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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Dammeron
Valley Water Works, LLC for Approval of
General Rate Increase and Expansion of
Service Area

DOCKET NO. 15-2025-01
PETITION TO INTERVENE

Pursuant to Utah Administrative Code § R746-100-7 (2015) and Utah Code Ann. § 63-46b-9 (2014), Barbara G. Hjelle files this motion to intervene in the above-captioned matter and in support of this motion states:

1. This petition to intervene should be granted at this time because notice of this matter was not timely nor did it provide adequate substantive content. Furthermore, this petition raises issues of applicable state law pertaining to the use and charges for the use of state water rights that deserve serious consideration.
2. I own Lot 34 of the Meadows subdivision of Dammeron Valley, Utah. Ownership of Lot 34 entitles me to use water from the Dammeron Valley Water Works (DVWW) system.
3. I own Utah State Water Right No. 81-2167, which was originally granted by the developer of Dammeron Valley for purposes of irrigating Lot 34. Ownership of Utah Water Right No. 81-2167 entitles me to use 1 acre foot per year through the DVWW system.
4. I also own a joint interest in a DVWW water certificate which represents another 1 acre-foot water right. I believe this water right was previously held in the form of a Utah State Water

Right and was tendered by my predecessor-in-interest to DVWW to be held in trust on the owner's behalf. This certificate also entitles me to use 1 acre-foot per year through the DVWW system for irrigation on Lot 34.

5. In early May of 2015, I received a notice of this matter in my water bill (Exhibit A) postmarked May 4, 2015 (Exhibit B). The note on the front page of the bill stated "Please see reverse side for scheduling order and notices of hearings...." The reverse side stated that requests for intervention were due on May 1, three days before the bill containing the "notice" was mailed. The bill did not contain a copy of the scheduling order but rather a typed in variation that included the dates provided in the scheduling order. The bill did not contain a copy of the proposed tariff.

6. Due to the fact that the intervention date had passed, I took no action at that time.

7. In early July, the next water bill (Exhibit C) notified me that the Department of Public Utilities (DPU) was proposing a "complete overhaul" of the rate structure.

8. Upon close review of the DPU proposal, it became apparent that the proposal would impose several tiers of conservation rates upon delivery of irrigation water, along with a 50% delivery "surcharge" applied only to irrigation water delivered pursuant to Utah state water rights. This review further revealed that DVWW also proposed additional cost burdens on the delivery of these irrigation water rights by imposing conservation pricing on delivery of water rights, although there is nothing on the face of the DVWW proposal or water bill that clearly indicated the full extent of the additional costs, especially the change of where irrigation rates would be inserted among the tier cost structure and the impact discouraging use of the water right.

9. Moreover, under both the DPU and the DVWW proposals, if we fully use our water rights in order to protect this property right as required by applicable water law, the new bill would be 233-273% of the current bill for the same amount of water use, imposing an undue burden on our ability to maintain the use of this water right.

10. The imposition of a conservation rate designed to discourage water use contravenes state law applicable to water rights set forth in Utah Code Ann. § 73-1-1 *et seq.* (2014). Water rights are required to be beneficially used to the full extent of the right and, if not so used, these valuable property rights are at risk of forfeiture. Indeed, Title 73 establishes the proper charges for delivery of state water rights where parties are “associated in the use of any ... means for conserving or conveying water for the irrigation of land.” Utah Code Ann. § 73-1-9 (2014).

11. This matter raises important issues of state law, in particular whether a water tariff can violate state law applicable to water rights.

12. Due to the extent and complexity of the DPU analysis, it took some time to review, analyze and compile comments on the proposed tariffs and background.

13. I have presented these concerns to the DPU, and hope that the staff will revise their proposal to honor the applicable law, but believe that it is critical that I am given standing by allowing intervention in this matter in order to present these important issues of law. A copy of the concerns shared with DPU is attached as Exhibit D.

14. The facts set forth above establish a basis to allow for late intervention, given the lack of timely notice, the lack of adequate substantive notice and the seriousness of the issues raised.

15. The proposed tariff would clearly affect my legal interests in the water rights and my .water service from the DVWW water system.

16. The interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention, particularly when viewed in relation to the importance of the issues raised.

Based upon the foregoing, I respectfully request the Commission to issue an order permitting me to appear as an intervenor with full rights of participation.

RESPECTFULLY SUBMITTED this ____ day of July, 2015

Barbara G. Hjelle

CERTIFICATE OF SERVICE

I hereby certify that a full, true and correct copy of the above and foregoing Motion to Intervene was served on the following parties by depositing it in the United States mail, postage prepaid, on this _____ day of July, 2015, addressed as follows:

Patricia Schmid
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