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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Hi-Country)	
Estates Homeowners Association for Approval)	RESPONSE TO REQUEST FOR
of Its Proposed Water Rate Schedules and Water)	REVIEW OR REHEARING WITH
Service Regulation)	THE PSC FOR A DECLARATORY
)	RULING OF WERNER UHLIG
)	
)	Docket No. 13-2195-02
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)	

Hi-Country Estates Homeowners Association (“**Hi-Country**”), by and through its undersigned counsel, Smith Hartvigsen, PLLC, hereby responds to the Request for Review or Rehearing with the PSC for a Declaratory Ruling (the “**Request**”) made by Werner Uhlig as filed with the Public Service Commission (the “**Commission**”) on June 3rd, 2014.

The Commission's rules allow for petitions for review or rehearing in accordance with Utah Code Ann. § 63G-4-301. Utah Administrative Code R746-100-11.F. Section 301 of the Utah Administrative Procedures Act allows an aggrieved *party* to an adjudicative proceeding to file a written request for review of an agency's order. Utah Code Ann. § 63G-4-301(1)(a). The term "party" is defined by the Utah Administrative Procedures Act to mean "the agency or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the presiding officer to intervene in the proceeding, and all persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding." Utah Code Ann. § 63G-4-103(1)(f). Mr. Uhlig did not request and was not granted formal intervention. As Mr. Uhlig has not formally intervened in this Docket prior to the Commission's Report and Order of May 5th, 2014, and is therefore not a party to these proceedings, he has no right to make a request for review or rehearing under the relevant rules and statutes. The fees adopted by the Commission were originally proposed by Hi-Country and the Division of Public Utilities (the "**Division**") months ago and Mr. Uhlig had many opportunities to lodge any complaints or make his opinion known by intervening, submitting pleadings, and participating in the scheduled hearings held by the Commission. Indeed, the Request covers the same basic points as the email sent by Mr. Uhlig to the Commission in August of 2013 and the brief testimony provided by Mr. Uhlig at the public witness hearing on March 5th, 2014.

Additionally, the complaints regarding standby fees that are the topic of Mr. Uhlig's Request are based on a misunderstanding of the approved rates and ignore the reality of

maintaining a public water system. Mr. Uhlig complains that any standby fees should be assessed on all homeowners, which shows a misunderstanding of the approved rates. The standby fee of \$31.75, approved based on calculations by the Division, is indeed charged to all customers; however, active customers do not have a \$31.75 line item on their bills; instead, that amount is included as part of the \$78.00 monthly fee paid by each active customer. As such, the fixed system expenses (conceptually, those expenses that would be incurred even without any water use) are borne equally by all customers, both active and standby. The customers not actively receiving service pay their share of the expenses through the monthly standby fees and the active customers pay their share of the expenses through a portion of the monthly base rates. Further, Mr. Uhlig's Request ignores the reality of maintaining a water system ready to deliver water at any moment in response to a fire or other emergency need. Mr. Uhlig desires to only pay for emergency water as needed but ignores that fact that his standby fees pay not for the water delivered in an emergency but rather for the costs of keeping the water system ready to deliver that water to him as needed.

Mr. Uhlig does not have standing to request review or rehearing. Further, Mr. Uhlig's Request is based on a misunderstanding of the approved rate structure and rationale. The issues raised in Mr. Uhlig's Response have been thoroughly addressed by the parties and the Commission and this Request does nothing more than unnecessarily delay the resolution of the matters before the Commission.

Dated this 16th day of June, 2014

/s/ Adam S. Long

J. Craig Smith

Adam S. Long

SMITH HARTVIGSEN, PLLC

Attorneys for Hi-Country Estates

Homeowners Association

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of June, 2014, I served a true and correct copy of the foregoing **RESPONSE TO REQUEST FOR REVIEW OR REHEARING WITH THE PSC FOR A DECLARATORY RULING OF WERNER UHLIG** 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 and email to:

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Via email to:

Utah Division of Public Utilities
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/s/ Adam S. Long

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