and reliable service, such that customers have had months of interruptions in their water service and been forced to transport their own water to their property. Island Park is not a seasonal water system and has not appropriately addressed or remedied these interruptions in service.

The Company has acknowledged—but not remedied—these interruptions in service by repairing or maintaining its system.

Customers have also complained that the Company's water has unusual smells, and that they must occasionally boil their water. The Company did not provide Staff documentation of appropriate testing or maintenance of its water system. Again, Staff asked for the hydrogen sulfide tests that the Company stated it had performed, and none were provided.

Retaliation

Staff has reason to believe that the Company has threatened customers with termination of service if the customers raise concerns with billing or water quality. Complaints were made to the Commission and other state agencies describing retaliatory practices. Customers described that management is dismissive, combative, and unavailable. Customers who express concerns are

allegedly told that they can “drill their own wells” and the Company has frequently discussed shutting off customer access to water for inappropriate reasons.

STAFF’S POSITION

Staff believes that the factual circumstances and additional information warrant the issuance of an Amended Notice of Hearing and Order to Show Cause to address these additional allegations of improper customer billing, improper handling of customer complaints, failure to provide safe and reliable services, in violation of *Idaho Code* §§ 61-301 and 61-302, and why the Company should not be subject to a \$2,000 penalty per day for each violation plus all accrued interest, under *Idaho Code* §§ 61-706 and 61-707, and any additional penalties under *Idaho Code* § 61-709 for violations of *Idaho Code* §§ 61-301 and 61-302.

STAFF RECOMMENDATION

Based on the new documentation received, Staff recommends the Commission vacate and reset the Show Cause Hearing scheduled for February 22, 2023, by issuing an Amended Notice of Hearing and Order to Show Cause directing the Company to appear and address these additional allegations of improper customer billing, improper handling of customer complaints, failure to provide safe and reliable services in violation of *Idaho Code* §§ 61-301 and 61-302, and threats of retaliation against customers.

COMMISSION DECISION

Does the Commission wish to vacate the Notice of Hearing and Order to Show Cause set in Order No. 35675 and issue an Amended Notice of Hearing and Order to Show Cause for this matter for **MARCH 13, at 11:00 AM local time** 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. Immediately provide a complaint log for all customers;
3. Immediately provide Company billing information, including actual customer bills, and refund customers charged in excess of the approved tariff;
4. Immediately provide its current written protocol or notification plan that describes the protocol for scheduled, emergency and temporary service interruptions and a written plan for customer notifications and status updates;
5. Immediately meet its obligation to provide safe and reliable service to its customers, and resolve the interruptions in water service and water quality concerns through appropriate testing and maintenance of its system;

6. Immediately refrain from retaliation;
7. Pay up to a \$2,000 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 is in breach of a of a statutory duty;

Claire Sharp
Deputy Attorney General

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