



State of Utah

Department of Commerce Division of Public Utilities

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Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Marialie Wright, Manager
Brenda Salter, Utility Technical Consultant Supervisor
Mark Long, Utility Technical Consultant
Joanna Matyjasik, Utility Analyst

Date: March 11, 2022

Re: **Docket No. 22-2438-01**, In the Matter of the Formal Complaint of David Burwen, Susan Burwen, and Venture Development Group, LLC against Pineview West Water Company.

Comments

While the Division often does not comment on formal complaints before the Commission because it generally lacks independent knowledge of the underlying facts, the Division is charged with advocating the public interest before the Commission. In doing so, several statutory objectives guide the Division's work. These include safe, healthy, and efficient utility services, just and reasonable rates, and related factors. Utah Code §54-4a-6. In this case, the public interest is served by including contiguous, previously served customers in the utility's service territory. Doing otherwise would be inefficient. While other factors apply, the Commission should consider strongly whether the facts and law allow this result. It is the efficient result that will enable more of the state's residents to be served by its natural resources. The Division will leave to the other parties in this proceeding, who are capably represented by counsel, the discussion of the facts in the record and others that may be introduced.

Although there is some dispute about the legal significance of the parties' past dealings with one another and the Commission's recent and past orders and tariffs, it seems that a few facts are

not in dispute. PWWC has facilities that have served and can serve the Complainants to some extent. No other water company has nearby facilities that would facilitate an efficient connection. Additionally, the Complainants appear to have rights to water in a separate well that might provide some supply. Given all these facts, in most circumstances parties would be able to arrive at an arrangement that was beneficial to all parties involved and resulted in an efficient and wise use of the state's natural resources. Just why these parties have not been able to do so is not clear. Some past disputes with other previously-served customers who have been located outside PWWC's claimed service territory have apparently been resolved, allowing continued service.

The settlement with these other customers outside of what PWWC claims to be its service territory raises some questions the parties and Commission should grapple with in considering the facts and law in this matter. If the Complainants were never within PWWC's service territory, by what authority did PWWC serve them? If PWWC is currently providing water to some customers outside its certificated service area, by what authority does it do so? If the Complainants and other customers outside the claimed service territory were once within that territory, is it reasonable that they could be carved out of PWWC's service territory by the inclusion in a rate case of exhibits doing so, despite no mention of the change in the rate case filing's narrative? Should the Division have more closely scrutinized PWWC's filing and raised for specific consideration the question of whether PWWC was attempting to change its service territory? If Complainants are outside the certificated territory, may they be served by PWWC; if so, under what circumstances?

Some of these questions may have ready answers that appear on the record as this matter proceeds. They are among the questions the Commission should consider while adjudicating this matter. In doing so, the Commission should consider how these questions' answers help facilitate safe, adequate, and reliable utility service that efficiently uses the state's natural resources. The Division understands many water companies in the state have operated informally over the years. In addressing their cases, the Commission must always respect the law and its limits, but it must also consider the parties' dealings over the years to discern a reasonable regulatory outcome consistent with the law.

Throughout the state, many residents live in difficult to reach areas with no ready access to services. The federal, state, and local governments, often in partnership with private enterprises, expend significant effort trying to extend service to remote corners of the state to help improve Utahns' lives. Here, service appears readily available from an entity that has already provided it. It would be a shame if the parties and the state cannot arrive at some resolution that benefits all involved. Of course, often the course of past dealing between parties can be a significant hurdle to future cooperation. Nevertheless, the parties and the Commission should seek ways to ensure a mutually beneficial continuing relationship that will provide water service to the Complainants and sustaining revenue to PWWC.

Cc: Service List