



State of Utah

Department of Commerce Division of Public Utilities

CHRIS PARKER
Executive Director

ARTIE POWELL
Director, Division of Public Utilities

GARY HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Artie Powell, Director

Brenda Salter, Utility Technical Consultant Supervisor

Mark Long, Utility Analyst

Date: December 18, 2020

Re: **Docket No. 20-2506-01**, Request of Willow Creek Water Company for a Letter of Exemption and cancel its CPCN.

Recommendation (Approve)

The Utah Division of Public Utilities (Division) recommends that Willow Creek Water Company's (Willow Creek or Company) request for a Letter of Exemption (LOE) from Public Service Commission (Commission) regulation be approved. The Division recommends that the Commission cancel Willow Creek's Certificate of Public Convenience and Necessity (CPCN).

Issue

On November 25, 2020, the Company filed an application with the Commission requesting that the Commission issue it an LOE and cancel its CPCN. The Commission issued an Action Request to the Division on November 25, 2020, with a due date of December 24, 2020.

Background

The Commission approved Willow Creek's Application for a CPCN and was issued CPCN No. 2506 on July 2, 2009. Willow Creek has not raised its rates since its last rate case in front of the Commission on October 4, 2013.

The Company currently has 72 customers in its service area, located in Box Elder and Cache Counties, with culinary and secondary water connections.

Willow Creek remains an "Active" corporation and is in "Good Standing" according to the Utah Division of Corporations' records.

Additionally, Willow Creek appears to be in compliance with the Utah Department of Environmental Quality, Division of Drinking Water.

Discussion

Willow Creek's by-laws allow it to serve only its private shareholders (members). Since Willow Creek is serving only customers located within its service area boundaries that are members of the water company, it no longer meets the definition of a water corporation under Utah Code Ann. § 54-2-1(38) and is therefore not subject to the Commission's jurisdiction.

In anticipation of the Commission granting a letter of exemption, the Company's by-laws state that

... if the Company is granted an exemption from rate regulation by the Public Service Commission, there shall be a Rate Board which shall consist of five members.

The five members will consist of culinary and secondary water users. This structure will create a balance between the Board of Directors and the water users enabling the Company to respond more quickly to the Company's needs.

The Division contacted Natalie Erickson, a company board member, who indicated that the Company has been transparent with its customers about becoming exempt. Ms. Erickson also

noted that its customers were notified about the Company's decision in moving forward with a request to be exempt in a meeting held on or about November 5, 2020.

Conclusion

The Division recommends the Commission cancel Willow Creek's CPCN No. 2506. The Division recommends the Commission issue an LOE to the Company.

Cc: Service List