

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

IN THE MATTER OF the Petition by)
Mountain Water Company for a)
 Declaratory Ruling Disclaiming)
 Commission Jurisdiction over the Sale)
 and Transfer of Stock in Park Water)
 Company)

UTILITY DIVISION

DOCKET NO. D2011.1.8

IN THE MATTER OF the Application)
 by **Mountain Water Company** for)
 Approval of the Sale and Transfer of)
 Stock in Park Water Company)

STIPULATION

1. On January 24, 2011, Mountain Water Company ("Mountain") filed with the Commission a Consolidated Petition for Declaratory Ruling and Application for Approval of Sale and Transfer of Stock ("Consolidated Petition and Application"). The filing was denominated PSC Docket 2011.1.8.

2. The proposed transaction which is the subject of this docket is an Agreement and Plan of Merger between Park Water Company ("Park") and Western Water Holdings, LLC, ("Western Water") under which Carlyle Infrastructure Partners Western Water, L.P., wholly owned by a group of investment vehicles associated with Carlyle Infrastructure Partners, L. P (collectively "Carlyle"), would acquire all of the stock of Park (the "Acquisition Agreement"). Park is a California water utility subject to the jurisdiction of the California Public Utilities Commission ("CPUC").

3. The Consolidated Petition and Application seeks a final order of the Commission, issued on one of three alternative grounds, in which the Commission:

(a) Disclaims jurisdiction over the sale of Park stock to Carlyle;

- (b) Decides, on a discretionary basis, to refrain from exercising jurisdiction over the sale of Park stock to Carlyle to provide comity to the CPUC;
- (c) Approves the transaction set forth in the Acquisition Agreement.

4. The Montana Consumer Counsel ("MCC") intervened in this docket, and has conducted discovery. It is not opposed to Commission approval of the transaction set forth in the Acquisition Agreement provided the Commission conditions its approval upon the adoption of "ring fencing" provisions.

5. The City of Missoula ("City") and the Clark Fork Coalition ("CFC") have also intervened in this docket. Having entered into a letter agreement with Carlyle, both the City and the CFC support the approval of the transaction set forth in the Acquisition Agreement.

6. The MCC, Mountain, Carlyle, and the City have settled their differences, and agreed upon a set of ring fencing conditions upon which the Commission should approve the transaction set forth in the Acquisition Agreement. The CFC took no position on ring fencing in this docket, and does not oppose the agreement set forth in this Stipulation. The Parties further agree that the agreed upon ring fencing conditions, set forth in Appendix 1 to this Stipulation, should be the only Commission conditions upon approval of the transaction set forth in the Acquisition Agreement.

7. The MCC and Mountain have executed this Stipulation and filed it with the Commission in lieu of submitting post hearing briefs on the extent of the Commission's jurisdiction, or the propriety of conditioning the Commission's approval of the sale upon the adoption of ring fencing conditions.

8. The MCC, Mountain, Carlyle, and the City propose the ring fencing conditions set forth in Appendix 1 as a means of resolving the remaining issues in this proceeding not addressed in the letter agreement between Carlyle the City, and the CFC. However, none of

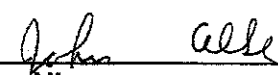
the stipulating parties' positions in this docket are accepted by any of the parties by virtue of their entry into this Stipulation, nor does it indicate their acceptance, agreement, or concession to any particular principle or theory of utility regulation, or legal principle, embodied, or arguably embodied, in this Stipulation.

9. The various provisions of this Stipulation are inseparable from the whole of the Parties' agreement contained in the Stipulation. The reasonableness of the proposed settlement is critically dependent upon its adoption, in its entirety, and without modification, by the Commission. If the Commission decides not to adopt, in its entirety, and without modification, the proposed settlement set forth in this Stipulation, the entire Stipulation is null and void, and no party to it is bound by any provision of it, and it shall have no force or effect whatsoever.

DATED this 28th day of October 2011.

HUGHES, KELLNER, SULLIVAN & ALKE

By

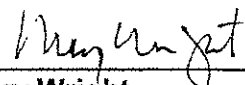


John Alke
40 W. Lawrence, Suite A
P.O. Box 1166
Helena, MT 59624-1166

Attorneys for Mountain Water Company

MONTANA CONSUMER COMMISSION

By

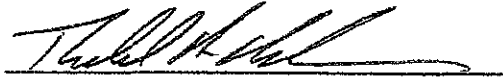


Mary Wright
111 North Last Chance Gulch, Suite 1B
Box 201703
Helena, MT 59620-1703

**Attorneys for Montana Consumer
Commission**

HOLLAND & HART, LLP

By



Thorvald A. Nelson

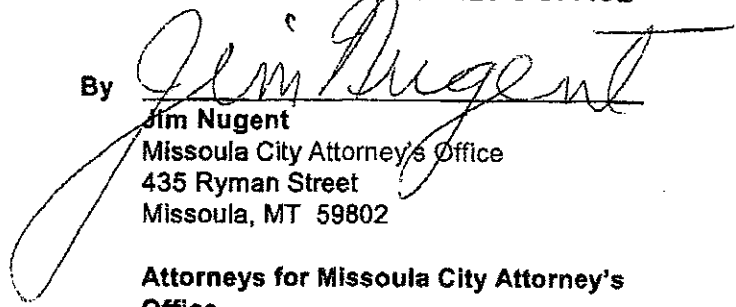
6380 South Fiddlers Green Circle, Suite 500
Greenwood Village, CO 80111

William W. Mercer
Holland & Hart LLP
401 North 31st Street, Suite 1500
P.O. Box 639
Billings, MT 59103-0639

Attorneys for Carlyle Infrastructure

MISSOULA CITY ATTORNEY'S OFFICE

By

A large, stylized handwritten signature in black ink, appearing to read "Jim Nugent". The signature is written over a horizontal line and extends both above and below it.

Jim Nugent
Missoula City Attorney's Office
435 Ryman Street
Missoula, MT 59802

**Attorneys for Missoula City Attorney's
Office**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing STIPULATION was served upon the following by mailing a true and correct copy thereof on **October 31**, 2011, addressed as follows:

ARVID HILLER
MOUNTAIN WATER COMPANY
1345 W BROADWAY STREET
PO BOX 4826
MISSOULA MT 59802-2239
(406) 721-5570
(UPS ONLY)

WILLIAM W. MERCER
HOLLAND & HART LLP
401 NORTH 31ST STREET, SUITE 1500
PO BOX 639
BILLINGS MT 59103-0639
(406) 896-4607
wwmerc@hollandhart.com

KATE WHITNEY
PUBLIC SERVICE COMMISSION
1701 PROSPECT AVENUE
PO BOX 202601
HELENA MT 59620-2601
(E-FILE PLUS ORIGINAL)

BRYAN D. LIN
THE CARLYLE GROUP
520 MADISON AVENUE, 41ST FLOOR
NEW YORK NY 10022
(212) 813-4992
bryan.lin@carlyle.com

ROBERT NELSON
MONTANA CONSUMER COUNSEL
111 NORTH LAST CHANCE GULCH
SUITE 1B
BOX 201703
HELENA MT 59620-1703
robnelson@mt.gov

JIM LAROCQUE, CFA
THE CARLYLE GROUP
520 MADISON AVENUE
NEW YORK NY 10022
(212) 813-4749
jim.larocque@carlyle.com

THORVALD A NELSON
HOLLAND & HART LLP
6380 SOUTH FIDDLERS GREEN
CIRCLE, SUITE 500
GREENWOOD VILLAGE, CO 80111
(303) 290-1601
tnelson@hollandhart.com

JIM NUGENT
MISSOULA CITY ATTORNEY'S OFFICE
435 RYMAN STREET
MISSOULA MT 59802
JNugent@ci.missoula.mt.us

BARBARA HALL, LEGAL DIRECTOR
CLARK FORK COALITION
140 S 4TH STREET WEST, UNIT 1
PO BOX 7593
MISSOULA MT 59801
(406) 542-0539
Barbara@clarkfork.org

DR. JOHN W. WILSON
J.W. WILSON & ASSOCIATES, INC
1601 NORTH KENT STREET, SUITE 1104
ARLINGTON VA 22209
(702) 243-1049 (phone)
(703) 243-3389 (fax)
john@jwwa.com

For electronic service only:

mwright@mt.gov
lbuchanan@hollandhart.com



John Alke

**STIPULATED RING FENCING CONDITIONS
FOR PARK TO CARLYLE STOCK TRANSACTION**

Proposed Condition (a)

The Commission may audit the accounts of Mountain Water Company ("MWC"), and Park Water Company ("Park") and both shall cooperate fully with such Commission audits. In addition, in cases where transactions with other affiliates are the basis of charges to or transfers from MWC, the Commission will be provided access to all documents, data, records and other information which pertain to these transactions, and which are necessary for the Commission to perform its duties under Title 69.

Proposed Condition (b)

MWC shall maintain its own financial and business operating accounts, separate from Park's and its affiliates' accounts. All financial and operating books and records of MWC shall be completely and immediately accessible at Missoula, Montana.

Proposed Condition (c)

MWC and its affiliates will not encumber MWC's utility assets to either: (1) raise debt capital for non-utility purposes, or; (2) to raise debt capital for utility purposes outside of Montana, without first seeking and receiving the approval of the encumbrance from the Montana Public Service Commission. If, at any time, Park or Western Water Holdings LLC plans to obtain debt or other financing for non-Montana utility purposes by pledging the ownership of MWC as security for such financing, they shall immediately provide to the Commission a copy of their filing with the California Public Service Commission for approval of the financing.

Proposed Condition (d)

MWC shall not make any distribution to Park, or to any affiliate of Mountain or Park, that would cause MWC's equity capital to fall below 45 percent of its rate base without first obtaining Commission approval.

Proposed Condition (e)

If MWC, Park or Western Water Holdings LLC becomes the subject of any initial public offering or any other public securities issuance, Mountain will advise the Commission of that fact, and upon its request, will provide the Commission with all related information provided to securities rating analysts and all information submitted to the Securities and Exchange Commission in connection with the offering, in accordance with any limitations or restrictions upon such disclosure under federal law or regulation.

Proposed Condition (f)

Unless such a disclosure is determined to be unlawful in an opinion of counsel provided to the Commission, MWC shall notify the Commission of any declaration of dividends, or other transfer of more than 5 percent of MWC's shareholder equity, 30 days in advance. Cash management is addressed in Proposed Condition (j).

Proposed Condition (g)

Any allocation of expense to MWC, or direct charge to MWC, from Park or an affiliated company which is included in MWC's cost of service shall be subject to the heightened scrutiny of the Commission in MWC's rate case proceedings.

Proposed Condition (h)

Without the prior and specific authorization of the Commission, MWC shall not transfer, sell, lease or otherwise dispose of:

(a) any of MWC's water rights, with the exception of transfers that may be required for permitting of new water rights required to provide water service to existing or new customers, provided that such permitting falls within the jurisdiction of the Montana Department of Natural Resources and Conservation and/or the Montana Water Court:

(b) any utility property which has a net book value in excess of \$1,000,000 and which is included in Montana rate base.

Proposed Condition (i)

If any material amount of MWC utility assets that are pledged or otherwise encumbered to secure debt issuances are divested, the net proceeds of the sale must be used to pay down the debt, or be reinvested in utility assets in accordance with the security agreement under which the debt was issued.

Proposed Condition (j)

In the event that MWC desires to change its current cash management agreement with Park, MWC shall incorporate best practices for protecting MWC's credit from the risks associated with participating in such an agreement and shall provide the Commission with 30 days advance notice of such changes.