

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

SIL AND CANDY ARATA, HAHN	)	DOCKET UW-102014
AND KIM BAHNG, BRIG AND	)	
PATTIE BELVIN, DICK AND PATTI	)	
BLIDE, JIM AND LYNETTE	)	ORDER 03
CALDWELL, KRIS AND CAROLYN	)	
CHRISTIANSON, TED AND DELL	)	
HALLER, BILL AND ALTHEA	)	INITIAL ORDER GRANTING
HEAGY, VERN HERIOTT AND	)	MOTION TO WITHDRAW
LARRY HUFFMAN, DAVE AND	)	COMPLAINT AND CLOSING
DOROTHY JOHNSON, SHINWON	)	DOCKET
AND JEONKAK KIM, JAN AND	)	
ROBIN KRANE, ROBERT AND	)	
DIANA NEHLS, PHIL AND	)	
CAROLYN ROBBINS, CHUCK AND	)	
DIA TADLOCK, BILL AND CAROL	)	
WELCH, RON AND ROXANNE	)	
OLSON, JERRY AND PHOEBE	)	
BENNETT, AND ALAN AND	)	
SUSAN CAMERON,	)	
	)	
Complainants,	)	
	)	
v.	)	
	)	
GREEN MOUNTAIN H20 LLC,	)	
	)	
Respondent.	)	
.....	)	

1 **NATURE OF PROCEEDING.** Docket UW-102014 was a formal complaint filed by members of 19 households of the Columbia Crest Estates Homeowners Association (CCE HOA) who are customers of Green Mountain H20 LLC’s (Green Mountain’s) water service. The complaint alleged that Green Mountain had been providing improper and inadequate water service that, among other things, did not comply with state drinking water standards. The complaint sought relief that

included, among other things, reimbursement for water service fees dating back to October 2003.

2     **APPEARANCES.** Chuck Tadlock, *pro se*, represents the complainants. Richard Finnigan, Olympia, Washington, represents Green Mountain. Michael Fassio, Assistant Attorney General, Olympia, Washington, appeared on behalf of the Commission's regulatory staff (Commission Staff or Staff).<sup>1</sup>

3     **PROCEDURAL HISTORY.** Thirty-eight individual complainants filed a formal complaint against Green Mountain H2O LLC on December 16, 2010, alleging improper and inadequate water service to their homes in the Columbia Crest Estates subdivision in Kalama, Cowlitz County, Washington. The Commission conducted an initial prehearing conference on January 12, 2011, and a second prehearing conference on March 2, 2011. At that time, the Commission adopted a procedural schedule that allowed the parties time to mediate their dispute prior to an evidentiary hearing set for May 24-25, 2011.

4     On April 18, 2011, the parties appeared for a preliminary mediation session before Administrative Law Judge Dennis J. Moss. On April 26, 2011, the parties continued their efforts at mediation but reached an impasse. That same day, Judge Moss issued a Notice terminating the mediation.

5     On April 27, 2011, after consulting with all parties regarding the viability of the existing procedural schedule, the Commission issued a Notice of Revised Procedural Schedule and established updated deadlines for the filing of witness and exhibit lists and re-set the evidentiary hearing for June 7-8, 2011.

6     On May 31, 2011, attorney Richard Finnigan notified the Commission that he had been retained to represent Respondent Green Mountain. That same day, Mr. Finnigan filed a Motion to Continue the Hearing Date.

7     On June 1, 2011, the Commission held a status conference to hear arguments on Respondent's motion. Over the complainants' objections, the Commission granted

---

<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

the motion and again revised the procedural schedule. On June 2, 2011, the Commission issued a Notice of Revised Procedural Schedule with the new filing deadlines and re-set the evidentiary hearing to July 26-27, 2011.

8 On June 13, 2011, Respondent Green Mountain filed its witness and exhibit lists as required by the new procedural schedule.

9 **WITHDRAWAL OF COMPLAINT.** On June 20, 2011, the Complainants filed a Notice of Withdrawal of Complaint advising their desire “to discontinue all proceedings” regarding this docket. According to the complainants, the Commission’s hearing process proved more burdensome, costly, and complex than originally anticipated.

10 ***Legal Standard for Withdrawal.*** Once the Commission initiates an adjudicative proceeding, Washington Administrative Code (WAC) 480-07-380(3) requires parties seeking to withdraw to obtain permission from the Commission and demonstrate that such withdrawal is in the public interest.

11 In this case, the complainants are a group of private citizens who originally sought to have their servicing water company placed into receivership and to be reimbursed for fees paid to Green Mountain H2O LLC for allegedly improper and inadequate water service. In a separate action, the Department of Health has already placed Green Mountain H2O LLC into receivership. The complainants are in the best position to judge whether pursuing reimbursement of fees paid to the Respondent is worthwhile.

12 The public interest is not served by the Commission requiring parties to continue litigation involuntarily. The Complainants’ motion should be granted, without prejudice.

*REMAINDER OF THIS PAGE INTENTIONALLY BLANK*

**ORDER**

THE COMMISSION ORDERS THAT:

- 13 (1) The complainants' motion to withdraw their complaint is granted, without  
prejudice.
- 14 (2) The remaining dates on the procedural schedule are canceled.
- 15 (3) Docket UW-102014 is closed.

DATED at Olympia, Washington, and effective June 22, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM  
Administrative Law Judge

## NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250