

PATRICIA E. SCHMID (#4908)
Assistant Attorney General
Counsel for the DIVISION OF PUBLIC UTILITIES
MARK L. SHURTLEFF (#4666)
Attorney General of Utah
160 E 300 S, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857
Telephone (801) 366-0380

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation of the Water	:	Docket No. <u>10-2423-02</u>
System Operations of Cedar Ridge Distribution	:	Petition for an Order
Company for Certification as a Public	:	to Show Cause
Utility or Exemption as a Mutual Culinary	:	
Water Company	:	

PETITION FOR AN ORDER TO SHOW CAUSE

Pursuant to Commission Rule R746-100-3, the Division of Public Utilities (Division) hereby submits its petition for an Order to Show Cause against Cedar Ridge Distribution Company (Company or Cedar Ridge), and its officer, David Z. Thompson. The Division petitions the Utah Public Service Commission (“Commission”), pursuant to Utah Code Ann. § 54-4a-1, to open a docket for the purpose of requiring the Company: (1) To explain why the Company has been operating a culinary water system as a public utility without a certificate of convenience and necessity; (2) 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

(3) show cause why Mr. Thompson should not be found guilty of a Class A misdemeanor as 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 (DDW) that indicated that the Company operated Water System Number 05051 in Box Elder County. The listing indicated that the system was approved on March 7, 2003 for a maximum of 50 culinary water connections.
2. A DDW listing of all water systems dated September 11, 2002 listed Mr. Thompson as the manager of the system and the contact address as 12435 North Hillcrest, Deweyville, UT 84309. The listing indicated that the system had 23 active connections at that time.
3. On September 1, 2003, the Division sent a letter to the Company requesting information necessary 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 (See Attachment # 1).
4. On October 1, 2003, the Division sent a second letter to the Company requesting completion of the survey form to facilitate a Division review 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 (See Attachment # 2).
5. On November 3, 2003, the Division of Public Utilities sent a third letter to the Company requesting completion of the survey form designed to 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

indicated that failure to respond would result in the Division referring the matter to the Attorney General's office for more formal action (See Attachment # 3).

6. On December 8, 2003, the Assistant Attorney General representing the Division sent the Company a certified letter 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," as well as providing another copy of the survey form (See Attachment # 4). The letter informed the Company representatives that if the requested information was not filed with the Division on or before January 16, 2004, the Division would without further notice petition the Commission for an Order to Show Cause why the Company and its officers should not be fined for violations of specific Utah Statutes.
7. The U.S. Postal Service certified mail return receipt documented that the letter was delivered to 12435 North Hillcrest, Deweyville, UT 84309, on December 10, 2003 and the return receipt signed for by Jennifer Ashton (See Attachment # 5).
8. The Division filed an Order to Show Cause on February 20, 2004. (See Attachment # 6).
9. The Division received an application for a Letter of Exemption on May 21, 2004. (See Attachment #7).
10. On February 11, 2005 the Division sent a letter requesting the Company modify the Article of Incorporation as well as the by-laws to comply with the requirements for the Letter of Exemption. The letter stated that if the amended documents were not received the Company would need to apply for a Certificate of Public Convenience and Necessity. (See Attachment #8).

11. On August 23, 2010, a customer of the Company inquired as to the status of the Company and whether it had received a Letter of Exemption or a Certificate of Public Convenience and Necessity. The Company had not been issued either since the requested documentation had not been submitted by the Company.
12. On August 30, 2010 the Division talked with Mr. Thompson by phone at his place of business to determine if he was willing to complete the necessary paperwork for a Certificate of Public Convenience and Necessity. He agreed to complete and submit an application to the Commission. An e-mail with the attached application, instructions and tariff template were sent to Mr. Thompson. (See Attachment #9).
13. On October 3, 2010 a formal complaint was filed by ten (10) customers of the Company (refer to Docket 10-2423-01). The Division recommended that the complaint be suspended pending this petition to the Public Service Commission for an order to show cause against Cedar Ridge. (See Attachment #10).
14. On December 1, 2010 the Utah Division of Corporation's records show that Mr. Thompson is the registered agent for the Company and that the address to which the Division's requests for information were mailed is the address on file for the Company with that agency. (See Attachment # 11).
15. Pursuant to Utah Code Ann. § 54-4-1, the Commission is empowered to supervise and regulate public utilities providing service within Utah. Under Utah Code Ann. § 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."

16. Utah Code Ann. § 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.”

17. 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.”

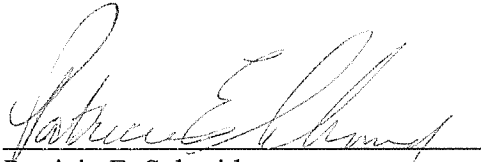
Pursuant to Utah Code Ann. § 54-7-25, any public utility that fails to comply with the statute or any rule or order issued by the Commission is subject to a penalty of not less than \$500 nor more than \$2,000 for each offense. The statute also states that in circumstances where violations are of a continuing nature, each day’s continuance of the violation shall be a separate and distinct offense.

18. Pursuant to Utah Code Ann. § 54-7-26, 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 Company and its officer, Mr. Thompson, 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 should find Mr. Thompson guilty of a Class A misdemeanor.

Dated this 9th day of December, 2010.

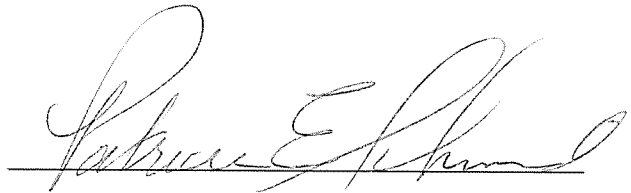


Patricia E. Schmid
Assistant Attorney General
Pschmid@utah.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Petition for an Order to Show Cause in the Matter of the Investigation of the Water System Operation of Cedar Ridge Distribution Company for Certification as a Public Utility or Exemption as a Mutual Culinary Water Company was sent by U. S. Postal Service certified mail on the 9th day of December, 2010 to the following:

DAVID Z THOMPSON
CEDAR RIDGE DISTRIBUTION COMPANY
12435 NORTH HILLCREST
DEWEYVILLE UT 84309

A handwritten signature in cursive script, appearing to read "Robert E. Johnson", written over a horizontal line.

