

IURC News Release

Indiana Utility Regulatory Commission

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IURC ORDERS CHANGES AT BOONE COUNTY UTILITIES

Today, in Cause Nos. 42131 and 42093, the Commissioners find that Boone County Utilities (BCU) has abused its position as a monopoly provider of sewer and water services, and orders that the company make fundamental changes in its business practices.

Cause No. 42093 was filed by Boone County Utilities, appealing a decision against the company by the IURC's Consumer Affairs Division. That case dealt with the contribution fees charged to some prospective customers. The decision of the IURC's Consumer Affairs Division is upheld in this order.

Cause No. 42131, was filed by the Boone County Commissioners, and asked the Commission to revoke BCU's certificate of territorial authority. However, they did not present a plan to run and operate the utility, and the IURC does not believe they are currently in a position to do so. Therefore, BCU will remain authorized to continue operations, under the strict guidelines and scrutiny of the IURC. Should BCU fail to fully follow the Commission's findings and orders, receivership remains an option.

The Commission heard hours of testimony from all parties, and held a public hearing in Zionsville as it gathered the information to make its decision in this very complex case. The specific findings of the Commission are listed on the next page.

This investigation will remain open, and in 90 days the IURC will review BCU's compliance with the Commission's directives.

Boone County Utilities was formed in 1996. It is wholly-owned by Newland Resources, LLC, which is owned by four entities: EcoHoldings, LLC; EcoSource LLC; Greenleaf, LLC; and White River Venture Partners. BCU provides water or sewer services to approximately 500 customers in Boone County, Indiana.

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Findings:	BCU is ordered to:
<p>BCU has used deficient management and engineering practices.</p>	<p>Submit a detailed description of the duties and responsibilities of each of its employees; report all services performed by outside contractors</p> <p>Reduce the salary of Manager James Harmon to the figure presented in the original certification and initial rate cases.</p> <p>Develop a master plan for its system</p> <p>Eliminate the position of John Michael Kenzil, and will not allow Kenzil to participate in the management of BCU.</p> <p>File all of its affiliated agreements of every type and form with the Commission in 30-days.</p>
<p>BCU has used sloppy and manipulative accounting practices, and has a relationship with its parent company that makes it impossible to track the cash flow. It has also failed to make investments it made a commitment to do in its original petition with the Commission.</p>	<p>Cease payments in any form by or through BCU to Newland, and sever all connections with Newland within 30-days, and notify the Commission.</p> <p>Make accounting practices comply with generally acceptable accounting standards.</p> <p>Establish a line of credit of it's own with a reputable bank.</p>
<p>BCU has used "special contracts" to procure exorbitant concessions from developers</p>	<p>Remove language from contracts, which authorizes BCU to change any fee at its sole discretion.</p> <p>Remove language from contracts that requires prospective customers to pay for the over sizing of facilities.</p> <p>Refund fees collected from Valenti-Held and Crystal Flash.</p> <p>To use the Commission's main extension rules for water and sewer.</p>
<p>BCU has collected contribution and other fees that were not approved by the Commission or included in its tariff.</p>	<p>A sub-docket is opened for BCU to petition the Commission for the approval of any charges, including contribution fees it may collect.</p> <p>File a tariff with the Commission, subject to refund, which formalizes the Contribution Fee of \$2,950 per EDU when connected to BCU's Sewer system, and \$500 EDU when connected to BCU's Water system.</p> <p>Establish a separate dedicated account for all Contribution fees.</p>
<p>BCU refused to provide service to developers adjacent to its service territory. The company has also failed to extend service to properties with failing septic systems.</p>	<p>Can't require prospective customers to receive both water and sewer service from BCU.</p> <p>Submit a report, within 30 days, of any requests from property owners, local authorities, or any legitimate party who wants service extended to areas contiguous or adjacent to its current CTA.</p> <p>Explain to the Commission why the addition of the Wrecks Property and the 20 acres of the proposed Eagle Nest Development is NOT in the best interest of the public or the utility.</p>