## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF CDS STONERIDGE	)	<b>CASE NO. SWS-W-23-03</b>
UTILITIES, LLC'S APPLICATION FOR	)	
AUTHORIZATION TO BORROW FUNDS	)	<b>ORDER NO. 36084</b>
FROM RELATED ENTITIES OR MAKE	)	
ADDITIONAL CAPITAL CONTRIBUTIONS	)	
TO COVER OPERATING LOSSES	)	
	)	
	)	

On December 15, 2023, CDS Stoneridge Utilities, LLC ("Company") applied for approval from the Idaho Public Utilities Commission ("Commission") to incur \$980,000.00 of debt ("Application"). The Company stated that this debt would be borrowed from "Esprit Enterprises, LLC and/or JD's Resort." Application at 1. The Company stated that these companies are both related to it and share the same ownership.

The Company noted that Commission Staff ("Staff") informed it of the default statutory 30-day window relevant for the processing of this case in accordance with *Idaho Code* § 61-903. However, the Company requested that an order approving the Company's Application be issued by February 15, 2024, rather than January 15, 2024.

In accordance with *Idaho Code* § 61-904 and Staff's recommendation, the Commission issued a Notice of Continuance extending the 30-day window for the disposal of this matter until February 15, 2024. Order No. 36054.

After reviewing the record in this case, the Commission denies the Company's request to authorize the debt. However, the Commission approves the Company reclassifying the debt as paid-in-capital and treating it as owner's equity within the Company's capital structure.

## STAFF REVIEW AND RECOMMENDATION

Staff analyzed the Application, requested authority, proposed interest rates and loan terms, and the requirements of *Idaho Code* §§ 61-901 *et seq.* and Rule 141 of the Commission's Rules of Procedure. Staff noted that the Application is post-hoc as the funds requested have already been released to the Company. Staff also noted three important factors for the Commission to consider in this case. 1) The transaction in this case is not an arm's-length transaction; 2) that debt is typically acquired at a lower cost than equity due to creditors generally recovering before shareholders in cases of insolvency; and 3) that the ideal capital structure is typically a 50% debt

50% equity for a healthy Company; if the Application was approved as the Company requested, this ratio would be much farther from that desirable balance.

Instead, Staff recommended that the Commission reclassify the debt as additional paid-incapital and treat it as owner's equity. Staff noted that the Company would still be able to pay its parent entities back in the form of dividends. Staff also noted that its proposal avoided the obligation to conduct a related party analysis because Commission approval is not needed for additional paid-in-capital.

## COMMISSION FINDINGS AND DISCUSSION

The Commission has jurisdiction over the Company 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.

After reviewing the Application and all submitted material, we reject the proposed securities issuance. However, we find that the paid-in-capital treatment suggested by Staff is fair, just, reasonable, and for a lawful purpose within the Company's corporate powers. Treating the debt as paid-in-capital allows the Company's creditors—related entities—an opportunity to recover the funds that were lent to the Company. The Commission notes that that Staff's proposal provides the best solution to mitigate the potential risks associated with a non-arm's length transaction and also provides a better capital structure for the Company. In the future, if the Company wishes to issue debt securities, we direct the Company to comply with the applicable provisions of Idaho Law, including *Idaho Code* §§ 61-901 *et seq*.

The Commission's Order authorizing specific accounting treatment for the funds borrowed by the Company that may or may not have been expended already does not constitute a Commission determination or approval for ratemaking purposes. The Commission does not have before it for determination, and so does not determine, the effect of the proposed transaction on rates the Company will charge for water service.

## **ORDER**

IT IS HEREBY ORDERED that the Company's request for authority to incur \$980,000.00 of debt by borrowing from Esprit Enterprises, LLC and/or JD's Resort is denied. However, the Commission here approves the Company reclassifying the debt as additional paid-in-capital and treated as owner's equity in the Company capital structure.

IT IS FURTHER ORDERED that the foregoing authorization is without prejudice to the regulatory authority of the Commission with respect to rates, utility capital structure, service accounts, valuation, estimates for determination of cost or any other matter which may come before this Commission pursuant to its jurisdiction and authority as provided by law.

IT IS FURTHER ORDERED that nothing in this Order or any act or deed done or performed in connection therewith shall be construed to obligate the State of Idaho to pay or guarantee in any manner whatsoever any debts assumed or guaranteed under the provisions of this Order.

IT IS FURTHER ORDERED that this Order does not constitute acceptance of the Company's exhibits or other material accompanying the Application for any purpose other than issuing this Order. This Order does not constitute a prudency determination which shall occur in a future rate proceeding.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order about any matter decided in this Order. Within seven (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 12<sup>th</sup> day of February 2024.

ERIC ANDERSON, PRESIDENT

OHN R. HAMMOND JR., COMMISSIONER

EDWARD LODGE, COMMISSIONER

ATTEST:

Monica Barrios-Sanchez
Commission Secretary

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