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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application Liberty Utilities
(Park Water) Corp. (U 314 W) for an Order
Authorizing Liberty Utilities (Park Water) Corp. to
Purchase the City of Perris's Municipal Water
Systems.

Application 18-05-011
(filed May 9, 2018)

**LIBERTY UTILITIES (PARK WATER) CORP. (U 314-W)
RESPONSE TO MOTION OF THE PUBLIC ADVOCATES OFFICE FOR MODIFICATION
OF THE JULY 8, 2020 RULING**

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Pursuant to Rule 11.1(e) of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure ("Rules"), Liberty Utilities (Park Water) Corp. ("Liberty Park Water") respectfully submits this Response to the Motion ("Motion") of the Public Advocates Office for Modification of the July 8, 2020 Ruling ("Ruling"). As discussed below, the Public Advocates Office's request to modify the Ruling to order a second election should be denied. Liberty Park Water, however, does not object to permitting the Public Advocates Office to submit a response to the September 1 filing provided that Liberty Park Water is also permitted to submit a reply to that response.

I. THE PUBLIC ADVOCATES OFFICE'S REQUEST TO ORDER A SECOND ELECTION SHOULD BE DENIED.

In its Motion, the Public Advocates Office requests that the Ruling be modified to order a second election be held to approve Liberty Park Water's acquisition of the Perris Municipal Water Systems ("Perris MWS").¹ The Motion does not acknowledge the substantial amount of resources that holding a second election will require of the City of Perris ("City"), especially in light of the current COVID-19 pandemic. Liberty Park Water has expressed its intention to work with the Public Advocates Office to produce a notice that it deems satisfactory and to discuss ways by which the City's residents could

¹ As the Public Advocates Office is aware, the City holds these elections, not Liberty Park Water. The Commission does not have jurisdiction to order the City to hold an election.

provide objections without the burden and expense of a formal second election.² It appears, however, that the Public Advocates Office is inexplicably unwilling to even entertain the idea of any type of accommodation. By failing to address the costs for the City (and therefore the City’s residents) of a second election in any way, the Motion demonstrates that the best interests of the City’s residents are not the Public Advocates Office’s primary concern.

In this proceeding, the Public Advocates Office has maintained a consistent narrow focus on technicalities over the best interests of customers. This overzealous and uncompromising stance indicates that the Public Advocates Office simply does not want this acquisition to occur for its own reasons. As Liberty Park Water has explained previously,³ the Public Advocates Office has gone on record stating that it has reconsidered its position in recent years regarding acquisitions by Class A water utilities and that it is opposed to such acquisitions because it is opposed to the Public Water System Investment and Consolidation Act of 1997 (“Consolidation Act”).⁴ The Public Advocates Office has stated its belief that “[i]n passing the Consolidation Act and requiring the Commission to use the standard of FMV to set rate base for the distribution system of an acquired water system, the legislature provided water utilities a generous incentive to acquire public water systems.”⁵ The Public Advocates Office is opposed to such an incentive in contravention to the Commission’s policy to support incentives for the acquisition of small water utilities.⁶ Notably, in its Motion, the Public Advocates Office does not assert that its objections to the acquisition will end even if a second election occurs. Rather, it appears that the Public Advocates Office would have the City spend valuable resources on a second election, and then it would move on to whatever additional objections to the acquisition it could produce. The Public Advocates Office should, at the very least, only request a second election if it believes that that is the last impediment to approval of the acquisition.

One of the Public Advocate Office’s arguments is that sending another notice now without a second election is meaningless because Liberty Park Water “already sent a notice to voters in August of 2018 – long after the election had passed – pursuant to the requirement in D.99-10-064.”⁷ This

² See Liberty Park Water’s Notice of Ex Parte Communication dated July 13, 2020.

³ See Joint Opening Brief of Liberty Park Water and the City of Perris, dated August 13, 2020, at 5.

⁴ Public Advocate Office’s Brief on Threshold Issues, dated January 22, 2019, in A.18-09-013, at pp. 2-3.

⁵ *Id.*

⁶ 2010 Commission Water Action Plan, p. 9. The Consolidation Act itself was enacted by the Legislature, in part, to facilitate the acquisition of small water systems by Class A water utilities. D.99-10-064 at p. 2.

⁷ Motion at 2-3.

argument belies the Public Advocates Office's longtime contention that the August 2018 notice was deficient.⁸ If the Public Advocates Office now believes that the August 2018 notice would have satisfied the notice requirements of D.99-10-064 but for the timing of the election, that change in belief is key for how the parties and the Commission should move forward in this proceeding.

As both the Ruling and Motion acknowledge, the City's residents approved the acquisition in a special election on November 7, 2017. A second election will have the same result as the first because the benefits of the proposed acquisition extend to the entire City. The proposed acquisition will eliminate debt related to the Perris MWS and free up funds for municipal services benefiting the whole population, whether customers of Perris MWS or its neighboring Eastern Municipal Water District.⁹ There has been no demonstration of actual prejudice or a faulty election result. To the contrary, the Public Advocates Office has agreed with many reasons why the City's residents would be in favor of the sale of Perris MWS.¹⁰ Absent sale of the Perris MWS, the City will continue to incur annual deficits that will add to its existing debt and other vital public services would, in turn, be negatively impacted across the community.¹¹

The Ruling properly considers the significant hardship to the City's residents of denying this acquisition based on a technicality where no prejudice has been shown. It is reasonable and in the customers' best interests to provide a path to cure any deficiencies as the Ruling has done. It would also be reasonable and in the customers' best interests for the Public Advocates Office to work with Liberty Park Water and the City in this matter to provide a notice to residents that adequately cures any deficiencies. Liberty Park Water hopes that the Public Advocates Office is willing to assist in this effort.

II. LIBERTY PARK WATER DOES NOT OBJECT TO PERMITTING THE PUBLIC ADVOCATES OFFICE TO RESPOND TO THE SEPTEMBER 1 FILING PROVIDED THAT REPLY COMMENTS ARE ALSO PERMITTED.

The Public Advocates Office also requests leave to file a response to the September 1 filing required by the Ruling. As stated above, Liberty Park Water remains committed to working with the

⁸ See Public Advocates Office's Opening Brief, dated August 13, 2020, at 18-21 and Reply Brief, dated August 27, 2020, at 7 and 10-11.

⁹ Additionally, the vast majority of the City's population are EMWD's customers whose rates will not be impacted by the acquisition.

¹⁰ See Joint Reply Brief of Liberty Park Water and the City of Perris ("Joint Reply Brief,"), p. 13.

¹¹ *Id.*

Public Advocates Office to resolve differences in the best interests of the customers. To that end, Liberty Park Water does not object to permitting the Public Advocates Office to submit a response to the September 1 filing provided that Liberty Park Water is also permitted to submit a reply to that response. Liberty Park Water recommends that responses to the September 1 filing be due on September 21, 2020, and that replies be due on September 28, 2020.

III. CONCLUSION.

For the reasons set forth above, the Motion should be rejected. Liberty Park Water does not object to permitting the Public Advocates Office to respond to the September 1 filing provided that Liberty Park Water is also permitted to submit a reply to that response.

Respectfully submitted,

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