

**HAEMMERLE & HAEMMERLE, P.L.L.C.**

Attorneys & Counselors at Law

Fritz X. Haemmerle  
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March 14, 2006

INT-G-06-01

Idaho Public Utilities Commission  
Attn: Jean Jewell  
P.O. Box 83720  
Boise, ID 83720-0074

Re: *Craig Johnson Construction, L.L.C. v. Intermountain Gas*

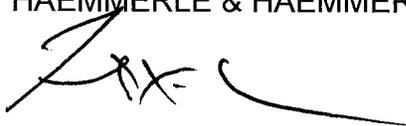
Dear Ms. Jewell:

This firm represents Craig Johnson Construction, L.L.C. ("Johnson"). Please find enclosed a Formal Complaint filed by Johnson against Intermountain Gas for a disputed billing. Please advise if a filing fee is required or what other action is required of my client.

If you have any questions, please do not hesitate to call. Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

  
Fritz X. Haemmerle

FXH: fXH  
Encl.  
cc: client

INTERMOUNTAIN  
GAS  
COMMISSION  
FEB 16 2006  
BOISE, ID

ORIGINAL

FRITZ X. HAEMMERLE, ESQ  
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ISB #3862

Attorneys for Petitioner

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO PUBLIC UTILITIES COMMISSION  
RECEIVED  
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CRIAG JOHNSON CONSTRUCTION,  
L.L.C.,

Petitioner,

vs.

INTERMOUNTAIN GAS COMPANY,

Respondent.

Case No. INT-6-06-01

FORMAL COMPLAINT

COME NOW the Petitioner, Craig Johnson Construction, L.L.C., ("Johnson Construction") by and through their attorney of record, Fritz X. Haemmerle, Haemmerle & Haemmerle, P.L.L.C., and pursuant to IDAPA 31.01.01.054 hereby files this Formal Complaint, against the Respondent, Intermountain Gas Company.

LISTED REPRESENTATIVE:

Fritz X. Haemmerle  
HAEMMERLE & HAEMMERLE, P.L.L.C.  
P.O. Box 1800  
Hailey, ID 83333

(208) 578-0520  
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PETITIONER: Craig Johnson Construction, L.L.C., P.O. Box 579, Hailey, ID 83333 (208) 788-0796

RESPONDENT: Intermountain Gas Company, c/o of its Registered Agent, James E. Simmerman, 555 South Cole Road, Boise, ID 83709.

### **COMMON ALLEGATIONS**

1. The Petitioner, Craig Johnson Construction, L.L.C. ("Johnson Construction"), is a customer of the Respondent, Intermountain Gas Company ("Intermountain Gas").
2. From January through December 14, 2005, Intermountain was billing Johnson Construction at the billing address identified as "102 Sutton Pl House, Ketchum, ID 83340" (hereinafter "Sutton Project").
3. For the Sutton Project, Intermountain Gas had installed a gas meter. The gas meter installed by Intermountain Gas at all times functioned properly, and the gas meter installed never failed to function.
4. Thereafter, Intermountain Gas billed Johnson Construction from correct readings from the installed gas meter. All bills received by Johnson Construction from January through December 14, 2005 were paid when received.
5. On or about December 20, 2005, Intermountain Gas billed Johnson Construction \$4,623.79 for the Sutton Project (a true and correct copy attached as Exhibit 1). The December 2005 billing was an attempt by Intermountain Gas to charge Johnson Construction an additional amount for January through December 14, 2005, services.

6. The basis of the additional charge was a belief by Intermountain Gas that it installed the wrong type of gas meter for the Sutton Project, and as a result, the prior billings through December 14, 2005, did not accurately reflect the services received by Johnson Construction.

7. At no time did the gas meter installed for the Sutton Project fail or malfunction.

**COUNT ONE**  
**(Over Billing - IDAPA 31.21.01.204)**

8. The Plaintiffs restate and reallege the common allegations contained in paragraphs 1 through 7.

9. Under IDAPA 31.21.01.204, a utility may file a corrected billing only “[w]henver the billing for utility service was not accurately determined because a meter malfunctioned or failed, bills were estimated, or bills were inaccurately prepared, the utility shall prepare a corrected billing. If the utility failed to bill a customer for service the utility shall prepare a bill for the period during which no bill was provided.”

10. Because the basis of the billing was a belief that Intermountain Gas had installed the wrong meter, as opposed to an allegation that the meter failed or malfunctioned, Intermountain Gas lacks any legal authority to rebill Johnson Construction for the months January through December 14, 2005, as that amount is represented on Exhibit 1.

**RIGHT TO AMEND**

The Petitioner reserves the right to amend this Complaint in any respect as motion practice and discovery proceed in this matter.

WHEREFORE, Petitioner prays for the following relief:

1. That the IPUC declare that the Respondent had no basis to charge the Petitioner for addition amounts for the months January through December 14, 2005;
2. That the IPUC declare that billings received by Petitioner from the Respondent for the months January through December 14, 2005 have been paid in full;
3. That to the extent authorized by law, that the IPUC award the Petitioner its reasonable attorney's fees costs; and
4. For such other and further relief as the Court may deem just and equitable.

DATED this 14<sup>th</sup> day of March, 2006.

HAEMMERLE & HAEMMERLE, P.L.L.C.

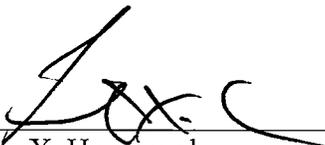
  
FRITZ X. HAEMMERLE  
Attorney for Petitioners

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of March, 2006, I served a true and correct copy of the within and foregoing document upon the attorney(s) named below in the manner noted:

Idaho Public Utilities Commission  
Attn: Jean Jewell  
P.O. Box 83720  
Boise, ID 83720-0074

- X   By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Hailey, Idaho.
- By hand delivering copies of the same to the office of the attorney(s) at his offices in Hailey, Idaho.
- By telecopying copies of same to said attorney(s) at the telecopier number \_\_\_\_\_, and by then mailing copies of the same in the United States Mail, postage prepaid, at the post office at Hailey, Idaho.

  
\_\_\_\_\_  
Fritz X. Haemmerle

# **EXHIBIT 1**



# INTERMOUNTAIN GAS COMPANY

P.O. Box 64  
Boise, Idaho 83732  
www.intgas.com

(800) 548-3679

Call 7 AM - 7 PM Mon-Fri

SERVICE ADDRESS: 102 Sutton Pl House, Ketchum, ID 83340

PAYMENT DUE DATE	ACCOUNT NUMBER	PAY THIS AMOUNT
Dec 30, 2005	11180400-023-5	\$4,623.79
Total of Account - Previous Billing		\$283.55
Payments Received		\$283.55 CR
Balance Forward		\$0.00

FROM	READING DATES	TO	DAYS	METER NUMBER	METER READINGS FROM	TO	100 CU FT. X BILLING FACTOR	THERMS BILLED	
Nov 30	Dec 14	14		459025	3685	7669	3,984	1,081	4,307

BILLING DATE	TYPE OF RATE	CURRENT ACTIVITY	THERMS X	RATE	CHARGE
Dec 16, 2005	RS2	Current Usage	4,307	1.07285	\$4,620.76
		Customer Charge			\$3.03

AVERAGE THERMS PER DAY	THIS YEAR	LAST YEAR
	307.8	

Total Current Activity	\$4,623.79
Balance Forward	\$0.00
Total of Account - Due Dec 30, 2005	\$4,623.79

This is your final bill for gas service at 102 Sutton Pl House, Ketchum, ID 83340 through 12/14/2005. Thank you for using natural gas for your energy needs.

*Have a call into when they are checking 12/21/05*

RECEIVED DEC 21 2005

PLEASE DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT OR BRING THE ENTIRE BILL WHEN PAYING IN PERSON



## INTERMOUNTAIN GAS COMPANY

P.O. Box 64  
Boise, Idaho 83732

PAYMENT DUE DATE	ACCOUNT NUMBER	PAY THIS AMOUNT
Dec 30, 2005	11180400-023-5	\$4,623.79
111804000230000462379		

Craig Johnson Construction  
PO Box 579  
Halley, ID 83333-0579



BALANCE FORWARD	\$0.00
CURRENT CHARGES	\$4,623.79
TOTAL OF ACCOUNT	\$4,623.79
AMOUNT ENCLOSED	

New email, mailing address or phone number? Use reverse side - PLEASE CHECK BOX

Receive, View and Pay your bill online!  
www.intgas.com