

**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 02
CALDWELL, KRIS AND CAROLYN	)	
CHRISTIANSON, TED AND DELL	)	
HALLER, BILL AND ALTHEA	)	SECOND PREHEARING
HEAGY, VERN HERIOTT AND	)	CONFERENCE ORDER; INITIAL
LARRY HUFFMAN, DAVE AND	)	ORDER OF DEFAULT AND
DOROTHY JOHNSON, SHINWON	)	DISMISSAL OF COMPLAINT OF
AND JEONKAK KIM, JAN AND	)	LYNETTE CALDWELL; NOTICE OF
ROBIN KRANE, ROBERT AND	)	HEARING
DIANA NEHLS, PHIL AND	)	<i>(Set for May 24-25, 2011, at 9:30 a.m.)</i>
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 H2O LLC,	)	
	)	
Respondent.	)	
.....	)	

1 **NATURE OF PROCEEDING.** Docket UW-102014 is a formal complaint filed by members of 19 households of the Columbia Crest Estates Homeowners Association (CCE HOA) who are customers of Green Mountain H2O LLC's (Green Mountain's) water service. The complaint alleges that Green Mountain has been providing improper and inadequate water service that, among other things, does not comply with state drinking water standards. The complaint seeks relief that includes, but is

not necessarily limited to, reimbursement for water service fees dating back to October 2003.

2     **CONFERENCE.** The Commission held a status conference on March 2, 2011, at 10:30 a.m., before Administrative Law Judge (ALJ) Adam E. Torem.

3     **APPEARANCES.** Chuck Tadlock entered his appearance in person and served as the spokesperson for the complainants. Ted Haller, Ron Olson, Dick Blide, Bill Heagy, and Phil Robbins also appeared in person. No complainants entered appearances over the conference bridge telephone line; instead, the remaining 31 complainants provided signed proxies authorizing Chuck Tadlock to represent their interests at the status conference.<sup>1</sup> Dan Class, *pro se*, represents Green Mountain and appeared over the conference bridge telephone line. Michael Fassio, Assistant Attorney General, Olympia, Washington, appeared on behalf of the Commission's regulatory staff (Commission Staff or Staff).<sup>2</sup> Dorothy Jaffe, Assistant Attorney General, Olympia, Washington, appeared on behalf of the Department of Health.

4     **DISMISSAL OF COMPLAINT – Lynette Caldwell.** Ms. Lynette Caldwell failed to appear at the first prehearing conference held on February 3, 2011, or to provide a proxy to enter her appearance in this matter. Order 01 provided Ms. Caldwell a second opportunity to make an appearance before or at the next status conference, but she failed to do so. Therefore, in accordance with RCW 34.05.440 and WAC 480-07-450, Lynette Caldwell is in default and her complaint is dismissed.

5     **INTERVENTION.** The Department of Health (DOH) determined that it will not formally intervene in this matter. However, DOH will continue to provide water

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<sup>1</sup> The following complainants provided signed proxies as noted above: Sil and Candy Arata, Hahn and Kim Bahng, Brig and Pattie Belvin, Patti Blide, Jim Caldwell, Alan and Susan Cameron, Kris and Carolyn Christianson, Berdell Nelson (aka Dell Haller), Althea Heagy, Vern Heriott and Larry Huffman, Dave and Dorothy Johnson, Shinwon and Jeonkak Kim, Jan and Robin Krane, Robert and Diana Nehls, Carolyn Robbins, Dia Tadlock, Bill and Carol Welch, Roxanne Olson, and Jerry and Phoebe Bennett.

<sup>2</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.

quality testing information upon request and provide witness testimony as necessary. The Commission did not receive any other petitions or requests for intervention.

6 **ALTERNATIVE DISPUTE RESOLUTION:** The parties agreed to seek resolution of this matter via negotiation, with the assistance of a Commission-appointed mediator. The parties request to have an initial meeting with the mediator to discuss the scope of the issues potentially ripe for resolution and to ensure that all participants understand the purpose of mediation and can participate in good faith. The parties expect to complete the mediation process within the next four to six weeks. The Commission will appoint an administrative law judge to serve as mediator for this matter.

7 **ISSUES PRESENTED FOR RESOLUTION.** At the initial prehearing conference, the parties discussed several issues to be resolved in this matter. *See* Order 01, ¶ 9. Since that time, Cowlitz County Superior Court has ordered the water system to be placed into a receivership, mooted that particular relief sought by the Complaint. However, issues remain regarding compliance with safe drinking water standards and possible reimbursements under WAC 480-110-395.

8 **WATER TESTING.** On February 28, 2011, the Department of Health submitted a cover letter and certain test results regarding Green Mountain's compliance with state drinking water standards for arsenic and coliform levels. The parties have access to this data and, as necessary, may ask DOH to submit additional test results for the initial months of 2011.

9 **PROCEDURAL SCHEDULE.** At the status conference, the parties agreed to the following procedural schedule, to be utilized only in the case their efforts at mediation fail to resolve all remaining issues in this case:

Complainants to File Witness & Exhibit Lists	April 27, 2011
Respondent & Commission Staff to File Witness & Exhibit Lists	May 11, 2011
Evidentiary Hearing	May 24-25, 2011

An outline of the procedural schedule is set forth in Appendix B to this Order.

10 **NOTICE OF HEARING.** The Commission will conduct an evidentiary hearing in this matter on **Tuesday, May 24, 2011, at 9:30 a.m.**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. As necessary, the hearing will continue and be completed on Wednesday, May 25, 2011. Each Complainant, or his or her attorney or proxy representative, **MUST** attend the hearing in person.

**ORDER**

THE COMMISSION ORDERS THAT:

- 11 (1) Lynette Caldwell is held in default due to failure to appear.
- 12 (2) The complaint filed by Lynette Caldwell is dismissed.

DATED at Olympia, Washington, and effective March 4, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM  
Administrative Law Judge

**NOTICE TO PARTIES:** A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

**NOTICE TO LYNETTE CALDWELL (PARTY HELD IN DEFAULT)**

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 **ten (10)** 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

**APPENDIX A (UPDATED)**

**PARTIES' REPRESENTATIVES  
DOCKET UW-102014**

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
<i>COMPLAINANTS – Columbia Crest Estates (CCE) Homeowners Association (HOA)</i>				
<b>Sil Arata</b>	Sil Arata 149 Varsity Road Kalama, WA 98625 <b>MAIL TO:</b> P.O. Box 820276 Vancouver, WA 98682	(360) 225-4947		<a href="mailto:silarata@qwestoffice.net">silarata@qwestoffice.net</a>
<b>Candy Arata</b>	Candy Arata 149 Varsity Road Kalama, WA 98625 <b>MAIL TO:</b> P.O. Box 820276 Vancouver, WA 98682	(360) 225-4947		<a href="mailto:candy.arata@clark.wa.gov">candy.arata@clark.wa.gov</a>
<b>Hahn Bahng</b>	Hahn Bahng 151 Varsity Road Kalama, WA 98625	(360) 225-9659		<a href="mailto:Bahng113@yahoo.com">Bahng113@yahoo.com</a>
<b>Kim Bahng</b>	Kim Bahng 151 Varsity Road Kalama, WA 98625	(360) 225-9659		<a href="mailto:Bahng113@yahoo.com">Bahng113@yahoo.com</a>
<b>Brig Belvin</b>	Brig Belvin 461 Varsity Road Kalama, WA 98625	(360) 225-6970		<a href="mailto:cbelvin@cni.net">cbelvin@cni.net</a>
<b>Pattie Belvin</b>	Pattie Belvin 461 Varsity Road Kalama, WA 98625	(360) 225-6970		<a href="mailto:pbelvin@cni.net">pbelvin@cni.net</a>
<b>Dick Blide</b>	Dick Blide 813 Varsity Road Kalama, WA 98625	(360) 225-4546		<a href="mailto:dick@blide.us">dick@blide.us</a>
<b>Patti Blide</b>	Patti Blide 813 Varsity Road Kalama, WA 98625	(360) 225-4546		<a href="mailto:dick@blide.us">dick@blide.us</a>
<b>Jim Caldwell</b>	Jim Caldwell 30 Varsity Road Kalama, WA 98625	(360) 225-3979		<a href="mailto:jim@on yoursitehomes.com">jim@on yoursitehomes.com</a>

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
<b>Kris Christianson</b>	Kris Christianson 242 Varsity Road Kalama, WA 98625	(360) 225-3620		<a href="mailto:krischristianson@cni.net">krischristianson@cni.net</a>
<b>Carolyn Christianson</b>	Carolyn Christianson 242 Varsity Road Kalama, WA 98625	(360) 225-3620		<a href="mailto:krischristianson@cni.net">krischristianson@cni.net</a>
<b>Ted Haller</b>	Ted Haller 573 Varsity Road Kalama, WA 98625	(360) 225-7734		<a href="mailto:tedarch@cni.net">tedarch@cni.net</a>
<b>Dell Nelson</b>	Dell Nelson 573 Varsity Road Kalama, WA 98625	(360) 225-7734		<a href="mailto:birdie@cni.net">birdie@cni.net</a>
<b>Bill Heagy</b>	Bill Heagy President, CCE HOA 704 Varsity Road Kalama, WA 98625	(360) 225-8143		<a href="mailto:wheagy@earthlink.net">wheagy@earthlink.net</a>
<b>Althea Heagy</b>	Althea Heagy 704 Varsity Road Kalama, WA 98625	(360) 225-8143		<a href="mailto:wheagy@earthlink.net">wheagy@earthlink.net</a>
<b>Vern Heriott</b>	Vern Heriott 619 Varsity Road Kalama, WA 98625	(360) 225-5884		<a href="mailto:blherriott@yahoo.com">blherriott@yahoo.com</a>
<b>Larry Huffman</b>	Larry Huffman 619 Varsity Road Kalama, WA 98625	(360) 225-5884		<a href="mailto:larry@benpor.com">larry@benpor.com</a>
<b>Dave Johnson</b>	Dave Johnson 278 Varsity Road Kalama, WA 98625	(360) 225-9231		<a href="mailto:dave_dorothy@yahoo.com">dave_dorothy@yahoo.com</a>
<b>Dorothy Johnson</b>	Dorothy Johnson 278 Varsity Road Kalama, WA 98625	(360) 225-9231		<a href="mailto:dave_dorothy@yahoo.com">dave_dorothy@yahoo.com</a>

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
<b>Shinwon Kim</b>	Shinwon Kim 176 Varsity Road Kalama, WA 98625	(360) 225-0760		<a href="mailto:Shinwon12@gmail.com">Shinwon12@gmail.com</a>
<b>Jeonkak Kim</b>	Jeonkak Kim 176 Varsity Road Kalama, WA 98625	(360) 225-0760		<a href="mailto:Shinwon12@gmail.com">Shinwon12@gmail.com</a>
<b>Jan Krane</b>	Jan Krane 62 Varsity Road Kalama, WA 98625	(360) 225-8588		<a href="mailto:Jk54@books.com">Jk54@books.com</a>
<b>Robin Krane</b>	Robin Krane 62 Varsity Road Kalama, WA 98625	(360) 225-8588		<a href="mailto:RobinJKrane@earthlink.net">RobinJKrane@earthlink.net</a>
<b>Robert Nehls</b>	Robert Nehls Secretary, CCE HOA 756 Varsity Road Kalama, WA 98625	(360) 225-5030		<a href="mailto:bobnehls@gmail.com">bobnehls@gmail.com</a> <a href="mailto:bobnehls@att.net">bobnehls@att.net</a>
<b>Diana Nehls</b>	Diana Nehls Secretary, CCE HOA 756 Varsity Road Kalama, WA 98625	(360) 225-5030		<a href="mailto:djnehs@gmail.com">djnehs@gmail.com</a>
<b>Phil Robbins</b>	Phil Robbins Treasurer, CCE HOA 438 Varsity Road Kalama, WA 98625	(360) 225-0943		<a href="mailto:probbins@cni.net">probbins@cni.net</a>
<b>Carolyn Robbins</b>	Carolyn Robbins 438 Varsity Road Kalama, WA 98625	(360) 225-0943		<a href="mailto:crobbins@cni.net">crobbins@cni.net</a>
<b>Chuck Tadlock</b>	Chuck Tadlock Vice President, CCE HOA 269 Varsity Road Kalama, WA 98625	(360) 225-3966		<a href="mailto:tadlockc@gmail.com">tadlockc@gmail.com</a>
<b>Dia Tadlock</b>	Dia Tadlock 269 Varsity Road Kalama, WA 98625	(360) 225-3966		<a href="mailto:clancyt@gmail.com">clancyt@gmail.com</a>



<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
<b>Bill Welch</b>	Bill Welch 303 Varsity Road Kalama, WA 98625	(360) 225-6830		<a href="mailto:bwelch34@earthlink.net">bwelch34@earthlink.net</a>
<b>Carol Welch</b>	Carol Welch 303 Varsity Road Kalama, WA 98625	(360) 225-6830		<a href="mailto:bwelch34@earthlink.net">bwelch34@earthlink.net</a>
<b>Ron Olson</b>	Ron Olson 367 Varsity Road Kalama, WA 98625	(360) 225-1318		<a href="mailto:rono5430@gmail.com">rono5430@gmail.com</a>
<b>Roxanne Olson</b>	Roxanne Olson 367 Varsity Road Kalama, WA 98625	(360) 225-1318		<a href="mailto:roxxo629@gmail.com">roxxo629@gmail.com</a>
<b>Jerry Bennett</b>	Jerry Bennett 465 Varsity Road Kalama, WA 98625	(360) 225-1979		<a href="mailto:Phoeb42@yahoo.com">Phoeb42@yahoo.com</a>
<b>Phoebe Bennett</b>	Phoebe Bennett 465 Varsity Road Kalama, WA 98625	(360) 225-1979		<a href="mailto:Phoeb42@yahoo.com">Phoeb42@yahoo.com</a>
<b>Alan Cameron</b>	Alan Cameron 212 Varsity Road Kalama, WA 98625	(360) 225-8406		<a href="mailto:Cameron@pacific.com">Cameron@pacific.com</a> ?? <a href="mailto:cameron@pacifier.com">cameron@pacifier.com</a>
<b>Susan Cameron</b>	Susan Cameron 212 Varsity Road Kalama, WA 98625	(360) 225-8406		<a href="mailto:Cameron@pacific.com">Cameron@pacific.com</a>
<b>RESPONDENT</b>				
<b>Green Mountain H20 LLC</b>	Dan Class 307 NE 85 <sup>th</sup> Street Vancouver, WA 98665	360-909-4321		
<b>COMMISSION PERSONNEL</b>				
<b>Commission Staff</b>	Michael Fassio Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1192	360-586-5522	<a href="mailto:mfassio@utc.wa.gov">mfassio@utc.wa.gov</a>

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
<b>ALJ</b>	Adam E. Torem Administrative Law Judge 1300 S. Evergreen Park Dr. SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1138	360-664-2654	<a href="mailto:atorem@utc.wa.gov">atorem@utc.wa.gov</a>
<b><i>INTERESTED AGENCY</i></b>				
<b>Department of Health</b>	Dorothy Jaffe Assistant Attorney General 7141 Cleanwater Drive P.O. Box 40109 Olympia, WA 98504-0109	360-586-3158		<a href="mailto:dorij@atg.wa.gov">dorij@atg.wa.gov</a>  <a href="mailto:Teresa.walker@doh.wa.gov">Teresa.walker@doh.wa.gov</a>  <a href="mailto:Bonnie.waybright@doh.wa.gov">Bonnie.waybright@doh.wa.gov</a>

**APPENDIX B**  
**PROCEDURAL SCHEDULE**  
**DOCKET UW-102014**

<b>EVENT</b>	<b>DATE</b>	<b>INTERVAL (Days)</b>
Second Prehearing Conference	Wednesday, March 2, 2011	—
Complainant Witness List and Supporting Exhibits	Wednesday, April 27, 2011	56 days
Respondent and Staff Witness Lists and Supporting Exhibits	Wednesday, May 11, 2011	14 days
Evidentiary Hearing	May 24-25, 2011	13 days
Post-Hearing Briefs	To be Determined	TBD