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August 25, 2015

Justin Kraske  
Montana Public Service Commission  
1701 Prospect Ave  
P.O. Box 202601  
Helena, MT 59620-2601

Re: D2014.12.99 - Liberty Utilities & Mountain Water Co. Joint Application for  
Approval of Sale

Mr. Kraske:

I'm writing in regards to the potential August 31, 2015 deadline for Intervenor testimony. The City of Missoula ("City") respectfully requests the PSC consider extending the date to September 28, 2015, and the rest of the procedural schedule as appropriate. We believe an August 31, 2015 scheduling deadline for Intervenor testimony is a violation of the City's procedural due process rights. Mont. Const. Art. II, § 17.

A few days to review, analyze, draft, and submit expert testimony regarding the core issue in this docket is simply not enough time. The City and other parties have fought with Liberty to provide this information at every step of the way and ultimately won almost every argument regarding this information. The only parties not prejudiced by an August 31 date are the Applicants: the exact party who created this situation. They should not be rewarded for their actions.

The Montana Public Service Commission ("PSC"), the Montana Consumer Counsel ("MCC"), and the City asked for Liberty's financial information, due diligence materials, and board records on April 2, 20, and 22, 2015, respectively. On April 21 and May 4, Liberty informed each party – including the PSC – that the information sought was simply not relevant to the review of the proposed sale. Both the City and the MCC moved to compel Liberty's answer. The PSC agreed and issued Order No. 7392e on June 3, 2015 which prompted Liberty's supplemental answers to the relevant data requests.

Subsequently, on June 10, 2015 Liberty moved for a Protective Order regarding the information it originally claimed wasn't even relevant. The PSC granted in part and denied in part Liberty's Protective Order in Order No. 7392l. Liberty, even under Order

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No. 73921, however, refused to provide the information the PSC specifically ordered it to provide. The City had to move to compel, per its rights in the Administrative Rules, for reconsideration of the special protections. Order No. 73920 finalized this process.

At each point in this process, the City has diligently worked to get appropriate access to the information it requested. With the PSC's issuance of Order No. 73920, the parties' rights have been fully outlined and we can begin to analyze the information we asked for four months ago. Five business days to do that work is simply not enough time and it prejudices the parties who are *just now* gaining access to this information.

"[T]he process due in any given case varies according to the factual circumstances of the case, the nature of the interests at stake and the risk of making an erroneous decision." *Montanans for Justice v. McGrath*, 146 P.3d 759, 767 (Mont. 2006) (citing *McDermott v. McDonald*, 24 P.3d 200, 202 (Mont. 2001)). Financial analysis is core to this proceeding and the Commission's decision to approve or deny the sale depends in large part on the acquisition price and its assumptions. The City's experts need appropriate time to fully analyze and work with the information and then draft a report. Order No. 73920 requires the City and Liberty to arrange a time to view the information at the Crowley offices by Sunday, August 23.

The parties have made initial contact with Liberty counsel and will setup an appropriate time, but coordinating expert and attorney schedules to ensure all are able to review the information between August 24-28 and have enough time to draft a substantive and detailed report is not likely. As such, both the circumstances and the need for good, thorough analysis demands an extension of Intervenor testimony deadline and the remainder of this docket's procedural schedule as well.

Sincerely,



Scott M. Stearns