

## J. Rodney Dansie

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**From:** "J. Rodney Dansie" <roddansie@msn.com>  
**Date:** Wednesday, April 17, 2013 4:47 PM  
**To:** "Shauna Benvegna-springer" <sbenvegn@utah.gov>  
**Cc:** "William Duncan" <wduncan@utah.gov>  
**Subject:** 4/17/2013 additional objections to the Proposed tariff of HI-Country Water and request that it Not be approved as proposed and that Language be added to the Proposed Tariff that would exempt any water provided under the well lease agreement as ordered

Shauna Benvegna-springer DPU William Duncan

As per our phone conversations I am sending a summary of some of the objections to HI-Country Waters proposed tariff and reasons why it should not be approved.

1. The 1977 well lease and 1985 well lease amendment and the July 29,2011 opinion of the Utah Court of Appeals has been sent to the DUP which clearly spells out the obligations of the Water Company To provide obligations and water to the Dansies water system and a Demand letter dated April 11, 2013 demanding the obligations of the well lease agreement (Copy sent to DUP) was sent to the Managers of HI-Country HOA and Water Company (J. Craig Smith and Matt Jensen ) requesting that the obligations of the well lease and the water be provided as per the orders of the Utah Court of Appeals.
2. It is Requested that the DUP review the proposed Tariff and add language to the tariff which would allow HI-Country Water and HOA to provide the obligations of the Well lease agreement and court orders by indicating that the proposed tariff does not have any effect or apply to the CONTRACT (Well lease agreement ) water and obligations. The Proposed tariff would prohibit the water company from providing the water and per the July 29,2011 court of appeals order and be in violation of Utah Contract Law.
3. The current orders and authority of the PSC in this matter do not allow the P. S. C. to decide ownership issues and the District court and Court of Appeals and Supreme Court has made there decision on the ownership of the water system and the obligations due under the Well Lease Agreement and the obligations of the well lease are an ownership issue and run with the water system and have been decided and must be provided by the HOA/ Water Company. These obligations are beyond the authority of the P. S. C. and the P. S. C. has not changed any of these orders at this time and may not have the authority to do so at any later date.
4. The Proposed tariff should modified to allow HI-Country to Provide the Obligations the Court of Appeals has ordered in its July 29,2011 opinion. Petition for writ of certiorari was denied on this matter and it is now final.
5. The Well lease and court of appeals opinion are exempt at the present time from the P. S. C. authority since they are court decisions regarding ownership and contractual obligations that are part of the ownership of the water system and obligations that run with the water system.

additional reasons requiring non approval of the proposed tariff.

1. The service area and maps of service are different than when the service was provided by Foothills Water co. and must be reviewed and corrected. ( leaving some are without service and other areas lacking easements to get water and lines to the areas.)
2. The conditions of service are (part of a home owners association rules and not a utility that provides service to the public generally ( Service requiring a 66% approval by the association member ship )
3. The proposed tariff is not acceptable in that it passes on costs that should be reviewed to determine if they are the most reasonable and necessary under utility rules. The rates and conditions of service are not in the best interest of lot owners (members) of hi-country water company and no rate review or cost analysis has ever been made of the rates and the costs that make up the rates and if they are necessary and reasonable since no alternatives have been proposed or reviewed by the DUP.
4. The agreement with Herriman City to operate the water system has increased the costs by 400 % and that agreement and its provisions have not been reviewed by the DUP and approved by the P. S. C. as reasonable and necessary and if there are other alternatives that may be in the best interests of the Rate Payers (members). this analysis has never been made since 1994 and HOA costs are different and have different rules than a public utility.
5. Many of the Costs of operating the water system as a HOA organization are completely different that a public utility. The Tariff needs the review of a close eye of the DUP to determine what costs are allowed under utility regulations. Many of the costs of operating the water company are being passed on to the members as H. O. A. fees and being double charged again as water rate fees. THE LAW REQUIRES A RATE CASE AND RATE REVIEW FOR ANY UTILITY AND THIS HAS NOT YET BEEN PERFORMED BY THE D.U.P. AND NEEDS TO BE DONE BEFORE ANY TARIFF IS APPROVED. CURRENT RATES SHOULD BE SUBJECT TO REFUND IF THEY ARE FOUND TO NOT BE REASONABLE AND NECESSARY.
6. There has been a total lack of participation or information available to members regarding the operation of the water system and the quality and safety of the drinking water. Many bad water samples have been reported and the water has has quality problems and that information has not been provided to the customers, owners members of the utility.
7. The agreement with Herriman City has not been provided to the DUP and reviewed and approved by the P. S. C. and that needs to happen since the costs will be an increase of 400 percent unless the HOA fees and water fees are reviewed and determined to not be double charging for the same items twice.
8. The Legal fees of Smith Law firm should be reviewed to determine which fees are reasonable and necessary and which should be HOA legal fees and which are Water Company fees and a full rate review is necessary to determine the correct rates and the tariff provisions will greatly effect those rates since there has been no analysis or discussion as to weather part of the services can be provided by members or customers. rather than law firms at \$300.00 per hour for answering concerns regarding billings or water quality complaints.

9. No one has seen rates or charges that Herriman City proposes and that information should be made available to rate payers. That information should reviewed by DUP and deemed reasonable and necessary and made available to all customers.

10. Need and request for a Review of Rates that take into consideration the provisions in the Proposed tariff. Hlc/HOA Smith & Jensen have talked about a rate case AND HAVE Misrepresented that it would requested in December 2012 and that Rate case and review of the tariff and its provisions needs to happen before approval of any proposed tariff to assure that both the Charges (Rates and Tariff and its Provisions and the Agreement with Herriman City are in the best interests of rate payers. THIS HAS NEVER BEEN DONE SINCE 1994 AND IT APPEARS TO BE A VIOLATION OF UTILITY RULES AND REGULATIONS AND RATES AND COSTS MAY NOT BE REASONABLE AND NECESSARY AS REQUIRED BY UTILITY LAW.

11. IT IS HERE BY REQUESTED THAT THE ABOVE ISSUES, COMMENTS AND INFORMATION BE TAKEN IN TO CONSIDERATION AND A FULL REVIEW AND AUDIT OF THE ISSUES AND MATTERS BE CONSIDERED BY THE DUP WITH RECOMMENDATIONS TO THE PSC SO THAT FAIR AND JUST RATES CAN BE SET FOR THE UTILITY.

THANKS for your consideration of the above matters regarding the proposed tariff and a future rate case . If you have questions regarding my statements or requests please contact me at 801-254-4364

Best Regards J. Rodney Dansie