

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

IN THE MATTER OF 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

CITY OF MISSOULA'S
REPLY IN SUPPORT OF MOTION TO DISMISS OR STAY THE PROCEEDINGS

The City is mindful that the PSC has suspended the deadlines in this proceeding. The City stands by its Motion, though, and asks that the PSC either dismiss this matter or stay it pending the resolution of the condemnation action. At a minimum, the PSC should defer its ruling on this Motion until Liberty has fully complied with the PSC's Orders to provide access to its due diligence and financial analysis. All the deadlines in this case depend on Liberty complying with the PSC's Orders. Yet, the parties' inability to meet the deadlines in this case has been Liberty's and Mountain Water's own doing.

The PSC and the parties must eventually confront the question – How much is enough? At last count, the City and MCC have be forced to file seven motions or briefs attempting to compel Liberty to comply with the PSC's Orders and provide access to its due diligence and financial analysis. It will soon file its eighth brief by having to respond to Liberty's Motion *in Limine*. Liberty's latest rationale for not providing the information is as disingenuous as the previous seven. While Liberty spends 19 pages

describing that rationale, it can be stated very succinctly: Liberty “fears” that the City’s experts are going to violate the NDAs and unlawfully share Algonquin and Liberty’s due diligence and financial analysis. Liberty’s unfounded fear is wholly unsupported, as will be more fully discussed in the City’s response to Liberty’s Motion *in Limine*. Liberty simply does not want to disclose the information because it shows that this proposed sale is a bad deal for the people of Missoula.

The PSC’s Procedural Order expressly allows the PSC to dismiss or stay the proceedings until a party fully complies with the PSC’s discovery orders. (Order 7392, ¶ 15.) Liberty’s ongoing refusal to comply with the PSC’s Orders shows that it has no interest in transparency before the PSC. Liberty will do whatever it takes to make sure its business operations, which are bad for the people of Missoula, are cloaked in secrecy. Liberty does not want the public to know how it intends to recover its acquisition costs in this case. Certainly, if the PSC approves this sale, Liberty will make sure that everything continues to stay hidden from public scrutiny going forward.

Even setting aside Liberty’s refusal to comply with the PSC’s Orders, this proceeding should be stayed or dismissed pending the resolution of the condemnation proceeding. The condemnation commissioner hearing to determine the fair market value of the water system will begin on November 2, 2015. If a jury trial is necessary, it will begin on January 11, 2016. Given this expeditious schedule and the present suspension of the deadlines, the parties in the PSC proceeding will not suffer any prejudice if this proceeding is stayed pending the outcome of the condemnation proceeding.

For these reasons, the City asks that the Commission to either dismiss this proceeding or stay it until the condemnation case is resolved. At a minimum, the PSC should defer its ruling on this Motion until Liberty has fully complied with its obligation to provide the City's experts with access to its due diligence and financial analysis.

Dated this 2nd day of September 2015.



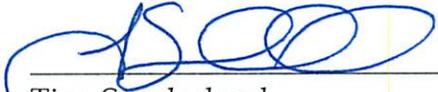
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CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail and email upon the following counsel of record at their addresses this 2nd day of September 2015:

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