

- 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) ORDER TO SHOW CAUSE AND ORDER
) TO CEASE AND DESIST AND NOTICE
) OF HEARING ON ORDER TO
) SHOW CAUSE
)

ISSUED: March 11, 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 also seeks 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 to the Company, requiring it to show why it should not be fined for each day that it has failed to comply with Commission orders. In support of its recommendation, the Division alleged the following:

1. On April 28, 2004, the Division filed for the issuance of an order to show cause against Cedar Point to require the named principals to explain the water system and why the water system has been operated without a certificate of convenience and necessity or a letter of exemption from the Commission.
2. On August 2, 2004, after contacting the Division, Cedar Point filed an application with the Commission.
3. On August 25, the Division filed a withdrawal of its order to show cause with the Commission.

DOCKET NO. 09-2404-01

-2-

4. On September 2, 2004, the Commission granted the withdrawal request pertaining to the order to show cause.
5. On January 21, 2005, the Commission granted Cedar Point a certificate and approved the following rates:

Usage	Charges
First 12,000 gallons	\$ 30.00 minimum charge for each service connection
Usage over 13,000 gallons	\$ 1.18 per each 1,000 gallons
Stand-by Fee	\$ 10.00 per month

Turn on Service where Meter is \$ 100.00
already in place

Premises temporarily without meters to be charged the minimum charge.

Service Connection Charges

5/8" Service to Property Line \$ 1000.00

3/4" Service to Property Line \$ 1,500.00

Turn on service where meter is
already in place \$ 100.00

6. On May 4, 2006, Cedar Point filed a tariff incorporating the above rates.
7. On November 18, 2008, a Cedar Point customer informed the Division that Cedar Point intended to charge increased, unapproved rates for water service. On November 18, 2008, the Division sent Cedar Point and its attorney a letter informing Cedar Point that pursuant to UCA § 54-7-12(2)(a), public utilities are required to file rate increases or decreases with the Commission which must be approved before changed rates can be charged. The letter stated, "If you feel that your company needs a rate increase to maintain its viability, please file the appropriate paperwork with the commission [sic]. Until such time that the new rates have been approved by the commission [sic] you cannot modify rates charged to your customers." A copy of this letter is attached as Exhibit A.
8. The Division received complaints from customers that Cedar Point has ceased charging the approved rates, and is now charging unapproved, higher rates. Copies of these complaints are attached as Exhibit B (CONFIDENTIAL).
9. Pursuant to R746-200-8, on January 8, 2008, the Division sent Cedar Point notice via email of complaints concerning the rate increase and of Cedar Point's duty to respond to the complaints within five business days. A copy of this notice is attached as Exhibit C, (CONFIDENTIAL).
10. Cedar Point did not respond to the complaints within the five business days as required by the above-cited rule.

11. On February 17, 2009, the Division was informed by a customer that Cedar Point has charged the higher unapproved rates. A copy of a bill showing that Cedar Point is charging unapproved higher rates is attached as Exhibit D, (CONFIDENTIAL).
12. Because Cedar Point is charging its customers unapproved rates, Cedar Point is failing to comply with the Commission order dated January 21, 2005 approving and establishing rates.

Division Pet'n. For an Order, etc., ¶¶1-12.

Section 54-7-25 of the Utah Code states that any public utility that fails to comply with an Order issued by the Commission is subject to a penalty of not less than \$500 nor more than \$2,000 per day for each offense, with each day's violation constituting a separate offense. The Division states that the Company has been in violation of the Commission's orders since the beginning of the year, and should be charged a minimum of \$25,000 and up to \$100,00 for its violations. Additionally, the Division argues that Cedar Point should also be fined for its failure to respond to complaints within the required time. The Division also moves the Commission order Cedar Point to cease and desist from charging any unapproved rates.

Based on the factual allegations submitted by the Division in its Petition, and finding such allegations sufficient to enter the Order to Show Cause requested by the Division, the Commission orders as follows

ORDER

NOW, THEREFORE IT IS HEREBY ORDERED, that:

1. The Company and its officers shall, no later than Monday, March 16, 2009, show cause, if any they have, why the Company should not be fined and other remedies imposed on the Company for its failure to follow Commission orders;
2. The Company cease and desist from charging any unapproved rates and charges;

3. The Company and its officers shall appear at a hearing on the Order to Show Cause set for Tuesday, March 24, 2009 at 9:30 am.

Notice is hereby given that the hearing on the Order to Show Cause in the above-entitled matter will be conducted by the Administrative Law Judge of the Public Service Commission of Utah in the Fourth Floor Hearing Room #451, Heber M. Wells State Office Building, 160 East 300 South, Salt Lake City, Utah.

Except for Company officers, individuals wishing to participate by telephone should contact the Commission at least two 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 11th day of March, 2009.

/s/ Ruben H. Arredondo
Administrative Law Judge

DOCKET NO. 09-2404-01

-5-

Approved and confirmed this 11th day of March, 2009, as the Order to Show Cause and Order to Cease and Desist and Notice of Hearing on Order to Show Cause 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#60999