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BEFORE THE PUBLIC SERVICE COMMISSION

HIGHLANDS WATER COMPANY, INC.,

Applicant,

v.

MOUNTAIN GREEN MUTUAL WATER
COMPANY and VILLAGE AT TRAPPERS
LOOP, LLC,

Intervenors.

**Opposition to Highlands Water
Company, Inc.’s Request to
Voluntarily Dismiss Docket 23-
010-01 and Stay Data Request
Responses**

Docket No. 23-010-01

Mountain Green Mutual Water Company (“**MGMWC**”) and Village at Trappers Loop, LLC (“**Village**,” and collectively “**Intervenors**”) submit the following Opposition to Highlands Water Company, Inc.’s (“**Highlands**”) request to voluntarily dismiss Docket 23-010-01 and stay the deadline to respond to data requests (the “**Request**”). Intervenors request that the Public Service Commission of Utah (“**Commission**”) deny Highlands’ Request in the interest of fairness and instead stay Docket 23-010-01 (the “**Docket**”).

BACKGROUND

In September 2023, Highlands submitted a petition to update its service area descriptions and maps to “reflect Highlands Water Company’s current infrastructure, service area and immediate planned extension of infrastructure and service areas.” (Petition at 1.) MGMWC and

Village sought intervention, which Highlands vigorously opposed. The Commission ultimately granted MGMWC and Village’s proposed intervention. In the midst of a prolonged period of discovery, interrupted by unsuccessful settlement negotiations, Highlands filed an amendment to its petition, further postponing discovery deadlines. Then, more than *eighteen months* after Highlands filed its original petition, Highlands performed a basic due diligence review of its business records and identified three Commission Reports and Orders accompanied by a Certificate of Convenience and Necessity that ostensibly establish Highlands’ Commission-approved service area. (Request at 2.)

After this discovery, instead of producing the information responsive to MGMWC’s pending data requests by the March 28, 2025, deadline for those responses, Highlands submitted its Request for voluntary dismissal. Intervenor’s oppose dismissal of this Docket.

ARGUMENT

Intervenor’s oppose Highlands’ Request for voluntary dismissal and instead request a stay in the interest of justice and conservation of Commission and party resources. Highlands bases its Request on three Reports and Orders that apparently issued or amended Highlands’ Certificate of Convenience and Necessity (the “**Reports and Orders**”). (Request at 2–3.) Highlands asserts that it only recently found these documents after “sorting through historic files and documents to provide responses to data requests in the Docket.” (Request at 1.) In other words, these documents were readily discoverable through a reasonably diligent search of Highlands’ own business records. But Highlands failed to conduct that search for the Reports and Orders or Certificate of Convenience and Necessity—essential documents to determine whether Highlands’ recorded service area matches the parcels that the company currently serves—before filing a request to

update its service area with the Commission. Intervenor should not have to bear the cost of Highlands' mistake.

"The Utah Rules of Civil Procedure . . . are persuasive authority in Commission adjudications unless otherwise provided by: (1) Title 63G, Chapter 4, Administrative Procedures Act; (2) Utah Administrative Code R746; or (3) an order of the Commission." Utah Admin. Code 746-1-105. Like Highlands, Intervenor find no language concerning voluntary dismissals of dockets in the Administrative Procedures Act, the Utah Administrative Code R746, or an order of the Commission. Consequently, Intervenor turn to Rule 41 of the Utah Rules of Civil Procedure. Rule 41(a)(1) provides that "an action . . . may be dismissed at the [applicant's] request by court order . . . on terms the court considers proper." The purpose of this rule is to protect adverse parties from prejudice—"e.g., being inconvenienced and investing time and financial resources for naught." *Thiele v. Anderson*, 1999 UT App 56, ¶ 19, 975 P.2d 481. Granting Highlands' Request would do the opposite. Instead of protecting Intervenor from prejudice, it would cause them to incur greater costs and invest more resources to re-intervene in a re-filed Highlands' docket.

Despite Highlands' acknowledgment that it was at fault for the failure to discover the Reports and Orders, and despite acknowledging that the Docket had been pending for eighteen months Highlands requests that Intervenor and the Commission bear the cost of its mistake. The Intervenor, the Division of Public Utilities ("DPU"), and the Commission have already expended substantial resources in this Docket. Voluntary dismissal would restart this administrative review process, and the Commission, DPU, and Intervenor would have to duplicate their efforts.

A fairer remedy is to stay this Docket, rather than dismiss it. Highlands states in its Request that it intends to re-file a new docket with updated maps once Highlands determines the impact of the Reports and Orders. (Request at 5.). That is, Highlands anticipates that the newly discovered

Reports and Orders still do not cover all the parcels it currently services or plans to serve. Indeed, recent reports suggest Highlands plans a major expansion to serve a new development. Ultimately, Highlands’ purpose for filing a new request will be the same as the current docket: updating the description of its service area. Because the nature of Highlands’ request will not change, it is a more efficient use of party and Commission resources for Highlands to amend its pending request rather than voluntarily dismiss this Docket. Indeed, Highlands has already amended its Petition once within this Docket. Granting a stay of proceedings would prevent duplication of work and conserve resources for all parties, including Highlands.

Further, it appears as though one of Highlands’ main reasons for requesting voluntary dismissal is to stay the now-past data request response deadline. (Request at 2, 5.) But whatever Highlands ultimately requests as a revised service area, the issue will be whether the revised service area is in the public interest. *See Utah Dep’t of Admin. Servs. V. Pub. Serv. Comm’n*, 658 P.2d 601, 611 (Utah 1983) (holding that the Commission is “charged with the duty of seeing that the public receives the most efficient and economical service possible. This requires consideration of all aspects of the public interest” (cleaned up)); *see also* Utah Code § 54-4-18 (“The commission shall have power, after a hearing, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water corporations.”). The Commission specifically ordered based on “MGMWC’s ‘public interest’ position” that Highlands provide responses. Order on Motions at 2 (February 26, 2025). The requested information is relevant regardless of Highlands’ ultimate requested service area. Accordingly, although Intervenors stipulate to a stay of this docket pending an updated service area request, the Commission should nevertheless reaffirm its order that Highlands provide the requested documents. Intervenors would have stipulated, if asked, to an

extended deadline for such responses, but the Commission should reject Highlands' attempt to completely circumvent the Commission's order requiring responses.

For all the foregoing reasons, Intervenor request that the Commission deny Highlands' request and instead stay this Docket for not more than ninety (90) days to allow Highlands to determine its revised service area request.

DATED this 11th day of April 2025.

PARR BROWN GEE & LOVELESS, P.C.



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CERTIFICATE OF SERVICE


I hereby certify that on the 11th day of April 2025, I caused a true and correct copy of the Opposition to Highlands Water Company, Inc's Request to Voluntarily Dismiss Docket 23-010-01 and Stay Data Request Responses to be served via e-mail to the following:

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/s/ 

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