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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Mountain Sewer Corporation's Application for Approval to Expand its Service Area	APPLICATION FOR APPROVAL TO EXPAND SERVICE AREA
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Docket No. _____

Applicant Mountain Sewer Corporation ("**Mountain Sewer**"), by and through its undersigned counsel, respectfully requests that the Utah Public Service Commission ("**Commission**") grant this Application for Approval to Expand Service Area ("**Application**"). Mountain Sewer provides the following information in support of this Application:

INTRODUCTION

Mountain Sewer's Public Utility Status

1. Mountain Sewer is a privately-owned public utility that provides sanitary sewer service to residential and other customers near Huntsville, Weber County, Utah.

2. Mountain Sewer was established in 1985 to provide sewer service to new development near Huntsville, Utah. Weber County created the Ski Lake Special Service District ("**District**") to act as the body politic for the sewer services within the District. The District entered into a sewer service agreement with Mountain Sewer enabling Mountain Sewer to (a) own,

operate, and maintain sewage collection and treatment facilities (“**Sewer System**”) and (b) provide sanitary sewer services within the District.

3. Mountain Sewer has been regulated by the Commission since June 11, 1985, the date on which the Commission granted Certificate of Public Convenience and Necessity No. 2163 to Mountain Sewer.

4. On October 8, 1991, the Commission approved Mountain Sewer’s petition to expand its certificated service area. As part of that approval, the Commission issued Certificate of Public Convenience and Necessity No. 2602 authorizing Mountain Sewer to provide service in the expanded service area.

5. Mountain Sewer’s current service area (“**Current Service Area**”) includes the following developments and units:

- Catholic Church (1 connection)
- Chalets at Ski Lake (76 lots)
- Edgewater Beach Resort (63 condominiums)
- Lakeside Village (86 condominiums)
- Langeland Subdivision (1 connection)
- Schlaf Subdivision (1 connection)
- Samarel Subdivision (2 connections)
- Ski-Lake Estates (21 lots)
- Summit at Ski Lake (54 lots)

(Copies of map images showing Mountain Sewer’s Current Service Area are attached hereto as **Exhibit A.**)

6. Mountain Sewer currently serves 193 active connections, with another 112 approved, unconnected lots on standby within its Current Service Area.

7. Mountain Sewer’s principal place of business is located at 5393 East 3850 North, Eden, Utah 84310.

8. Mountain Sewer's current Tariff ("**Tariff No. 2**"), as amended by Mountain Sewer, has been in effect since October 30, 2017. No requests to increase the rates of Mountain Sewer have been made since that date.

Mountain Sewer System

9. The Sewer System is located just south of Pineview Reservoir along State Road 39 and Snow Basin Road in the Huntsville, Utah area. The Sewer System can also be described as being located in Sections 13, 23, and 24 of Township 6 North, Range 1 East, Salt Lake Base and Meridian.

10. The Sewer System was first constructed in 1983.

11. Since 1983, the Sewer System has been upgraded several times and currently includes the following components:

- Three (3) aerated sewage lagoons (containing transfer structures and a blower/pumping building);
- A 19.9 acre-foot winter storage pond (containing earthwork and installed piping);
- A 1.0 acre tree farm (test area for land application);
- Two (2) sewage lift stations with automated control system and alarms; and
- Collection piping with manholes.

12. The Sewer System's treatment facility is situated on 33.66 acres of land owned by Mountain Sewer.

13. In 2000, the Utah Division of Water Quality ("**Division**") approved the Sewer System's phase 1 master design ("**Phase 1 Sewer Design**"), which entailed (a) the 19.9 acre-foot winter storage pond ("**Winter Storage Pond**") and (b) a 7.35-acre tree farm with an initial 1.0-acre test area, pump, disinfection, and filtration system. Such design provided a sewer system capacity of 49,600 gallons per day ("**gpd**") or 124 total connections.

14. In 2002, the Division reevaluated the required flow rates based on water and sewer usage studies and reduced the required flow rate per connection from 400 gpd to 300 gpd, thereby allowing Phase 1 Sewer Design to serve 165 total connections.

15. In 2004, the Division again reevaluated the Sewer System and reclassified it as a “Rated Capacity of Treatment Facility” status, meaning that the total number of connections that can be served by the Sewer System is based on a percentage of capacity of the Winter Storage Pond.

16. Under the Sewer System’s “Rated Capacity” status, additional service connections may be added until the Winter Storage Pond is seventy-five percent (75%) full.

17. At present, the Sewer System’s storage capacity is under twenty-two percent (22%) of the Winter Storage Pond’s overall storage capacity.

18. Thus, additional service connections may currently be added to the Sewer System.

COMMISSION JURISDICTION

19. Pursuant to Utah Code Ann. § 54-4-1, Mountain Sewer is subject to the Commission’s supervisory and regulatory jurisdiction over all public utilities within the State of Utah.

20. Under Utah Code Ann. § 54-3-3, a public utility may not expand its service area unless such expansion is approved by the Commission. *See also McMullin v. Public Service Commission*, 320 P.2d 1107, 1109 (Utah 1958) (noting that a public utility “could not, even by formal contract, have extended its service beyond its designated area without the approval of the Public Service Commission”).

EXPANSION OF SERVICE AREA

21. Legacy Mountain Estates, LLC (“LME”) has requested that Mountain Sewer expand its Current Service Area to provide sewer service (“**Connection Service Request**”) for a 52-lot residential subdivision known as the “Legacy Mountain Estates Subdivision” (“**LME Subdivision**”), which is located adjacent to but outside of the Current Service Area of Mountain Sewer.

22. LME has requested a total of sixty (60) sewer connections from Mountain Sewer for the purpose of serving fifty-two (52) Single-Family Residential Dwellings and up to eight (8) Accessory Dwelling Units within the LME Subdivision.

23. LME has agreed to construct all necessary additional infrastructure to serve the LME Subdivision at LME’s sole cost. LME has also agreed to pay any incidental costs incurred by Mountain Sewer related to the expansion of the Current Service Area of Mountain Sewer. Current customers of Mountain Sewer will not bear any expansion cost.

24. The LME Subdivision may not be served by the Sewer System unless and until the Commission approves this Application to expand the Current Service Area of Mountain Sewer to include the LME Subdivision.

25. LME’s Connection Service Request entails the addition of 257.509 acres of platted land to Mountain Sewer’s Current Service Area. This entire 257.509 acres is owned by LME and only the 60 sewer connections may be added within the LME Subdivision. (A copy of a Plat showing the proposed expansion area, i.e., the LME Subdivision, is attached hereto as **Exhibit B**; *see also* diagram of LME Subdivision Project Map, attached hereto as **Exhibit C**.)

26. A legal “metes and bounds” description of the proposed new service area boundaries (“**Proposed Expansion Area**”) is attached hereto as **Exhibit D**.

GROUND FOR COMMISSION APPROVAL

27. Mountain Sewer’s request to expand its service area (“**Service Area Expansion Request**”) fully satisfies all necessary criteria for Commission approval of such request. Indeed, four principal criteria legally justify Commission approval of the Service Area Expansion Request.

28. First, the Sewer System has the capacity to serve the sixty (60) additional service connections. As noted above, the Sewer System currently operates at less than twenty-two percent (22%) percent of the Winter Storage Pond’s overall storage capacity. Accordingly, the Sewer System presently maintains sufficient storage capacity to add the additional service connections within the Proposed Expansion Area.

29. Second, adding the LME Subdivision to the Current Service Area will not be detrimental to Mountain Sewer’s existing customers. The Sewer System contains sufficient underused storage capacity so as to avoid any reduction or impairment in the quality and efficiency of treatment services currently provided to existing customers. Thus, expansion of the Current Service Area to include the LME Subdivision will not disadvantage, inconvenience, burden, or harm Mountain Sewer’s existing customers in any manner.

30. Third, expansion of Mountain Sewer’s Current Service Area will not adversely impact Mountain Sewer’s current approved rates under Tariff No. 2. LME will construct and install all infrastructure necessary to serve the LME Subdivision at LME’s expense. Mountain Sewer’s current approved rates will not be increased by the inclusion of the LME Subdivision

within Mountain Sewer's Current Service Area. The mere expansion of the Current Service Area will not require any change in Mountain Sewer's approved service rates under Tariff No. 2.

31. And fourth, the expansion of Mountain Sewer's Current Service Area will provide a benefit to its customers. The addition of sixty (60) new connections will increase the revenue to Mountain Sewer and allow it to take advantage of economies of scale.

CONCLUSION

Based on the foregoing, Mountain Sewer requests the Commission grant and approve this Application and thereby allow Mountain Sewer to expand its Current Service Area to include the LME Subdivision and its sixty (60) new connections.

RESPECTFULLY SUBMITTED this 23rd day of November 2021.

SMITH HARTVIGSEN, PLLC

/s/ J. Craig Smith _____

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