

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Investigation of the)
Operations of CEDAR POINT MUTUAL)
WATER COMPANY as a Public Utility)

DOCKET NO. 03-2404-01

NOTICE OF HEARING AND
ORDER TO SHOW CAUSE

ISSUED: July 26, 2004

By the Commission:

On July 21, 2004, the Division of Public Utilities (Division) filed a Petition, pursuant to *Utah Code Annotated* §54-4a-1, for an Order to Show Cause why Cedar Point Mutual Water Company (Cedar Point) should not be fined \$2,000 per day for each day that it has operated as a private water utility delivering culinary water to customers without requisite Commission authority required by statute. The Division’s petition alleges that representatives of the Utah Division of Public Drinking Water have notified it that Cedar Point is currently serving culinary water customers.

On April 28, 2003, the Division submitted a petition for an Order to Show Cause citing reasons similar to those in the instant petition. In response to that petition, on May 5, 2003, Cedar Point submitted an application for certificate with supporting documentation. However, since that time, the Division alleges that it has requested additional information from Cedar Point necessary to reviewing its application, but has recently been unable to obtain a response from Cedar Point regarding its “expired” status with the Utah Division of Corporations.

The Division’s Petition sets forth good cause for an inquiry into whether Cedar Point should be fined for failure to comply with UCA § 54-4-25 requiring a certificate of public convenience and necessity prior to utility operation. A copy of the Division’s Petition is attached hereto, and incorporated by this reference. Whereas there appears to be good cause to support said allegations, the Commission enters the following order.ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

CEDAR POINT MUTUAL WATER COMPANY and its officers, shall appear before the Administrative Law Judge of the Commission on Thursday, September 2, 2004, at 9:00 a.m., in the Fourth Floor Hearing Room #451, Heber M. Wells State Office building, 160 East 300 South, Salt Lake City, Utah, to show cause, if any, why Cedar Point Mutual Water Company should not be fined, and other actions taken against Cedar Point Mutual Water Company, for its failure to comply with the statutory requirement to obtain a certificate of public convenience and necessity prior to commencing its operations.

Individuals wishing to participate by telephone should contact the Commission at least two to three days prior to the hearing to make arrangements. On the day of the Hearing, participants must call in to (801) 530-6716 or call toll-free 1-866-PSC-UTAH (1-866-772-8824) at least five minutes prior to the beginning of the Hearing to ensure participation.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this hearing should notify Julie Orchard, Commission Secretary, at 160 East 300 South, Salt Lake City, Utah, 84111, (801) 530-6713, at least three working days prior to the hearing.

DATED at Salt Lake City, Utah, this 26th day of July, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#39472

-ATTACHMENT-

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation of the : Docket No. 03-2404-01
Operations of Cedar Point Mutual Water : MOTION TO SCHEDULE
Company as a Public Utility : A HEARING ON PETITION
: FOR AN ORDER TO SHOW
: CAUSE

MOTION TO SCHEDULE A HEARING

July 20, 2004

On April 28, 2003, the Division of Public Utilities (“Division”) filed a petition with the Utah Public Service Commission (“Commission”) for an Order to Show Cause against Cedar Point Mutual Water Company (“Cedar Point”, or the “Company”), and its officers: Jerry G. Eves, Patricia W. Eves, and Jack R. Eves. In response to the petition, On May 5, 2003, the Company filed an application and supporting information (See Attachment # 1). On May 23, 2003, the Division filed a status report with the Commission regarding its investigation, indicating that additional information was required from the Company to complete its investigation (See Attachment # 2). Since that time, the Division has corresponded with the Company several times and proceeded toward certification of the Company. However, recent attempts to encourage progress toward certification have stalled, and the Division believes that it is time to formalize efforts to obtain compliance from the Company and pursue the Order to Show Cause.

In support of the petition, the Division submits that in addition to the facts contained in its initial petition dated

April 28, 2003 the following items:

1. On October 31, 2003 the Division sent a letter to the Company reminding it that the application remained incomplete and without Company action the Division had no alternative other than to proceed with the Order to Show Cause (See Attachment # 3). On December 22, 2003, the Company provided information compiled by Insite Engineering which substantially provided the data needed to complete the application (See Attachment # 4).
2. On January 30, 2004, the Division notified the Company that two items needed to be updated to enable the Division to make its recommendations to the Commission (See Attachment # 5). On February 23, 2004, the Company provided a Utah Division of Drinking Water letter dated June 5, 2002 in response to one of the items (See Attachment # 6). On February 27, 2004, the Division again requested the system cost information necessary to complete the application (See Attachment # 7). On March 16, 2004, the Division received system cost information from Insite Engineering (See Attachment # 8).
3. On March 22, 2004, the Division sent a letter to the Company indicating that the system cost information provided by Insite Engineering was sufficient, but the Division could not support the amount of collection fees the Company had proposed (See Attachment # 9).
4. On April 22, 2004, the Division notified the Company that it had found that the Company's status with the Utah Division of Corporations had "expired" and restoration of "active" or "good standing" status would be required before the Commission could issue the Company a certificate of public convenience and necessity (See Attachment # 10). Also on April 22, 2004, the Division received a letter from Insite Engineering indicating that the Company agreed to amend their application to reflect the connection fee proposed by the Division (See Attachment # 11). On June 3, 2004, the Division sent the Company a follow-up letter requesting that the Company remedy its "expired" status with the Utah Division of Corporations and respond before June 18, 2004 or the Division would proceed with the show cause action (See Attachment # 12). To date, the Division has

received no response from the Company.

The Division has been notified by representatives of the Utah Division of Drinking Water that the Cedar Point system is currently serving culinary customers. Therefore, the Division believes that the Commission should schedule a hearing for the purpose of requiring the named principals of Cedar Point to explain the extent of the private culinary water system operations, and why they have operated a culinary water system without a certificate of convenience and necessity or a letter of exemption from the Commission. Cedar Point and its officers should be required to show cause why the Company should not be fined \$2,000 per day for each day that it has operated as a private water utility, which has delivering culinary water to customers without requisite Commission authority required by the Public Utility statutes. Pursuant to UCA § 54-7-25, any public utility that fails to comply with the statute, any rule or order issued by the Commission is subject to a penalty of not less than \$500 nor more than \$2,000 for each offense. The statute also states that in circumstances where violations are of a continuing nature, each day's continuance of the violation shall be a separate and distinct offense.

Wherefore, the Division respectfully requests that the Commission schedule a hearing and require Cedar Point, its officers and its agents to appear and show cause why the Company and the named individuals should not be sanctioned for failing to comply with applicable statutes. The Division recommends that failing an adequate cause showing, the Commission should impose the maximum fine of \$2,000 per incident and find the individuals guilty of numerous violations.

Based upon the foregoing facts and circumstances, the Division petitions the Commission to Schedule a hearing in this Docket and require that Cedar Point Mutual Water Company, Jerry G. Eves, Jill D. Eves, Raymond Jack Eves Jr., and Raquel Eves appear before the Commission and show cause why fines should not be imposed upon the Company for failure to comply with the referenced Statutes.

Dated this 20th day of July, 2004.

/s/ Patricia E. Schmid
Assistant Attorney General