

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of TransWest Express LLC for an Order Granting Exemption from Regulation	<u>DOCKET NO. 22-2636-01</u>
	<u>ORDER OF EXEMPTION</u>

ISSUED: June 2, 2022

On March 23, 2022, TransWest Express LLC (“TW”) filed its Application for Exemption from Regulation (“Application”). The Application concerns TW’s new overhead high-voltage interregional transmission system (the “Project”) that will extend 732 miles from Wyoming to Nevada, interconnecting to existing bulk power systems in Wyoming, Utah, and Nevada. The Project will provide interstate merchant transmission service to deliver energy generated in Wyoming to load-serving entities in other western states. TW asks the Public Service Commission (PSC) to “issue an order confirming that [TW] is exempt from [PSC] jurisdiction and therefore that [TW] does not need to obtain a [certificate of public convenience and necessity (“CPCN”)] before constructing or operating the [Project].” (Application at 15-16.)

TW argues it is not subject to PSC jurisdiction because it is not a “public utility,” as defined under Utah Code Ann. § 54-2-1(23). TW further argues it is not an “electrical corporation,” as defined under § 54-2-1(9).

The PSC issued a Notice of Filing and Comment Period on March 25, 2022, inviting any interested person to submit comments on the Application by April 22, 2022 and reply comments by May 9, 2022. On April 22, 2022, the Division of Public Utilities (DPU) submitted comments. No other party filed comments, and no party filed reply comments.

DPU “agrees that [TW] is not a public utility” and “is not subject to [the PSC’s] jurisdiction or regulation.” (DPU’s Comments at 4.) DPU believes ambiguity exists as to

DOCKET NO. 22-2636-01

- 2 -

whether TW is an “electrical corporation” but nevertheless concludes TW “is not required to obtain a CPCN before constructing or operating the Project.” (*Id.*)

Having reviewed the Application and the DPU’s comments, hearing no opposition, and relying on the veracity of TW’s representations in the Application, the PSC concludes TW is not a public utility and is, therefore, not subject to the PSC’s general jurisdiction pursuant to Utah Code Ann. § 54-4-1. The PSC does not reach the issue of whether TW is an “electrical corporation.” Regardless of whether TW is an “electrical corporation,” the PSC has no authority to require TW to obtain a CPCN from the PSC because TW is not a public utility.

DATED at Salt Lake City, Utah, June 2, 2022.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed June 2, 2022 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#324302

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this 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 does not grant a request for review or rehearing within 30 days after the filing of the request, 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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on June 2, 2022, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

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