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MONT. P.C. COMMISSION

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

RE: PSC Docket No. T-14.23.DR

Dear Public Service Commissioners:

City County Sanitation, Inc., doing business as Tri-County Disposal, submits the following comments in response to the *Petition for Declaratory Ruling* filed with the PSC on September 26, 2014 by Bull Mountain Sanitation, LLC.

Since 1966, Tri-County has provided necessary garbage hauling services in the greater Helena area under PSC Class D Certificate No. 2879. Tri-County provides commercial garbage hauling services within the City of Helena, as well as residential and commercial services throughout the greater Helena area, serving portions of Lewis and Clark County, Jefferson County, and Broadwater County. Tri-County is a family owned business, and currently provides employment and benefits for 17 employees.

As is required for all Class D haulers, Tri-County provides services to everyone within its permitted area who requests service, whether they are easy to reach or not, and regardless of the weather. For example, Tri-County provides service to a number of customers in very remote parts of its permitted area such as Marysville, Wolf Creek, and around Canyon Ferry Lake. Some customers have access roads that are in such poor shape that Tri-County has to use a special small truck to access their residences to provide the requested garbage hauling services. Despite the distance and obstacles to reach these people, Tri-County provides the services guaranteed to them by the PSC in issuing a Certificate to a Class D hauler in these customers' area.

This is exactly the protection that Montanans expect from Class D haulers, and these protections will be lost if the PSC grants Bull Mountain's Petition. Bull Mountain is asking the PSC to rule that the hauling exemption in Montana Code § 69-12-102(1)(c) allows unregulated garbage hauling everywhere in Musselshell County except in cities or towns with populations of over 500. Of course, a ruling by the PSC will affect all garbage hauling in Montana, not just Musselshell County. This means that, if Bull Mountain's Petition is granted, an unregulated hauler, operating without a Class D certificate, and without even the basic insurance required for Class D, could operate everywhere in rural Montana without regulation by the PSC. For Tri-County's service

area, this would include everywhere except within the limits of the city of Helena, the town of East Helena, and the city of Townsend.

To be clear, if the PSC grants Bull Mountain's Petition, Tri-County will face increased competition, and not necessarily just from unregulated small start-up companies. Instead, a ruling by the PSC in favor of Bull Mountain would open up unlicensed hauling by any entity, including by large regulated haulers, who could then go outside their permitted service areas to serve just those rural customers they found profitable. This kind of unfair competition by Class D haulers who wouldn't be required to serve all who request garbage hauling service in the unregulated rural areas, and who would not be required to have the same minimum PSC insurance for such areas, could easily put Tri-County out of business. And, if Tri-County goes out of business, rural customers in the Lewis and Clark/Broadwater/Jefferson county area will go without the services that they rightfully expect under the Motor Carrier Code. Therefore, Tri-County respectfully requests that the Commissioners deny Bull Mountain's Petition.

Further, even ignoring the practical negative effects of granting Bull Mountain's Petition, the PSC should deny the Petition, as the hauling exemption plainly does not allow the rural hauling that Bull Mountain seeks. Montana Code § 69-12-102(1)(c) exempts from regulation "the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village with a population of less than 500 persons, as determined by the commission." Clearly, hauling "in a city, town, or village" under 500 is exempted, but nowhere in the law does it say that a "city, town, or village" is the same as a rural area. This just doesn't make sense, and no Montanan would understand this statute to exempt hauling in rural areas. Therefore, even without the effects on garbage hauling described above, the PSC should deny Bull Mountain's Petition.

The exemption Bull Mountain is trying to create is bad for solid waste haulers, bad for solid waste customers, bad for Montanans, and contrary to Montana statutes. Therefore, Tri-County asks that the PSC rule that the statutory hauling exemption is limited to just what it says: solid waste hauling "in cities, towns, and villages" under 500 in population, and adjacent commercial areas, as those areas are defined by the PSC.

In addition to the comments in this letter, Tri-County is joining in the comments submitted by the Montana Solid Waste Contractors Association.

Thank you for the opportunity to provide comment in response to Bull Mountain's Petition.

Sincerely,

Dave Duffy  
General Manager

A handwritten signature in black ink that reads "Dave Duffy". The signature is written in a cursive, flowing style. A horizontal line is drawn across the top of the signature, extending to the left edge of the page.