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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Formal Complaint of)	Docket No. 13-2195-01
Rodney Dansie against Hi-Country Estates)	
Homeowners Association)	REQUEST FOR REVIEW
)	
)	

Hi-Country Estates Homeowners Association (“**Hi-Country**”) respectfully requests review of the Public Service Commission’s Order of Dismissal for Lack of Jurisdiction dated July 16, 2013 (“**Order**”). Although Hi-Country agrees with the Commission’s dismissal of Mr. Dansie’s formal, Hi-Country has concerns that one sentence in the Order could cause confusion in the ongoing general rate case (Docket No. 13-2195-020), and therefore requests that the Commission amend this sentence to provide clarification.

The sentence at issue states: “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.*” (Emphasis added.) The last part of this sentence is incorrect, and runs counter to the law and the Commission’s prior decisions.

What has been commonly referred to as the “Well Lease Agreement” has been an issue and a concern to the Commission ever since Hi-Country’s predecessor, Foothills Water Company, first came under Commission review in the 1980s. Through the years, the Commission has repeatedly held that it has the power to review and, where appropriate, limit application of the Well Lease Agreement in order to prevent unreasonable burdens on Hi-Country’s ratepayers. *See, e.g.*, Report and Order dated March 17, 1986, Case No. 85-2010-01 (stating that the Well Lease Agreement “is grossly unreasonable, requiring not only substantial monthly payments, but also showering virtually limitless benefits on Jessie Dansie and the members of his immediate family,” and that the Commission “would be abrogating its statutory duty” to impose the burdens of the Well Lease Agreement on the ratepayers); Report and Order dated April 9, 1992, Docket No. 91-2010-01 (stating that “it is obvious that the lease is a major financial burden on the ratepayers,” and renewing the Commission’s “disapprobation of the

terms of the lease and [the Commission's] determination to reform it on terms more favorable" to the ratepayers); Order on Rehearing dated November 30, 1992, Docket No. 91-2010-01 (stating that "the terms of the lease . . . are unjust and unreasonable" and "that all costs of the [Well Lease Agreement], which exceed the costs of the alternative source, are unreasonable").

Utah courts have repeatedly upheld the Commission's determinations that the Well Lease Agreement is an unreasonable burden on the ratepayers, as well as the Commission's decisions to limit application of the Well Lease Agreement to avoid the unreasonable burdens being placed on the ratepayers. *See, e.g., Hi-Country Estates Homeowners Association v. Bagley & Co.*, 863 P.2d 1, 9 (Utah Ct. App. 1993) ("Utah courts have long held that the PSC may regulate public utility rates, even when doing so requires altering contractual relationships. The public interest in access to utilities, and in fair and just rates, justifies such regulation and justifies the altering of contractual relationships."); *Hi-Country Estates Homeowners Association v. Bagley & Co.*, 901 P.2d 1017, 1023 (Utah 1995) ("[T]he PSC's order did not purport to invalidate the [well lease] agreement, it merely limited the amount that the Homeowners Association would pay for it, a matter clearly within the PSC's rate-making authority. . . . [T]he PSC has power to construe contracts affecting matters within its jurisdiction such as rate-making . . .").

In Hi-Country's pending general rate case (Docket No. 13-2195-020), the Well Lease Agreement will again be an issue that will need to be addressed by the Commission. Indeed, complainant Mr. Dansie has just recently filed a Petition to Intervene in Hi-Country's general rate case, asserting that Hi-Country is required to provide free water and free hook-ups to the Dansie family under the Well Lease Agreement, despite the Commission's repeated strong disapprobation of the Well Lease Agreement. As the Commission has done in the past, and as is allowed by law, the Commission will have to consider the Well Lease Agreement and its affect on ratepayers. For this reason, the Commission's statement in the Order that the Well Lease Agreement is "not within the Commission's jurisdiction" is incorrect and could cause confusion among the parties in the ongoing general rate case.

For the above reasons, Hi-Country respectfully requests that the Commission review its Order and issue a revised Order clarifying that the Commission has had and does have jurisdiction to consider the Well Lease Agreement, and its potential impact on ratepayers, in the context of the general rate case.

Respectfully submitted this 14th day of August, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of August, 2013, I served a true and correct copy of the foregoing **Request for Review** by causing the same to be delivered to the following:

Via hand delivery and email to:

UTAH PUBLIC SERVICE COMMISSION
c/o Gary Widerburg, Commission Secretary
160 East 300 South, Fourth Floor
Salt Lake City, Utah 84111
psc@utah.gov

Via U.S. mail to:

John S. Flitton
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