

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION’S)	CASE NO. SWS-W-20-02
INVESTIGATION INTO CDS STONERIDGE,)	
LLC’S HOOK-UP FEE FOR NEW)	
CUSTOMERS TO CONNECT TO ITS)	ORDER NO. 34770
WATER SYSTEM)	
)	

CDS Stoneridge Utilities, LLC, owned by J.D. Resort, Inc. (collectively the “Company”) is near Blanchard, Idaho, where it provides water service to its customers.

BACKGROUND

J.D. Resort, Inc. took control of and began operating CDS Stoneridge’s water system in November 2018, before the Commission approved the transfer of the water utility to it. On August 2, 2019, the Commission approved the sale of the Company and transfer of Certificate of Public Convenience and Necessity No. 395 to J.D. Resort, Inc. *See* Order No. 34391. In Order No. 34391 the Commission stated, “we remind the current operator of the water company that no rates, charges, terms, or conditions of service can be altered without Commission approval.” Order No. 34391 at 3. Order No. 34391 required the Company to report quarterly on all non-recurring charges it collected during the preceding quarter to ensure that the Company was collecting only Commission-approved charges. Order No. 34391 at 4. Further, the Commission instructed “[the Company that it] cannot bill customers for rates or charges that are not in [the Company’s] current Commission-approved Tariffs.” *Id. citing Idaho Code* § 61-313.

On June 4, 2020, the Company filed a tariff advice seeking to increase the Hook-up Fee from \$1,200 to \$9,735. *Tariff Advice* at 1, Case No. SWS-W-20-01. The Company requested an effective date of July 27, 2020. At the Commission’s June 16, 2020, Decision Meeting, Commission Staff (“Staff”) argued that a proposed \$8,535 increase in Hook-up Fees was not appropriate to be processed as a tariff advice. Staff recommended that the Commission process the Company’s filing through Modified Procedure and suspend the Company’s proposed effective date. On June 25, 2020, the Commission issued an order converting the Company’s tariff advice to a docket to be processed through Modified Procedure. Order No. 34702. The Commission also suspended the Company’s proposed effective date from July 27, 2020 to January 26, 2021.

At the Commission's August 18, 2020, Decision Meeting, Staff updated the Commission on the progress of its underlying inquiry of the Company's business and bookkeeping practices.

STAFF AUDIT AND CUSTOMER COMPLAINTS

Staff's ongoing audit demonstrates that from November of 2018 until the end of 2019, the Company has charged 16 customers at least \$4,000 each to connect to the water system instead of \$1,200. Staff asserted the cumulative overcharges through the end of 2019 amounts to \$45,400.¹ Staff has also received at least 10 customer complaints that the Company is requiring new customers to pay more than \$1,200 to connect to the water system or service is refused.

In one complaint registered with the Commission on March 25, 2020, a customer alleged being charged \$4,600 to connect to the water system. Staff requested that the Company respond to this allegation. The Company submitted an untimely response only after Staff made continued, repeated requests for a response. The Company represented it charged the customer an additional \$2,800 (over the \$1,200 in the Company's Tariff) to connect to the water system because the Company needed to expand its water system to reach the customer. Further, the Company asserted the actual cost to connect this customer exceeded \$6,000.² Based on the information received by Staff, the customer appears to have been within the Company's service territory.

In a July 22, 2020 customer complaint, the customer submitted a copy of the Company's APPLICATION FOR WATER/SEWER CONNECTION ("Application"). The Application provides that a "WATER HOOK-UP" costs \$1,200 and that a "CONTRIBUTION IN AID OF CONSTRUCTION OF EXPANSION OF SYSTEM" has a \$2,800 charge. *Id.* The Application states that although the fee for a water connection is \$1,200 it requires the customer to acknowledge that:

I understand that this fee is only for the right to connect unto the Stoneridge Utility water system and DOES NOT include any costs associated with the purchase of parts or installation necessary to do the physical connection from one's home to the water meter. It also DOES NOT include any costs associated with purchase or installation of pressure reducing and/or backflow prevention devices that may be necessary for your particular lot to properly connect to the system.

¹ One customer was allegedly charged \$4,600 and the remaining 15 customers were charged \$4,000 each.

² Due to the Company's lack of response it is unclear whether it charged this customer \$4,000 or \$4,600 to connect to the water system.

See Exhibit A to Staff's August 12, 2020, Decision Memorandum. The Company's Application also discusses a contribution in aid of construction to expand the system and provides:

There is a CAP Ex fee (operating expense) of \$2,800.00. I understand that this fee is only for the right to connect onto the StoneRidge Utility system. This fee DOES NOT include any costs associated with the purchase of parts or installation necessary to do the physical connection from one's home to the system collection lines.

Id. Staff asserted the additional fees discussed in the Company's Application are not in the Company's Tariff ("Tariff").

Based on evidence that Staff has collected through its ongoing audit of the Company, and in light of the numerous customer complaints it has received, Staff recommends that the Commission investigate whether the Company is violating *Idaho Code* § 61-313, Commission Order No. 34391 and the Company's Commission-approved tariff by charging more than \$1,200 (the "Hook-up Fee") to its water system. See CDS Stoneridge Utilities, LLC's Tariff Schedule 2.

Staff also recommended that the Commission issue an emergency order directing the Company to:

1. Immediately cease all billing practices that conflict with the Tariff, including charging new customers more than the Commission-approved \$1,200 Hook-up Fee to connect to the Company's water system;
2. Continue serving customers who did not pay amounts that exceed the \$1,200 Hook-up Fee;
3. Connect requesting new customers to the water system who pay the \$1,200 Hook-up Fee, consistent with the Company's Tariff; and
4. Produce and provide the Commission with 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.

Staff asserted that if the Commission found that the Company violated these authorities, the Commission could order the Company to refund any overcharges to affected customers. Finally, Staff recommended that the Commission consider penalizing the Company for violating these authorities. See *Idaho Code* § 61-701 *et seq.*

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over the Company and this matter and the issues in this case under Title 61 of the Idaho Code. Specifically, the Commission regulates "public utilities," including "water corporations" that serve the public or some portion thereof for compensation. *See Idaho Code* §§ 61-125, -129, and -501. The Commission also has authority to investigate the billing practices of the Company under *Idaho Code* §§ 61-503, 61-313 and 61-612. Based on evidence presented by Staff and the customer complaints, the Commission finds it necessary and in the public interest to issue this emergency Order directing the Company to: (1) immediately cease all billing practices that conflict with the Tariff, including charging new customers more than the Commission-approved \$1,200 Hook-up Fee to connect to the Company's water system; (2) continue serving, and immediately reconnect, customers who did not pay amounts that exceed the \$1,200 Hook-up Fee; (3) Connect requesting new customers to the water system who pay the \$1,200 Hook-up Fee, consistent with the Company's Tariff; and, (4) within twenty-one (21) days of the service date of this Order, produce and provide the Commission true and correct copies of all records concerning 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.

Failure to comply with the requirements of this Order may lead the Commission to impose penalties. *See Idaho Code* § 61-706 (Any public utility that violates the public utilities laws, Commission orders or rules, or any part of them, is subject to a penalty of up to \$2,000 per day, with each violation constituting a separate offense, and each day's continuing violation constituting a separate offense).

The Commission's investigation will include whether the Company has violated *Idaho Code* § 61-313, Commission Order No. 34391 and the Tariff by charging or threatening to charge its customers more than a \$1,200 Hook-up Fee. **The Commission directs the Company to file a written response/answer to the Commission's initiation of this investigation within twenty-one (21) days of the service date of this Order.** The Company can either confirm or deny the findings of the Staff and the Commission's response to those findings. The Commission then will make further determinations regarding the issues involved in this proceeding and how this case will be processed to completion.

The Commission notes the Company has applied to increase the Hook-up Fee. *See* Order No. 34702, SWS-W-20-01. Irrespective of what is decided in Case No. SWS-W-20-01, any change in Hook-up Fee would only apply prospectively.

ORDER

IT IS HEREBY ORDERED that the Company immediately cease all billing practices that conflict with the Tariff, including charging new customers more than the Commission-approved \$1,200 Hook-up Fee to connect to the Company's water system.

IT IS FURTHER ORDERED that the Company continue serving, and immediately reconnect, customers who did not pay amounts that exceed the \$1,200 Hook-up Fee.

IT IS FURTHER ORDERED that the Company connect requesting new customers to the water system who pay the \$1,200 Hook-up Fee, consistent with the Company's Tariff.

IT IS FURTHER ORDERED that, within twenty-one (21) days of the service date of this Order, the Company 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.

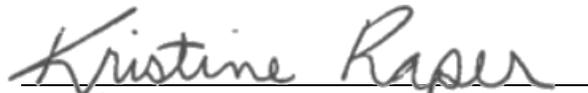
IT IS FURTHER ORDERED that the Company file a response to this Order within twenty-one (21) days from its service date.

THIS IS AN INTERLOCUTORY ORDER. Any person interested in this Order may file a petition for review within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. A petition to review may request that the Commission: (1) rescind, clarify, alter, amend; (2) stay; or (3) finalize this Interlocutory Order. After any person has petitioned for review, any other person may file a cross-petition within seven (7) days. *See* Rules 321, 322, 323.03, 324, 325 (IDAPA 31.01.01.321-.325).

IT IS FURTHER ORDERED that parties continue to comply with Order No. 34602, issued March 17, 2020. All pleadings should be filed with the Commission electronically and shall be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should also be accomplished electronically. Voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 9th day of September 2020.


PAUL KJELLANDER, PRESIDENT


KRISTINE RAPER, COMMISSIONER


ERIC ANDERSON, COMMISSIONER

ATTEST:


Jan Noriyuki
Commission Secretary

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