

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Application of Lakeview Water Corporation for Interim Rate Increase and General Rate Increase	<u>DOCKET NO. 22-540-01</u> <u>ORDER APPROVING INTERIM RATES</u>
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ISSUED: March 16, 2023

SYNOPSIS

The Public Service Commission (PSC) approves the request of Lakeview Water Corporation (“LW”) for an interim rate increase, subject to refund or surcharge following completion of the current general rate case.

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On January 31, 2023, LW filed two applications with supporting testimony and exhibits seeking 1) an interim rate increase (the “Interim Rate Application”) and 2) a general rate increase (the “Application”). On February 14, 2023, the Division of Public Utilities (DPU) filed comments concluding the Application was substantially complete according to Utah Admin. Code R746-700-50 and -51. By Action Request Response dated February 22, 2023, DPU recommended approval of the Interim Rate Application, finding the proposed increase reasonable and more likely to reflect actual costs than current rates (“DPU Response”).

LW submitted a Corrected Application for Interim Rate Increase on February 27, 2023, correcting an error in the table for the proposed interim rates (the “Corrected Interim Rate Application”). DPU filed additional comments on March 2, 2023, concluding the Corrected Interim Rate Application was complete, consistent with Utah Code Ann. § 54-7-12(2)(b)(i) and “substantially complies with Utah Admin. Code R746-700-50 and [-]51, and 746-1-203(3)”<sup>1</sup> and

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<sup>1</sup> See Additional Comments from the Division of Public Utilities, March 2, 2023 at 1.

recommended the PSC approve the Corrected Interim Rate Application (“DPU Additional Comments”).

On March 7, 2023, the PSC held a hearing<sup>2</sup> to consider the Corrected Interim Rate Application. LW and DPU appeared and offered live testimony in support of that application. No other party provided written or live testimony or opposed the Corrected Interim Rate Application.

I. THE CORRECTED INTERIM RATE APPLICATION

LW is a water corporation as defined in Utah Code Ann. § 54-2-1(39), with a Certificate of Public Convenience and Necessity (CPCN) first issued by the PSC on April 28, 1982.<sup>3</sup> LW is located near Huntsville, Utah and currently serves approximately 291 active connections, 103 standby connections, and approximately 26 acres of landscaping area. LW states its current rates are insufficient to sustain operations, it is currently operating at a net loss, and is not collecting or reserving funds for future repairs and replacement. LW’s current and proposed interim rates are as follows:

Current Rates		Proposed Interim Rates	
<b>Water Usage Rates</b>			
Base Rate -0- to 12,000 gallons	\$35.00 min. fee	Base Rate -0- to 12,000 gallons	\$60.00 min. fee
			\$2.00 per 1,000 gallons
Tier 1 12,001 to 15,000 gallons	\$3.25 per 1,000 gallons	Tier 1 12,001 to 20,000 gallons	\$3.00 per 1,000 gallons
Tier 2 15,001 to 40,000 gallons	\$3.75 per 1,000 gallons	Tier 2 20,001 to 40,000 gallons	\$4.50 per 1,000 gallons

<sup>2</sup> The reference to “hearing” in this Order is to the March 7<sup>th</sup> hearing and the audio recording of that hearing and is located at <https://www.youtube.com/watch?v=LgpJ8I8WkDw>.

<sup>3</sup> See Docket No. 82-540-01, issuing CPCN No. 2080.

Tier 3 40,001 to 60,000 gallons	\$4.25 per 1,000 gallons		Tier 3 40,001 to 60,000 gallons	\$6.75 per 1,000 gallons
Tier 4 60,001 to 80,000 gallons	\$5.50 per 1,000 gallons		Tier 4 60,001 to 80,000 gallons	\$10.13 per 1,000 gallons
Tier 5 80,000 or more gallons	\$7.00 per 1,000 gallons		Tier 5 80,000 or more gallons	\$15.19 per 1,000 gallons
<b>Connection Fees</b>				
Single Family Dwelling Unit (Developments) <sup>3</sup> / <sub>4</sub> inch	\$3,500		Single Family Dwelling Unit (Developments) <sup>3</sup> / <sub>4</sub> inch	\$1,495
Other Single Family Dwelling Unit <sup>3</sup> / <sub>4</sub> inch	\$4,000		Other Single Family Dwelling Unit and Single Business Connections <sup>3</sup> / <sub>4</sub> inch	\$1,495
Multiple Family Dwellings on single connection	\$3,000		Multiple Family Dwellings on single connection	\$1,495
<b>Stand-By Fee</b>				
Single Connection	\$10.00		Single Connection	\$30.00

II. TESTIMONY AND COMMENTS

*A. LW Written Testimony.*

William Duncan states LW had modest losses in 2019 and 2021, yet had a gross profit in 2020 due to connection charges for several multi-housing projects between 2019 and 2021. However, Mr. Duncan states that revenue from connection charges subsidized the revenue shortfall from monthly rates, and connection charge revenue is unpredictable.<sup>4</sup> Additionally, Mr. Duncan represents that the proposed rate increases will realign the monthly revenues with fixed expenditures, while also reducing the connection charges to match actual connection cost more closely. Mr. Duncan also explains that LW’s costs are higher due to, among other things, the hiring of new employees, pay raises, maintenance of aging infrastructure, increased electric bills,

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<sup>4</sup> See January 31, 2023 Direct Testimony of William Duncan (“Duncan Direct Test.”) at 1-2.

newly acquired water shares, and equipment upgrades.<sup>5</sup> Ray Bowden testifies that LW has expanded its service area to incorporate the Legacy Mountain Estates (“LME”), which includes a 48-lot subdivision, certain water rights, and the related infrastructure that was built and paid for by LME to provide service to the lots (“LME Assets”).<sup>6</sup> Additionally, Mr. Bowden states he has personally subsidized LW since taking ownership in 2011.

***B. DPU Comments.***

DPU comments that it has performed a preliminary review of the Application and Interim Rate Application and LW meets its obligation under Utah Code Ann. § 54-7-12(4) for approval of interim rates. DPU states that its preliminary review indicates LW’s aging infrastructure, the inflation rate, and operating cost deficits necessitate an immediate increase.<sup>7</sup> DPU further states that the corrections in the Corrected Interim Rate Application are “not material enough to change the [DPU’s] recommendation [of approval of the requested interim rates].”<sup>8</sup> DPU finally states LW’s requested interim rate increase is reasonable and more likely to reflect actual costs than the current rates. DPU concludes that LW has made an adequate prima facie showing that the existing rates are inadequate, recommending the PSC approve the interim rate increase, effective March 17, 2023, subject to a more comprehensive review of the Application.

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<sup>5</sup> See Duncan Direct Test., at 3-4.

<sup>6</sup> See January 31, 2023 Direct Testimony of Ray Bowden (“Bowden Direct Test.”) at 2. See also Lakeview Water Corporation’s Application for Approval to Expand its Service Area, Docket No. 21-540-01.

<sup>7</sup> See DPU Response at 4.

<sup>8</sup> See DPU Additional Comments at 2.

*C. Testimony at Hearing.*

LW's witnesses reiterated information submitted in the Corrected Interim Rate Application, the Application, and the written testimony. LW witnesses also addressed and clarified questions concerning, among other things, LW's current and historical operation, the status of the acquisition of the LME Assets, and cost allocation of the Supervisory Control and Data Acquisition ("SCADA") system it shares with Mountain Sewer Company ("MSC").

For example, Mr. Bowden testified he had provided significant capital infusions to LW and that LW was (and continues) operating at a loss. Mr. Bowden also testified that LW operating costs are increasing due to increased payroll, electric bills, and costs associated with the acquisition of the LME Assets. LW witness Chad Kramer testified that the LW Assets will benefit LW customers and LW will take possession of those assets in July 2023.<sup>9</sup> Mr. Duncan testified that the shared SCADA costs are allocated based on use; specifically, whichever entity (LW or MSC) exclusively uses any specific SCADA component is assigned the cost associated with that use, but where both entities equally use any such component the cost is allocated evenly between them.<sup>10</sup>

DPU witness Joanna Matyjasik testified that LW's last rate increase occurred in 2010.<sup>11</sup> In addition, Ms. Matyjasik stated since LW's last rate increase the total inflation rate has been 34.2% and, while LW's proposed interim rate increase is 71.4%, the impact of inflation, the

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<sup>9</sup> Hearing testimony C. Kramer at 59:20:00-1:00:12.

<sup>10</sup> Hearing testimony W. Duncan at 1:00:13-1:03:15. The specific allocations are presented in Confidential Exhibit 2.7 to Duncan's Direct Test.

<sup>11</sup> See Docket No. 06-540-T01, Report and Order issued November 29, 2007, reflecting a three-year phased-in base rate for 2008, 2009, and 2010.

aging infrastructure, and other items justify the requested increase.<sup>12</sup> Ms. Matyjasik further testified that DPU also supports the interim rate increase because of the increased electric bills and the costs associated with the SCADA system.<sup>13</sup> Ms. Matyjasik concluded that LW's proposed interim rates are just, reasonable, and in the public interest.

FINDINGS AND CONCLUSIONS

After a hearing, the PSC may allow an interim rate increase subject to refund or surcharge based on evidence that “establish[es] an adequate prima facie showing that the interim rate increase or decrease is justified.”<sup>14</sup> In applying this standard, we consider a prima facie showing to be one that is sufficient to support the proposed rate relief until contradicted by other evidence.<sup>15</sup>

LW states that the existing rates and fees are inadequate and the proposed interim rates are necessary for LW to recover its reasonable operating costs that include payroll expenses, infrastructure maintenance and upgrades, and establishing a capital reserve. DPU's preliminary review of LW's Corrected Interim Rate Application concludes there is adequate prima facie evidence demonstrating the current rates and fees are inadequate and the proposed interim rates more likely reflect LW's actual costs. At hearing, LW provided testimony supporting the need for interim rates, including operational losses and the maintenance of existing and acquired infrastructure. DPU reiterated its written testimony at hearing and testified that the information provided by LW during the hearing did not affect its conclusion and recommendation.

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<sup>12</sup> Hearing testimony J. Matyjasik at 1:11:00-1:12:15.

<sup>13</sup> Hearing testimony J. Matyjasik at 1:13:35-1:14:25.

<sup>14</sup> Utah Code Ann. § 54-7-12(4)(a)(iii).

<sup>15</sup> See *Child v Gonda*, 972 P.2d 425, 432 (Utah 1998) (quoting Black's Law Dictionary, 1190 (6<sup>th</sup> ed. 1990)).

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Specifically, DPU testified that LW has adequately provided a prima facie showing that the existing rates are inadequate and the interim rates are just, reasonable and in the public interest and recommends the PSC approve the Corrected Interim Rate Application and the proposed interim rate increase.

Based on the Corrected Interim Rate Application, including written testimony, DPU's recommendations, and testimony at the hearing, and given no party opposes, we find and conclude that LW has provided adequate prima facie evidence showing the interim rates are justified and thus approve the Corrected Interim Rate Application.

ORDER

The Corrected Interim Rate Application and the proposed interim rate increase are approved as filed, effective March 17, 2023, subject to refund or surcharge pending completion of our adjudication of the Application.

DATED at Salt Lake City, Utah, March 16, 2023.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#327324

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 16, 2023, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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