

**DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA**

\*\*\*\*\*

IN THE MATTER OF the Joint Application ) of Liberty Utilities Co., Liberty WWH, Inc., ) Western Water Holdings, LLC, and Mountain ) Water Company for Approval of a Sale and ) Transfer of Stock )	REGULATORY DIVISION  DOCKET NO. D2014.12.99
--	---

---

**WESTERN WATER HOLDINGS AND MOUNTAIN WATER COMPANY'S  
OBJECTION TO THE CLARK FORK COALITION'S AND THE CITY OF  
MISSOULA'S REQUESTS TO STAY PROCEEDING**

---

Western Water Holdings, LLC (“Western Water Holdings”) and Mountain Water Company (“Mountain Water”), by and through their counsel, Holland & Hart LLP, respectfully submit this preliminary response and objection to the Clark Fork Coalition’s (“CFC”) and the City of Missoula’s (“City”) requests to stay proceedings in the above captioned matter. In support of this objection to the requested stay, Western Water Holdings and Mountain Water state as follows:

1. On January 12, 2015, the CFC filed its Petition to Intervene in this proceeding. In describing its position, the CFC urged “the Commission to stay the proceedings in this docket pending resolution of the district court case and any subsequent appeals.”<sup>1</sup> The CFC contends that the pending district court case “creates significant uncertainty over the outcome of the transaction proposed for approval in this docket.”<sup>2</sup> It is unclear from the CFC’s filing if they intended the filing to serve as a motion to stay or simply desired to signal to the Commission that the CFC would file a future motion to stay should they be granted intervenor status. Also on

---

<sup>1</sup> Clark Fork Coalition Petition to Intervene, page 10.

<sup>2</sup> *Id.*

January 12, 2015, the City filed a Petition to Intervene. The City similarly requests the PSC stay these proceedings until the ongoing eminent domain action has been fully resolved, including the appeals process.<sup>3</sup> The City contends that “[t]he pendency of the eminent domain proceeding limits the jurisdiction of the PSC to take action at this time.”<sup>4</sup> The City further stated that it “will brief its request for a stay of the proceedings upon grant of intervenor status.”<sup>5</sup>

2. While it is unclear if either the CFC’s or the City’s motion for a stay is ripe for response at this time, out of an abundance of caution, Western Water Holdings and Mountain Water wish to register their objection to the requests to stay proceeding. There is no basis to stay these proceedings. The Commission’s authority to proceed forward to consider the requested approval of a sale and transfer of stock is clear. There is no reason why the Commission should demur to the condemnation court and suspend these proceedings indefinitely. Neither the CFC nor the City cite any statute or case law that compels the Commission to suspend its obligation under Montana law to consider applications filed by public utilities and determine whether such applications are in the public interest. Finally, whether the requested transfer is in the public interest is a question properly decided by the Commission and has nothing to do with the issues before the condemnation court. Continued litigation of the condemnation case in the Fourth Judicial District will not be impacted by adjudication of the application by the Commission.

3. As the CFC and the City did not provide any legal support for the requests to stay proceeding, to the extent the Commission wishes to invite further briefing on this issue, Western Water Holdings and Mountain Water requests permission to respond fully to any such filings in accordance with a briefing schedule as may be established by the Commission.

---

<sup>3</sup> Petition to Intervene by the City of Missoula, page 4.

<sup>4</sup> *Id.* at 1.

<sup>5</sup> *Id.* at 4.

WHEREFORE, Western Water Holdings and Mountain Water respectfully urge the Commission to deny CFC and the City's request to stay this proceeding. In the alternative, to the extent the Commission elects to further entertain such a motion, Western Water Holdings and Mountain Water request an opportunity to respond to any subsequent filings made by the CFC or the City.

Respectfully submitted this 22nd day of January, 2015.

**HOLLAND & HART LLP**

*s/ Thorvald Nelson*

---

Thorvald Nelson, # 8666

Nikolas Stoffel, # 13485

Holland & Hart LLP

6380 South Fiddlers Green Circle, Suite 500

Greenwood Village, CO 80111

Telephone: (303) 290-1601, 1626, respectively

Facsimile: (303) 290-1606

[tnelson@hollandhart.com](mailto:tnelson@hollandhart.com)

[nsstoffel@hollandhart.com](mailto:nsstoffel@hollandhart.com)

**ATTORNEYS FOR MOUNTAIN WATER  
COMPANY AND WESTERN WATER  
HOLDINGS**

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 22nd day of January, 2015, the foregoing **WESTERN WATER HOLDINGS AND MOUNTAIN WATER COMPANY'S OBJECTION TO THE CLARK FORK COALITION'S AND THE CITY OF MISSOULA'S REQUESTS TO STAY PROCEEDING** was filed with the Montana PSC and served via U.S. Mail and/or e-mail, unless otherwise noted, to the following:

<p>Kate Whitney Montana PSC 1701 Prospect Avenue PO Box 202601 Helena, MT 59620-2601 <a href="mailto:kwhitney@mt.gov">kwhitney@mt.gov</a> <b>via UPS</b></p>	<p>Robert Nelson Monica Tranel Montana Consumer Counsel 111 North Last Chance Gulch, Suite 1B P.O. Box 201703 Helena, MT 59620-1703 <a href="mailto:robnelson@mt.gov">robnelson@mt.gov</a> <a href="mailto:mtranel@tranelfirm.com">mtranel@tranelfirm.com</a></p>
<p>Barbara Chillcott Legal Director The Clark Fork Coalition 140 S 4th Street West, Unit 1 PO Box 7593 Missoula, MT 59801 <a href="mailto:barbara@clarkfork.org">barbara@clarkfork.org</a></p>	<p>Jim Nugent City Attorney The City of Missoula City Attorney's Office 435 Ryman Street Missoula, MT 59802 <a href="mailto:JNugent@ci.missoula.mt.us">JNugent@ci.missoula.mt.us</a></p>
<p>Gary Zadick #2 Railroad Square, Suite B P. O. Box 1746 Great Falls, MT 59403 <b>via U.S. mail</b></p>	<p>Scott Stearns Natasha Prinzing Jones BOONE KARLBERG P.C P.O. Box 9199 Missoula, MT 59807-9199 <a href="mailto:npjones@boonekarlberg.com">npjones@boonekarlberg.com</a> <a href="mailto:sstearns@boonekarlberg.com">sstearns@boonekarlberg.com</a></p>
<p>Thorvald A. Nelson Nikolas S. Stoffel Holland &amp; Hart LLP 6380 South Fiddlers Green Circle Suite 500 Greenwood Village, CO 80111 <a href="mailto:tnelson@hollandhart.com">tnelson@hollandhart.com</a> <a href="mailto:nsstoffel@hollandhart.com">nsstoffel@hollandhart.com</a></p>	<p>John Kappes President &amp; General Manager Mountain Water Company 1345 West Broadway Missoula, MT 59802-2239 <a href="mailto:johnk@mtwater.com">johnk@mtwater.com</a></p>
<p>Christopher Schilling Chief Executive Officer Leigh Jordan Executive Vice President Park Water Company 9750 Washburn Road Downey, CA 90241 <a href="mailto:CSchilling@parkwater.com">CSchilling@parkwater.com</a> <a href="mailto:LeighJ@parkwater.com">LeighJ@parkwater.com</a></p>	<p>Michael Green Gregory F. Dorrington CROWLEY FLECK PLLP 100 North Park, Suite 300 P. O. Box 797 Helena, MT 59624-0797 <a href="mailto:mgreen@crowleyfleck.com">mgreen@crowleyfleck.com</a> <a href="mailto:gdoorrington@crowleyfleck.com">gdoorrington@crowleyfleck.com</a></p>

<p>Todd Wiley Assistant General Counsel Liberty Utilities 12725 West Indian School Road, Suite D-101 Avondale, Arizona 85392 <a href="mailto:Todd.Wiley@LibertyUtilities.com">Todd.Wiley@LibertyUtilities.com</a></p>	
	<p>For electronic service only:</p> <p><a href="mailto:cakennedy@hollandhart.com">cakennedy@hollandhart.com</a> <a href="mailto:aclee@hollandhart.com">aclee@hollandhart.com</a> <a href="mailto:crmayers@hollandhart.com">crmayers@hollandhart.com</a> <a href="mailto:cuda@crowleyfleck.com">cuda@crowleyfleck.com</a> <a href="mailto:jtolan@crowleyfleck.com">jtolan@crowleyfleck.com</a></p>

*s/ Adele C. Lee* \_\_\_\_\_