

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

BRUNOBUILT, INC.,)	
)	
Complainant,)	CASE NO. IPC-E-09-27
)	
vs.)	
)	
IDAHO POWER COMPANY,)	
)	ORDER NO. 30988
Respondent.)	

On September 3, 2009, BrunoBuilt, Inc. filed a formal complaint with the Commission against Idaho Power Company disputing a \$50 return trip charge. The Commission issued a Summons to Idaho Power on November 20, 2009, allowing the Company 21 days to file a written answer to the complaint. Idaho Power filed an answer on December 11, 2009. BrunoBuilt filed a response to Idaho Power's answer on December 28, 2009. Based upon the record we issue this Order.

THE COMPLAINT

BrunoBuilt, Inc. is a contractor in the business of constructing homes. BrunoBuilt asserts that Idaho Power refused to install service to one of its new homes because the service drop conduit was not perfectly vertical, was not close enough to the siding, and was not clamped to the siding. Idaho Power returned at a later date to install service and assessed BrunoBuilt a \$50 charge for the return trip pursuant to the utility's Rule H tariff (6.j).¹ BrunoBuilt contends that its building practices have never been questioned by Idaho Power in the past. The contractor maintains that the utility has never previously denied it a connection or assessed a return trip charge. BrunoBuilt argues that Idaho Power is not consistent regarding the application of its rules and guidelines for contractors and should not be able to arbitrarily assess a fee.

BrunoBuilt requests that the \$50 return trip charge and any interest or penalties that have been assessed be reversed.

¹ The Underground Service Return Trip Charge was increased from \$50 to \$68 on December 1, 2009. Order No. 30955.

IDAHO POWER'S ANSWER

Idaho Power asserts that when it responded to a request by BrunoBuilt to install cable and a meter at an unfinished residence the conduit at the residence had not been installed in compliance with the standards specified in the utility's Reduced Charge Option brochure.² Idaho Power notified BrunoBuilt that it could not pull the service cable or install a meter until the problems were fixed. At a later date, after the problems had been corrected, Idaho Power returned to the residence and installed the cable and meter. However, consistent with its Rule H tariff, Idaho Power assessed BrunoBuilt a return trip charge of \$50 because the utility had to make an additional trip to the residence to complete the installation.

Idaho Power points out that BrunoBuilt does not argue that its conduit was in compliance with the utility's standards nor does the contractor claim ignorance of the standard – instead BrunoBuilt maintains that Idaho Power arbitrarily enforces its standards and that BrunoBuilt was treated unfairly when it was charged for a return trip. Idaho Power states that compliance with underground line extension standards is important for both safety and maintenance reasons. Answer at 4.

Idaho Power denies that it enforces its standards arbitrarily. The utility asserts that it trains its line installation crews with the intent that the crews uniformly enforce the standards. The standards for underground line installations have not materially changed since 1993. Idaho Power alleges that BrunoBuilt has been in the homebuilding business in Idaho Power's service territory for several years and uses experienced subcontractors who are well aware of the standards applicable to underground service installations. Answer at 6.

Idaho Power contends that it has fully complied with its Rule H tariff and evenhandedly enforced the standards for underground line installations. The utility also asserts that it has undertaken reasonable efforts and established reasonable processes for providing notice of its standards to the public and affected contractors. Finally, Idaho Power contends that it made a good-faith effort to address Mr. Bruno's concerns prior to the formal complaint being filed in this case.

² The Reduced Charge Option allows new customers who install their own conduit to receive Idaho Power's cable and meter at a reduced charge.

BRUNOBUILT'S RESPONSE

BrunoBuilt denies that it has received brochures or pamphlets from Idaho Power in the last five years explaining the current standards for construction. Moreover, the contractor claims that, based on past practices with Idaho Power, its conduit was "sufficiently vertical" to the side of the house to allow the utility to install the cable and meter. BrunoBuilt alleges that Idaho Power's inconsistent enforcement of its standards and specifications causes confusion, inaccuracies, and improperly installed services on the job sites.

DISCUSSION AND FINDINGS

Pursuant to *Idaho Code* §§ 61-501 and 61-612 the Commission has jurisdiction to resolve the complaint brought against Idaho Power by BrunoBuilt, Inc. The Commission finds that a hearing is not required to consider the issues presented in BrunoBuilt's complaint. Therefore, the Commission issues its decision based on the written record submitted including the materials submitted prior to this matter becoming a formal complaint. *See* IDAPA 31.01.01.201.

After a thorough review of the record and positions of the parties, the Commission finds that each party bears some responsibility for the \$50 return trip charge. Idaho Power cannot be expected to keep every contractor and/or developer in its service territory personally apprised of its fees and charges. It is reasonable for the utility to utilize membership lists from the various local building contractors' associations for its mailings and to satisfy notice requirements. However, in this particular case, Idaho Power's argument regarding notice to BrunoBuilt is diminished by the utility's apparent inability to even serve its answer to the proper address, specifically the correct zip code. BrunoBuilt's address is at the bottom of each page of its stationery and was included by Mr. Bruno in some of the initial exchanges (prior to the filing of the formal complaint) between the utility and the contractor. Moreover, Idaho Power recently added a step to its cost estimating and quotation process in order to better ensure that contractors are put on notice regarding the utility's installation standards. While we commend Idaho Power for making adjustments to its process, the utility's unyielding position with regard to BrunoBuilt's complaint is somewhat inconsistent with its review and recent modification of its process for notice to contractors.

However, BrunoBuilt is not without responsibility for the \$50 return trip charge. By its own admission, BrunoBuilt has been "in the home building business in Idaho Power

Company's service area for the past 25 years." BrunoBuilt Response at 2. The standards for service line installations have not materially changed since 1993. Idaho Power Answer at 6. Regardless of whether deviations were overlooked in the past, it is unreasonable to think that an experienced contractor such as BrunoBuilt had no knowledge of such standards and requirements. BrunoBuilt's frustration at having to pay for Idaho Power's return trip does not negate the fact that the utility did indeed require a second visit to the job site in order to complete the line installation because published installation standards were not met on the initial trip.

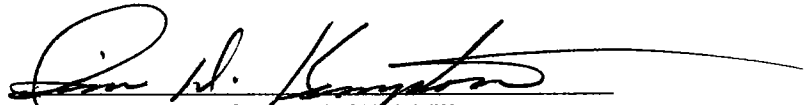
Based on the foregoing, the Commission grants BrunoBuilt's request in part. The Commission finds that BrunoBuilt and Idaho Power should share equal responsibility for the return trip. Therefore, BrunoBuilt shall remit the amount of \$25 to Idaho Power as full settlement of the utility's return trip charge to this particular job site for proper line installation. We find that this is a reasonable and equitable resolution of this complaint.

ORDER

IT IS HEREBY ORDERED that BrunoBuilt, Inc.'s complaint against Idaho Power Company be granted in part and denied in part. BrunoBuilt shall remit the amount of \$25 to Idaho Power as full settlement of its return trip charge in this case.

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. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

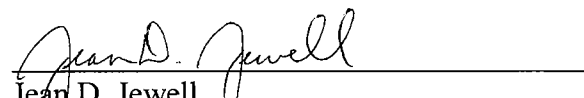
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd
day of January 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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