

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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IN THE MATTER OF THE)
INVESTIGATION INTO THE)
RATES CHARGED BY CEDAR) DOCKET NO. 09-2404-01
POINT MUTUAL WATER)
COMPANY)
)

TRANSCRIPT OF HEARING PROCEEDINGS

HELD AT: Public Service Commission
160 East 300 South, Room 451
Salt Lake City, Utah

DATE: March 24, 2009

TIME: 9:30 a.m.

REPORTED BY: RENEE L. STACY, CSR, RPR

A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

RUBEN ARREDONDO

FOR CEDAR POINT MUTUAL WATER COMPANY:

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FOR THE DIVISION OF PUBLIC UTILITIES:

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I N D E X

WITNESS: JACK DAVIS (by phone)

Comments 13

E X H I B I T S

(None)

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March 24, 2009
9:30 a.m.

P R O C E E D I N G S

JUDGE ARREDONDO: Good morning. My name is Ruben Arredondo, and we're here in the matter of the investigation of the rates charged by Cedar Point Mutual Water Company, Docket 09-2404-01. And, actually, this is the hearing on the order to show cause, and I'm the ALJ assigned by the Commission to hear this matter.

We'll take appearances, beginning with the company on the phone.

MR. SANDERS: Yes. This is Roger Sanders, attorney representing Cedar Point Water Company.

MR. DAVIS: And this is Jack Davis, a resident of Apple Valley.

JUDGE ARREDONDO: Okay. Thank you. And then with the Division, please.

MS. SCHMID: Patricia E. Schmid with the Attorney General's Office for the Division of Public Utilities, and with me we have Ron Slusher and Ria Petersen.

JUDGE ARREDONDO: All right. Thank you.
And is there anybody else on the phone

1 besides Mr. Sanders and Mr. Davis? No? Anybody
2 else? No comments. All right.

3 Then we'll begin with Ms. Schmid, if you
4 want to go ahead and proceed.

5 MS. SCHMID: Thank you. The Division
6 received complaints that water rates had been raised
7 without Commission approval. The Division sought
8 information and redress from the company but did not
9 receive a timely response. As a result, the Division
10 filed its petition for an order to show cause.

11 I spoke with the attorney for the water
12 company last week and he had some information to
13 share regarding how and why the rates were changed,
14 and so, although -- I don't know, since --
15 Mr. Saunders, you don't have a -- do you have a
16 witness with you?

17 MR. SANDERS: I do not, no.

18 MS. SCHMID: But perhaps he could
19 explain --

20 JUDGE ARREDONDO: He could proffer it.

21 MS. SCHMID: He could proffer for the court
22 what had happened.

23 JUDGE ARREDONDO: Okay.

24 MR. SANDERS: Okay.

25 JUDGE ARREDONDO: Go ahead, Mr. --

1 MR. SANDERS: The water company has been in
2 the process of trying to negotiate with the town of
3 Apple Valley to take over the water system. Because
4 of the tremendous slowdown in the real estate
5 development and sales in Southern Utah, the
6 anticipated connections to the system have obviously
7 not occurred.

8 The fixed operating costs of the company
9 are greatly in excess of the current monthly charge,
10 and so the town has been looking at acquiring both
11 Cedar Point Water Company and Apple Valley Water
12 Company. They have not moved as quickly as the water
13 company would like, and so, in an effort to try to
14 find additional funding sources to both expand and
15 fund the operation of the water company so that it
16 would be more economically viable, a nonprofit mutual
17 water company was created and application was made to
18 the rural development group of the Department of
19 Agriculture for funding to assist in the process of
20 taking those steps that would make the water company
21 more viable.

22 In that process, it was necessary to do a
23 projected pro forma for the operation of the company,
24 and the \$60 water rate was the rate used in that pro
25 forma analysis in order to be able to justify the

1 funding request, and by mistake that got translated
2 into current rates and the invoices were sent out at
3 the higher rate.

4 When that was discovered, the
5 correspondence that was received from the Commission
6 didn't get to the right people in time for the
7 response because of the transition that's going on
8 with the water company, and after Ms. Schmid and I
9 had talked last week, they are sending out revised
10 billings to all the customers, crediting back any
11 payment of the higher rate and adjusting the current
12 billings to the \$30 approved tariff rate.

13 We also are in the process of filing a rate
14 increase tariff request, and that should be filed
15 either today or tomorrow with the Commission for
16 review of the possible increase in order to be able
17 to maintain the economic operating viability of the
18 company.

19 JUDGE ARREDONDO: Okay. Any response,
20 Ms. Schmid?

21 MS. SCHMID: I just have a few questions.

22 MR. SANDERS: Okay.

23 MS. SCHMID: Could you let us know who are
24 the correct people and their correct addresses for
25 future correspondence, along with telephone numbers,

1 if you have that, please?

2 MR. SANDERS: Chris Edwards is still
3 currently the president of the company, although
4 communication now -- because of the transition that
5 we're making, the company has requested that I be the
6 contact source for the company and all correspondence
7 and communication come through me. My mailing
8 address is 2329 North Prospector Lane, Washington,
9 Utah 84780, and contact phone number would be
10 435-632-9944.

11 MS. SCHMID: And do you have an e-mail?

12 MR. SANDERS: E-mail would be
13 rjsanders@qwest.net.

14 MS. SCHMID: Thank you. There are still
15 some complaints outstanding from water company
16 customers. We need -- the Division requests that
17 those complaints be answered --

18 MR. SANDERS: Okay.

19 MS. SCHMID: -- with the actions taken, and
20 we would --

21 MR. SANDERS: And the party responsible for
22 the billings has prepared -- or is preparing a letter
23 for my review that would go out with those revised
24 invoices, and, you know, I've asked that they take
25 the time to personally contact those that have filed

1 the complaints and review that with them, and then if
2 there are additional questions, then I would follow
3 up with the contact with those that have filed
4 complaints.

5 MS. SCHMID: And per the Division rules,
6 the Division needs to be notified, as well as the
7 customer, of the resolution, so we'd need a copy of
8 that. I think that contacting them individually,
9 personally, is a great idea as well.

10 Can you also have prepared for us an
11 accounting of who was charged, how much they were
12 charged, and then what the remedy was, just sort of a
13 little Excel spreadsheet?

14 MR. SANDERS: Just a summary of the
15 adjustment, what it required?

16 MS. SCHMID: Yes.

17 MR. SANDERS: I'll have our accountant put
18 that together, as well as the billings, and so I'll
19 have that available, along with the resolution of
20 each of the individual complaints. And then the
21 tariff will be filed, as I indicated, sometime this
22 week, hopefully in the next day or two.

23 MS. SCHMID: Perfect. And when do you
24 anticipate that the revised bills will go out and the
25 contacts will be made?

1 MR. SANDERS: They're supposed to have
2 those ready today, so, like I say, within the next
3 day or two.

4 MS. SCHMID: Great.

5 MR. SANDERS: I know that -- I talked to
6 the accountant yesterday and he was in the process of
7 preparing that letter for my review, and they made
8 the adjustments on the billings, and then they were
9 going to take care of the personal contact at that
10 point.

11 MS. SCHMID: Great. So can I have a
12 commitment from the company that that will be done,
13 say, within ten days?

14 MR. SANDERS: Absolutely.

15 MS. SCHMID: Perfect. And then the other
16 thing is -- and I'm sure it was just a
17 miscommunication or a misdirection, but it was not
18 good when the company ignored the Division, so I
19 anticipate, with you being our contact, that we won't
20 have any problem communicating back and forth. That
21 will be the case, won't it?

22 MR. SANDERS: You'll no longer have that
23 problem.

24 MS. SCHMID: That's what I thought.

25 MR. SANDERS: Yeah. There's just been an

1 interim where Chris didn't think he was still
2 involved, because the nonprofit entity had been
3 created and we had a new party involved there, and I
4 wasn't aware that Chris was getting -- or that either
5 Chris or Jerry had received the communication. I
6 didn't get that till after the fact, and since we've
7 received that, we've been moving forward to try to
8 get this taken care of.

9 So, at this point, if all the communication
10 is directed through me, you will be responded to
11 immediately and, hopefully, responsively.

12 MS. SCHMID: I've worked with you in the
13 past and I know that will be the case.

14 With that, if these actions are taken as
15 promised, the Division would request that the fines
16 be stayed, and that's all the Division has.

17 JUDGE ARREDONDO: Okay. Anything else
18 you'd like to add, Mr. Sanders?

19 MR. SANDERS: No. Again, I just appreciate
20 Ms. Schmid's willingness to work with us on this, and
21 she's very responsive as well, once I figured out
22 what was going on, and we will continue to work to
23 get this resolved, and hopefully the ultimate
24 solution to this water company is that it become a
25 municipal system and the town take that over. I know

1 that they're in the process of and have made an offer
2 to acquire Apple Valley Water Company, which is
3 another company currently regulated by the public
4 utilities commission, and they have had numerous
5 meetings with us in terms of acquiring the system,
6 but it just hasn't moved quickly enough, and the
7 company has been operating at such a deficit that
8 continued operation is truly a concern at this point
9 with the current revenue structure.

10 JUDGE ARREDONDO: Okay. Thank you,
11 Mr. Sanders.

12 Mr. Davis, would you like to make any
13 comments?

14 MR. DAVIS: As a resident and a consumer of
15 the water, there's a couple of concerns. In the
16 invoicing --

17 JUDGE ARREDONDO: Mr. Davis, just let me
18 advise you, if you'd like to make comments, you can
19 certainly make those. If you would like the
20 Commission to consider those comments in reaching its
21 decision, then we'll have to put you under oath, and
22 you'll also be subject to cross examination,
23 otherwise you can make comments freely and we won't
24 put you under oath, but just know that those comments
25 can't be considered by the Commission in making its

1 decision. So would you like to testify under oath or
2 just make general comments?

3 MR. DAVIS: Under oath.

4 JUDGE ARREDONDO: Okay.

5 JACK DAVIS

6 called as a witness and sworn, was examined and
7 testified as follows:

8 JUDGE ARREDONDO: All right. Go ahead,
9 Mr. Davis.

10 MR. DAVIS: Two concerns that we have had
11 as residents and consumers of the water supply. One
12 is the meter readings were dropped -- hello?

13 JUDGE ARREDONDO: Go ahead. We hear you.

14 MR. DAVIS: Okay. I'm on a cell phone, so
15 it sounds like I'm being disconnected.

16 The meter readings were dropped from our
17 invoicing and the invoices reflect no ramifications
18 of individual residents -- what statements should be
19 on the invoicing. The other area of concern is I,
20 personally, have made numerous, not only in person,
21 but also in writing to Christopher Edwards in
22 Hurricane in reference to this issue, which started
23 for us in notification in January of this year, '09,
24 so my concern was, we were sitting here being
25 possibly threatened of our water supply being shut

1 down, or, if not being shut down, as I understand
2 they couldn't, the late fees which were not
3 referenced in the invoicing what even the late fees
4 would be.

5 So we residents here in Apple Valley are
6 concerned about the proper billing techniques being
7 utilized by the Cedar Point Mutual Water Company.

8 JUDGE ARREDONDO: Okay. And then can you
9 explain a little bit more what you meant by that
10 first concern?

11 MR. DAVIS: The first concern in contacting
12 Mr. Edwards in Hurricane?

13 JUDGE ARREDONDO: No. The one about the
14 meter readings. Are you just basically saying
15 there's no detail as far as usage? It's just like an
16 amount?

17 MR. DAVIS: Correct. We are supposed to be
18 billed on -- according to the usage consumption of
19 the water, and we were being billed \$30, up to a
20 12,000-gallon usage, and in the invoicing, up until
21 last November, we were reflected, on the invoicing,
22 what usage we were doing. That was dropped, and no
23 usage has been shown on the consumption rate of water
24 on the gallon rate, so we residents have no idea now,
25 since last November, what consumption rate we have

1 been using.

2 JUDGE ARREDONDO: Okay. Would you like to
3 make any comment about that, Ms. Schmid? Anything
4 they should do? File an amended complaint or --

5 MS. SCHMID: Could we have one moment?

6 JUDGE ARREDONDO: Sure.

7 MR. DAVIS: What?

8 JUDGE ARREDONDO: Hold on, Mr. Davis.

9 MR. DAVIS: Okay.

10 (Discussion off the record.)

11 MS. SCHMID: When the application for
12 revised rates is filed, as part of its investigation,
13 the Division will examine the billing practices of
14 the company and make sure that what is done is
15 consistent with the Commission's rules and with the
16 company's tariff, and that should resolve the issues,
17 I believe.

18 JUDGE ARREDONDO: Okay. Great.

19 MR. SANDERS: And the company would agree
20 with that process and make sure that we are in full
21 compliance, if that hasn't been done. Those
22 corrections will be made.

23 JUDGE ARREDONDO: All right. Thank you.
24 Anything else you'd like to add, Mr. Davis?

25 MR. DAVIS: Just a concern to all of us

1 because of -- everybody knows of the economy, what's
2 been transpiring. When -- these notifications will
3 be going out within ten days, as I understand, and
4 then what is the time frame that the company has to
5 file for a rate increase?

6 JUDGE ARREDONDO: We'll discuss that right
7 now. If your comments are completed, we'll get to
8 that in the order.

9 MR. DAVIS: Okay. I'm finished.

10 JUDGE ARREDONDO: Okay. Any questions,
11 Mr. Sanders, for Mr. Davis?

12 MR. SANDERS: No. I believe he raises some
13 legitimate issues that need to be addressed on the
14 part of the company.

15 JUDGE ARREDONDO: Okay. Thank you. Any
16 questions, Ms. Schmid?

17 MS. SCHMID: No. I agree with Mr. Sanders
18 and that the points raised were well taken.

19 JUDGE ARREDONDO: Okay. And so, if there's
20 nothing else, my understanding of what's going to
21 happen today as a result of this order to show cause
22 is that the Commission will stay any fines and other
23 remedies, punitive remedies, pending the outcome of
24 these other orders. My understanding is that the
25 company will send out a revised billing, crediting

1 any overpayments and resume billing approved rates
2 for water usage, and we'll give the company -- was it
3 ten days? They'll do that within ten days. No later
4 than ten days from today's hearing.

5 By the end of business this Friday, the
6 company will file a rate increase. Now, even though
7 our office is closed Friday, you should still file
8 that electronically, and you can send that via e-mail
9 to mlivingston@utah.gov.

10 MR. SANDERS: Okay.

11 JUDGE ARREDONDO: And my understanding is
12 that Mr. Sanders will serve as the agent for the
13 company and that all communication, the DPU, the
14 Commission, will send that to Mr. Sanders, and
15 Mr. Sanders should withdraw as counsel for the
16 company. Then you'll advise us as soon as possible
17 so that we can start sending out notice or letters,
18 communication to other corporate officers.

19 Also, the outstanding complaints will be
20 answered. You'll provide answers and responses to
21 those complaints, the company will, and cc the
22 Division on those responses and also the Commission,
23 and, also, you'll provide an accounting for the
24 customers of who was charged what amounts, how much
25 they were charged, and if there were any disputes or

1 billing -- over billing, the company will describe
2 how that was remedied, and that can be done basically
3 in an Excel spreadsheet.

4 Anything else I'm missing?

5 MS. SCHMID: That sounds complete.

6 JUDGE ARREDONDO: Okay. Anything else,
7 Mr. Sanders?

8 MR. SANDERS: No. I think we've got a
9 clear path to get this taken care of, and we'll try
10 to have all of that -- definitely within the ten
11 days, but try to have it all to you before the end of
12 the week here.

13 JUDGE ARREDONDO: All right, then. Thank
14 you, Mr. Sanders. Then I'll make this -- recommend
15 this order to the Commission and we'll have an order
16 out shortly. Thank you.

17 MR. SANDERS: Okay. Thank you very much.

18 MS. SCHMID: Thank you.

19 MR. SANDERS: Appreciate it. Bye.

20 (Whereupon the taking of the hearing was
21 concluded at 9:51 a.m.)

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STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public for the State of Utah, certify:

That the foregoing transcript, consisting of Pages 1 to 18, was stenographically reported by me at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form, and that the foregoing is a true and correct transcript of those proceedings.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal this 26th day of March, 2009.

RENEE L. STACY, CSR, RPR
Notary Public in and for the
County of Salt Lake, State of Utah

My Commission Expires:

November 9, 2011

