

Corbin B. Gordon, #9194
GORDON LAW GROUP, P.C.
322 East Gateway Drive, Suite 201
Heber City, UT 84032
Phone: 435-657-0984
cgordon@utglg.com

Attorney for Applicant Highlands Water Co., Inc.

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

HIGHLANDS WATER COMPANY, INC.,

Applicant,

v.

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

Intervenors.

**APPLICANT'S REPLY TO 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

Highlands Water Company, Inc. (“Highlands”) files this Reply to Mountain Green Mutual Water Company and Village at Trappers Loop LLC’s (collectively, “MGMWC”) Opposition to Highlands’ Request to Voluntarily Dismiss Docket 23-010-01 and Stay Date Request Responses.

ARGUMENT

MGMWC raises several objections to Highlands’ Motion to Voluntarily Dismiss Docket 23-010-01, none of which are valid.

**I. MGMWC'S ATTEMPT TO ACCUSE HIGHLANDS OF FAULT OVER
THE RECENTLY DISCOVERED RULINGS IS MISPLACED**

MGMWC first accuses Highlands of failing to do adequate due diligence before filing its Petition to update its service area, claiming the court rulings recently discovered by Highlands

were somehow Highlands's fault. MGMWC then claims this "fault" should be considered by the Commissioner as a basis to deny its motion to voluntarily dismiss its action to resubmit an accurate Petition based on the newfound information.

MGMWC fails to acknowledge that not even the PSC had these rulings on record and that but for extensive review of old files by Highlands these rulings would have been lost to history. It is patently unfair to attempt to place fault on Highlands for the discovery of records not even the PSC had on file. It is further patently unfair to attempt to use this claim of "fault" as some way to justify prohibiting Highlands from dismissing its' own Petition, all so that it can file a new Petition that is accurate and to assure only the issues salient to the new Petition effect the decision of the Commission.

As such, MGMWC's attempt to make this motion somehow about Highlands' fault is misplaced – the discovery of the former rulings of the PSC are not anybody's "fault" – it is about assuring the issues before the Commission on a go-forward basis are accurate and the proceedings address only that which is relevant to the Petition.

II. ALLOWING HIGHLANDS TO REFILE AN ACCURATE PETITION DOES NOT CREATE DUPLICATIVE EFFORT – IT CREATES CLARITY

MGMWC argues that Intervenors, the Division of Public Utilities, and the Commission have already expended substantial resources in this Docket, and that this justifies not allowing Highlands to dismiss and refile a more accurate Petition. Highlands points out that neither the Division of Public Utilities nor the Commission were aware of the recently discovered rulings either. It was not as if Highlands purposefully filed an erroneous Petition so that it could waste the Commission's, the Division's, or MGMWC's time. As such, the fact that MGMWC spent

time intervening in this matter is neither here nor there. All parties must now face the reality that a large portion of the facts presumed to be in dispute at the beginning of this action have now been shown to be resolved by prior court order that none of the parties were aware of.

It is, as yet, unclear what the new map will look like for the Highlands' new Petition. It may be large, it may be minimal based on the prior Commission orders. It makes no sense to continue the present Petition when it is seeking in large part to have the Commission recognize what has already been granted decades before.

Further, the new Petition will allow Highlands to be exact in what it presently has and what it is asking for. This will not require duplicative efforts, as claimed by MGMWC, but reduce the amount of confusion and assure that orders entered in the new case are based on the facts alleged in the new Petition and not hold-overs from facts no longer in dispute.

It should not be lost on the Commissioner that MGMWC's arguments opposing dismissal are all based in an attempt to preserve its status as an intervenor based on facts that are either inaccurate or no longer relevant. MGMWC does not want to face the scrutiny of justifying its intervention based on the new facts, which it will have a hard time proving. Given the fact that Highlands has since made it clear it is only seeking to expand its area to present customers and nothing more, that the vast majority of what it thought was in dispute has now been shown to already be in its service area, and that MGMWC is an entity with no water rights, no source, no customers, and unaffected by whatever service area the PSC grants to Highlands, it is highly questionable that MGMWC will have any right to intervene in the new petition. At a minimum, Highlands has the right to have the decision to intervene made based on the present facts, and not on information that is no longer correct or even relevant.

MGMWC spends significant time in its brief insisting on receiving discovery requests because “the requested information is relevant regardless of Highland’s ultimate requested service area.” Such a claim is neither based in law or fact. This is a Petition to establish Highlands right to serve **ITS’ PRESENT CUSTOMERS** and nothing more. It is difficult to see how it could possibly be within the public interest to allow MGMWC to have any right to interfere with Highland’s existing relationships. It is hard to imagine that the Commission is really going to deny a Petition to allow Highlands to simply update its map to include **PRESENT CUSTOMERS**. These are topics for another day, but highlight that given the change of facts, it is questionable whether the information requested is actually relevant to anything.

To be clear, Highlands will be happy to comply with any court order requiring it to turn over the required information. With that said, it seems unfair to require this disclosure due to a decision allowing MGMWC to intervene based on facts that are no longer accurate or relevant. The decision to allow MGMWC to intervene was in no way decided based on present facts and as such must be reexamined in either this case or a new case. This only highlights why allowing the dismissal of this case and the refiling of a new Petition clarifies that there is a break from the past and the present facts and that all future decisions will be made based on facts related to the new Petition, and not those that have now become irrelevant.

MGMWC’s claims this will be duplicative are simply erroneous. To the contrary, how can it be said to be unfair that due to no fault of any party, a new Petition was allowed to be filed based on new facts that were not present at the time of the first filing. In normal civil litigation this could be dealt with through a simple amendment, but in civil litigation there is no process

that requires a party to demonstrate it has the right to intervene. This is the problem the new information presents: it legitimately seeks to restart the process based on new information, but MGMWC does not want to be subject to showing it can intervene based on these new facts.

Highlands would not be opposed to simply amending if not for the fact that intervention was granted based on facts that are no longer relevant. If the Court is willing to allow the Petition to Intervene to be reconsidered based on the new evidence then perhaps dismissal is not necessary. With that said, counsel is deeply concerned that if dismissal and a new Petition is not allowed the Commission will waste extensive hours attempting to parse out what is based on past facts and what is based on present facts, which will do nothing but complicate the issues and make the trial of this matter more complex than it needs to be. Given the contentious nature of this proceeding so far, any risk of creating an appealable error, or adding complexity to what Highlands deems a very simple question, should be avoided if possible.

It is Highlands firm contention that for the above reasons allowing a dismissal and a new Petition is legally necessary and required for fairness.

DATED this 18th day of April 2025.

GORDON LAW GROUP, PC

/s/ Corbin B. Gordon

Corbin B. Gordon

Attorney for Highlands Water Co.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of April 2025, I filed a copy of the above-captioned document with the Public Service Commission and emailed copies of the document to the following:

Patricia Schmid
Patrick Grecu
Assistant Utah Attorneys General
State of Utah
pschmid@agutah.gov
pgrecu@agutah.gov

Madison Galt
Chris Parker
Division of Public Utilities
mgalt@utah.gov
chrisparker@utah.gov
dpudatarequest@utah.gov

Matthew E. Jensen
Parr Brown Gee & Loveless, PC
mjensen@parrbrown.com

GORDON LAW GROUP, PC

/s/ Corbin B. Gordon
Corbin B. Gordon
Attorney for Highlands Water Co, Inc.