

R746. Public Service Commission, Administration.

R746-331. Determination of Exemption of Mutual Water Corporations.

R746-331-1. Conditions for Finding of Exemption.

A. Upon the Commission's own motion, complaint of a person, or request of an entity desiring a finding of exemption, the Commission may undertake an inquiry to determine whether an entity organized as a mutual, non-profit corporation, furnishing culinary water, is outside the Commission's jurisdiction.

B. In conducting the inquiry, the Commission shall elicit information from the subject of the inquiry concerning:

1. the organizational form of the entity and its compliance status with the Utah Division of Corporations;

2. ownership and control of assets necessary to furnish culinary water service, including water sources and plant;

3. ownership and voting control of the entity. To elicit this information, the Commission may adopt a questionnaire asking for the information in form and in detail that the Commission shall find necessary to make its jurisdictional determination; the questionnaire may include a requirement that documentation be furnished therewith, including copies of articles of incorporation, and effective amendments thereto, filed with the Utah Division of Corporations and certified by that agency, together with a certificate of good standing therewith.

C. If, on the basis of the information elicited, the Commission finds that the entity is an existing non-profit corporation, in good standing with the Division of Corporations; that the entity owns or otherwise adequately controls the assets necessary to furnish culinary water service to its members, including water sources and plant; and that voting control of the entity is distributed in a way that each member enjoys a complete commonality of interest, as a consumer, such that rate regulation would be superfluous, then the Commission shall issue its finding that the entity is exempt from Commission jurisdiction, and the proceeding shall end. Issuance of the finding shall not preclude another Commission inquiry at a later time if changed circumstances or later-discovered facts warrant another inquiry.

D. If, on the basis of the information elicited, the Commission determines that the entity is subject to Commission jurisdiction, the Commission shall initiate the proceedings, including an Order to Show Cause, as shall be necessary to assert Commission jurisdiction.

KEY: mutual water corporations*, public utilities, water

Date of Enactment or Last Substantive Amendment: April 6, 1998

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Authorizing, and Implemented or Interpreted Law: 54-2-1