

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

In the Matter of the Application of Mesa-Crest Water
Company (U 333 W) and Liberty Utilities
(Park Water) Corp. (U 314 W) for an Order
Authorizing Mesa-Crest Water Company to Sell
and Liberty Utilities (Park Water) Corp. to Purchase
the Utility Assets of Mesa-Crest Water Company

Application 17-04-024
(Filed April 24, 2017)

PROTEST OF THE TOWN OF APPLE VALLEY

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May 19, 2017

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I.

INTRODUCTION

On April 21, 2017, Mesa-Crest Water Company and Liberty Utilities (Park Water) submitted to the California Public Utilities Commission the *Joint Application of Mesa-Crest Water Company (U333W) and Liberty Utilities (Park Water) Corp. to Purchase, the Public Utility Assets of Mesa-Crest Water Company, and Request for Expedited Consideration* (filed April 24, 2017). For the reasons set forth below, the Town of Apple Valley protests the joint application and urges the Commission to deny it.

II.

BACKGROUND AND INTEREST IN PROCEEDING

The Town of Apple Valley (the “Town”) is a municipality organized under the laws of the State of California, and it is located in the High Desert region of the state. The Town receives its water service from Liberty Utilities (Apple Valley Ranchos) Corp. (“Liberty-Apple Valley”), a Class A water company regulated by the CPUC. The Town has an interest in the outcome of this proceeding because on December 20, 2016, the Commission’s Executive Director granted Liberty-Apple Valley’s request for an extension of the deadline to file its General Rate Case (“GRC”) application to January 2, 2018, and Liberty-Apple Valley sought the extension because it seeks to file a joint triennial General Rate Case application with its parent company Liberty Utilities (Park Water) Corp. (“Liberty-Park Water”). The Town is concerned because Liberty-Apple Valley ratepayers already pay significant shared costs with Liberty-Park Water and it is

likely that the ratepayers will be required to pay significantly more joint costs related to the Mesa-Crest Water Company (“Mesa Crest”) acquisition, especially after Liberty-Apple Valley and Liberty-Park Water file their joint or consolidated GRC application.

Liberty-Park Water and Liberty-Apple Valley ratepayers cannot be savior of all failing, small water companies. In August 2014, the Commission authorized Liberty-Apple Valley to acquire Yermo Water Company, a completely mismanaged water company located 45 miles away from Liberty-Apple Valley’s then-existing service area, despite the fact that Yermo Community Service District stood ready, willing and able to take over the system.¹ With the acquisition approval, the Commission authorized an acquisition price of \$300,000, plus \$50,000 in acquisition cost, for a system that required \$750,000 in initial capital improvements, with an estimated \$7,000,000 required for upgraded distribution, transmission, and storage facilities. Yermo Water Company had a mere 250 service connections. In one form or another, the costs associated with the operations of the Yermo system are now being passed on to Apple Valley ratepayers. The Mesa-Crest acquisition should be denied because Liberty-Park Water and Liberty-Apple Valley ratepayers should not be required to assume the health, safety, and financial obligations of another failing water company. In addition, the current customers of Mesa-Crest will not be served well by becoming part of the Algonquin Power and Utilities Corporation empire. In connection with the application, Liberty Utilities has requested authorization to make \$2,586,974 in capital improvements over the next 5 years. That amounts to about \$3,659 per connection. With an authorized rate of return on investments, Mesa-Crest customers will likely be paying significantly more than that per household. A local publicly-owned water company would likely be a far better option for Mesa-Crest customers.

III.

PROTEST

The Town maintains that the application is inconsistent with Sections 851-854, 2718, and 2720 of the California Public Utilities Code, Article 2 and Rule 3.6 of the Commission’s Rules of Practice and Procedure, and prior Commission decisions. The application should be denied for at least the following reasons:

¹ Resolution 4998 (August 28, 2014).

- The sale arises from an investigation into the mismanagement of Mesa-Crest that alleged neglect of the system and financial mismanagement of assets, and the Town maintains that ratepayers do not know the full scope of Mesa-Crest obligations. In order to fully assess these obligations, interested parties should have access to all the documentation from the investigation and the communications between the CPUC and both Mesa-Crest and Liberty Utilities.
- Mesa-Crest already provides water service through cooperation with surrounding, municipally owned water systems that are better situated to merge with Mesa-Crest and the Commission should ascertain whether a merger with a municipally-owned utility better serves the interest of Mesa-Crest, Liberty-Park, and Liberty-Apple Valley ratepayers.
- The agreement includes providing employment to Mesa-Crest management (Timothy and Thomas Flynn), each with a six-figure annual salary. This employment is offered despite the fact that Timothy Flynn was heavily implicated in the investigation for taking unauthorized zero interest loans from Mesa-Crest while inflating his salary beyond what the CPUC had approved. This deal also appears to ignore the fact that the Commission has determined that Mesa-Crest is built out and thereby requires no new, significant management skills which would justify even a nominal pay increase. The Town has legitimate concerns that ratepayers of Liberty-Apple Valley and Liberty-Park Water will be the ones paying the costs associated with the employment agreements for these individuals. More generally, the proposed employment of these individuals despite these major concerns raises significant questions about the prudence of Liberty Utilities.
- The Commission has not complied with the California Environmental Quality Act in connection with the application. As noted above, Liberty Utilities has requested authorization to make \$2,586,974 in capital improvements over the next 5 years. The improvements need to be clearly identified and their environmental impacts analyzed prior to approval.

These bases support denying the application and other bases will be developed during the course of this proceeding.

IV.

CLASSIFICATION AND SCHEDULE

This proceeding should be classified as Adjudicatory. Both discovery and evidentiary hearings will be required. The Town will be prepared to further discuss both the scope and schedule of this proceeding at a prehearing conference.

V.

CONTACT INFORMATION

Copies of all pleadings, notices, rulings, orders and other correspondence in this proceeding may be served on:

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VI.

CONCLUSION

Based on the foregoing, the Town submits this protest, requesting that the application be denied.

Dated: May 19, 2017

Respectfully submitted,
BEST BEST & KRIEGER LLP

By: /s/ Jason Ackerman
Jason Ackerman
Counsel for the Town of Apple Valley