
Highlands Water Company, Inc.'s Request to Update its Service Area	<u>DOCKET NO. 23-010-01</u> <u>ORDER ON PETITION TO INTERVENE</u>
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ISSUED: March 7, 2024

PROCEDURAL BACKGROUND

On September 20, 2023, Highlands Water Company, Inc. (“Highlands”) filed with the Public Service Commission (PSC) a request concerning its service area (“Service Area Update Request”). On September 22, 2023, the PSC issued a Notice of Filing and Comment Period (“Notice”), allowing comments on the Service Area Update Request by October 23, 2023, and reply comments by November 7, 2023. The Division of Public Utilities filed comments on October 17, 2023, based on the record as it existed at that time, which consisted solely of Highlands’ Service Area Update Request.

On November 6, 2023, Mountain Green Mutual Water Company (“MGMWC”) and Village at Trappers Loop LLC (collectively “Intervenors”) petitioned to intervene in this docket (“Petition”). On that same date, Intervenors also filed an Opposition to Highlands’ Service Area Update Request (“Intervenors’ Opposition”). On November 7, 2023, Cottonwood Mutual Water Company f/k/a Wilkinson Cottonwood Mutual Water Company filed reply comments to Highlands’ Service Area Update Request pursuant to the Notice (“CMWC’s Reply”).

On November 13 and 14, 2023, Highlands made at least six separate submissions to the PSC concerning the Petition, Intervenors’ Opposition, and CMWC’s

Reply, including an opposition to the Petition (“Highlands’ Opposition to Intervention”). On November 20, 2023, Intervenors filed a Reply Memorandum Supporting Petition to Intervene in Highlands Water Company, Inc.’s Request to Update its Service Area.

On December 12, 2023, the PSC issued a Notice of Virtual Hearing regarding the Petition. A virtual hearing was held on December 21, 2023, from approximately 10:00 a.m. through approximately 12:40 p.m. and was attended by legal counsel for Intervenors and a representative of Highlands (“Hearing”).¹

DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

The Petition is governed by Utah Code Ann. 63G-4-207 and Utah Admin. Code Rule R746-1-108. Utah law allows nonparties to file a petition for intervention in a docket pending before the PSC.² Utah law directs that “[t]he presiding officer shall grant a petition for intervention if the presiding officer determines that:

- (a) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and
- (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.”³

The Service Area Update Request seeks to update Highlands’ “service area description and maps ... to reflect Highlands Water Company’s current infrastructure,

¹ Submissions made to the PSC after the Hearing are not recounted here.

² Utah Code Ann. §63G-4-207(1).

³ Utah Code Ann. §63G-4-207(2)(a)&(b).

service area and immediate planned extension of infrastructure and service areas.”⁴

This docket is crowded with numerous filings raising arguments on substantive issues surrounding Highlands’ Service Area Update Request, all of which raise potential questions and issues which will ultimately require evidence and analysis to appropriately adjudicate that request. However, such evidence and analysis of that evidence is not necessary for purposes of ruling on the Petition because intervention is a preliminary step in the adjudicative process. Instead, Intervenors need only make a showing on the two elements cited above, and if they do the PSC must grant the Petition.

We find that the Intervenors have made a sufficient showing at this stage of the proceedings that their legal interests may be substantially affected by the Service Area Update Request. For example, Intervenors have asserted their interests exist and may be affected at least because MGMCW “plans to serve [Highlands’] proposed expansion area and has already secured the necessary infrastructure” to do so.⁵ Thus, according to the Intervenors, they should be allowed to intervene because a PSC ruling on Highlands’ Service Area Update Request “will determine the boundaries of Highlands’ service area without a full understanding of the water service infrastructure and plans in the proposed service area.”⁶ Intervenors further assert

⁴ Service Area Update Request at 1. Highlands clarified at the Hearing that it only seeks to update its service area description and map to reflect its current actual service area, and not to reflect any extension or expansion of that area.

⁵ Petition at 2-3, ¶ 5.

⁶ *Id.* at 2-3, ¶ 5.

“Highlands’ claims as to the boundaries of its existing service area and its proposed service area expansion are adverse to the asserted legal rights and interests of MGMWC to service these areas. Highlands’ claims as to its existing service area and its proposed expansion are also adverse to the legal rights and interests of Village arising from its selection of nonprofit MGMWC as its preferred water utility.”⁷

We also find that Highlands’ Opposition to Intervention⁸ demonstrates a level of disagreement between the parties that further supports that a thorough adjudicative process, including admitting as parties a person or entity meeting the requirements of Utah law, will benefit this docket.

We further find that Intervenors have made a sufficient showing that their participation in this docket will not materially impair the interests of justice and the orderly and prompt conduct in the adjudication of the service Area Update Request. Specifically, Intervenors timely filed their Petition and have shown that, based on the apparently conflicting views between them and Highlands, and the uncertainty currently present in addressing the Service Area Update Request, justice will be better served by allowing Intervenors to present their claimed interests. Highlands has not addressed or disputed this element.

Highlands’ multiple filings, Intervenors’ counter-filings, and the Hearing in this docket highlight that this docket presents numerous issues concerning the rights and

⁷ *Id.* at 3, ¶ 6.

⁸ Highlands’ Opposition to Intervention, filed November 13, 2023.

interests of Highlands and of Intervenors. The existence of these issues in the minds of both Highlands and the Intervenors, especially at this stage of the proceedings, strongly reenforce our conclusion that the Intervenors should be parties to this docket such that all issues relevant to the Service Area Update Request, if falling within our jurisdiction, should be adjudicated and resolved in this docket.

ORDER

For the forgoing reasons, the Petition is granted. Intervention is conditioned upon the intervenor's representatives participating in this matter adhering to the Utah Standards of Professionalism and Civility adopted by the Utah Supreme Court October 16, 2003 (reviewable at internet web address <http://www.utcourts.gov/courts/sup/civility.html> or a copy obtained by request made to the PSC) and all applicable PSC rules and orders.

DATED at Salt Lake City, Utah, March 7, 2024.

/s/ John E. Delaney
Presiding Officer

Approved and confirmed March 7, 2024, as the Order of the Public Service Commission of Utah.

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#332741

CERTIFICATE OF SERVICE

I CERTIFY that on March 7, 2024, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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