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7 Attorneys for Respondent
8 Motor Coach Village HOA

9 BEFORE THE IDAHO
10 PUBLIC UTILITIES COMMISSION

11 CDS STONERIDGE UTILITIES, LLC

Case No.: SWS-W-23-01

12 COMPLAINANT,

13 vs.

MOTOR COACH VILLAGE’S REPLY TO
CDS STONERIDGE UTILITIES,
LLC’S
“FINAL COMMENTS”

14 THE MOTOR COACH VILLAGE HOA,

15 RESPONDENT.

16 **COMES NOW**, Motor Coach Village HOA, (hereinafter the “HOA”) and lodges its
17 Reply to CDS StoneRidge Utilities’, LLC’s (hereinafter the “Utility”) Final Comments in the
18 above captioned matter.

19 **I.**
20 **THE UTILITY HAS CONCEDED ALL LEGAL ISSUES**
21 **IN FAVOR OF THE HOA**

22 The Utility’s “Final Comments” fail to rebut, counter or even address any of the legal
23 arguments set forth in the HOA’s Answer. Specifically, the Utility failed to respond to the
24 HOA’s assertion that the Idaho Public Utilities Commission (“Commission”) lacks jurisdiction
25 to entertain a complaint by a regulated utility against one of its customers. (Ref. HOA’s Answer
26 at § I(B). The Utility failed to respond to the HOA’s assertion that the Utility’s complaint failed
27 to comply with the Commission’s Rules of Procedure dealing with Complaints. (Ref. HOA’s

1 Answer at § I(A) The Utility also failed to identify any “act or omission” on the part of the HOA
2 upon which a complaint by the Utility must rest.¹

3 The Utility has therefore conceded these issues. It is generally accepted pleading practice
4 that if a party’s responsive pleading fails to rebut or address an argument made by the opposition
5 in an earlier pleading, the party failing to respond is deemed to have conceded the point. *United*
6 *States v. Berkowitz*, 927 F.2d 1376, 1383 (7th Cir. 1991). Furthermore, the only other party to the
7 case (PUC Staff) has not attempted to address any of these fatal flaws. Thus, the Commission
8 should summarily dismiss the Utility’s complaint for lack of jurisdiction, or in the alternative
9 find that the HOA was operating under the reasonable belief, induced by the Utility, that it was
10 not being illegally under-billed and hence is not liable for any alleged past under-billing
11 amounts.
12
13

14 **II**
15 **DISPUTED “FACTS”**

16 The Utility’s “Final Comments” contain two spread sheets that purport to show, for the
17 first time, the specific dollar amount of the alleged underbilling as “approximately \$43,220.74.”
18 The spreadsheets are offered, apparently, as evidence supporting the Utilities claims. However,
19 the spreadsheets and the alleged dollar amount of the alleged underbillings have not been
20 verified or authenticated. They have not been subjected to discovery, inspection or cross-
21 examination. It would constitute a denial of the HOA’s due process rights for the Commission to
22 accept the Utility’s unsubstantiated and unauthenticated allegations as fact. Indeed, the Utility is
23
24

25 _____

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27 ¹ IPUC Rules of Procedure, Rule 054.02.
28 MOTOR COACH VILLAGE’S REPLY TO
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“FINAL COMMENTS” - 2

1 only able to characterize the dollar amount of the alleged underbilling as an ‘approximation.’
2 The Utilities own (un-verified) spreadsheets are only able to offer an “approximation” of the
3 alleged under billings. Approximations are not facts. Approximations cannot form the
4 foundation upon which a defensible Commission order may be based. For these reasons the
5 Commission should reject the Utility’s request for an order that the HOA has been improperly
6 underbilled in the amount of “approximately \$43,220.74.”
7

8
9 **III.**
10 **THE “SPECIAL CONTRACT”**
11 **RED HERRING**

12 In its “Final Comments” the Utility goes to great lengths to disavow the enforceability of
13 the “Special Contract.” The Utility misses the point altogether. As discussed in the HOA’s
14 Answer, the HOA relied upon the special contract as any reasonable and rational actor would.
15 The HOA does not dispute the Commission Staff’s after-the-fact assertion that the Special
16 Contract is not enforceable. Nevertheless, at the time the Special Contract was entered into by
17 the HOA and the Utility, both parties were under the impression that it was enforceable and
18 legally binding. Hence, the HOA reasonably relied on representations made by the Utility as to
19 the applicability of the Special Contract. This reasonable reliance requires, at a minimum, that
20 the Commission apply the six month ‘safe harbor’ test to limit any past under-billing to just the
21 most recent six months.
22

23 It is disingenuous, at best, for the Utility to now claim that it never believed the Special
24 Contract was valid or enforceable. According to the Utility’s Final Comments:

25 It has been our position that agreement/letter [the Special Contract] has not been a binding
26 agreement upon this account in the past nor is it going forward for the following reasons:

27 1. As a Special Contract our current Tariff requires IPUC review and approval-
there is no evidence that has occurred.

1 2. The agreement/letter is between Motor Coach Village HOA and
2 StoneRidge Golf Community and not the CES StoneRidge Utilities, LLC so StoneRidge
3 Utilities, LLC a separate legal entity was not bound by the agreement/letter.²

4 The Utility is now claiming that it knew the Special Contract was false all along. Yet, despite that
5 apparent knowledge, the utility knowingly induced the HOA to execute an unenforceable bogus
6 agreement. The Utility’s subterfuge should not be rewarded by the Commission. That said, the
7 utility’s admission that it misled the HOA into believing that the Special Contract was a valid (with
8 its ‘fingers’ crossed behind its back) is compelling evidence of the reasonableness of the HOA’s
9 reliance on the Special Contact and therefore its belief that it was current on all Utility billings.

10 The Utility’s recent claim in its Final Comments, that it knew the Special Contact was false
11 all along is apparently also false. In a letter addressed to Ms. Noriyuki and Ms. Carlock at the
12 PUC dated February 20, 2023, the Utility admitted that it only just recently learned of the
13 unenforceability of the Special Contact:
14

15 As you may already know, recently StoneRidge Utilities, was informed by IPUC Staff that
16 a determination had been reached by IPUC Staff – that there was not a “Special Contract”
17 governing the water service we provide to Motor Coach Villages’ 6” meter.

18 That both the Utility and the HOA were under the belief that the Special Contract was a valid and
19 enforceable agreement is verified by the attached affidavit of Mr. Lloyd Holloway in which, under
20 oath, he explains the circumstances surrounding the execution of the Special Contract. Mr.
21 Holloway’s affidavit impeaches the Utility’s claim that it knew all along that the Special Contract
22 was not enforceable. Mr. Holloway’s affidavit is attached as Exhibit A to this Reply
23

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27 ² Final Comments at p. 4. Underscoring provided.
28 MOTOR COACH VILLAGE’S REPLY TO
CDS STONERIDGE UTILITIES, LLC’S
“FINAL COMMENTS” - 4

1 The Utility’s red herring notwithstanding, it is important to keep in mind that the Special
2 Contract validates the reasonableness of the HOA’s understanding that it was not being underbilled.
3
4 The enforceability or lack of enforceability of the special contract is irrelevant for purposes of the
5 Commission’s deliberations. That is because the HOA does not rely on the Special Contract to
6 govern the legal relationship between the parties – but only to demonstrate what the parties
7 reasonably understood that relationship to be.

8
9 **III.**
 FAILURE TO ADDRESS WAIVER ARGUMENT

10 The HOA asserted in its Answer that this Utility has voluntarily waived any rights it may
11 have had to rebill for alleged past under-billings pursuant to IPUC Customer Relations Rule No.
12 203.01. The Utility’s Final Comments do not object to, nor do they attempt to rebut this assertion.
13
14 The assertion of a waiver is therefore conceded by the Utility.

15
16 **IV.**
 CONCLUSION

17 The Utility’s Final Comments fail to rebut any of the HOA’s legal arguments relative to
18 the lack of PUC jurisdiction over this matter or over the HOA. The validity of those arguments
19 are therefore conceded.

20 The Utility’s Final Comments fail to rebut any of the HOA’s legal arguments relative to its
21 failure to comply with the Commission’s rules of procedure relative to the lodging of complaints.
22
23 The validity of those arguments are therefore conceded.

24 The Utility’s Final Comments fail to rebut any of the HOA’s legal arguments relative to its
25 waiver of any rebilling rights that it may have had. The validity of those arguments are therefore
26 conceded.

1 The Utility's final comments also reinforce and validate the HOA's assertion that it has
2 justifiably and reasonably relied upon the Special Contact, and the All Accounts Are Current letter
3 to trigger the Commission's safe harbor six-month limitation on back billings. (See HOA Answer
4 at § III).
5

6 Dated this 5th day of May 2023.

7 

8 Peter J. Richardson, ISB #3195
9 Counsel for Motor Coach Village HOA

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14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 5th day of May 2023, I served a true and correct copy
16 of The Motor Coach Village HOA's Reply to CDS StoneRidge Utilities, LLC's "Final
17 Comments" upon the following by electronic mail only addressed to the following:

18 Jan Noriyuki
19 Commission Secretary
20 Idaho Public Utilities Commission
Jan.noriuki@puc.idaho.gov

21 CDS StoneRidge Utilities,
22 Attn: Teresa Zamora, Utilities Administrator
23 P. O. Box 298
Blanchard, ID 83804
utilities@stoneridgeidaho.com

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14 THE MOTOR COACH VILLAGE HOA,

15 RESPONDENT.

16 EXHIBIT A

17 Consisting of the one-page Declaration of Lloyd Holloway and the three page
18 "Agreement and Understanding on Water Meter 357 and Inland Power Refund Request.

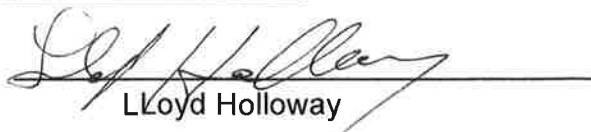
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28 MOTOR COACH VILLAGE'S REPLY TO
CDS STONERIDGE UTILITIES, LLC'S
"FINAL COMMENTS" – EXHIBIT A

DECLARATION OF LLOYD HOLLOWAY

- (1) My name is Lloyd Holloway. In 2017, I was a resident of the Motor Coach Village, Stoneridge (MCV) and in 2017, I was also President of the Motor Coach Village Homeowners Association.
- (2) A Settlement Agreement was entered into between Motor Coach Village and the Stoneridge Golf and Recreation Community (which included Stoneridge Utilities). This settlement agreement was dated 15 November 2017 and signed by me on 20 November, 2017. A true copy of the settlement agreement accompanies this declaration.
- (3) The settlement agreement was a resolution of a dispute between the parties over: (a) incorrect and overcharged water billings; (b) improper placement of fire hydrants providing fire protection behind the water meter; and (c) MCV being charged for irrigation water use of areas outside of Motor Coach Village and not the responsibility of Motor Coach Village.
- (4) I have previously been a Fire Chief. As a former Fire Chief, I was particularly concerned about fire hydrants used for the purpose of fire protection being placed after (as opposed to before) any water meter. Turning or shutting off the water meter would prevent the flow of water to fire hydrants, thereby defeating their purpose for fire protection.
- (5) Water through MCV meters continues to provide irrigation water outside of MCV to the Stoneridge Golf and Recreation Community, and particularly to the south of the water plant.
- (6) In order to resolve the dispute, the agreement provided (among other things) that there would be no reconnect fee for the 6" meter (meter number 247) and no minimum monthly fee, unless usage was detected.
- (7) I did not know of and was never told about any Public Utility Commission requirement that the agreement had to be approved by the IPUC in order to be valid.

Pursuant to Idaho Code 9-1406 and 28 USC 1746, I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated and signed this 6th day of February, 2023


Lloyd Holloway



PO Box 280
364 STONERIDGE ROAD
BLANCHARD IDAHO 83804
PHONE 208-437-3148
FAX 208-437-3048
STONERIDGEIDAHO.COM

November 15, 2017

Mr. Lloyd Holloway
President: Motor Coach Village at Stoneridge
Blanchard, ID 83804

RE: Agreement and Understanding on Water Meter 357 and Inland Power Refund Request

It is agreed that, by entering into this Agreement, neither Stoneridge Land, LC, Stoneridge Utilities, LC, Bridge Investment Group or any of its Employees nor Motor Coach Village at Stoneridge or its Board of Directors make any admission of any failing or wrongdoing. The parties merely have agreed to resolve amicably all disputes regarding Water Meter 357 and the Inland Power Refund Request. This document will serve as an agreement to rectify any inequality and as an agreement of procedure from this date forward.

Stoneridge Utilities agrees to credit Motor Coach Village at Stoneridge \$3,363.38 (Three Thousand Three Hundred Sixty Three Dollars and Thirty Eight Cents) for water usage billed to Motor Coach Village over the past five years. Stoneridge Utilities also agrees to credit Motor Coach Village at Stoneridge \$3,413.40 (Three Thousand Four Hundred Thirteen Dollars and Forty Cents) for Meter Fees associated with meter 357 over the past five years.

It is agreed upon that beginning with the September 2017 water bill which will not be subject to late fees if paid on or before December 1, 2017, charges associated with Meter 357 will be split in the following manner: Monthly Minimum Customer Charge will be 1/3 Motor Coach Village at Stoneridge, 1/3 Stoneridge Utilities, 1/3 Stoneridge Storage Condominiums. Water usage charges of Meter 357 will be split 55% Motor Coach Village at Stoneridge, 40% Stoneridge Utilities, 5% Stoneridge Storage Condominiums. Rates will be current IPUC rates (subject to change in accordance with the Idaho Public Utility Commission) of \$170.67 for the Minimum Monthly Customer Charge, and the Commodity (or water usage) Charge will be \$0.79 per 1,000 gallons used.

It is also agreed upon that Motor Coach Village at Stoneridge will continue to be billed for two additional water meters, as follows:

Meter 247 (a six-inch meter used for lots and irrigation)

Meter 247 will have the Minimum Monthly Customer Charge (currently \$1,536) imposed during the months that water usage IS detected, normally the irrigation months of May through September (a five-month period).

Meter 247 will not have the Minimum Monthly Customer Charge imposed during the months that water usage is NOT detected, normally October through April (a seven-month period).

Meter 247 will have no seasonal re-connect fee (currently \$4,160) imposed in April.

Meter 338 (a two-inch meter used for lots and irrigation)

Meter 338 will NOT have the Minimum Monthly Customer Charge imposed during the months that the Minimum Monthly Customer Charge is imposed on Meter 247.

Meter 338 WILL have the Minimum Monthly Customer Charge imposed only during those months when water flow is detected on Meter 338 but NOT on Meter 247, typically the months of April and October.


The following chart outlines this understanding concerning the Minimum Monthly Customer Charges:

	Meter 357 Split Three Ways	Meter 338 (two inch meter)	Meter 247 (six inch meter)
Jan	No Meter Charge	No Meter Charge	No Meter Charge
Feb	No Meter Charge	No Meter Charge	No Meter Charge
Mar	No Meter Charge	No Meter Charge	No Meter Charge
Apr	Re-Connect Fee	Meter Charge if there is usage on 338 only	Meter Charge if there is usage
May	Meter Charge	No Meter Charge	Meter Charge
Jun	Meter Charge	No Meter Charge	Meter Charge
Jul	Meter Charge	No Meter Charge	Meter Charge
Aug	Meter Charge	No Meter Charge	Meter Charge
Sep	Meter Charge	No Meter Charge	Meter Charge
Oct	Meter Charge	Meter Charge if there is usage on 338 only	Meter Charge if there is usage
Nov	No Meter Charge	No Meter Charge	No Meter Charge
Dec	No Meter Charge	No Meter Charge	No Meter Charge

In addition, it is agreed upon that Stoneridge Land will credit Motor Coach Village at Stoneridge \$2,513.22 (Two Thousand Five Hundred Fifteen Dollars and Twenty Two Cents) for inland

Power Refund Request dated May 5th, 2017. This agreement will end all further claims by the Motor Coach Village. As part of the agreement Stoneridge Land, LC agrees to assist the Motor Coach Village at Stoneridge in collecting Inland Power charges from both the JMBCA and any individual listed on the Refund Request Document.

Brad Hansen  _____ Date 11-15-17
G.M. Stoneridge Golf & Recreational Community

Lloyd Holloway  _____ Date 11-20-17
President Motor Coach Village at Stoneridge

