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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation of the Water	:	Docket No. 04-2437-01
System Operations of Bridge Hollow Water	:	Petition for An Order
Association for Certification as a Public	:	To Show Cause
Utility or Exemption as a Mutual Water	:	
Company	:	

PETITION FOR AN ORDER TO SHOW CAUSE

July 27, 2004

Pursuant to Commission Rule R746-100-3, the Division of Public Utilities (“Division”) hereby submits its petition for an Order to Show Cause against Bridge Hollow Water Assn. (“Company”), and its officers, John Tebbs and Duane Fluckinger. The Division petitions the Utah Public Service Commission pursuant to UCA § 54-4a-1, to open a docket for the purpose of requiring the named principal of the Company to explain why the Company has been operating a water system as a public utility without a certificate of convenience and necessity, and to show cause why the Company should not be fined \$2,000 per day for each day that the Company has not been in compliance with Public Utility Statutes and why the named principal should not face criminal sanctions provided by statute.

In support of the petition, the Division submits:

1. In July, 2003, the Division received a listing of Public Water Systems from the Utah Division of Drinking Water

- which indicated that the Company operated Water System Number 22117 in Summit County. The listing indicated that the system was approved in February, 1999 for a maximum of 40 culinary water connections.
2. In response to a letters sent to the Company by the Division in September, October and November, 2003, a Company representative filed a survey form on December 1, 2003, indicating that the mutual water company served 43 households (See Attachment # 1).
 3. On December 12, 2003, the Division sent a letter to the designated Company contact, Duane Flukinger, at the address listed on the survey response, 1501 Oak Haven Lane, Wanship, UT, requesting completion of an enclosed application for exemption from Public Service Commission Regulation and provide the necessary information for the Division to determine whether the Company was operating the water system as a mutual culinary water company or needed to be certificated as a public utility. The letter was returned by the US Post Office as undeliverable (See Attachment # 2).
 4. On February 6, 2004, the Division sent a second letter by certified mail to the designated Company contact requesting completion of an application. However the certified letter was returned by the US Post Office as undeliverable (See Attachment # 3).
 5. On February 27, 2004, the Division sent a letter requesting completion of an application by certified mail to John Tebbs, the Company agent on file with the Utah Division of Corporations at PO Box 36, Bountiful, UT. The Division received a return receipt that the letter was delivered to Barbara Tebbs on March 9, 2004 (See Attachment # 4). However, the Division did not receive a response.
 6. On April 30, 2004, the Assistant Attorney General representing the Division sent the Company a certified letter to John Tebbs at the same address providing a: “Notice of Intention to file a petition for an order to show cause for failure to respond to requests for information and for operation of a public utility without a certificate of convenience and necessity”. The letter was returned by the US Post Office unclaimed on May 4, 2004. (See Attachment # 5). The letter was mailed certified mail on May 5, 2004 to John Tebbs at 3642 South Bountiful Blvd, Bountiful UT 84010, which is the address for Mr. Tebbs in

the Qwest phone book. The letter was returned by the US Post Office unclaimed on May 27, 2004. Repeated attempts to reach Mr. Tebbs by phone have been unsuccessful.

7. Pursuant to UCA § 54-4-1, the Commission is empowered to supervise and regulate public utilities providing service within Utah. Under UCA § 54-4a-1 (c), the Division is empowered to, “investigate or study, upon complaint, upon order of the Public Service Commission, or upon its own initiative, any matter within the jurisdiction of the commission.”
8. UCA § 54-4-25, provides that: “A . . . water corporation, or sewerage corporation may not establish, or begin construction or operation of a line, route, plant, or system or any extension of a line, route, plant, or system, without having first obtained from the commission a certificate that present or future public convenience and necessity does or will require the construction .”
9. Administrative Rule R746-331-1 provides that “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.”
10. 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.
11. Pursuant to UCA § 54-7-26 and 28, any officer or agent of the Company, or other individual who either individually, or acting as an officer agent or employee of a corporation other than the public utility, violates any provision of the statute is guilty of a class A misdemeanor.

Wherefore, the Division respectfully requests that the Commission open a docket for the purpose of requiring the Company, its officers and its agents to appear and show cause why the water company and the named individual 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 individual guilty of numerous violations.

Based upon the foregoing facts and circumstances, the Division petitions the Commission to open a docket and request that the Company, John Tebbs and Duane Flukinger 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 27th day of July, 2004.

Patricia E. Schmid
Assistant Attorney General
Division of Public Utilities

CERTIFICATE OF SERVICE

I certify that on the 27th day of July, 2004, I mailed a copy of the Petition for an Order to Show Cause regarding Bridge Hollow Water Association, by certified mail, to the following:

JOHN TEBBS
3642 SO BOUNTIFUL BLVD
BOUNTIFUL UT 84010

DUANE FLUKINGER
1501 OAK HAVEN LANE
WANSHIP UT 84017
