

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application for Amendment to Certificate of Public Convenience and Necessity of Ticaboo Utility Improvement District	<u>DOCKET NO. 18-2508-01</u> <u>ORDER</u>
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ISSUED: May 16, 2018

The Public Service Commission of Utah (PSC) grants Ticaboo Utility Improvement District's (Ticaboo) application to amend its service territory as set forth in its application and as further defined in its supplement filed May 3, 2018.

PROCEDURAL BACKGROUND

On January 9, 2018, Ticaboo filed an application to amend its service territory.

On January 11, 2018, the PSC issued a notice of scheduling conference. This notice was sent to various parties, including PacifiCorp, dba Rocky Mountain Power (PacifiCorp), and Garkane Energy.

On January 23, 2018, the PSC's Presiding Officer held a scheduling conference in this docket¹ and, on January 24, 2018, issued a scheduling order and notice of hearing (Scheduling Order) setting comment and intervention deadlines and a hearing date. On February 7, 2018, Ticaboo filed supplemental information relating to its application.

Pursuant to the Scheduling Order, on March 20, 2018, the Division of Public Utilities (DPU) filed comments recommending the PSC deny Ticaboo's application. Ticaboo filed reply comments on April 3, 2018 and, on April 10, 2018, the DPU filed reply comments recommending the PSC conditionally approve Ticaboo's application. Utah Associated Municipal

¹ The sign-in sheet for the scheduling conference indicates no one appeared on behalf of PacifiCorp or Garkane Energy.

Power Systems (UAMPS) petitioned to intervene and, on April 16, the PSC granted UAMPS's petition.²

On April 16, 2018, the Presiding Officer for the PSC conducted a hearing in this docket. Ticaboo, the DPU, and UAMPS appeared on behalf of their respective counsel. All parties provided sworn testimony through their respective witnesses. At the conclusion of the hearing, the Presiding Officer requested, and Ticaboo agreed to provide, clarification of the precise area into which Ticaboo seeks to expand.

On May 3, 2018, Ticaboo filed a supplemental map and legal description concerning the service area it seeks to add to its service territory. On May 4, 2018, the PSC issued a notice of filing and comment period, allowing any interested party to file comments on Ticaboo's filing no later than May 11, 2018. No comments were filed.

PARTY POSITIONS

Ticaboo

Ticaboo seeks to expand its service territory to include areas not presently served by a public utility. These areas include Bullfrog Marina, Halls Crossing Marina, Dangling Rope Marina, and Hite Ranger Station, along with much of the area immediately surrounding Lake Powell. The area Ticaboo seeks to serve is more particularly described in Ticaboo's May 3, 2018 supplemental filing. Ticaboo asserts that it is uniquely suited to provide electrical service to the Lake Powell area as neither PacifiCorp nor Garkane Energy serves the areas in question and no

² Neither PacifiCorp nor Garkane Energy petitioned to intervene or otherwise participated in this docket.

other public utility exists in the vicinity. Ticaboo included letters supporting its application from Garfield County, Kane County, San Juan County, and UAMPS.

At hearing, Ticaboo testified that it does not contest jurisdiction of the PSC over its application.³ Ticaboo expressed the National Park Service (NPS) could issue a request for proposal (RFP) this year for an electric service provider for the marinas and the area around Lake Powell, but the exact timing is uncertain.⁴ Ticaboo testified that if the NPS chooses another service provider, Ticaboo would not challenge the NPS's decision as "it's their land."⁵ If an RFP comes to fruition and Ticaboo is the chosen provider, Ticaboo represented it intends to partner with UAMPS from a development, construction, and financing standpoint.⁶ Ticaboo also emphasized that it is seeking this service area expansion to bring power to an area that "is not already served."⁷

The DPU

While the DPU originally recommended denial of Ticaboo's application, it later filed a recommendation for conditional approval. In part, the DPU relies on a series of 1986 PSC dockets, which the DPU argues is dispositive of the issue because Ticaboo does not meet the standard recited in those dockets. The DPU also expresses concern about the remoteness of the areas proposed to be served and other uncertainties posed, particularly in light of the fact that the NPS has not yet issued a RFP, much less signed a contract with a winning bidder for service.

³ See Transcript of April 16, 2018 Hearing at 41:25; 42:1-6.

⁴ See *id.* at 22:2.

⁵ *Id.* at 22:7-12.

⁶ See *id.* at 22:24-25; 23:24-25; 24:1-3.

⁷ *Id.* at 43:16-19

Nevertheless, the DPU states it “realizes the unique position” Ticaboo is in.⁸ The DPU also states it “recognizes . . . [Ticaboo’s] Board of Trustees . . . is responsible to monitor the ongoing health and financial strength of [Ticaboo] and . . . the Trustees are in support of the application.”⁹ According to the DPU, “[t]he public interest is served by allowing a capable and willing utility to serve the customers in the proposed expanded service territory.”¹⁰

At hearing, the DPU summarized its position stated above and supported a conditional approval.

UAMPS

UAMPS testified at hearing in support of Ticaboo’s application. UAMPS also confirmed Ticaboo’s testimony that UAMPS would assist Ticaboo if the NPS issues an RFP and Ticaboo is chosen as the winning bidder.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Ticaboo is an electric improvement district constituting a public utility subject to the jurisdiction of the PSC. *See* Utah Code Ann. § 17B-2a-406(2). Under section 17B-2a-406 of the Utah Code, “before [Ticaboo] serves any customer, [Ticaboo] shall obtain a certificate of public convenience and necessity from the [PSC].” Utah Code Ann. § 17B-2a-406(5). Ticaboo’s application to expand its service territory is, therefore, properly before the PSC. We further note that bringing utility service to areas not already served within the State is in the public interest.

⁸ DPU’s Response Comments at 5, filed April 10, 2018.

⁹ *Id.*

¹⁰ *Id.*

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The PSC issued a certificate of public convenience of necessity to Ticaboo on November 30, 2009 in Docket No. 09-2508-01. Ticaboo now seeks to expand its service territory to include federal land within the NPS in southern Utah, including Bullfrog Marina, Halls Crossing Marina, Dangling Rope Marina, and Hite Ranger Station. The proposed expanded service territory is more particularly described in Ticaboo's supplemental information filed with the PSC on May 3, 2018. No public utility currently serves the proposed area. Ticaboo desires to serve the proposed area and, if awarded a contract from the NPS to do so, has the support of UAMPS. Garfield County, Kane County, and San Juan County filed letters supporting Ticaboo's application in this docket. Neither PacifiCorp nor Garkane Energy – the only other public utilities in the area Ticaboo seeks to serve – sought to intervene in this docket.

Further, while we understand the DPU's position in this docket, we disagree that the 1986 dockets relied upon by the DPU should be applied in such a way as to prevent Ticaboo from serving an otherwise unserved area. In addition, while we grant Ticaboo's request as proposed and, thereby, do not order a "conditional" approval in this docket, we note that Ticaboo may, at any time after issuance of this order, propose to modify its service territory.

ORDER

Based on the foregoing discussion, findings of fact, and conclusions of law, we enter the following order:

1. Ticaboo's application to expand its service territory is granted.

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2. The expanded area shall be defined as set forth in Ticaboo's May 3, 2018 supplemental filing.¹¹
3. Ticaboo's CPCN, issued November 30, 2009 in Docket No. 09-2508-01, is modified as set forth in this order.

DATED at Salt Lake City, Utah May 16, 2018.

/s/ Melanie A. Reif
Presiding Officer

Approved and Confirmed May 16, 2018, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
dw#302104

¹¹ See Exhibits A and B, attached to this Order.

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 written order by filing a request for review or rehearing with the PSC 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 PSC 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 PSC'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.

Exhibit A

Proposed Expanded Service Area Legal Description

EXHIBIT A

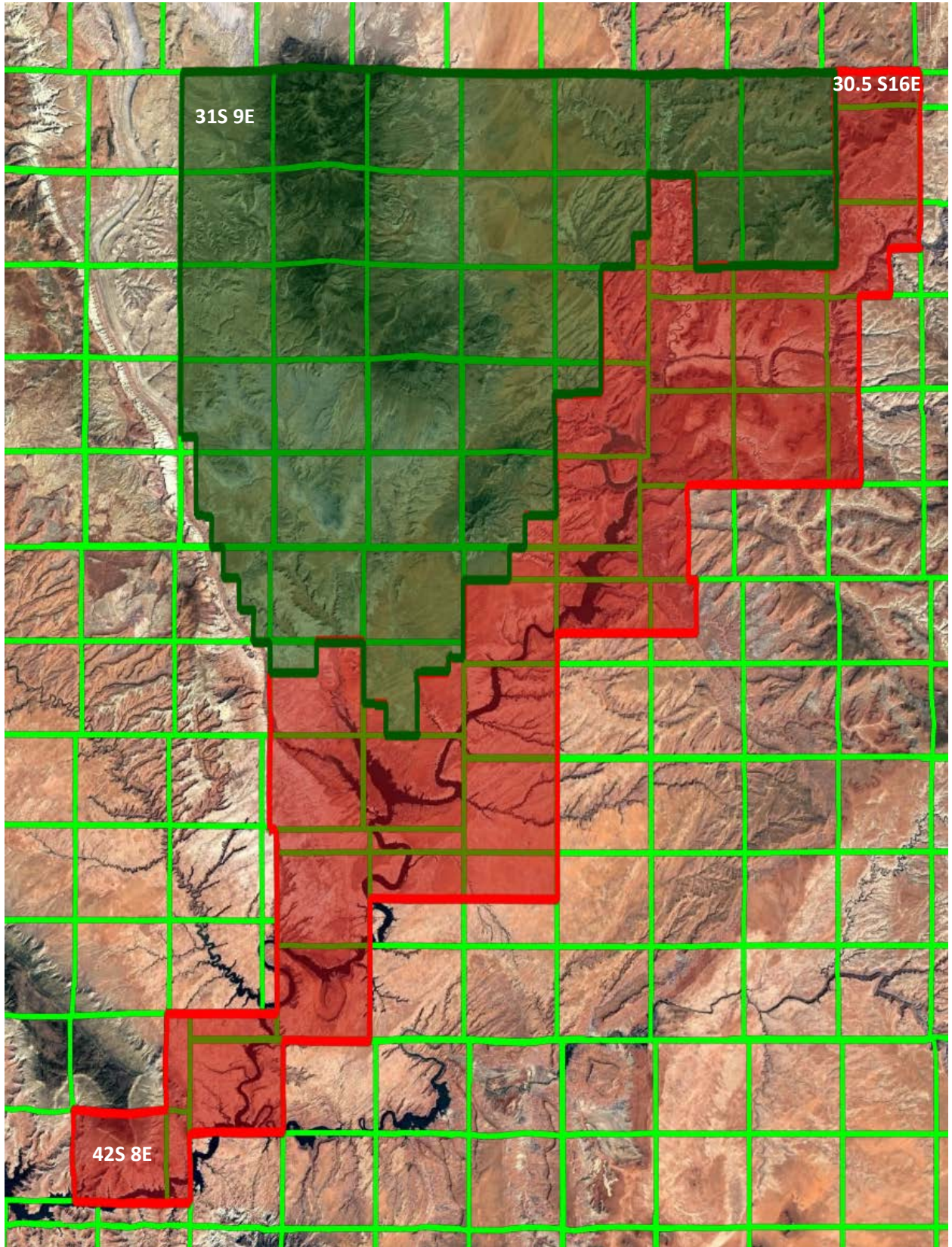
Proposed Expanded Service Area Legal Description

Beginning at the northeast corner of Township 30.5 South, Range 16 East, SLBM (this point being on the boundary of Garfield and Wayne Counties); thence running southerly along the eastern boundary of said Township; thence along the eastern boundary of Township 31 South, Range 16 East; thence southerly along the eastern boundary of Township 32 South, Range 16 East to the southeast corner of Section 53 of said Township; thence westerly along the southern boundary Sections 53 and 14 of said Township to the southwest corner of Section 14; thence southerly along the eastern boundary of Sections 63, 67, and 81 of said Township to the southeast corner of Section 81 of said Township; thence westerly along the southern boundary of Sections 81 and 80 to the southwest corner of Section 80 of said Township; thence southerly along the eastern boundary of Sections 40, 47, 55, 54, 65, 64, 73, and 32 of Township 33 South, Range 16 East; thence southerly along the eastern boundary of Sections 40, 43, 50, 53, 61, and 32 of Township 34 South, Range 16 East to the southeast corner of Section 32 of said Township; thence westerly along the southern boundary of Sections 32 and 63 of said Township; thence westerly along the southern boundary of Township 34 South, Range 15 East; thence westerly along the southern boundary of Sections 36, 35, and 34 of Township 34 South, Range 14 East to the southwest corner of Section 34 of said Township; thence southerly along the eastern boundary of Sections 4, 9, 16, 21, 28, and 33 of Township 35 South, Range 14 East; thence easterly along the northern boundary of Section 4 of Township 36 South, Range 14 East to the northeast corner of said Section; thence southerly along the eastern boundary of Sections 4, 9, 16, and 21 of said Township to the southeast corner of Section 21 of said Township; thence westerly along the southern boundary of Sections 21, 20, and 19 of said Township; thence westerly along the southern boundary of Sections 24, 23, 22, 21, 20, and 19 of Township 36 South, Range 13 East to the southwest corner of Section 19 of said Township; thence southerly along the western boundary of Sections 30 and 31 of said Township; thence southerly along the eastern boundary of Township 37 South, Range 12 East; thence southerly along the eastern boundary of Township 38 South, Range 12 East; thence southerly along the eastern boundary of Sections 1, 12, and 13 of Township 39 South, Range 12 East to the southeast corner of Section 13 of said Township; thence westerly along the southern boundary of Sections 13, 14, 15, 16, 17, and 18 of said Township; thence westerly along the southern boundary of Sections 13, 14, 15, 16, 17, and 18 of Township 39 South, Range 11 East to the southwest corner of Section 18 of said Township; thence southerly along the western boundary of Sections 19, 30, and 31 of said Township; thence southerly along the eastern boundary of Township 40 South, Range 10 East to the southeast corner of said Township; thence westerly along the southern boundary of said Township to the northeast corner of Township 41 South, Range 9 East; thence southerly along the eastern boundary of said Township to the southeast corner of said Township; thence westerly along the southern boundary of said Township to the southwest corner of said Township; thence southerly along the eastern boundary of Township 42 South, Range 8.5 East to the southeast corner of said Township; thence westerly along the southern boundary of said Township to the southwest corner of said Township; thence westerly along the southern boundary of Township 42 South, Range 8 East to the southwest corner of said Township; thence northerly along the western boundary of said Township to the northwest corner of said Township; thence easterly along the northern boundary of said Township to the northeast corner of said Township; thence northerly along the western boundary of Township 41 South, Range 8.5 East to the northwest corner of said Township; thence easterly along the northern boundary of said Township to the northeast corner of said Township; thence easterly along the northern boundary of Township 40.5 South, Range 9 East to the

northeast corner of said Township; thence northerly along the western boundary of Township 40 South, Range 10 East; thence northerly along the western boundary of Township 39 South, Range 10 East; thence northerly along the western boundary of Township 38.5 South, Range 10 East to the northwest corner of said Township; thence westerly along the southern boundary of Township 38 South, Range 10 East to the southwest corner of said Township; thence northerly along the western boundary of Township 38 South, Range 10 East; thence northerly along the western boundary of Township 37 South, Range 10 East to the northwest corner of said Township; thence the following six courses within Township 36 South, Range 9 East: westerly along the southern boundary of Section 36 to the southwest corner of said Section, thence northerly along the western boundary of Sections 36 and 25 to the northwest corner of Section 25, thence westerly along the southern boundary of Section 23 to the southwest corner of said Section, thence northerly along the western boundary of Sections 23 and 14 to the northwest corner of Section 14, thence westerly along the southern boundary of Section 10 to the southwest corner of said Section, thence northerly along the western boundary of Sections 10 and 3 to the northwest corner of Section 3; thence the following four courses within Township 35 South, Range 9 East: westerly along the southern boundary of Section 33 to the southwest corner of said Section, thence northerly along the western boundary of Sections 33 and 28 to the northwest corner of Section 28, thence westerly along the southern boundary of Section 20 to the southwest corner of said Section, thence northerly along the western boundary of Sections 20, 17, 8, and 5 to the northwest corner of Section 5; thence northerly along the western boundary of Section 32, Township 34 South, Range 9 East to the northwest corner of said Section; thence westerly along the southern boundary of Section 30 to the southwest corner of said Section; thence northerly along the western boundary of Township 34 South, Range 9 East; thence northerly along the western boundary of Township 33 South, Range 9 East; thence northerly along the western boundary of Township 32 South, Range 9 East; thence northerly along the western boundary of Township 31 South, Range 9 East to the northwest corner of said Township; thence easterly along the northern boundary of said Township; thence easterly along the northern boundary of Township 31 South, Range 10 East; thence easterly along the northern boundary of Township 31 South, Range 11 East; thence easterly along the northern boundary of Township 31 South, Range 12 East; thence easterly along the northern boundary of Township 31 South, Range 13 East; thence easterly along the northern boundary of Township 31 South, Range 14 East; thence easterly along the northern boundary of Township 31 South, Range 15 East; thence easterly along the northern boundary of Township 30.5 South, Range 16 East to the point of beginning.

Exhibit B

Proposed Expanded Service Area Map



I CERTIFY that on May 16, 2018, a true and correct copy of the foregoing was served upon the following as indicated below:

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