

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of: The Investigation ) Docket No.  
of the Water System Operations of ) 10-2423-02  
Cedar Ridge Distribution Company for )  
Certification as a Public Utility or ) Administrative  
Exemption as a Mutual Culinary Water ) Law Judge:  
Company ) Ruben Arredondo

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TRANSCRIPT OF HEARING PROCEEDINGS

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TAKEN AT: Public Service Commission  
160 East 300 South  
Salt Lake City, Utah

DATE: March 22, 2011

TIME: 2:01 p.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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APPEARANCES

For Cedar Ridge:

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1 MARCH 22, 2011 2:01 P.M.

2 P R O C E E D I N G S

3 THE COURT: We're here In the Matter of: The  
4 Investigation of the Water System Operations of Cedar  
5 Ridge Distribution Company for Certification as a  
6 Public Utility or Exemption as a Mutual Culinary Water  
7 Company, Docket No. 10-2423-02.

8 And with that, let's start with appearances.  
9 Beginning with the Division, please.

10 MR. TONKS: Sure. Paul Tonks, from the  
11 Attorney General's Office, on behalf of the Division.

12 THE COURT: Thank you.

13 MR. LOMBARD: Ed Lombard, paralegal with the  
14 Attorney General's Office, on behalf of the Division.

15 THE COURT: Thank you. And then your witness  
16 is Shauna Benvegna-Springer?

17 MR. TONKS: Correct.

18 SPEAKER FROM THE AUDIENCE: We can't really  
19 hear.

20 MR. TONKS: Yeah. I don't think any of the  
21 microphones are on, it looks like.

22 THE COURT: Let's take a recess real quick.

23 (A recess was taken from 2:01 to 2:03.)

24 SPEAKER ON THE PHONE: Good afternoon. I'm  
25 calling in to the Cedar Ridge Water Distribution

1 Company hearing?

2 THE COURT: Okay, yeah.

3 All right, you know what? You're just gonna  
4 have to speak up, because it looks like there's a  
5 problem. They just keep going off.

6 Okay. And then with the Company, please.

7 MR. KAPALOSKI: Yes, your Honor. Lee  
8 Kapaloski and Elizabeth Schulte, Parsons, Behle &  
9 Latimer, on behalf of Cedar Ridge Distribution  
10 Company.

11 THE COURT: Thank you.

12 All right. Then this is the Division's  
13 motion for order to show cause. We'll begin with the  
14 Division, please.

15 MR. TONKS: Yes, your Honor. I just briefly  
16 want to describe some of the facts in this case, for  
17 the benefit especially of the people that are here.  
18 In 2003 the Department of Public Utilities received an  
19 annual list from the Division of Drinking Water.

20 At that time Cedar Ridge Distributing Company  
21 was discovered to not have applied to be a certified  
22 public utility and obtain a Certificate of Convenience  
23 and Necessity, as required by statute and rules, or  
24 for an exemption as a private or mutual culinary water  
25 company.

1 Cedar Ridge was sent several letters. Matter  
2 of fact, there were three letters initially sent. The  
3 first was dated September 1, 2003. Second, October 1,  
4 2003. The third on November 3, 2003. A copy has been  
5 provided also of those letters.

6 The information that was requested was not  
7 returned back to the Department, so the Attorney  
8 General's Office finally sent a notice of agency  
9 action against Cedar Ridge. And we did that by  
10 certified letter, and it was delivered on December 10,  
11 2003.

12 No response was still received, so we  
13 basically filed an initial agency action and order to  
14 show cause. And this hearing was dismissed, though,  
15 in February 2004, after Cedar Ridge agreed to fill out  
16 an application for the permit.

17 However, when they filled out the  
18 application, it was incomplete. We received several  
19 complaints from individuals regarding Cedar Ridge.  
20 And a new notice of agency action and order to show  
21 cause was filed by counsel for the Department of  
22 Public Utilities, by Patricia Schmid.

23 In a phone conversation we held yesterday  
24 with counsel to try to resolve matters as best as we  
25 can Cedar Ridge has agreed to submit to the

1 jurisdiction of the Department. Which will allow the  
2 Department an opportunity to be able to oversee, make  
3 sure that everything is done correct, according to  
4 what our regulations are.

5 And they also agree that they will file a  
6 completed application within 15 days from today.

7 THE COURT: Okay.

8 MR. TONKS: Given how long this matter has  
9 gone, we are going to be asking that we go ahead and  
10 have Cedar Ridge file that application within 15 days.  
11 But then we will be seeking for fines if that  
12 application is not completed in the amount of time.

13 Counsel for Cedar Ridge would like to be able  
14 to put on the record the owner of Cedar Ridge, to have  
15 him to be able to testify to certain aspects of the  
16 ownership of Cedar Ridge and their willingness to  
17 follow through with this agreement that we have to  
18 have jurisdiction by the Department, but also to have  
19 this application filled out within 15 days so that we  
20 have proper oversight by the State.

21 THE COURT: Okay.

22 MR. TONKS: Jurisdiction of the Commission,  
23 I'm sorry.

24 THE COURT: All right then. Is that correct,  
25 Mr. Kapaloski?

1 MR. KAPALOSKI: Yes, your Honor. Let me just  
2 make a comment.

3 THE COURT: Uh-huh.

4 MR. KAPALOSKI: And I appreciate all of the  
5 people behind me who want to have input and -- whoops.  
6 Who want to have input into this process.

7 And the agreement of the Company, which I  
8 think I would like to have the president state under  
9 oath --

10 THE COURT: Uh-huh.

11 MR. KAPALOSKI: -- is to proceed with  
12 accepting jurisdiction of the Public Service  
13 Commission --

14 THE COURT: Uh-huh.

15 MR. KAPALOSKI: -- as a regulated utility.  
16 Filing its application within 15 days. And within  
17 which there will be input, obviously, from the  
18 customers, and discussion about the tariff and the  
19 accounting related to the Company.

20 But I, I wanted to actually request that I  
21 have Mr. Thompson sworn --

22 THE COURT: Okay.

23 MR. KAPALOSKI: -- and state to that effect.

24 THE COURT: Okay.

25 MR. KAPALOSKI: And if I may --

1 THE COURT: Sure.

2 MR. KAPALOSKI: -- proceed with that.

3 THE COURT: Sure.

4 Mr. Thompson, if you could raise your right  
5 hand for me, please?

6 (Mr. Thompson was sworn.)

7 THE COURT: All right, thank you.

8 Go ahead, Mr. Kapaloski.

9 DAVID Z. THOMPSON,

10 called as a witness, having been duly sworn,  
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. KAPALOSKI:

14 Q. Mr. Thompson, would you state your position  
15 with the Cedar Ridge Distribution Company?

16 A. I am the president of the water company.

17 Q. And as president of the Company you  
18 understand what is being proposed here today at this  
19 hearing: That you are accepting, as a company, the  
20 jurisdiction of the Public Service Commission?

21 A. Yes.

22 Q. And you also understand that the proposal  
23 from the Division of Public Utilities through counsel  
24 is that you prepare and make available to the Division  
25 an application in full, with accounting, to be

1 prepared and submitted within 15 days?

2 A. Yes.

3 Q. And you affirm that that is your position?

4 A. That's my position. I'm sorry.

5 Q. Thank you.

6 A. Yes.

7 THE COURT: All right. Thank you,

8 Mr. Thompson.

9 Any questions for Mr. Thompson?

10 MR. TONKS: We do have just a couple of  
11 questions.

12 THE COURT: Okay.

13 MR. TONKS: We want to be able to hand over  
14 to them an application for certificate of public  
15 convenience and necessity, and be able to do that here  
16 on the record.

17 THE COURT: Okay. So the record will note  
18 Mr. Thompson received a copy of that application.

19 MR. KAPALOSKI: So received.

20 THE COURT: Okay.

21 MR. TONKS: We do have some information that  
22 we would also like to put on the record.

23 THE COURT: Okay. Is that from your witness?

24 MR. TONKS: Yes. And we do have a witness  
25 from the Department.

1 THE COURT: Okay. Ms. Benvegna-Springer, if  
2 you could raise your right hand for me, please?

3 (Ms. Benvegna-Springer was sworn.)

4 THE COURT: Thank you.

5 MS. BENVEGNA-SPRINGER: The packet of the  
6 application for certificate of public convenience and  
7 necessity includes instructions, a checklist of  
8 documents that need to also be attached to the  
9 application, and a sample of the tariff document that  
10 should also be completed.

11 I just wanted to go through the checklist  
12 quickly to make sure that they understand what needs  
13 to be completed so that it is completed properly, it  
14 is completed completely. And that we can expedite  
15 this process for them.

16 Number 1, the application that is there  
17 begins on page 1 of the packet. It's, I believe, a  
18 four-page document that needs to be completed and  
19 notarized.

20 Number 2 is documentation that identifies the  
21 source of the water that is being used for the water  
22 distribution system. This needs to be either a  
23 document such as a contractor agreement, where they're  
24 receiving water from the supplier, or proof of water  
25 rights that they have in order to divert the water

1 that's necessary for their system.

2 Number 3 would be a service area map,  
3 preferably the size of about 8 1/2-by-11 showing all  
4 the locations of the water, landmarks if possible, and  
5 the platted subdivision of where the water is being  
6 distributed.

7 Number 4 is financial information, to include  
8 a balance sheet. The balance sheet should include all  
9 the assets, with a depreciation schedule. Itemized  
10 liabilities, both long and short term. A list of  
11 shareholders or stockholders who own equity in the  
12 company, with the portion of their shares or  
13 percentage of ownership and their contact information.

14 It should also include commonly known as the  
15 "income statement," which would provide some  
16 historical operating information with regard to their  
17 expenses. And a copy of their general ledger for the  
18 past calendar or fiscal year, whichever they use. To  
19 include revenue, expenses, liabilities, assets, and  
20 all the related transactions for that.

21 Item No. 5 would be a tariff. I've included  
22 a sample of the tariff. We have this in electronic  
23 form that I'd be willing to share with them and give  
24 to them so they can just basically fill in the blanks.  
25 And that would help ease that process for them also.

1 THE COURT: Okay.

2 MS. BENVEGNO-SPRINGER: Number 6 is a copy of  
3 their plan of the water system. I've been in  
4 conversation with the Division of Drinking Water.  
5 They do have an approved plan -- water system --  
6 through them. So what information that they have  
7 provided to the Division of Drinking Water will  
8 suffice as far as filling that requirement.

9 Again, that should include engineering  
10 drawings, diagrams, models, anything that explains the  
11 system and shows how the system operates.

12 And last would be a check for \$100 payable to  
13 the Public Service Commission of Utah.

14 As we go -- once we get this information, if  
15 there is other information that we need then we will  
16 be in contact with them in order to answer questions,  
17 get clarification, whatever else might be necessary.

18 THE COURT: All right. Anything else you  
19 want to add, Ms. Benvegno-Springer?

20 MS. BENVEGNO-SPRINGER: That's all.

21 THE COURT: Okay.

22 MR. LOMBARD: Just one clarification for the  
23 record, if we may?

24 THE COURT: Uh-huh.

25 MR. LOMBARD: Is this the standard and

1 customary application that is given to all water  
2 companies seeking an application for a Certificate of  
3 Public Convenience and Necessity?

4 MS. BENVEGNO-SPRINGER: Yes. This is an  
5 updated application that we've done in the last  
6 several days, where we've clarified it a little bit  
7 further. But it's the same exact information that  
8 everybody does -- is required to provide.

9 MR. LOMBARD: Thank you.

10 THE COURT: Okay. Then let me make sure I  
11 understand. So Mr. Thompson, the Company is gonna get  
12 a completed application in by April -- about  
13 April 7th. April -- I'll make the date April 7th.

14 Then will you review -- do you want some time  
15 to review the application and contact him to  
16 supplement it if he's leaving out anything?

17 MS. BENVEGNO-SPRINGER: That would be great.

18 THE COURT: Okay. Then let's do this. Let's  
19 make the deadline to file a completed application by  
20 April 7th.

21 The Division will have until Thursday,  
22 April 14th, to -- actually between the 7th and the  
23 14th to contact the Company and let him know if  
24 anything is missing from that application.

25 Then by April 21st the Company will have

1 submitted a complete application with any missing  
2 documents, any information supplemented provided to  
3 the Division. And then it should be filed on the 21st  
4 with the Commission. All right.

5 MR. KAPALOSKI: We understand.

6 THE COURT: Okay, great. So with those three  
7 dates in place, after the 21st the Commission will  
8 proceed with the application, with the docket to  
9 essentially approve the application. And then from  
10 that point we'll have a scheduling conference sometime  
11 after that.

12 Now, just to speak to the members of the  
13 public that are in the audience. I understand a lot  
14 of you have petitioned to intervene. A lot of you  
15 have various interests related to several aspects of  
16 the way the water Company is run.

17 Today you won't be allowed to speak to your  
18 concerns. However, as we have the scheduling  
19 conference and as time is scheduled you'll have an  
20 opportunity at some point to, one, you can make  
21 written comments. You can fax those comments in. In  
22 fact, you can do them starting today. You just have  
23 to make reference to the Docket number.

24 And if -- do you mind if they just ask you  
25 for that Docket number?

1 MS. BENVEGNU-SPRINGER: That's fine.

2 THE COURT: After we conclude you can ask  
3 Ms. Benvegna-Springer for that Docket number. And you  
4 can write those concerns. You can email them to us,  
5 you can fax them to us, you can mail them in.

6 And then at some point you'll receive notice  
7 of a, what we typically call "public witness hearing."  
8 And at that point you can come in and make comments,  
9 concerns, raise concerns.

10 We'll have a time period where -- a deadline  
11 will be set where the Division will make  
12 recommendations. And you can view those  
13 recommendations, you can opine on those  
14 recommendations.

15 And then it'll be kind of like a court  
16 hearing, where -- so you'll have time to see what's  
17 going on, and you'll have time to have your input  
18 made.

19 I don't want to get into technicalities here,  
20 but there's some things that we -- we're not like a  
21 court, so there's some concerns that you have that we  
22 won't be able to address. There's many concerns that  
23 we will be able to address. And we'd be happy to do  
24 those and take your input.

25 But just so you know that that's the

1 distinction between us and a court of -- a District  
2 Court, for example.

3 All right. Anything else that we need to  
4 discuss?

5 MR. TONKS: No, your Honor.

6 MR. KAPALOSKI: No, your Honor.

7 THE COURT: Okay. So just so you under --  
8 it's clear, then. Mr. Kapaloski, your client then  
9 will file with the Division an application by the  
10 April -- by the 7th of April.

11 By April 14th the Division will respond with  
12 any missing items, any missing documents.

13 And then he has until the 21st to supplement  
14 that application with any missing items, missing  
15 information, and also to file it with the Commission  
16 on the 21st.

17 And Mr. Thompson, you need to understand that  
18 if any of your deadlines are missed and if you don't  
19 have permission from the Commission to miss them,  
20 you'll face fines. Do you understand that? Including  
21 possibly facing misdemeanor charges. Do you  
22 understand that, Mr. Thompson?

23 MR. THOMPSON: Yes.

24 THE COURT: Okay, thank you.

25 Anything else that we need to address today?

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MR. TONKS: No, your Honor.

THE COURT: Okay.

MR. KAPALOSKI: No, your Honor.

THE COURT: Thank you very much.

(The hearing was concluded at 2:17 p.m.)

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C E R T I F I C A T E

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

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 17, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

SIGNED ON THIS 30th DAY OF March, 2011.

Kelly L. Wilburn, CSR, RPR  
Utah CSR No. 109582-7801

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