Service Date: May 28, 2015

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 ORDER NO. 7392d

ORDER ON RECONSIDERATION

1. On December 15, 2014, Liberty Utilities Company filed a *Joint Application for Approval of a Sale and Transfer of Stock* with the Montana Public Service Commission ("Commission"). Joint Applicants included Liberty Utilities Co., Liberty WWH, Inc., Western Water Holdings, LLC, and Mountain Water Company (collectively, "Mountain Water").

2. On February 2, 2015, the Commission issued Data Requests PSC-001 through PSC-027 to Mountain Water. On February 17, 2015, Mountain Water responded to Data Requests PSC-001 through PSC-027. However, some of this information in response to PSC-014, PSC-015, PSC-016, PSC-019, PSC-021, PSC-022, and PSC-024 was redacted to exclude information that was deemed to be irrelevant and confidential by Mountain Water.

3. On April 15, 2015, the Commission issued Order 7392c requiring Mountain Water to provide this information in its unredacted form or file a motion for protective order for the redacted information in Data Responses PSC-014, PSC-015, PSC-016, PSC-019, PSC-021, PSC-022, and PSC-024 within 10 days of that order.

4. Mountain Water did comply with Order 7392c for most of the information by filing a Motion for Protective Order. However, Mountain Water filed a Motion to Reconsider and Brief in Support for two types of information on April 27, 2105. The first group of information concerns signatures, phone numbers, fax numbers, bank account numbers, and taxpayer ID numbers. The second group of information concerns executive tax loans. The Commission held a work session on May 12, 2015, and voted to reconsider and modify the Commission's Order.

Discussion, Findings, and Conclusions

5. Mountain Water argues that the Commission failed to give full consideration of its relevance objections. The Commission agrees that further explanation should be provided how this information is relevant. Information is relevant if it "appears reasonably calculated to lead to the discovery of admissible evidence." Mont. R. Civ. P. 26(a)(1).

6. Information related to signatures, phone numbers, fax numbers, bank account numbers, and taxpayer ID numbers is not relevant to this proceeding when viewed in isolation. However, these pieces of information are components of larger relevant documents. The Commission finds that the relevance of larger responsive documents imports relevance into its components. These documents are responsive because they answer questions regarding acquisition premium. The Commission has found that acquisition premium is a relevant topic in past sale and transfer dockets. *See Joint Application for Authorization for Babcock & Brown Infrastructure Limited's Acquisition of all of the Common Stock of NorthWestern*, Dkt. No. D2006.6.82, Final Or. 6754e ¶¶ 144-52. When a document is deemed relevant, parties may not redact information without following the Commission's confidential information processes.

7. This conclusion follows from two principles. First, neighboring words in a document inform the broader context and understanding of relevant information; this context is lost when information is redacted and a proprietary version of the document is unavailable. Second, this conclusion encourages economy and efficiency in discovery. The purpose of the Montana Rules of Civil Procedure is to "secure the just, speedy, and inexpensive determination of every action and proceeding." Mont. R. Civ P. 1. "[M]utual knowledge of all the relevant facts gathered by both parties is essential to proper litigation." *State Highway Comm'n v. District Court*, 147 Mont. 348, 357, 412 P.2d 832, 837 (1966). "Achieving a speedy and inexpensive determination is contingent upon timely disclosure, which is thwarted by protracted legal wrangling over semantic nuances and technicalities." *Richardson v. State*, 2006 MT 43, ¶ 63, 331 Mont. 231, 130 P.3d 634 (2006).

8. Use of relevance in such an exacting manner is not consistent with these principles and how the Commission has traditionally operated regarding discovery. The Commission, unlike many other tribunals, receives all discovery gathered by parties. Additionally, the Commission is unique in that it asks its own discovery questions. The free flow of information at the Commission would be hampered by such protracted and demanding

discovery processes. The Commission finds that information related to signatures, phone numbers, fax numbers, bank account numbers, and taxpayer ID numbers is relevant to this proceeding.

9. The Commission also finds that executive tax loans are relevant information. Certain types of loans to employees are viewed as a form of compensation. *See, e.g.* I.R.C. § 7872 ("Treatment of loans with below-market interest rates"). The Commission has treated compensation information as relevant in other proceedings. *In the Matter of 2013 Regulatory Annual Reports*, Dkt. No. D2014.2.21, Or. 7385b ¶¶ 17-27 (Feb. 9, 2015). Therefore, the Commission deems this information relevant and requires an unredacted version or a motion for a protective order.

Order

THEREFORE, based upon the foregoing, it is HEREBY ORDERED as follows:

10. Signature blocks, phone numbers, fax numbers, bank numbers, and tax ID numbers are deemed relevant information and shall either be filed unredacted or parties must file a motion for a protective order.

11. Executive tax loans information is relevant and must be filed unredacted or parties must file a motion for a protective order.

On May 12, 2015, the Commission voted unanimously to grant the Motion for Reconsideration. However the Commission voted 4 to 1, with Commissioner Bushman dissenting, to find the signature block, phone numbers, bank numbers, and tax ID numbers as relevant information and directed parties to either file unredacted information or file a motion for protective order. The Commission also voted unanimously to find executive tax loan information as relevant information and directed parties to either file unredacted information or file a motion for protective order.

DONE AND DATED the 12th day of May, 2015.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BRAD JOHNSON, Chairman

TRAVIS KAVULLA, Vice Chairman

KIRK BUSHMAN, Commissioner

ROGER KOOPMAN, Commissioner

BOB LAKE, Commissioner

ATTEST:

Aleisha Solem
Commission Secretary

(SEAL)