

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF SOUTHSHORE 2 WATER) CASE NO. SSW-W-26-01
COMPANY LLC’S APPLICATION FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY) ORDER NO. 37053
_____)**

On February 12, 2026, Southshore 2 Water Company LLC (“Company”) applied to the Idaho Public Utilities Commission (“Commission”) requesting a Certificate of Public Convenience and Necessity (“CPCN”), to operate as a public utility in the State of Idaho (“Application”).

On March 19, 2026, the Commission issued a Notice of Application, Notice of Intervention Deadline, and Notice of Modified Procedure, establishing deadlines for public comments and for the Company to file a reply. Order No. 36967. Intervention was granted to Southshore 2 Homeowners Association, Inc. (“HOA”). Order No. 36978. A Notice of Parties was issued on April 10, 2026.

Staff, one customer, and the HOA filed comments. The Company filed reply comments.

Based on our review of the record, the Commission now issues this Final Order approving the Application and issuing a CPCN to the Company.

THE APPLICATION

The Company applied to the Commission requesting a CPCN and approval to operate as a domestic water system within its defined service territory. Application at 1. The Company stated that it owns and operates the water system serving the Southshore Subdivision No. 2 (“Subdivision”) in Canyon County, Idaho. *Id.*

With its Application, the Company provided a copy of the Company’s filings with the Idaho Secretary of State’s Office, including its Certificate of Organization, the Secretary of State’s record of the Company’s transfer from Don Hubble (“Developer”) to Ryan Martin, the current managing member of the Company, and the Company’s current Annual Report filing. *Id.* at 2 and Exhibit A. The Company also included copies of the recorded Final Plat and legal description for

the Subdivision, outlining the current and proposed service area to be served by the Company. *Id.* at 2 and Exhibit B.

The Company provided a copy of the System Facilities Map and a detailed description of the water system. *Id.* at 2 and Exhibit C. The groundwater-based water system currently serves 15 authorized, residential connections, which is limited to the current connections through the water right and by the Subdivision buildout. *Id.* at 3-4. The Company holds Water Right No. 63-32259, that provides a licensed groundwater right for domestic use. *Id.* at 3. The Company provided a copy of a 2018 Ownership Change Acknowledgement and Proof Report from the Idaho Department of Water Resources (“IDWR”) showing the change in ownership of the water right from the Developer to the Company. *Id.* at 3 and Exhibit E. The system is currently regulated by the Idaho Department of Environmental Quality (“DEQ”) as a Public Water System. *Id.* at 3. The Company provided contact information for the DEQ-certified water system operator and a copy of the 2016 Enhanced Sanitary Survey from DEQ. *Id.* at 3 and Exhibit D.

The Company adopted a \$95 flat-rate on November 1, 2025. *Id.* at 3 and Exhibit G. The Company indicated that it intends to file a rate case immediately, should the Commission grant the Company a CPCN. *Id.* at 3. The Company provided financial documentation, its 2026 budget, tariff and fee schedule, and customer notices as part of its Application. *Id.* at Exhibits F, G, H, and I.

HOA COMMENTS

Prior to petitioning for intervention and being granted party status, the HOA filed public comments with a cover letter of support from counsel. Comment 2 at Exhibit M. The HOA, through its President, Christina Jacuzzi, filed public comments on February 18, 2026, February 26, 2026, and February 27, 2026. Additionally, on April 22, 2026, Intervenor HOA filed a Notice of Service notifying the Commission that it had served “Intervenor’s First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission” on the Company six days before the April 28, 2026, public comment deadline set forth in the Commission’s Notice of Modified Procedure.

In the HOA’s comments filed on February 18, 2026, Ms. Jacuzzi claimed that the Final Plat indicated that the water system is owned and maintained by the HOA. Comment 1 at 1. Ms. Jacuzzi stated that the HOA was formed prior to the transfer of the water system and that the HOA

did not receive notice that the transfers occurred. *Id.* Ms. Jacuzzi requested that the Commission deny the Company's Application for a CPCN due to outstanding questions concerning ownership and control of the water system. *Id.*

In the HOA's comments filed on February 26, 2026, Ms. Jacuzzi provided arguments and documentation to support her claim that the HOA owns the water system. Ms. Jacuzzi provided a copy of the Final Plat for the Subdivision and reasoned that the well for the water system is located on HOA common area and does not reflect a separation of the water system from HOA governance. Comment 2 at 1 and Exhibit A. Ms. Jacuzzi claimed that, at the time of the HOA's formation and during the sale of the lots, homeowners were not informed that the water system would operate separately from HOA governance. *Id.* at 1.

Ms. Jacuzzi claimed that documentation was lacking to show a homeowner vote, recorded HOA authorization, formal notice of privatization, or an amendment of the Condition, Covenants and Restriction ("CC&Rs") at the time the water system was transferred to the Company. *Id.* A copy of the Subdivision's CC&Rs were included at Exhibit B. Ms. Jacuzzi argued that at the time the water right was transferred from the developer to the Company in December 2017, the HOA had already been formed and governance had transferred to the homeowners, requiring board approval, membership vote, and notice to the homeowners of the intent to transfer the water rights and ownership of the water system. *Id.* at 2. A copy of documents pertaining to the change of ownership, including Water Right License 63-32259, IDWR Ownership Change records, DEQ documentation, Idaho Secretary of State records, and HOA Meeting Minutes were included as Exhibits B-2, C, D-1, D-2, D-3, D, E, F-1, F-2, F-3, G, and H.

Ms. Jacuzzi believed that the water right was tied to the platted common area lot in the Subdivision and that the Developer and Company did not properly follow the requirements of *Idaho Code* § 42-222 and sever the water right from the HOA.¹ *Id.* Ms. Jacuzzi claims that the HOA has no records demonstrating formal severance of appurtenance was completed through IDWR prior to the transfer from the Developer to the Company. *Id.* at 2-4.

¹ *Idaho Code* § 42-222 governs changes to established water rights in Idaho and the forfeiture of water rights through nonuse. Specifically, it addresses changes in the point of diversion, place of use, period of use, or nature of use of an existing water right. Under this statute, a person must apply to IDWR before making those changes.

Ms. Jacuzzi believed that the Commission should not rely on IDWR documentation as conclusive proof of water right ownership, as the department database provides disclaimers stating that IDWR entries are not independent determinations of legal validity. *Id.* at 3. Instead, Ms. Jacuzzi argued that, based on the IDWR documentation, the Commission should recognize that the water system had historically been administratively treated as a community water system serving only homeowners within the HOA, while operationally functioning as a privately controlled, revenue-generating utility. *Id.* at 4.

Finally, Ms. Jacuzzi raised concerns regarding the transfer of ownership from the original owner, Hendershot Construction, Inc., to the Developer, claiming the HOA lacked the proper documentation to support the transfer. *Id.*

On February 27, 2026, the HOA submitted supplemental comments. Ms. Jacuzzi included a timeline summary of the events concerning the transfer of ownership of the water system. Ms. Jacuzzi's timeline began in June 2008, with communications between the Developer and DEQ and ended May 2018, with the change of registered agent to Ryan Martin, the current listed managing member of the Company. Comment 3 at 1-4. Ms. Jacuzzi included the HOA's observations and noted which documentation previously submitted corroborated the sequence of events. *Id.*

Ms. Jacuzzi emphasized that while the HOA was under the control of the Developer, it was indicated that the water system would be turned over to the HOA later. *Id.* at 1-2. Ms. Jacuzzi also highlighted that the HOA took over governance in March 2017, prior to the water system transfer to the Company in August 2017 (DEQ) and December 2017 (IDWR). *Id.* at 2-3. Finally, Ms. Jacuzzi summarized the lack of documentation supporting HOA approval of the transfer of the water system and water right and the lack of documentation within the recorded deeds to reflect the formal severance of domestic water rights from the property of the Subdivision. *Id.* at 4.

STAFF COMMENTS

Staff reviewed the Company's Application along with additional information submitted by both the Company and the HOA and recommended that the Commission find the Company to be a water corporation operating as a public utility in Idaho and issue the Company a CPCN. Staff Comments at 2. Staff further recommended that the Commission designate the Company's service area to include the legal description and map identified in Attachments A and B, approve the Company's interim rates as submitted in the Application, require the Company to file an updated

tariff within 30 days of the issuance of the order, and open a separate docket to evaluate whether the interim rates were fair, just, and reasonable and to conduct a reliability analysis of the water system. *Id.*

In reaching its recommendation, Staff believed that the Company met the statutory definition of a public utility under *Idaho Code* §§ 61-125 and 61-129(1). *Id.* at 2-3. Staff evaluated whether the Company qualified for any statutory exceptions applicable to nonprofit entities, cooperatives, or utilities operating strictly at cost and believed that none of those exceptions applied. *Id.* at 3. Staff confirmed that the Company was a single-member Idaho limited liability company that controlled all assets of the water system, including the distribution infrastructure and Water Right No. 63-32259. *Id.* Staff also confirmed that the Company maintained the system, complied with DEQ testing requirements, controlled the rates charged to residents, and billed customers directly. *Id.* Based on those findings, Staff reasoned that the Company operated and managed the water system for compensation and therefore was subject to Commission regulation. *Id.*

Staff additionally reviewed the proposed service territory and determined that it was consistent with the area currently being served by the Company. *Id.* Staff verified through the DEQ water system mapping tool that the proposed service area did not overlap with any other water systems and that no municipal water systems existed within one mile of the territory. *Id.* The requested service area included Lots 1 through 16, Block 1, Southshore Subdivision No. 2, Canyon County, including the well lot. *Id.* Staff confirmed that the legal description aligned with the recorded county plat map and with the territory the Company presently serviced. *Id.*

Staff noted that four public comments had been submitted as of April 28, 2026. *Id.* at 4. One comment supported continued regulation of the water system under the current owner, while three comments submitted by Cristina Jacuzzi, President of the HOA and an intervenor in the proceeding, included HOA meeting materials, water right licensing documentation, plat maps, and billing correspondence supporting the HOA's position that it owned the water system. *Id.* Staff also noted that the Company provided customer contact information and operating hours in response to Staff production requests. *Id.*

Finally, Staff reviewed the Company's proposed tariff and stated that it would work with the Company to ensure compliance with the Commission's Utility Customer Relations Rules. *Id.*

Staff recommended several revisions to the tariff, including the addition of approved non-recurring charges, revision of the late-payment fee to one percent per month of unpaid balances consistent with Idaho law, removal of the “Meter Tampering/Unauthorized Use Fee,” and creation of a separate schedule for DEQ fees. *Id.* Staff therefore recommended that the Commission order the Company to submit a revised tariff compliance filing within 30 days of the issuance of the order. *Id.*

PUBLIC COMMENTS

One customer comment was submitted and was in favor of the water system being regulated and the system remain with its current owner.

COMPANY REPLY

The Company maintained that the central issue before the Commission was whether it operated or managed a water system for compensation and whether public convenience and necessity supported issuance of a CPCN for the proposed service territory. Company Reply Comments at 1. The Company asserted that the record supported Staff’s recommendation and requested that the Commission issue the CPCN. *Id.*

The Company stated that it appreciated Staff’s review of the Application and agreed with Staff’s recommendations in full. *Id.* at 1-2. It supported issuance of the CPCN for the proposed service territory, agreed to work with Staff on the required tariff compliance filing within 30 days of the Commission’s order, and did not object to opening a separate docket to review interim rates and system reliability. *Id.* at 2. The Company believed that the CPCN proceeding and the future rate and reliability review served regulatory purposes, with the CPCN establishing the Company’s authority and obligation to provide regulated utility service while the separate docket would allow for additional review of rates, tariff provisions, and system reliability. *Id.* The Company characterized this approach as orderly, reasonable, and in the public interest. *Id.*

The Company agreed with Staff’s belief that it qualified as a water corporation operating as a public utility subject to Commission jurisdiction under *Idaho Code* Title 61. *Id.* It asserted that the record demonstrated the Company presently operated, managed, billed, maintained, and coordinated regulatory compliance for the water system serving the Subdivision. *Id.* The Company further stated that it was not a nonprofit cooperative or customer-owned entity and that customers

did not control the Company's rates, operations, maintenance decisions, or capital expenditures. *Id.*

The Company acknowledged that several public comments raised questions concerning historic documents, Subdivision governance, HOA records, water right documentation, and related private-law matters, but it disagreed with the conclusions contained in those comments. *Id.* at 3. The Company argued that disputed private-law issues should not prevent the Commission from exercising regulatory jurisdiction over the entity presently operating and managing the water system for compensation. *Id.* The Company further argued that the public comments demonstrated the need for Commission oversight because a CPCN would provide a defined service territory, Commission-approved tariffs, customer protections, complaint procedures, Staff oversight, and future rate and reliability review. *Id.*

The Company specifically addressed comments submitted by or on behalf of the HOA, which focused on alleged ownership and governance disputes involving Subdivision plats, CC&Rs, water right records, DEQ records, HOA governance, and homeowner notice and voting concerns. *Id.* at 4. The Company disputed the HOA's characterization of the record but maintained that the CPCN proceeding was not the proper forum for resolving private ownership, title, easement, corporate governance, or civil-law disputes. *Id.* The Company argued that the Commission could determine whether the Company should be regulated as a public utility without adjudicating every issue raised by the HOA. *Id.* It emphasized that Staff reviewed the Company's records as well as information submitted by the HOA and nevertheless recommended issuance of the CPCN. *Id.*

The Company further argued that delaying or denying the CPCN would not resolve the HOA's allegations but would instead prolong regulatory uncertainty for customers and the water system. *Id.* The Company asserted that it continues to provide water service and that customers require safe and reliable service regardless of ongoing private disputes. *Id.* According to the Company, issuance of the CPCN would not constitute a final adjudication of private property or title issues, but rather would recognize that the Company presently operated or managed the water system for compensation and therefore should be subject to Commission regulation, tariffs, reporting requirements, and oversight. *Id.*

The Company also disputed the HOA's interpretation of the Subdivision plat and CC&Rs, noting that the CC&Rs referenced a "Water System Owner" and "Water System Manager," authorized water-service fees and assessments, and granted access rights related to operation of the water system. *Id.* at 4-5. Nevertheless, the Company maintained that it was not requesting the Commission adjudicate the legal effect of those provisions in the CPCN proceeding. *Id.* at 5. Instead, it argued that the relevant issue remained whether the Company operated or managed the water system for compensation and therefore should be regulated under Idaho law. *Id.*

With respect to Water Right No. 63-32259 and records maintained by IDWR and DEQ, the Company disagreed that those records justified denying or delaying the CPCN. *Id.* The Company stated that it had provided supporting water right documentation and regulatory materials with its Application and noted that Staff reviewed both the Company's submissions and the HOA's submissions before recommending approval of the CPCN. *Id.* The Company further emphasized that DEQ, IDWR, and the Commission each served different regulatory roles, with DEQ overseeing drinking-water compliance, IDWR administering water rights, and the Commission regulating public utilities under *Idaho Code* Title 61. *Id.*

The Company also addressed concerns regarding rates, billing authority, and customer charges. *Id.* at 5-6. It supported Staff's recommendation that interim rates remain in effect pending further review and agreed that a separate docket should evaluate whether those rates were fair, just, and reasonable. *Id.* at 6. The Company argued that the proper mechanism for addressing rate concerns was through the Commission's ordinary regulatory process rather than through denial of the CPCN. *Id.* The Company further agreed to submit an updated tariff within 30 days of the Commission's order and stated that it would work with Staff to revise the tariff in accordance with Staff's recommendations. *Id.*

Finally, the Company agreed with Staff's proposed service territory and noted that Staff confirmed the legal description and map were consistent with the area currently served by the Company and did not overlap with another water system. *Id.* at 6-7. The Company requested that the Commission issue an order finding the Company to be a public utility subject to Commission jurisdiction, issuing the CPCN, approving the proposed service territory, setting interim rates, requiring an updated tariff filing, and opening a separate docket for rate and reliability review. *Id.* at 8.

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. The term “public utility” is defined to include “water corporations.” *Idaho Code* § 61-129. A “water corporation” is “every corporation” that owns, controls, operates or manages a water system for compensation. *Idaho Code* § 61-125.

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, to be excluded from regulation a company must show that it is both “organized” for service at cost and not for profit, and that it is “operated” for service at cost and not for profit.

Having reviewed the record, all submitted materials, and all comments, we find that the Company is a corporation operating and managing a water system for compensation in Idaho and is, therefore, a public utility subject to Commission regulation under Idaho Code.

1. CPCN

The Commission’s authority in this matter includes determining whether the Company is a corporation operating and managing a water system for compensation in Idaho and, if so, whether a CPCN should be issued. The Commission’s authority does not extend to adjudicating disputed ownership of the water system or resolving private property rights disputes between the parties. Based on the Record, the Commission finds that the Company is presently operating and managing the water system for compensation and therefore qualifies as a public utility requiring a CPCN under Idaho law.

Based on the record before us, we find it reasonable to issue the Company a CPCN, and that the proposed legal description and map of the service area are reasonable. The legal description of the service area and service area map shall be consistent with the legal description and service area map provided by Staff as Attachments A and B to Staff’s Comments.

Additionally, as a regulated utility, the Company is required to adopt the Commission's Uniform Customer Relations Rules (IDAPA 31.21.01 et seq.) and Utility Customer Information Rules (IDAPA 31.21.02 et seq.).

Should a court of competent jurisdiction subsequently determine that ownership of the water system belongs to the HOA or another entity, an appropriate application may be submitted to the Commission at that time to amend, transfer, or revoke the CPCN consistent with such judicial determination and a record that demonstrates alternative ownership. In the absence of a court order establishing different ownership or operational authority, the Company has demonstrated it currently maintains and operates the water system and shall therefore be issued the CPCN. Accordingly, the HOA is directed to cease sending bills to homeowners for water service.

2. Tariff and Other Documents

As a regulated entity, the Company must also submit certain documentation required under the Uniform Customer Relations Rules for Commission review and approval, including a tariff, various customer notices, and an annual rules summary. The Commission finds Staff's recommendations regarding the Company's tariffs to be reasonable. The Company shall work with Staff to update its tariff and ensure appropriate notice has been provided to the Company's customers regarding regulation. Within 30 days of the date of this Order, the Company shall submit an updated tariff, together with any other required documentation, as a compliance filing for Commission review and approval.

3. Rates and Charges

We direct the Company to maintain its current rates. Staff shall open a separate docket to evaluate whether these interim rates are fair, just, and reasonable.

ORDER


IT IS HEREBY ORDERED that the Company is a public utility pursuant to Idaho law and is granted a CPCN consistent with the directives in this Order.

IT IS FURTHER ORDERED that within 30 days of the date of this Order, the Company shall submit an updated tariff, together with any other required documentation described above, as a compliance filing for Commission review and approval.

IT IS FURTHER ORDERED that the Company shall maintain its current rates, and Staff shall open a separate docket to evaluate whether the Company's interim rates are fair, just, and reasonable.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within 21 days of the service date of this Order regarding any matter decided in this Order. Within 7 days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *Idaho Code* § 61-626.

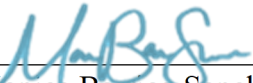
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29th day of May, 2026.


EDWARD LODGE, PRESIDENT


JOHN R. HAMMOND JR., COMMISSIONER


DAYN HARDIE, COMMISSIONER

ATTEST:


Monica Barrios-Sanchez
Commission Secretary

I:\Legal\WATER\SSW-W-26-01_CPCN\orders\SSWW2601_final_em.docx