

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

)	
In the Matter of the Formal Complaint of)	<u>DOCKET NO. 13-2195-01</u>
Rodney Dansie against Hi-Country Estates)	
Homeowners Association)	<u>ORDER OF DISMISSAL</u>
)	<u>FOR LACK OF JURISDICTION</u>
)	

ISSUED: July 16, 2013

SYNOPSIS

By this order the Commission dismisses the formal complaint of Rodney Dansie for lack of jurisdiction.

By The Commission:

I. BACKGROUND

On June 13, 2013, Rodney Dansie (“Mr. Dansie”) filed a formal complaint against Hi-Country Estates Homeowners Association (“Hi-Country”) in this docket. Mr. Dansie’s complaint is premised on a summons and complaint he was served by Hi-Country, which alleges certain standby and late fees are due and owing by Mr. Dansie and others in a case presently pending in Third District Court.¹ Mr. Dansie asks the Commission to put the summons “on hold”² and enforce a well agreement against Hi-Country which was the subject of a 2011 Utah Court of Appeals decision.³ Mr. Dansie’s complaint states: “We believe that the PSC lacks jurisdiction on [sic] this Contract matter. However, we respectfully request that the PSC review this matter and[,] if necessary[,] conduct hearings...”⁴

¹ See *Hi-Country Estates Homeowners Association v. The Jesse Rodney Dansie Living Trust, et al.*, Case No. _____, filed _____ 2013, Third District Court, West Jordan.

² Formal Complaint at 1.

³ See *Hi-Country Estates Homeowners Association v. Bagley & Company, et al.*, 2011 UT App. 252 (Amended Memorandum Decision).

⁴ Formal Complaint at 3 (emphasis added).

On July 11, 2013, the Division of Public Utilities (“Division”) filed a recommendation to dismiss Mr. Dansie’s complaint.⁵ Similarly, Hi-Country contends Mr. Dansie’s complaint should be dismissed.⁶ In part, Hi-Country states: “If Mr. Dansie believes that he has defenses against Hi-Country claims, Mr. Dansie can raise those to the district court. The Commission is not the proper forum for these arguments to be made or heard.”⁷

II. DISCUSSION, FINDINGS, AND CONCLUSION

Under Rule 12 of the Utah Rules of Civil Procedure, which we apply pursuant to R746-100-1(C) of the Utah Administration Code, the Commission is obligated to dismiss an action “whenever it appears by suggestion of the parties or otherwise that the [Commission] lacks [subject matter] jurisdiction.” Utah R. Civ. P. 12(h)(2). Here, we agree with the parties’ general assessment that jurisdiction over this matter, as presently presented, is not properly before the Commission. The summons and complaint about which Mr. Dansie complains is pending before the district court and involves a contract (i.e., a well agreement) not within the Commission’s jurisdiction. It is, therefore, before the district court that Mr. Dansie’s arguments should be raised. Accordingly, we dismiss Mr. Dansie’s complaint for lack of jurisdiction.

⁵ See Division Memorandum, filed July 11, 2013. The Division’s recommendation does not address the issue of jurisdiction. The Division basis its recommendation on Hi-Country’s tariffs addressing a monthly standby fee and customer late fee. According to the Division, “[t]he Company is charging rates as outlined and authorized by the Commission. The [C]ompany is pursuing collection of the fees as authorized by [its] tariff. Mr. Dansie has not shown that Hi-Country is in violation of any Administrative Rule, Utah law, court ruling, or Commission ruling. The Division therefore recommends that the formal complaint against Hi-Country be dismissed.” Id. at 2.

⁶ See Response to Formal Complaint of J. Rodney Dansie, filed July 10, 2012.

⁷ Id. at 1 (emphasis added).

III. ORDER

For the reasons explained herein, this matter is dismissed for lack of jurisdiction.

DATED at Salt Lake City, Utah, this 16th day of July, 2013.

/s/ Melanie A. Reif
Administrative Law Judge

Approved and confirmed this 16th day of July, 2013, as the Order of Dismissal for
Lack of Jurisdiction of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
D#245730

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 Commission 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 Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission'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 the 16th day of July, 2013, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Rodney Dansie
7198 West 13090 South
Herriman, UT 84096

By Electronic-Mail:

J. Craig Smith (jcsmith@smithlawonline.com)
Smith Hartvigsen, PLLC
Counsel for Hi-Country Estates Homeowners Association

Patricia Schmid (pschmid@utah.gov)
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Utah Assistant Attorneys General

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
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Office of Consumer Services
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Administrative Assistant