

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

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

NOTICE OF COMMISSION ACTION

On December 15, 2014, Liberty Utilities Co. (“Liberty”), Liberty WWH, Inc., Western Water Holdings, LLC and Mountain Water Company (“Mountain Water”)—collectively known as the Joint Applicants—filed an *Application for Approval of Sale and Transfer of Stock* with the Montana Public Service Commission (“Commission”). Approval of this transaction would have allowed Liberty Utilities Co. to be the sole owner of Western Water Holdings, which is the sole upstream owner of Park Water Company. In turn, Park Water Company is the sole upstream owner of Mountain Water. The Montana Consumer Counsel (“MCC”), the City of Missoula (“City”), The Clark Fork Coalition (“CFC”), and the Employees of Mountain Water were granted intervention in this docket.

Over a period of 8 months the Commission endeavored to resolve the discovery and procedural disputes between the parties. Unsatisfied with the Commission’s decisions, the City sought judicial review in Montana district court. *See City of Missoula v. Mont. Dept. of Pub. Serv. Regulation*, DV-15-918, Pet. for Judicial Review (Mont. 4th Dist. Ct. Aug. 31, 2015). Despite the Commission’s and Mountain Water’s motion to dismiss the proceeding, the district court stayed the Commission’s proceeding allowing itself time to examine the merits of this interlocutory appeal. *See City of Missoula v. Mont. Dept. of Pub. Serv. Regulation*, DV-15-918, Minutes and Note of Ruling (Mont. 4th Dist. Ct. Dec. 18, 2015). On January 11, 2015, the Commission was informed through a *Notice of Closing and Withdrawal of Joint Application* that the Joint Applicants had closed on the sale of Park Water to Liberty WWH, which included Mountain Water and two California water utilities. This sale and transfer occurred without

Commission approval in violation of the Commission's implied authority over sales and transfers.

On January 13, 2016, the Commission issued a *Notice of Opportunity to Comment* requesting parties to discuss the issues of 1) jurisdiction in general; 2) the City's previous position on Commission jurisdiction; 3) the Joint Applicant's previous position of Commission jurisdiction; 4) violations of any specific statutes, rules or orders; 5) violation of ring fencing provisions; 6) rate adjustments; and 7) the notice in general. On January 27, 2016, the Commission received comments from the MCC, the City, Mountain Water, Liberty, and the CFC. The Commission held a work session on January 29, 2016 to discuss and act on Joint Applicants' *Notice of Closing and Withdrawal of Joint Application* and the comments provided by the various parties.

The Commission directed legal staff to pursue fines against Mountain Water under Mont. Code Ann. §§ 69-3-209 and 69-3-206 and cooperate with the Montana Attorney General's office to consider other remedies pursuant to Mont. Code Ann. § 69-3-110. Order 7392q ¶¶ 19, 22 (Feb. 5, 2016). In order to effectuate these requests, the Commission designates Jeremiah Langston and Gary Duncan as advocacy staff to pursue a settlement agreement or other litigation objectives with the relevant parties. The remainder of the work team will continue to serve as advisory staff.

BY THE MONTANA PUBLIC SERVICE COMMISSION

BRAD JOHNSON, Chairman
TRAVIS KAVULLA, Vice Chairman
KIRK BUSHMAN, Commissioner
ROGER KOOPMAN, Commissioner
BOB LAKE, Commissioner