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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Petition of	)	
the DIVISION OF PUBLIC UTILITIES	)	<u>DOCKET NO. 04-2437-01</u>
for an Order to Show Cause why	)	
CLEMENT TEBBS, JOHN TEBBS	)	
and JOHN FLEMING	)	PETITION FOR
should not be penalized for failure to	)	ORDER TO SHOW CAUSE
respond to the Commission's Order to	)	
Compel	)	

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The Division of Public Utilities (Division) requests that the Public Service Commission of Utah (Commission) take agency action to issue an Order to Show Cause to Clement Tebbs, John Tebbs, and John Fleming for failure to respond to the Division's data request on July 13, 2005 related to the Commission's Order to Compel on July 14, 2005 in regard to Bridge Hollow Water Association. Pursuant to Section 54-7-25, Utah Code Ann., the Commission can impose a fine of up to \$2,000 per day for failure to comply with issued orders. In support of its petition, the Division alleges facts as follows:

On July 14, 2005 the Commission ordered all current and previous officers of the Bridge Hollow Water Association to reply to intervenor Mr. Brown's data request and provide copies to all parties within 15 days. The current officer of the Bridge Hollow, Mr. Fluckinger, provided the Division all information in Bridge Hollow's possession within

that time frame. However the former officers of the company, Mr. Clement Tebbs and Mr. John Tebbs, have not responded to Mr. Brown's request. Bruce, please make a footnote of the following: Additionally, Mr. Clement Tebbs, Mr. John Tebbs and Mr. John Fleming have failed to respond to the Division's written request for data. The Division sent by certified mail on July 13, 2005 its request for data to John Tebbs, Clement Tebbs, and John Fleming. There has been no response from any of these individuals. End of footnote

Utah Code Ann., Section 54-3-21 states:

(1) Every public utility shall furnish to the commission in such form and such detail as the commission shall prescribe all tabulations and computations and all other information required by it to carry into effect any of the provision of this title, and shall make specific answers to all questions submitted by the commission.

(2) Every public utility receiving from the commission any blanks with directions to fill the same shall cause the same to be properly filled so as to answer fully and correctly each question propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure.

Utah Code Ann., Section 54-3-22 states:

Every public utility shall furnish to the commission at such time and in such form as the commission may require a report in which the public utility shall specifically answer all questions propounded by the commission upon or concerning any matter upon which the commission may desire information. The commission shall have authority to require any public utility to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matter about which the commission is authorized to inquire or to keep itself informed or which it is required to enforce. All reports shall be under oath when required by the commission.

Utah Code Ann. Section 54-5-4 states:

Any person or corporation which exercises or attempts to exercise any right or privilege as any such utility during the period for which the operating rights of any such utility are suspended as provided in Section

54-5-3 is guilty of a misdemeanor. Each day's violation shall constitute a separate offense. Jurisdiction of such offense shall be held to be in any county in which any part of such transaction of business occurred. Every contract made in violation of this section is unenforceable by such corporation or person.

Utah Code Ann., Section 54-7-25 states:

- (1) Any public utility that violates or fails to comply with this title or any rule or order issued under this title, in a case in which a penalty is not otherwise provided for that public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each offense.
- (2) Any violation of this title or any rule or order of the commission by any corporation or person is a separate and distinct offense. In the case of a continuing violation, each day's continuance of the violation shall be a separate and distinct offense.
- (3) In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure on any officer, agent, or employee of any public utility acting within the scope of his official duties or employment shall in each case be deemed to be the act, omission, or failure of that public utility.

Based upon the foregoing, the Division requests that the Commission issue an Order to Show Cause to Clement Tebbs, John Tebbs and John Fleming to determine why they should not be fined and/or found guilty of committing a misdemeanor for their failure to respond to the Commission's order..

Dated at Salt Lake City, Utah this 11th day of August 2005.

Patricia E. Schmid  
Assistant Attorney General  
Counsel for the Division Public Utilities

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION FOR ORDER TO SHOW CAUSE of the Division of Public Utilities was mailed, postage prepaid to parties at the addresses shown below, this 11th day of August 2005.

CLEMENT TEBBS  
JOHN TEBBS  
JOHN FLEMING  
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SALT LAKE CITY, UTAH 84117\

LEE BROWN  
4963 North August Street  
Erda, UT 84074

DUANE A. FLUCKINGER  
Bridge Hollow Water Association  
600 Bridge Hollow Drive  
Wanship, UT 84017-9529

BRUCE SCOTT MOIO  
Division of Public Utilities

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