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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF CDS STONERIDGE) CASE NO. SWS-W-24-01
UTILITIES, LLC’S APPLICATION FOR)
AUTHORITY TO INCREASE ITS RATES AND) MOTION TO SUSPEND THIS
CHARGES FOR WATER SERVICE IN THE) MATTER AND VACATE
STATE OF IDAHO) COMMENT DEADLINES
)

The Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Michael Duval, Deputy Attorney General, submit the foregoing motion to suspend the proposed effective date and vacate the comment deadlines in this case.

PROCEDURAL BACKGROUND

On February 28, 2024, CDS Stoneridge Utilities, LLC (“Company” or “Stoneridge”) applied for authorization to increase its rates and charges for water service (“Application”). The Company made a separate supplemental filing requesting an April 1, 2024, effective date.¹

On March 13, 2024, the Idaho Public Utilities Commission (“Commission”) issued a Notice of Application, Notice of Intervention Deadline, and Notice of Suspension of Proposed Effective Date. Order No. 36116. The Stoneridge Property Owners Association, Inc. (“SPOA”), the Stoneridge Club Condominium Owners Association, Inc. (“SRCCOA”), and an individual, Randolph Lee Garrison (“Mr. Garrison”), *pro se*, petitioned to intervene (collectively the “Intervenors”). Order Nos. 36144 and 36163.

¹ In its Application the Company initially requested a July 1, 2024, effective date. *See* Application Attachment G.

On May 28, 2024, the Commission issued a Notice of Modified Procedure establishing public and Company reply deadlines and Notice of Public Workshops.

Two Public Workshops were held on June 4, 2024. Order No. 36192.

On June 10, 2024, Mr. Garrison filed two motions. The first requesting that the Commission direct that the intervenors are provided with the necessary discovery; and the second asking the Commission to process this case via a technical hearing rather than by modified procedure.

REPRESENTATION OF CDS STONERIDGE

To date, the Company has not been able to obtain counsel to represent it despite its repeated attempts to secure counsel. The Company's lack of counsel has increasingly impacted the progress of this case, especially regarding discovery. Under IDAPA 31.01.01.43.02, a company appearing before the Commission must be represented by an attorney in quasi-judicial proceedings. Rule 43 states the following:

043.02. Quasi-Judicial Proceedings. The representation of parties at quasi-judicial proceedings for the purpose of adjudicating the legal rights or duties of a party is restricted as set out below. Quasi-judicial proceedings before the Commission include matters such as formal complaints, petitions, motions, *applications for modified procedure* or technical/evidentiary hearings. Representation of parties of these types of proceedings shall be as follows:

...

b. *A partnership or corporation shall be represented by a licensed attorney.*

IDAPA 31.01.01.43, (italics added). The Company is registered as a limited liability corporation and is not currently represented by counsel—as is required in this case. Since this case was ordered to be processed by Modified Procedure Staff believes that this case is a quasi-Judicial proceeding in which the Company must be represented by a licensed attorney.

Near the outset of this case, Staff informed the Company of its need for an attorney and directed the Company to a number of possible representatives. Staff continued to raise the issue as the Company was not prompt in selecting or retaining counsel. The Company informed Staff that it was in the process of engaging counsel to represent it. Staff was in communication with the Company's preferred counsel and was operating under the reasonable belief that such representation would be imminently formalized. Staff recently learned that the Company's agreements with its preferred counsel have dissolved—leaving the Company unrepresented. Staff

believes that, even if the Company were to find representation in the coming days—as it indicated it would do on June 12, 2024—such counsel would lack sufficient time to adequately and professionally discharge their duties in relation to the demands of the Company and the other Parties involved.

Of particular note, the intervenors in this case have not had adequate access to discovery. Staff believes that any potential confidential information within the Company’s protected discovery responses should comply with IDAPA 31.01.01.67—a task which requires a licensed attorney. IDAPA 31.01.01.67.03. Even if the Company were to engage representation today, that counsel must ensure that any claims of confidentiality regarding the voluminous amounts of discovery in this case properly conforms with IDAPA 31.01.01.67 and could be provided to the Parties in a timely manner. Under the current processing schedule, the Company’s legal counsel would need to provide the responses to discovery to the Parties in a prompt fashion—allowing Parties adequate time to process that discovery in relation to the established August 7, 2024, public comment deadline. Given the volume of discovery, the Company’s pattern of slow or inadequate responses, and the significance of the Company’s requests in this case, Staff believes that the fairest path forward for all Parties involved is for the Commission to find good cause to suspend the case for an additional sixty (60) days pursuant to *Idaho Code* § 61-622(4) and then proceed as the situation dictates sixty (60) days after an order on this motion is issued—as discussed *infra*.

IDAHO CODE ALLOWS FOR A SUSPENSION IN THIS CASE

Staff believes that, at this point, the best path forward is to suspend this case for an additional sixty (60) days and vacate the comment period accordingly.² Once the sixty (60) days have elapsed, Staff believes that the case has three possible paths forward. (1) continue under new procedure if counsel is retained and Parties have access to discovery responses; (2) be indefinitely suspended to allow the Company to organize representation, or (3) be dismissed. *Idaho Code* § 61-622(4) outlines the relevant process for suspension. It states:

The period of suspension of such new tariff, schedule, [or] rate . . . shall not extend beyond thirty (30) days when such new tariff, schedule, [or] rate . . . would

² As noted above, Mr. Garrison has moved for the Commission to order the Company or the Commission Secretary to provide the intervenors with the necessary discovery. Mr. Garrison also moved for the Commission to process this case with a technical hearing rather than via modified procedure. Staff agrees that the intervenors are entitled to discovery and believes that the issues surrounding the provision of discovery will be addressed by the Company obtaining representation—who can then ensure the discovery is promptly provided to the intervenors. Staff also believes that the issue of modified procedure will be unnecessary to address at this time if the Commission chooses to vacate the comment deadlines in this matter.

otherwise go into effect, pursuant to section 61-307, Idaho Code, unless the commission in its discretion extends the period of suspension for an initial period not exceeding five (5) months, nor *unless the commission after a showing of good cause on the record grants an additional sixty (60) days*. Prior to the expiration of said periods of suspension the commission may, with the *consent in writing signed by the party filing* such new tariff or schedule, *permanently or further suspend the same*.

Idaho Code § 61-622(4), (emphasis added). This case has already been suspended for thirty (30) days and five (5) months from the Company's proposed April 1, 2024, effective date. Order No. 36116 at 4. Under the current suspension from Order No. 36116, the effective date for new rates would be October 1, 2024. Accordingly, to suspended beyond thirty (30) days and five (5) months, the Commission must find good cause on the record for such a suspension. Staff believes the fact that this case cannot proceed without the Company being represented provides ample good cause for an additional sixty (60) days of suspension. The lack of counsel representing the Company has slowed the progress of this case, in particular it has slowed or restricted the Intervenors' access to discovery. The fact that several intervening parties have received no discovery responses—or woefully inadequate responses—only highlights the good cause for an additional sixty (60) day suspension. Staff proposes the Commission find good cause to extend the suspension of the Company's proposed effective date until November 30, 2024.³

Staff anticipates that during the first thirty (30) days, the Company must find an attorney and have that attorney file a notice of representation in this case. If the Company secures counsel and files a notice of representation, the Company would use the subsequent thirty (30) days, or additional days to make sixty (60) days from the issuance of a Commission order, for its attorney to familiarize themselves with the case and promptly respond to the Parties' discovery requests. Once the sixty (60) days from issuance date of the Commission order has elapsed, the Commission can allow the case to move forward, or (with the written consent of the Company) the Commission can indefinitely suspend the case while the Company irons out any remaining discovery issues—or any other issues that would necessitate a pause. *Idaho Code* § 61-622(4).

³ Thus, a sixty (60) day suspension in this case would essentially alter two timelines. First, it would suspend the case for an additional sixty (60) days following the publication of the Commission's order. Second, it would delay the effective date for the publication of the Final Order until November 30, 2024, rather than October 1, 2024. In short, the issuance of an order granting Staff's requests would begin a separate sixty (60) day timeline for the Company retain counsel and provide adequate discovery to all Parties as well as postpone the effective date in this case.

Importantly, the Company cannot agree in writing that an indefinite suspension is warranted if it does not have representation—as the Company cannot state a position in a quasi-judicial proceeding unless it is represented. IDAPA 31.01.01.43. Thus, if the Company is not represented within thirty (30) days of the Commission ordering a suspension, Staff believes that automatic dismissal of the case would be the most appropriate course of action. For reasons stated above, Staff respectfully asks that the Commission consider its motion to suspend this case and vacate the previously determined comment deadlines. Staff requests the Commission issue an order memorializing its decision and the accompanying timeline described *supra*.

REQUEST FOR EXPEDITIOUS RELIEF

Staff is requesting that relief be granted in this matter in fewer than fourteen (14) days pursuant to IDAPA 31.01.01.256. This rule requires that the moving party provide the other parties actual notice “by telephone or personal delivery of the motion.” IDAPA 31.01.01.256.02. If this cannot be done, the moving party must state that it has made efforts to reach all parties and will continue in those efforts. Staff has personally communicated the contents of this motion by telephone to all Parties; Staff personally spoke with all intervenors and left a voicemail with the Company. The Company has since emailed Staff and noted that it had received Staff’s voicemail. Staff has also emailed a draft of this Motion to all Parties. Staff thus believes that Staff has fulfilled its notice requirements under Rule 256.

Additionally, the Commission must “allow at least two (2) days (excluding Saturdays, Sundays and legal holidays) after notification by telephone or actual receipt of the motion for parties to inform the Commission Secretary, either in writing personally delivered to the Secretary or by telephone, whether they support or oppose the motion. . . .” *Id.* The parties can then inform the Commission secretary “whether they desire to be heard on the motion in person, in writing or by telephone.” *Id.*

Given that notice was provided to the Parties on June 13, 2024, Staff believes that the Commission may rule on this matter on June 18, 2024, should it choose to do so.


COMMISSION DECISION

Does the Commission wish to:

1. Find good cause on the record to suspend this case for an additional sixty (60) days?

2. Suspend the case for an additional sixty (60) days from the issuance of the Commission's Order No. 36116 making a new effective date of November 30, 2024?
3. Order the Company to file a valid Notice of Representation within thirty (30) days of the Commission's order?
4. Dismiss this case if the Company fails to file a notice of representation within thirty (30) days.
5. Vacate the comment deadlines previously set in Order No. 36192?
6. Anything else?

Respectfully submitted this 13th day of June 2024.



Michael Duval
Deputy Attorney General

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 13th DAY OF JUNE 2024, SERVED THE FOREGOING **MOTION TO SUSPEND THIS MATTER AND VACATE COMMENT DEADLINES**, IN CASE NO. SWS-W-24-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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