

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Lakeview Water Corporation's Application for Approval to Expand its Service Area	<u>DOCKET NO. 21-540-01</u> <u>REPORT AND ORDER</u>
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ISSUED: March 3, 2022

SYNOPSIS

The Public Service Commission (PSC) approves the application of Lakeview Water Corporation ("Lakeview") to expand its service area.

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On November 23, 2021, Lakeview filed an application ("Application") to expand its current service area ("Current Service Area")<sup>1</sup> to serve a proposed residential subdivision known as Legacy Mountain Estates Subdivision ("LME") that is located "adjacent to but outside of [the] Current Service Area."<sup>2</sup> The proposed expansion would include 60 water connections and the construction of a new 250,000 gallon water tank and related infrastructure. *Id.*

The PSC issued a notice of filing and comment period, seeking comments by December 23, 2021 and reply comments by January 7, 2022. Upon request, the PSC extended the deadlines for comments and reply comments to January 28, 2022 and February 14, 2022, respectively. The Division of Public Utilities (DPU) filed comments on January 26, 2022, and no party filed reply comments.<sup>3</sup>

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<sup>1</sup> The Current Service Area includes the following developments and units within the Huntsville, Utah area: (1) the Catholic Church; (2) Chalets at Ski Lake; (3) Edgewater Beach Resort; (4) Lakeside Village; (5) Langeland Subdivision; (6) Samarel Subdivision; (7) Schlaf Subdivision; (8) Ski-Lake Estates; (9) Summit at Ski Lake; and, (10) Valley Lake Estates.

<sup>2</sup> *Lakeview Water Corporation's Application for Approval to Expand its Service Area*, Docket No. 21-540-01, Application for Approval to Expand Service Area filed November 23, 2021.

<sup>3</sup> Docket No. 21-540-01, Comments from the Division of Public Utilities filed January 26, 2022 (the "DPU Comments").

THE APPLICATION

Lakeview is a “water corporation” as defined in Utah Code Ann. § 54-2-1, and holds a certificate of public convenience and necessity (CPCN) issued by the PSC on April 28, 1982.<sup>4</sup> Lakeview currently serves approximately 347 residential connections and provides irrigation water for approximately 26 acres of landscaping near Huntsville, Utah.

Lakeview states that it will serve LME under its existing tariff.<sup>5</sup> It also states that while its existing water system has sufficient capacity to serve LME, due to elevation differences with its water system, a new water tank is necessary to store potable and irrigation water and to provide fire protection to LME’s lots and future homes. In addition, Lakeview asserts that LME will build all necessary additional infrastructure to serve LME at LME’s own cost, pay any incidental costs incurred related to Lakeview’s proposed expansion, dedicate sufficient water rights to fully cover its culinary and irrigation water needs, and pay for the construction of the new 250,000 gallon water tank. As a result, Lakeview states that existing Lakeview customers will not experience any reduction in service quantity or quality or an increase in rates.

PARTY COMMENTS

The DPU Comments recommend the PSC approve the Application, emphasizing Lakeview’s assertion that existing Lakeview customers will bear no expansion costs, and Lakeview’s existing rates will remain the same. DPU states that it requested additional information to ensure Lakeview met the criteria under Utah Code Ann. § 54-4-25, including: (1) documentation that Lakeview “has received or is in the process of obtaining the required

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<sup>4</sup> The PSC issued Lakeview Certificate of Public Convenience and Necessity No. 2080 in Docket No. 82-540-01.

<sup>5</sup> Lakeview states that its governing tariff has been in effect since January 1, 2008.

consent, franchise, or permit of the proper county, city, municipal, or other public authority, in order to expand its service area;” (2) “a current map showing the water service area of all water utilities surrounding [Lakeview]”; and (3) a statement that “any proposed line, plant, or system will not conflict with or adversely affect the operations of any existing certified fixed public utility which supplies the same product or service to the public” and that the expansion will not “constitute an extension into the territory certified to the existing fixed public utility.”<sup>6</sup>

DPU states that on January 25, 2022, Lakeview submitted a response to DPU’s request demonstrating its compliance with those requirements. Lakeview’s response to DPU (1) included documentation that it obtained the required consent from the Utah Department of Environmental Quality, Division of Drinking Water; (2) included a service map of water utilities surrounding Lakeview; and (3) provided the required statement that Lakeview’s expansion request will not impact any existing certified public utility.

Based on Lakeview’s Application and its responses to DPU’s requests, DPU states that the Application meets the requirements for a service area expansion described in Utah Code Ann. § 54-4-25.

No other party filed comments or reply comments.

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<sup>6</sup> DPU Comments, at 2–3.

FINDINGS AND CONCLUSIONS

Under Utah Code Ann. § 54-4-25(1), a public utility (including a water corporation) may not “establish, or begin construction or operation of a line, route, plant, or system or of any extension of a line, route, plant, or system, without having first obtained from the commission a certificate that present or future public convenience and necessity does or will require the construction.” Utah Code Ann. § 54-4-25(2) states that the requirement in subsection (1) “[ ] may not be construed to require any corporation to secure a certificate for an extension: (a) [...] (b) into territory, either within or without a city or town, contiguous to its line, plant, or system that is not served by a public utility of like character; or (c) within or to territory already served by it, necessary in the ordinary course of its business.”

As part of its Application, Lakeview submitted information showing that it currently holds a CPCN to serve its Current Service Area. It also submitted a map and a property description of LME illustrating that LME is adjacent to but outside of Lakeview’s Current Service Area. In addition, Lakeview submitted a service map of water utilities surrounding Lakeview and a statement confirming that its expansion request will not impact any existing certified public utility’s service area.<sup>7</sup> We understand this to mean that no other “like” utility currently serves LME.

Lakeview also states, and DPU confirmed, that the proposed expansion will be funded by LME. As a result, Lakeview states that existing Lakeview customers will not experience any

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<sup>7</sup> The PSC appreciates Lakeview’s submission of “the required consent, franchise, or permit of the proper county, city, municipal, or other public authority,” in order to expand its service area, even if not required under Utah Code Ann. § 54-4-25 for its expansion to serve LME.

reduction in service quantity or quality or an increase in rates. The parties also state that the proposed expansion will be sufficient to serve LME and its future residents.

The evidence we reference above supports our conclusion that no CPCN is required for Lakeview's proposed expansion to serve LME and its future residents because LME is "contiguous to [] [Lakeview's] line, plant, or system that is not served by a public utility of like character." Consequently, by operation of law, Lakeview's existing CPCN will now include LME, as specifically described in the Application. We further conclude accordingly that a hearing is not required in this matter. On this basis and since the Application is unopposed, the PSC will adjudicate this matter informally, in accordance with Utah Admin. Code R746-1-104(1).

Based on the Application, the evidence we reference above, the DPU Comments and recommendations, and since the Application is unopposed, the PSC concludes that Lakeview's proposed expansion is legally allowed and does not require a separate CPCN. We further conclude that the public convenience and necessity will be served by approving the expansion of Lakeview's service territory to include LME. In addition, we find and conclude that the public interest will be served since the expansion will be funded by LME, existing Lakeview customers will not experience any reduction in service quantity or quality or an increase in rates, and the expansion will allow new Lakeview customers to be served in the future.

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ORDER

The Commission orders the following:

1. The Application is approved;
2. Lakeview is authorized to serve LME as specifically described in the Application;  
and,
3. Lakeview's CPCN is amended to reflect its expanded service territory as described in its Application.

DATED at Salt Lake City, Utah, March 3, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#322659

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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.

CERTIFICATE OF SERVICE

I CERTIFY that on March 3, 2022, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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