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Attorneys for the Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S
INVESTIGATION INTO CDS STONERIDGE,
LLC'S HOOK-UP FEE FOR NEW
CUSTOMERS TO CONNECT TO ITS WATER
SYSTEM

Case No. SWS-W-20-02

**SUR-REPLY TO COMMISSION STAFF'S
REPLY COMMENTS RE: ORDER NO.
34770**

CDS Stoneridge Utilities, LLC, owned by J.D. Resort, Inc. (collectively the "Company") through its attorneys of record Givens Pursley LLP submits this Sur-Reply to Commission Staff's Reply Comments Regarding the Idaho Public Utilities Commission's (the "Commission's") Order No. 34770, dated September 9, 2020.

INTRODUCTION

First, the Company acknowledges that this Sur-Reply has been filed late. The Commission's Order No. 34828 instructed Staff to file a written Reply to the Company's September 30 Response by November 20, and the Company to file a Sur-Reply by November 27. Staff's Reply was filed on November 20 but the undersigned counsel was not served with the Reply until midday on November 23, leaving the Company with less than a week, over the Thanksgiving holiday, to draft and file a Sur-Reply. In any event, and despite its late arrival, the Company respectfully requests that the Commission consider this Sur-Reply before reaching a decision in the case.

As it did in its Response, the Company acknowledges the need to overhaul its operations to come into compliance with Commission rules and regulations. The Company has made concrete steps in that direction in recent months and intends to fully “right the ship,” so to speak. However, the Company inherited a very difficult situation. For one, the applicable Tariff has not been updated for over 13 years. The Tariff’s Hook-Up Fee of only \$1,200 compared to the Company’s actual costs in making service connections demonstrates just how much of a disconnect exists between the Tariff and the situation on the ground. Even Staff agreed in its Reply that the Tariff needs changes. *Reply* at 5. Much of the Company’s confusion over what it could and could not charge to customers stemmed from the impossibility for the Company to operate sustainably under the current Tariff.

Along with the outdated Tariff, the Company inherited minimal records and maps from its predecessor. The maps of the main water line that the Company does have are frequently inaccurate, leading to expensive exploratory work just to find the main.

In spite of these challenges, the Company has made concrete steps toward full compliance. For example, the Company just hired a new full-time operator who has years of experience in the utility industry and understands Commission regulations well. The Company is also now making more complete records of its interactions with customers and the services it provides.

The following contains the Company’s comments to Staff’s Reply. Primarily, the Company seeks to comment on Staff’s application of § 9.4 of the Tariff, as well as Staff’s interpretation of § 9.3.

I. Much of the services provided by the Company has resulted from “out-of-the-ordinary circumstances,” justifying the additional amounts charged to some customers.

Section 9.4 of the Company’s Tariff was set forth in the Company’s Response. *Response* at 3-4. In short, it permits the Company to charge a customer more than the approved \$1,200 Hook-

Up Fee when there exist “out-of-the-ordinary” (or, extraordinary) circumstances in the installation of a service connection that result in “extra costs” to the Company. In its Reply, Staff takes the position that an “ordinary” service connection involves the following work:

1) locating the main, 2) installing a hot tap/corp stop on the main, 3) installing a water meter and curb stop near the edge of the customer’s property, 4) running a service line between the main and the water meter, and 5) all excavation and horizontal boring necessary to perform this work.

Reply at 4. Staff acknowledged the Company could reasonably incur “extraordinary costs,” pursuant to § 9.4 of the Tariff, if the work was more complex than the steps outlined above. *Id.* Staff concluded, however, that “the Company provided no evidence suggesting extraordinary circumstances existed that might justify it incurring extraordinary costs for any connection.” *Id.*

Yet, the Company *has* provided documentation indicating that extraordinary circumstances led to extraordinary costs on several occasions. The extraordinary circumstances most commonly encountered were (1) excessive and unexpected difficulties in locating the water main, and (2) horizontal boring under roadways.

Regarding the first, the records and maps of the main that the Company received from its predecessor are so incomplete and inaccurate that exploration frequently takes up to five hours, sometimes even days. Certainly, such extensive efforts to find the main, resulting from the inadequacy of maps and records that the Company inherited from its predecessor, would constitute “out-of-the-ordinary” circumstances.

Regarding the second, given the state of the Company’s maps and records of the location of the main, the Company regularly discovers the main on the wrong side of a road and must bore underneath the road to reach a customer’s property and complete the connection. This work is further complicated by the need to avoid other utility lines as well as direct traffic.

The Company respectfully submits that, under § 9.4 of the Tariff, it is entitled to pass the additional costs resulting from these extraordinary circumstances onto the customer. Filed along with this Sur-Reply is a table (Exhibit A) identifying the customers for whom such extraordinary circumstances arose, the additional costs incurred by those circumstances, as well as the supporting documentation.¹ The Company submits that it should not be obligated to refund these additional costs to the respective customers.

II. The Company's Tariff requires that it reject service connection applications that are not accompanied by a building location permit or a building permit.

Section 9.3 of the Company's Tariff states that applications for service connections "must be accompanied by an approved building location or building permit issued by Bonner County." Staff's Reply expresses its belief that "owning a platted lot within the certificated area of the Company could satisfy Section 9.3." *Reply* at 6.

The Company is skeptical that Section 9.3 could be interpreted so loosely. A plain reading of the section suggests that "building location" and "building" are both modifying the same noun: permit. Section 9.3 would therefore have the same meaning if it was written alternatively, like so: "must be accompanied by an approved building location permit, or building permit, issued by Bonner County." This reading of Section 9.3 is logical because Bonner County issues "building location permits" to residents who submit an application and pay a fee.² Thus, Section 9.3 is simply referring to the same thing twice when it lists the county's official term, "building location permit," as well as the layman's term, "building permit". Importantly, Section 9.3 *mandates* that an

¹ An unredacted version of Exhibit A is provided to the Commission under separate cover to protect customers' addresses and billing information. Furthermore, aside from one customer in Exhibit A, all of the documentation the Company uses to support its assertion of extraordinary circumstances is contained within the file of documents the Company has already submitted to the Commission. These documents were listed on the Commission's website on October 26, 2020 and are titled "In Support of Company's Response."

² See <https://www.bonnercountyid.gov/building-location-permit> for the county's Building Location Permit Application and other instructional material.

application for a service connection be accompanied by a building location permit issued by Bonner County. It is unlikely, then, that a platted lot could satisfy the provisions of Section 9.3.

III. The Company has provided the Commission with all records and documents that are responsive to Order No. 34770.

The Commission, in Order No. 34770, required the Company to, among other things:

produce and provide the Commission true and correct copies of all records about new customer connections to the water system since November of 2018 through the present, including an itemization and description of the labor performed, equipment and materials installed, and all charges the customer paid to connect to the Company's water system.

Order No. 34770, at 5. Staff noted that the documentation provided by the Company in response to Order No. 34770 was inadequate. *Reply* at 2, 7-8. The Company acknowledges that the records and documentation it has provided in response to the Commission's order does not include all of the details and itemized information requested by the Commission. However, the Company has provided the Commission with all records and documents in its possession that are responsive to the Commission's order. Any inadequacy in the Company's response to this element of the order is merely a product of poor recordkeeping on the Company's part.

CONCLUSION

The Company fully acknowledges the difficulties it has experienced in attempting to operate sustainably and in compliance with the Commission's rules. The Company remains committed to achieving both compliance and sustainability, and it hopes to demonstrate this intent by taking the steps identified in its Response.

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Dated: December 4, 2020.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "P. N. Carter", with a stylized flourish at the end.

Preston N. Carter
Blake W. Ringer
Givens Pursley LLP
Attorneys for the Company

CERTIFICATE OF SERVICE

I certify that on December 4, 2020, a true and correct copy of the foregoing was served upon all parties of record in this proceeding via electronic mail as indicated below:

COMMISSION STAFF

Jan Noriyuki

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Idaho Public Utilities Commission

11331 W. Chinden Blvd., Bldg. 8, Ste. 201-A

Boise, ID 83714

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Idaho Public Utilities Commission

11331 W. Chinden Blvd., Bldg. 8, Ste. 201-A

Boise, ID 83714



Preston N. Carter

EXHIBIT A

CASE NO. SWS-W-20-02

CDS STONERIDGE UTILITIES, LLC

Redacted – List of Extraordinary
Circumstances and Supporting
Documentation

EXHIBIT A

| Customer | Location of Connection | Overage Charged | Extraordinary Work | Extraordinary Cost | Documentary Support |
|------------|------------------------|-----------------|--|--------------------|--|
| [REDACTED] | [REDACTED] | \$ 2,800.00 | Bored across road | \$ 2,000.00 | Swank Exc. Invoice #0823 (Supporting Documents pp. 17)* |
| | | \$ 2,800.00 | 5 hours of exploration | \$ 750.00 | Swank Exc. Invoice #0709 (Supporting Documents pp. 21) |
| | | \$ 2,800.00 | Bored across road and extended main | \$ 8,540.00 | NW Utility Estimate (Supporting Documents pp. 40, 43-44) |
| | | \$ - | 8 hours of exploration | \$ 880.00 | Swank Exc. Invoice #0822 (Supporting Documents pp. 74) |
| | | \$ 2,800.00 | 5 hours of exploration and bored across road | \$ 2,825.00 | Swank Exc. Invoice #0707 (Supporting Documents pp. 82) |
| | | \$ 2,800.00 | 3.5 hours of exploration | \$ 437.50 | Swank Exc. Invoice #0706 (Supporting Documents pp. 89) |
| | | \$ 2,800.00 | Bored across road | \$ 1,500.00 | Swank Exc. Invoice #0704 (Supporting Documents pp. 104) |
| | | \$ 2,800.00 | Bored across road | \$ 2,000.00 | Swank Exc. Estimate #2 (submitted with this Exhibit) |
| | | \$ 3,400.00 | 2 days of exploration | \$ 2,000.00 | Stoneridge Invoice (4/17/2019) (Supporting Documents pp. 3 |

* "Supporting Documents" refers to the documents previously filed with the Commission. These documents were listed on the Commission's website on October 26, 2020 and are titled "In Support of Company Response".

** This customer's service connection was exceptionally difficult. It required an extension of the main as well as boring across a road. The \$8,540 amount in extraordinary cost was calculated by first taking the Stoneridge Invoice (Supporting Documents pp. 43) and calculating the amount due to "extraordinary circumstances". Because the typical Stoneridge Invoice involves, for example, only 10 hours of work for the Operator and Operator's Assistant, the excess hours on this invoice (36 hours for each) were assessed as extraordinary costs. This calculation was done for each item on the invoice. The total was then added to the \$1,800 charged by Northwest Utility (Supporting Documents pp. 40), resulting in a sum of \$8,540.

*** This customer's service connection was also exceptionally difficult. Exploration went on for two days and the service line installed was well over 50 feet. The extraordinary cost of \$2,000 was calculated by referring to the Stoneridge invoice (Supporting Documents pp. 32) and performing the same calculation as described above.



StoneRidge Utility Co.
PO Box 298 Blanchard, ID 83804
(208) 437-3148

APPLICATION FOR WATER/SEWER CONNECTION

SEWER _____
WATER X

NAME [REDACTED] DATE 8-1-19
MAILING ADDRESS [REDACTED]
CITY, STATE, ZIP [REDACTED]
TELEPHONE NO.: [REDACTED]
BLK: [REDACTED] LOT: [REDACTED] SUBDIVISION: _____
STREET ADDRESS: [REDACTED]

| WATER/SEWER FEES: | |
|---|---------------------|
| SEWER HOOK-UP | \$10,000 |
| WATER HOOK-UP | \$1,200 |
| CONTRIBUTION IN AID OF CONSTRUCTION OF EXPANSION OF SYSTEM | \$2,800 |
| FOR COMPANY USE ONLY: | |
| TOTAL CHARGES | \$ 4,000 |
| TOTAL PAYMENT | \$ 4,000 |

RECEIVED DATE: 8-1-2019
RESPONSE DATE: 3-12-2020

Paid 3-12-2020
\$4,000
Credit Card

Swank Excavating
1380 N Ewell Ct
Post Falls ID 83854

Estimate

| Date | Estimate # |
|-----------|------------|
| 4/27/2020 | 2 |

| Name / Address |
|-------------------|
| Stoneridge Resort |

| | | | Project |
|---|-----|----------|------------|
| | | | |
| Description | Qty | Rate | Total |
| parts/materials | | 2,462.27 | 2,462.27 |
| tap rental | | 300.00 | 300.00 |
| traffic control | | 450.00 | 450.00 |
| equipment mobilization | | 400.00 | 400.00 |
| excavation/labor | | 3,708.00 | 3,708.00 |
| boring across road | | 2,000.00 | 2,000.00 |
| <i>Total cost for connection: \$11,351.52</i> | | | |
| | | | |
| Total | | | \$9,320.27 |

Internal Hours
Admin 4.75 HRS @ 25HR = \$118.75
Operator 25.5 HRS @ 75HR = \$1912.50