
Application of Willow Creek Water Company
for Exemption

DOCKET NO. 20-2506-01
ORDER GRANTING EXEMPTION FROM
REGULATION AND CANCELING
CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY

ISSUED: January 8, 2021

BACKGROUND

On November 25, 2020, Willow Creek Water Company (“Willow Creek”) filed an Application and Exhibits for Exemption (“Application”) from regulation with the Public Service Commission (PSC). The Application explains that Willow Creek was incorporated “as a non-profit water company to [serve] private shareholders on January 27, 2007.”¹ In addition, the Application states that the PSC granted Willow Creek its certificate of public convenience and necessity (CPCN) on July 2, 2009² to operate as a water corporation providing culinary water solely within the High Country Estates and Spring Ridge Subdivisions, Box Elder County, Utah, and that Willow Creek currently services 72 connections in Box Elder and Cache Counties with culinary and irrigation water, and has only served its private shareholders. Consequently, Willow Creek requests that the PSC issue a “Letter of Exemption” and, if necessary cancel Willow Creek’s CPCN.

On December 18, 2020, the Division of Public Utilities (DPU) filed its recommendation (“DPU Recommendation”), recommending the PSC approve Willow Creek’s Application, issue a letter of exemption, and cancel its CPCN. DPU states that “Willow Creek remains an ‘[a]ctive’

¹ Application for Exemption for Willow Creek Water Company, dated November 25, 2020.

² See Docket No. 09-2506-01.

corporation and is in ‘[g]ood [s]tanding’ according to the Utah Division of Corporation’s records[,] ... [and that] Willow Creek appears to be in compliance with the Utah Department of Environmental Quality, Division of Drinking Water.”³

DISCUSSIONS, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

Utah Code Ann. § 54-4-1 vests the PSC with the power and jurisdiction to regulate public utilities, including water corporations. Utah Code Ann. § 54-2-1(36) defines a water corporation as “every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state.” It specifically states that a water corporation “does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.”⁴

As represented in the Application and DPU Recommendation, Willow Creek currently only serves its shareholders as customers and according to its bylaws can only serve its shareholders. The Application and DPU Recommendation confirm Willow Creek will not provide water service to the public generally. The PSC agrees and finds and concludes that Willow Creek does not meet the definition of a water corporation under Utah Code Ann. § 54-2-1(36). Therefore, it is not subject to the PSC’s jurisdiction and is thus exempt from regulation.

³ DPU Recommendation, at 2.

⁴ *Id.*

ORDER

Based on our explanations above, and on the DPU Recommendation and there being no opposition, we find it is in the public interest to cancel Willow Creek's CPCN No. 2506. The PSC concludes Willow Creek is exempt from the PSC's regulation and grants the Application in accordance with Utah Code Ann. § 54-2-1(36). The PSC cancels CPCN No. 2506, originally issued on July 2, 2009, and issues the letter of exemption attached to this Order as Exhibit A.

DATED at Salt Lake City, Utah, January 8, 2021.

/s/ Yvonne R. Hogle
Presiding Officer

Approved and confirmed January 8, 2021 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#316952

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 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 30 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.

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Exhibit A



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Public Service Commission

THAD LeVAR
Chair

DAVID R. CLARK
Commissioner

RON ALLEN
Commissioner

LETTER OF EXEMPTION NO. 238

January 8, 2021
Willow Creek Water Company
David Bishop, President
P.O. Box 3394
Logan, UT 84323-3394

Dear Mr. Bishop,

The Public Service Commission (PSC) has reviewed the proposed application for exemption, filed on behalf of Willow Creek Water Company ("Willow Creek") on November 25, 2020.

On December 18, 2020, the Division of Public Utilities (DPU) recommended the PSC grant the request for exemption because 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(36) and is therefore not subject to the [PSC's] jurisdiction." Utah Code Ann. § 54-2-1(36) excludes water corporations from PSC regulation that distribute water only to their stockholders or members. Thus, it appears an exemption for Willow Creek is appropriate.

Please be advised that this Letter of Exemption No. 238 is granted pursuant to the representations contained in Willow Creek's application and on the basis of the DPU's conclusion that Willow Creek serves only its shareholders and not the public generally. Willow Creek has a continuing obligation to update the PSC within 30 days of any change.

This Letter of Exemption No. 238 is revocable for cause at any time. Please refer to this letter number in any future correspondence with either the PSC or the DPU.

Sincerely,

/s/ Gary L. Widerburg
PSC Secretary
DW#316952

CERTIFICATE OF SERVICE

I CERTIFY that on January 8, 2021, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

David Bishop (willowcreekwatercompany@gmail.com)
Willow Creek Water Company

Patricia Schmid (pschmid@agutah.gov)
Justin Jetter (jjetter@agutah.gov)
Assistant Utah Attorneys General

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Administrative Assistant