

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF FARKO WATER) CASE NO. PTE-W-24-01
SYSTEM’S PROPOSED CANCELLATION)
OF PONDEROSA TERRACE ESTATES)
WATER SYSTEM’S, CERTIFICATE OF) ORDER NO. 36327
PUBLIC CONVENIENCE AND NECESSITY)
NO. 393)
)

On January 18, 2024, Farko Water System Inc. (“Farko”)¹ filed an application (“Application”) with the Idaho Public Utilities Commission (“Commission”), which stated that Ponderosa Terrace Estates Water System, Inc. (“PTE”) was sold to Farko on October 1, 2016. While the Application’s heading requested a transfer of PTE’s Certificate of Public Convenience and Necessity (“CPCN”) to Farko, the body of the Application requested that PTE’s CPCN be cancelled. The Application requested that the Commission recognize that Farko is operating the system as a not-for-profit organization (“non-profit”). The Application did not ask that the Commission issue a new CPCN to Farko. Supplemental information related to this request was attached to the Application.

On February 16, 2024, the Commission issued a Notice of Application and Notice of Intervention Deadline. Order No. 36093. No parties intervened.

On March 26, 2024, Farko’s Board of Directors held a meeting with the water users to nominate a new Board of Directors. Seven customers were elected to the newly created Cedar Springs Community Water Board of Directors (“Board”).

On May 21, 2024, the Commission issued a Notice of Modified Procedure establishing public comment and reply deadlines. Order No. 36188. Commission Staff (“Staff”) filed the only comments in this case.

On June 17, 2024, the elected secretary of the Board filed an application with the Secretary of State to establish an unincorporated nonprofit association named Cedar Springs Community Water. Attachment A of Staff’s August 13, 2024, Decision Memorandum.

¹ While the Application indicates that the word “Company” is used in both PTE’s and Farko’s company names, according to the Idaho Secretary of State, both companies actually use the word “System” instead of “Company” in their respective titles.

On July 15, 2024, the Commission issued Final Order No. 36259 granting Farko’s request for authority to operate as a non-regulated non-profit water company—subject to certain conditions. Specifically, the Commission ordered that Farko must submit a compliance filing with a copy of the non-profit by-laws signed by the Board, as well as a signed copy of the minutes of the meeting in which the Board was elected, within 30 days of the service date of Order No. 36259. The Commission stated that upon the satisfactory filing of these documents, CPCN No. 393 shall be cancelled.

At the Commission’s August 13, 2024, Decision Meeting, Staff provided background information regarding the Board’s delays and requested that the Commission grant the Board until October 1, 2024, to provide the information ordered in Commission Order No. 36259.

Having reviewed the record, the Commission issues this Order approving Staff’s recommendation.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter and the issues in this case under Title 61 of Idaho Code. The Commission regulates “public utilities,” including “water corporations” that serve the public or some portion thereof for compensation. *Idaho Code* §§ 61-125, -129, and -501.

A “public utility” is an entity that is dedicated to serving the general public in its service area. *Idaho Code* § 61-129(1). The term “public utility” is defined to include “water corporations.” *Id.* A “water corporation” is “every corporation” that owns, controls, operates or manages a water system for compensation. *Idaho Code* § 61-125. “The term ‘corporation’ . . . does not include . . . mutual nonprofit or cooperative . . . water . . . corporation or any other public utility organized and operated for service at cost and not for profit . . .” *Idaho Code* § 61-104.

Idaho Code § 61-104 provides three exceptions to the Commission’s regulatory authority over “corporations.” The Commission does not regulate “mutual nonprofits,” “cooperative corporations,” nor “any other public utility organized and operated for service at cost and not for profit.” *Idaho Code* § 61-104. Pursuant to *Idaho Code* § 61-104, the Company must show that it is “organized” for service at cost and not for profit, and that it is “operated” for service at cost and not for profit.

The Commission has reviewed Staff’s August 13, 2024, Decision Memorandum and grants Staff’s request. This extension is reasonable under these facts and circumstances as it allows the Board time to properly discuss the matter, and to submit its minutes of the meeting in which the

Board was elected and a copy of the signed by-laws to the Commission Secretary in a compliance filing by October 1, 2024.

ORDER

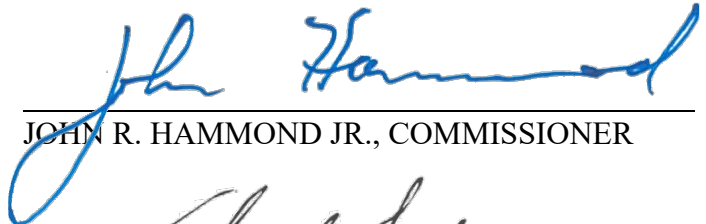
IT IS HEREBY ORDERED that the Board shall have until October 1, 2024, to submit all relevant minutes of the meeting in which the Board was elected and a copy of its by-laws, signed by the Board, to the Commission Secretary to comply with Order No. 36259.

THIS IS AN INTERLOCUTORY ORDER rather than a final and appealable Order of the Commission. While the Commission may review, stay, or clarify an interlocutory order, the period of reconsideration will not begin until the Final Order is issued.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23rd day of September 2024.



ERIC ANDERSON, PRESIDENT

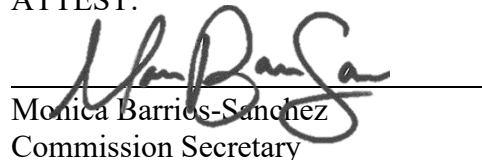


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Barrios-Sanchez
Commission Secretary

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