

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
Bumblebee Water System, Inc. for a) DOCKET NO. 13-2567-01
Certificate of Convenience and Necessity to) REPORT AND ORDER
Operate as a Public Utility Rendering)
Culinary Water Service, or for an Exemption) CERTIFICATE NO. 2567
from Public Service Commission Regulation)
)
In the Matter of Proposed Tariff No. 2 for) DOCKET NO. 13-2567-T01
Water Service)
) NOTICE OF SCHEDULING
) CONFERENCE
)

ISSUED: January 2, 2014

This matter is before the Commission on the application of Bumblebee Water System, Inc. (“Bumblebee” or “Company”) for a certificate of public convenience and necessity (“CPCN”) to operate as a public utility rendering culinary water service. Bumblebee filed its application on September 9, 2013, and on November 13, 2013, filed a supplement to its application.¹ On September 9, 2013, the Commission issued a notice of filing and comment period, setting October 9, 2013, as the deadline for comments and October 24, 2013, as the deadline for reply comments.² After reviewing the application,³ and in response to a Commission action request, the Division of Public Utilities (“Division”) filed a recommendation for Commission approval of a CPCN to Bumblebee for a maximum of 58 residential connections.⁴

The Division also recommended that approval be contingent upon modification of the

¹ See Application, filed September 9, 2013. See also Updated Exhibits and Responses to Division of Public Utilities’ Information Requests, filed November 13, 2013.

² See Notice of Filing and Comment Period, issued September 9, 2013. No comments were received other than those filed by the Division of Public Utilities.

³ The Division initially filed a recommendation to deny the application based on incomplete information submitted by Bumblebee. See Division Memorandum, filed November 7, 2013.

⁴ See Division Memorandum, filed November 15, 2013. This recommendation amends and replaces the Division’s memorandum filed November 7, 2013, recommending the Commission deny the application for failure to file a complete application. See Transcript of Hearing, December 3, 2013, at 20, lines 11-17.

Company's bylaws clarified further below.⁵ According to the Division, Bumblebee was incorporated in the state of Utah as a non-profit company on July 31, 2012.⁶ The Company's principal place of business is located in Saint George, Utah.⁷ Articles of Incorporation were originally filed under the name of Hunter Ridge Mutual Water Company and, in July 2013, were amended to the new corporate name, Bumblebee.⁸ The Company is currently "Active" and in "Good Standing" with the Utah Division of Corporations.⁹

The Division reports that Bumblebee is a start-up water company and, as such, does not have any supporting documentation to verify the company's monetary stability.¹⁰ Accordingly, Company ownership is being transferred to the developer, Iron Dirt, LLC, until fifty percent of the lots are sold and, at that time, the Company will be turned over to the homeowners association.¹¹ Iron Dirt, LLC has provided the Division with a balance sheet that shows sufficient funds to support Bumblebee's operations.¹²

The Division also notes Bumblebee submitted a proposed tariff under Docket No. 13-2567-T01, in connection with this docket.¹³

The Division further reports the Company appears to have sufficient water rights for its need to serve 58 residential connections, and its system meets the requirements of the New

⁵ See Division Memorandum, filed November 15, 2013.

⁶ See *id.* at 1.

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

¹⁰ See *id.* at 2.

¹¹ See *id.*

¹² See *id.*

¹³ See *id.* On December 9, 2013, the Division filed a request in Docket No. 13-2567-T01 for an extension of time to review the Company's responses to the Division's data request in order to clarify operational and financial information of the Company's tariff, rates and fees. See Division Memorandum, filed December 9, 2013 (Docket No. 13-2567-T01). The Commission granted the Division's request.

Community and New Non-transient Non-community Water System.¹⁴ The Company has submitted documents attested to be accurate, objective and with integrity by Bumblebee's president, Dillon Jensen.¹⁵

On December 3, 2013, the Commission held a hearing.¹⁶ Brent Blanchard appeared by telephone on behalf of the Company, and also as witness as Bumblebee's secretary. Patricia Schmid appeared on behalf of the Division and was accompanied by Mark Long, witness for the Division.

Mr. Blanchard testified that Bumblebee is a nonprofit corporation and the Department of Environmental Quality has approved its water system.¹⁷ Bumblebee seeks a CPCN to serve 58 residential lots in the Sunset Subdivision located west of Cedar City in Iron County.¹⁸ Mr. Blanchard testified that granting Bumblebee a CPCN is in the public interest,¹⁹ stating: "it would definitely be in the public interest for Bumblebee . . . to operate as a public utility, be appropriately regulated, and provide quality drinking water for the new residents moving into the [Sunset] [S]ubdivision."²⁰

¹⁴ See Division Memorandum, filed November 15, 2013, at 2.

¹⁵ See *id.*

¹⁶ See Notice of Hearing, issued November 22, 2013.

¹⁷ See Transcript of Hearing, December 3, 2013, at 5, ¶¶ 18-19, 21-23. See also Application, filed September 9, 2013, Exhibit 5 at 1, 3 (Letter from Nagendra Dev, P.E., Environmental Engineer, Department of Environmental Quality, to George R. Mason, Bumblebee Water System (Aug. 22, 2013) (stating, the DEQ "believes the proposed drinking water system represents a satisfactory allocation of resources to meet the area's culinary water needs" and "also believes that through implementing the submitted Capacity Assessment Plan and following [the DEQ] recommendations, that Bumblebee will acquire and maintain adequate technical, managerial, and financial capacity to comply with SDWA and the national public drinking water regulations."))

¹⁸ See Transcript of Hearing, December 3, 2013, at 10, ¶ 9. See also 21, ¶¶ 22-25; 22, ¶¶ 1-3. According to Mr. Blanchard, one house has been built but has not sold, and another is under construction. See *id.* at 10, ¶¶ 10-14. No culinary water service is being provided at this time. See *id.* at 11, ¶¶ 8-14. See also Application, filed September 9, 2013, Exhibit 12 (Letter from Brent A. Blanchard, Secretary, Bumblebee Water System, Inc., to Public Service Commission (Aug. 28, 2013) (referring to subdivision name and location)).

¹⁹ See Transcript of Hearing, December 3, 2013, at 13, ¶¶ 7-12. See also 22; ¶¶ 24-25.

²⁰ *Id.* at 13, ¶¶ 18-22.

At hearing, the Division testified that it recommends approval of the application, and that doing so is in the public interest.²¹ The Division further clarified its recommendation is contingent upon Bumblebee removing “all of [Article VII,] Section 7, or Section 7.1 through 7.12” of its bylaws.²² Mr. Blanchard testified that Bumblebee does not object to removing Section 7 from its bylaws,²³ and he also acknowledged that doing so is in the public interest.²⁴ Mr. Blanchard further acknowledged that the tariff issues will be addressed separately in Docket No. 13-2567-T01.²⁵

ORDER

For the reasons outlined above, and for other good cause appearing, the Commission orders the following:

1. The Application is approved and the Company is granted Certificate No. 2567;
2. The Company is authorized to serve 58 connections at this time;
3. The Company is instructed to amend its bylaws to remove Article VII, Section 7 and to provide the Division with a copy of the amendment;
4. As of the date of this order, the Company’s tariff filed in Docket No. 13-2567-T01 is suspended until the Commission issues a final order after a hearing is held.

²¹ See *id.* at 18, ¶¶ 23-25. See also *id.* at 22; ¶¶ 19-22.

²² *Id.* at 17, ¶¶ 7-12. This is as opposed to only Sections 7.1 through 7.4 referred to in the Division’s initial recommendation. As noted in the Division’s November 15, 2013, recommendation, these provisions must be eliminated because they address assessing customers, which cannot be done without Commission approval. See Division Memorandum, filed November 15, 2013, at 2.

²³ See Transcript of Hearing, December 3, 2013, at 21, ¶¶ 13-17.

²⁴ See *id.* at 22, ¶¶ 24-25.

²⁵ See *id.* ¶¶ 4-10.

DOCKET NOS. 13-2567-01 and 13-2567-T01

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NOTICE OF SCHEDULING CONFERENCE IN DOCKET NO. 13-2567-T01

The Commission will hold a scheduling conference on **Tuesday, January 28, 2014, at 9:00 a.m. in the Fourth Floor Room 401**, Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah. Parties should come prepared to discuss a schedule for the case, including the hearing date, filing dates for testimony or prehearing motions, and a cut-off for intervention of interested parties.

Individuals wishing to participate by telephone should contact the Public Service Commission two days in advance at (801) 530-6716 or (toll free) 1-866-PSC-UTAH (1-866-772-8824). Participants attending by telephone should then call the Public Service Commission at one of the numbers posted above five minutes before the conference to ensure participation.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the conference should notify the Commission, at 160 East 300 South, Salt Lake City, Utah, 84111, (801) 530-6716, at least three working days prior to the conference.

DATED at Salt Lake City, Utah, this 2nd day of January, 2014.

/s/ Melanie A. Reif
Administrative Law Judge

DOCKET NOS. 13-2567-01 and 13-2567-T01

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Approved and confirmed this 2nd day of January, 2014, as the Report and Order of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#249626

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 2nd day of January, 2014, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Bumblebee Water Systems, Inc.
352 East Riverside Drive, Ste. A3
Saint George, UT 84790

By Electronic Mail:

Brent A. Blanchard (blanchardlaw1@gmail.com), (blanchardlaw1@yahoo.com)
Blanchard Legal Solutions, PC
Counsel for Bumblebee Water System, Inc.

Patricia Schmid (pschmid@utah.gov)
Justin Jetter (jjetter@utah.gov)
Assistant Utah Attorneys General

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84111

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

Administrative Assistant