

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Investigation into the)
Rates Charged by Cedar Point Mutual Water) DOCKET NO. 09-2404-01
Company) REPORT AND ORDER
)

ISSUED: April 8, 2009

By The Commission:

On or about February 19, 2009, the Division of Public Utilities (Division) filed a Petition for an Order to Mandate Cessation of Charging Unapproved rates, Resume Charging Approved rates, and to Show Cause Why Fines Should Not be Imposed against Cedar Point Mutual Water Company (Cedar Point or Company) for Cedar Points' failure to seek authorization to charge increased rates. The Division sought the imposition of fines against the Company. The Division recommended the Commission order the Company to cease and desist from charging unapproved rates, and to issue an Order to Show Cause, requiring it to show why it should not be fined for each day that it has failed to comply with Commission orders.

On March 11, 2009, the Commission issued its Order to Show Cause and Order to Cease and Desist and Notice of Hearing on Order to Show Cause. The Commission ordered the Company to show cause, by March 16th, why it should not be fined and other remedies imposed for its failure to follow Commission orders; that it cease and desist from charging any unapproved rates and charges; and that it appear at a hearing on the Order to Show Cause set for Tuesday, March 24, 2009 at 9:30 am. The Company did not respond to the Commission's Order to Show Cause by March 16th. The Company did respond to the Division about a week prior to the hearing and explained why it had not responded to the Division nor to the Commission.

The Administrative Law Judge of the Commission held a hearing on March 24, 2009 at 9:30 am. Mr. Roger J. Sanders, counsel for the Company, appeared telephonically for the Company. Ms. Patricia E. Schmid, Assistant Attorney General, appeared for the Division. Along with Ms. Schmid, for the Division, were Mr. Ronald Slusher and Ms. Rea Peterson. Also appearing telephonically was Mr. Jack Davis, a resident of Apple Valley. At the hearing, Mr. Sanders proffered the testimony of his clients regarding their late responses to the Division and the Commission. He stated that the Company, along with another private water company, were in negotiations with the city of Apple Valley, Utah for the city's purchase of both water companies. There were certain organizational changes that had occurred and essentially, complaints, demands from the Division and orders from the Commission were not received by the proper personnel. Additionally, Mr. Sanders stated that there were some entity changes that were going to take place, in conjunction with the pending city purchase of the water company, which had not yet happened. As a consequence, his clients had incorrectly delayed their responses to the Division. Regarding the unapproved rate hikes, he stated that the increases were amounts that were being considered, but had not yet been approved. However, an administrative error incorrectly substituted the proposed increases as actual rates for each customer, resulting in the increased, unauthorized rates.

Mr. Sanders made certain representations about several remedial actions the Company would take to restore its standing with its customers, the Division, and the Commission. First, the Company and its officials were in the process of personally contacting each customer to explain and correct mistakes, crediting any overpayments, and correcting the

billing procedures to ensure that only approved rates were being charged. Second, pending the sale of the Company to the city of Apple Valley, the Company would file for a rate increase to allow it to charge increased rates. Third, the Company would immediately resume billing correct rates, and, within 10 days, begin sending out revised billing statements and crediting any overpayments. Fourth, the Company would apply for a rate increase approval this week. Fifth, he would serve as counsel for the Company and that any correspondence for the Company could be sent to him. Sixth, the Company would answer any outstanding customer complaints filed before the Division, and copy the Division on any responses or resolutions. Finally, he stated that the Company would provide an accounting of any customers incorrectly charged and how their disputes were remedied.

Mr. Davis voiced two concerns with the Company. He said that the Company, previous to the 2009 year, would send billing invoices with the amount of water usage, the rate, and then the resultant billed amount. Beginning in 2009, however, he stated that the new billing invoices contained only a flat amount, with no detail of an individual customer's usage, leaving no opportunity for the customer to verify its accuracy. Additionally, he stated that since January 2009, the Company and its officials have been unresponsive to his and others' Complaints. He made an appeal for immediate correction of any billing problems and more responsive behavior from the Company. Mr. Sanders stated that the Company would immediately work to resolve his concerns and seek to be more responsive to customer concerns. Additionally, the Division stated that as part of their investigation related to the approval of a rate increase, they would look to see if the Company's billing practices were being carried-out according to their tariff, and

whether they were meeting other duties imposed by their tariff and state law and administrative rules. The Division felt this would allay many of Mr. Davis' and other customer's concerns.

ORDER

Therefore, based on the representations of the Company, and the Division's recommendations made at the hearing, the Commission orders as follows:

1. Any fines and punitive remedies recommended by the Division are stayed pending further proceedings in this matter or in proceedings in a future rate case;
2. The Company shall prepare and deliver revised billing invoices to its customers no later than ten (10) days from the date of the hearing. The revised billing shall credit any overpayments, i.e. payments made to the company on the basis of the increased rates, to the customer. The revised billing and all future billing shall also comply with any previous orders already issued by the Commission, e.g. Orders and certificates dealing with approved rates, billing procedures, tariffs, etc.
3. The Company shall file an application for approval of a rate increase no later than Friday, March 27, 2009 via electronic mail by sending such application to mlivingston@utah.gov. The Commission must also receive a hard copy of such application the following week and it shall be filed according to Commission Rules.
4. No later than ten (10) days from the date of the hearing, the Company shall respond to any outstanding customer complaints filed with the Division. The Company shall copy the Division with any responses to such complaints and/or

provide the Division with a description of the resolution to each outstanding complaint.

5. No later than ten (10) days from the date of the hearing, the Company shall also provide, (for the period of the past six months) a list of its customers, an accounting for the of all amounts billed to each customer, and—for any customer that was charged any unapproved rates, how the Company remedied the error for each customer.
6. Finally, Mr. Sanders has represented that, in order to avoid any future delay in response to customer complaints, Division requests, or Commission orders or other communication by any party, that he shall serve as contact for the Company. Notice may be provided to the Company via Mr. Sanders at 2329 North Prospector Lane, Washington, Utah 84780, E-mail: rjsanders@qwest.net. If Mr. Sanders withdraws as counsel for the Company, he shall notify the Commission and the Division within ten days of such withdrawal and provide an alternate contact where the Company may be served and contacted.
7. Pursuant to Utah Code § 63G-4-301 and 54-7-15, an aggrieved party may request agency review or rehearing of this Order by filing a written request for review or rehearing with the Commission within 30 days after the issuance of the Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of a

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request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Utah Code §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 8th day of April, 2009.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 8th day of April, 2009, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#61326