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MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CLIMATE SMART MISSOULA, CITIZENS FOR CLEAN ENERGY, EARTHWORKS, FAMILIES FOR A LIVABLE CLIMATE, FORWARD MONTANA, HELENA HUNTERS AND ANGLERS, HELENA INTERFAITH CLIMATE ADVOCATES, MONTANA CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS, MONTANA ENVIRONMENTAL INFORMATION CENTER, MONTANA HEALTH AND CLIMATE, MONTANA PUBLIC INTEREST RESEARCH GROUP, MONTANA RENEWABLE ENERGY ASSOCIATION, NW ENERGY

Case No. DV-32-2026-0001129-DK
Dept. 3 - John W. Larson

PETITION FOR REVIEW AND COMPLAINT FOR DECLARATORY RELIEF

COALITION, PARK COUNTY ENVIRONMENTAL COUNCIL, RENEWABLE NORTHWEST, SIERRA CLUB, and 350 MONTANA,

Petitioners,

v.

MONTANA DEPARTMENT OF PUBLIC SERVICE REGULATION and MONTANA PUBLIC SERVICE COMMISSION,

Respondents.

INTRODUCTION

1. This case seeks confirmation of the Montana Public Service Commission's ("Commission") affirmative constitutional obligation to account for and take reasonable steps to avoid climate costs and risks in its decisions, which the Commission has refused to recognize and regularly disregards. Climate change poses an urgent threat to Montana and its people. The harmful impacts of climate change on Montanans are well-established and supported by scientific and legal authority. These harms include significant environmental, economic, and health impacts. To reduce greenhouse gas emissions at the rate that scientists deem necessary to prevent the greatest harm to our planet and all those who inhabit it, every level of government—from national to local—and private actors, including public utilities, must act.

2. Montanans have a fundamental right to a clean and healthful environment. Mont. Const. art. II, § 3. This right is more than aspirational: the Montana Constitution imposes an affirmative obligation on the State and its agencies—including the Commission—to "maintain and improve a clean and healthful environment in Montana for present and future generations." Mont. Const. art. IX, § 1(1).

3. Climate change represents precisely the type of cumulative, long-term environmental degradation the Constitution's forward-looking language was

designed to address. The Montana Supreme Court confirmed that the "right to a clean and healthful environment and environmental life support system includes a stable climate system." *Held v. State*, 2024 MT 312, ¶ 30, 419 Mont. 403, 560 P.3d 1235.

4. Through its regulation and oversight of public utilities, the Commission can either allow Montana's regulated utilities to deepen long-term investments in fossil fuels or encourage utilities to pursue cleaner and ultimately less costly alternatives. As a result, the Commission's decisions and policies influence greenhouse gas emissions and their effects in Montana. As a state agency, the Commission is failing to meet its constitutional mandate to account for climate change in its decisions.

5. On February 28, 2024, pursuant to Mont. Code. Ann. § 2-4-315, more than forty organizations and businesses from across Montana submitted a petition to the Commission, requesting in part that the Commission issue declaratory rulings addressing its constitutional and statutory obligations to consider climate impacts in its decisions. The Commission denied this request on September 2, 2025, and again on reconsideration on September 15, 2026.

6. More than two and a half years elapsed since the Petitioners filed their petition, during which the Commission neither addressed the constitutional or statutory merit of Petitioners' request for declaratory rulings nor engaged in a

substantive rulemaking effort in response to the petition. Now that the Commission has rejected Petitioners' request for declaratory rulings without addressing the key legal issues they present, Petitioners turn to this Court for relief. Petitioners respectfully request that the Court issue a declaratory judgment requiring the Commission to account for and take reasonable steps to avoid climate costs and risks in accordance with Montana's constitution. Additionally, because the Commission's decision to shirk its constitutional obligation was unreasonable, arbitrary, and unlawful, the Commission's challenged Final Order should be vacated.

JURISDICTION AND VENUE

7. Petitioners bring this action pursuant to the Uniform Declaratory Judgments Act, Mont. Code Ann. §§ 27-8-201–27-8-202, and the Montana Administrative Procedure Act, *id.* § 2-4-501 (providing for judicial review of an agency's refusal to issue a declaratory ruling in the same manner as decisions in a contested case); *id.* § 2-4-702 (providing for judicial review of contested cases).

8. This Court has jurisdiction over Petitioners' claims pursuant to Mont. Code Ann. § 3-5-302(1)(b) (civil matters) and Mont. Code Ann. §§ 2-4-501, 702 (Montana Administrative Procedure Act).

9. Venue is proper in this District pursuant to Mont. Code Ann. § 2-4-702(2)(a) because NorthWestern Corporation d/b/a NorthWestern Energy, one of

Montana's monopoly utilities regulated by the Commission, has service customers within Missoula County who will be affected by the Commission's Final Order, and the action is brought against the State. *See id.* § 25-2-126. Additionally, several Petitioners, including lead Petitioner Climate Smart Missoula, reside in Missoula County. *Id.*

10. Petitioners exhausted their administrative remedies pursuant to Mont. Code Ann. § 2-4-702(1)(a). Petitioners sought reconsideration of the Commission's Final Order consistent with the Commission's regulations. *See* Mont. Admin. R. 38.2.4806. The challenged decision became final for purposes of appeal on September 15, 2026, when the Commission denied Petitioners' motion for reconsideration. Mont. Admin. R. 38.2.4806(6). The challenged decision is now ripe for district court review.

PARTIES

11. Petitioner Climate Smart Missoula is a community-based nonprofit organization with a mission to build and accelerate climate solutions for Missoula and beyond through collaborative programs, advocacy, and catalyzing climate leadership. The organization works with local government and other partners to develop policies and implement programs to reduce greenhouse gas emissions and reach the community's goal of 100 percent clean electricity by 2030 for the Missoula urban area. Climate Smart Missoula works to reduce fossil fuel use in the

State, while also strengthening climate resiliency and adaptation, with a focus on human and environmental health. The organization's advocacy to transition to 100 percent clean electricity hinges on affordable electricity rates, energy efficiency offerings, and the inclusion of low-cost renewable energy. Climate Smart Missoula is also interested in electrification issues from a public health perspective.

12. Petitioner Citizens for Clean Energy is a non-profit grassroots organization representing Montanans from Great Falls and North Central Montana. The organization works to promote adequate, clean, and cost-effective energy sources and energy efficiency to help reduce the need for fossil-fuel based generation. Climate impacts, such as severe lack of snowpack and persistent drought, are detrimentally affecting the organization's members personally and economically. The organization's members include working farmers, ranchers and gardeners, for whom climate impacts, such as increasing temperatures and drought, are materially affecting their livelihoods through the need to transport water significant distances to keep crops and livestock alive. Members are also customers of NorthWestern Energy and are therefore subject to the impacts of the Commission's regulatory actions.

13. Petitioner Earthworks is a national nonprofit organization committed to reducing the harm from mineral and energy extraction. The organization works to address methane emissions from oil and gas operations and support a just

transition away from fossil fuels towards responsibly sourced renewable energy and demand reduction. Earthworks has been involved in environmental campaigns in Montana since the early 1990s. The organization has 861 members in Montana and twenty donors whose interests in addressing the climate crisis include sustaining a clean and healthy environment for wildlife, sustenance, and recreation.

14. Petitioner Families for a Livable Climate is a Montana-based nonprofit that creates community for climate action by equipping families of all kinds with the tools, opportunities, and support they need to engage in meaningful, community-powered climate solutions. The organization is engaged in decisions about electricity generation and infrastructure, which have lasting impacts on the air children breathe, household energy costs, public health, and Montana's climate. Through education, community organizing, and civic engagement, the organization works to ensure that families have a voice in decisions that affect their future.

15. Petitioner Forward Montana is Montana's largest youth-led, youth-focused civic engagement organization. Forward Montana's mission is to build political power with and for young Montanans to create lasting change. The impacts of climate change are deeply concerning to young people—who are disproportionately affected by it—and are consistently raised in the organization's outreach efforts. Climate change will impact the organization's members and their abilities to live, work, and play in Montana.

16. Petitioner Helena Hunters and Anglers is a volunteer organization dedicated to protecting and restoring fish and wildlife to all suitable habitats, and conserving all natural resources as a public trust, vital to our general welfare. The organization promotes the highest standards of ethical conduct and sportsmanship and promotes outdoor recreation opportunities for all citizens to share equally. Warmer temperatures, lower snowpack, and earlier runoff due to climate change are already having negative effects on fish and wildlife the organization works to protect. Functional ecosystems are not only important for fish and wildlife, but they also provide ecosystem services to Montana's people in the form of clean water, clear air, and vibrant outdoor spaces. Landscapes, wildlife, rivers, fisheries – all are being affected by climate change. Hunters and anglers will suffer when the building blocks of our environment are altered. The organization works to protect hunting and fishing opportunities and protect our constitutional right to a clean and healthful environment.

17. Petitioner Helena Interfaith Climate Advocates ("HICA") is comprised of members of twelve Helena congregations committed to acting against threats to the environment. HICA's actions derive from the concerns of members of faith-based organizations for the well-being of all Montanans currently and those of future generations. Its members are customers of NorthWestern Energy. The organization was founded in 2022 around Earth Day in an effort to

build community among members of different faiths who all have an interest in taking care of the planet. HICA has also engaged in advocacy before the State Legislature and the Commission to advance issues related to energy affordability and decreasing reliance on fossil fuels in a reasonable and deliberate manner.

18. Petitioner Montana Chapter of the American Academy of Pediatrics represents pediatric health professionals in Montana, with about 150 members. Its mission is to advocate for activities, programs, and policies that will promote the optimal health and well-being of children. There is ample evidence to show that climate change poses serious threats to human health. Pediatricians have recognized these impacts for some time and have advocated for policies that protect children from these threats. Children are especially vulnerable to the effects of climate change, including extreme weather events, decreased air quality, changing disease patterns for certain infections, and food and water insecurity.

19. Petitioner Montana Environmental Information Center ("MEIC") is a non-partisan, non-profit environmental advocacy organization founded in 1973 by Montanans concerned with protecting and restoring Montana's natural environment. To protect and restore the land, air, water, and life-sustaining climate of Montana, MEIC advocates, educates, and empowers people in service of a clean and healthful environment for present and future generations. MEIC is dedicated to assuring that state and local governments comply with and fully uphold the laws

and constitutional provisions that further the organization's goals and mission of protecting the environment for all Montanans to enjoy. MEIC has approximately 10,000 members and supporters, many of whom live, work, and recreate throughout the State and are impacted by the economic and environmental climate damages that are directly contributed to by Montana utilities' operations under the regulatory authority of the Commission.

20. Petitioner Montana Health and Climate works to protect human health from effects of air pollution and climate change. Protecting human health includes families earning a wage sufficient to cover their expenses, one of the most critical determinants of human health. Montana Health and Climate members are concerned that the Commission's decisionmaking supports energy sources that increase costs for Montana families. The organization opposes emphasizing fossil fuels when the economic costs and healthcare costs are far more than those of renewable sources with battery storage.

21. Petitioner Montana Public Interest Research Group ("MontPIRG") is a student-led nonpartisan public interest organization dedicated to nurturing the next generation of civic leaders, advocating for consumer and good government issues, and defending the environment. For nearly forty-five years, MontPIRG has represented the student populations at the University of Montana and Montana State University. Additionally, the organization has a Board of Directors composed

of twelve university students, and it enrolls approximately twenty-five students for internships each semester. Almost all of MontPIRG's members are NorthWestern Energy customers. MontPIRG's student and citizen members are concerned about the environmental degradation and rising electricity costs caused by climate change. Inaction by the Commission to address climate change negatively impacts the livelihoods of students and members who engage in outdoor recreation, fishing, hunting, biking, art, and relaxation. The organization's students and citizen members are harmed by a damaged environment—their health is harmed and they are limited in economic opportunity through employment by the outdoor recreation industry.

22. Petitioner Montana Renewable Energy Association ("MREA") is a network of industry professionals in Montana's renewables sector. MREA represents a broad network of renewable energy installers, developers, business owners, consumers, and technical experts engaged in Montana's clean-tech economy. The organization has extensive experience with distributed generation policy, net metering, interconnection standards, energy storage, and the practical implementation of state and federal laws and safety standards. MREA regularly participates in legislative, regulatory, and stakeholder processes related to electric system planning, utility program design, and consumer protections. The Commission's inaction on its obligation to account for climate impacts has

consequential and negative impacts on the Association and the members it represents. MREA members, including renewable energy businesses and electricity customers, have an interest in regulatory decisions that fairly and consistently evaluate costs, benefits, and risks of competing energy resources. Continued uncertainty on the Commission's obligations will affect decisions that influence customer-side resource investment, clean energy resource selection, and electricity costs.

23. Petitioner NW Energy Coalition ("NWEC")[1] is a non-profit organization whose primary purpose is to promote a clean, reliable, affordable, and equitable energy future. NWEC has approximately 100 member organizations—including environmental, civic, and human service organizations, unions, utilities, and businesses—as well as individual members throughout Montana, Oregon, Washington, Idaho, and British Columbia. NWEC has eleven Montana-based

[1] NWEC is not representing the following of its organizational members in this litigation: Abundant Montana; Affiliated Tribes of Northwest Indians; AirWorks; BlueGreen Alliance; Bonneville Environmental Foundation; City of Portland Bureau of Planning and Sustainability; Clean Energy Transition Institute; CleanTech Alliance; Coffman Engineers; Community Action Partnership of Oregon; Conservation Northwest; Elevate; Energy Trust of Oregon; Human Resource Council District XI; League of Women Voters of Idaho; League of Women Voters of Oregon; League of Women Voters of Washington; Multnomah County Office of Sustainability; Northern Plains Resource Council; Opportunity Council; Oracle; Oregon Solar + Storage Industries Association; Portland General Electric; Renewable; Hydrogen Alliance; Renewable Northwest; Seattle City Light; Sierra Club; Sierra Club Idaho Chapter; Sierra Club Montana Chapter; Sierra Club Washington Chapter; Snohomish County Public Utility District; Solar Washington; Sustainable Connections; Sustainable Northwest; The Climate Trust; Utilidata; Washington Solar Energy Industries Association; Washington State Department of Commerce.

organizational members, among them organizations that promote clean energy, advance sustainable solutions to reduce poverty, and help Montanans obtain low-income energy assistance. NWEC has members and staff who are NorthWestern Energy customers. One of NWEC's chief strategic priorities in Montana is to grow programs that make energy services affordable and equitable for all customers through advocacy in utility and regulatory proceedings.

24. Petitioner Park County Environmental Council ("PCEC") is a community-based conservation organization that works to protect the land, water, air, and wildlife of Park County and to foster a resilient future for Yellowstone's Northern Gateway. PCEC has approximately 500 members and 3,000 supporters, who rely on the health and beauty of the natural world for their livelihoods, recreation, and well-being. PCEC's members are concerned that the Commission's failure to account for climate impacts jeopardizes Montanans' constitutional right to a clean and healthful environment, placing critical wildlife habitats, local rivers, and headwater ecosystems at risk.

25. Petitioner Renewable Northwest is a non-profit organization representing more than eighty members, including power marketers, purchasers, environmental non-governmental organizations, and most clean energy developers who operate in the Pacific Northwest. Since 1994, the organization has drawn on the deep expertise of its members to ensure socially and environmentally

responsible advancement of clean energy projects across the region and promote affordability and equity in the energy supply system. Its members are concerned about whether energy development in Montana will be socially, environmentally, and economically responsible.

26. Petitioner Sierra Club is a national nonprofit organization with sixty-four chapters and over 593,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Sierra Club's concerns encompass protecting public lands, wildlife, and waters, as well as addressing the climate crisis by supporting a just transition from fossil fuel energy to clean, renewable energy sources. Sierra Club's particular interest in this case and the issues which the case concerns stem from its members' interests in addressing the climate crisis, as more than half of the members in the Montana Chapter are captive customers of NorthWestern Energy. The Montana Chapter of the Sierra Club has approximately 2,500 members.

27. Petitioner 350 Montana is an all-volunteer citizens' organization that works to reduce atmospheric carbon dioxide concentrations to 350 parts per million by implementing strategic actions and advocating policies to end fossil fuel

burning in response to the urgency of the climate crisis. 350 Montana envisions a rapid conversion to a 100 percent renewable global energy system using wind, water, and solar. The organization works with the global grassroots climate movement to achieve these goals and safeguard Earth's life-support systems.

28. Petitioners' members' financial, health, recreational, spiritual, aesthetic, property, and conservation interests have been, are being, and, unless the relief prayed for in this Petition is granted, will continue to be adversely and irreparably injured by the Commission's failure to uphold its obligations under the Montana Constitution. Additionally, each Petitioner and/or its members, supporters, or constituents are captive customers of utilities regulated by the Commission and are therefore impacted by both the costs and risks of Commission decisions. These are actual, concrete injuries, traceable to the Commission's inaction, which would be redressed by the requested relief.

29. Respondent Montana Public Service Commission, organized under Mont. Code Ann. § 2-15-2602, leads the Department of Public Service Regulation and is "invested with full power of supervision, regulation, and control of [] public utilities." Mont. Code Ann. § 69-3-102.

30. Respondent Department of Public Service Regulation is an administrative agency of the State of Montana created pursuant to Mont. Code Ann. § 2-15-2601.

FACTUAL AND PROCEDURAL BACKGROUND

31. On February 28, 2024, a coalition of forty-two Montana organizations, businesses, health professionals, faith communities, student groups, and individuals filed a Petition for Rulemaking with the Montana Public Service Commission under Mont. Code Ann. § 2-4-315. The Petition asked the Commission to adopt a rule requiring it to "consider and act on information about the climate consequences of its decisions." Dkt. No. 2024.03.028, Index #1, Pet. for Rulemaking at 1 (Mont. Pub. Serv. Comm'n Mar. 1, 2024) [hereinafter Pet. for Rulemaking].

32. In addition to the request for rulemaking, and under Mont. Code Ann. § 2-4-501, Petitioners asked for two declaratory rulings. The first asked the Commission to determine that "[t]he Montana Constitution imposes an affirmative obligation on the Commission to consider the harmful climate consequences of its decisions to prevent constitutional harm and protect Montanans' fundamental right to a clean and healthful environment." *Id.* at 26. The second asked the Commission to determine that seven provisions of Title 69 "require considerations of climate change and its harmful effects in Montana." *Id.* at 26–27. Those statutory provisions direct the Commission to regulate utilities in a way that helps ensure a "clean, healthful, safe, and economically productive environment," serves the public interest, and produces just and reasonable rates. *Id.* at 26. The requested

rulings raised purely legal questions. The Commission assigned the matter Docket No. 2024.03.028.

33. The Commission held a public hearing on April 8, 2024, with an initial written comment deadline of April 12, and then—based on the ostensible need to seek responses to Commission questions—extended the period for written comment to July 1, 2024. Dkt. No. 2024.03.028, Index #921, Order 8029 ¶ 6 (Mont. Pub. Serv. Comm'n Sep. 19, 2025) [hereinafter Order 8029]; Dkt. No. 2024.03.028, Index #564, Not. of Extended Opportunity to Comment (Mont. Pub. Serv. Comm'n Apr. 30, 2024).

34. While the requests were pending, the Montana Supreme Court decided *Held v. State*. The Court held that Montanans' constitutional right to a clean and healthful environment "includes a stable climate system." *Held*, ¶ 30. It also affirmed the district court's undisputed findings that greenhouse gas emissions from fossil fuels are harming Montana's environment now and will continue to do so with increasing severity. *Id.* ¶¶ 3–4, 29. *Held* thus addressed the core legal premise of Petitioners' first requested declaratory ruling.

35. MAPA requires every agency to provide "for the filing and *prompt* disposition of petitions for declaratory rulings." Mont. Code Ann. § 2-4-501 (emphasis added). The Commission did not act promptly. For nearly fourteen

months after the extended comment period closed, the Commission failed to take any action.

36. On September 2, 2025, the Commission voted to deny the Petition for Declaratory Ruling, followed by a final written order on September 19, 2025, 569 days after the Petition was filed. Petitioners sought reconsideration of the Commission's decision under Mont. Admin. R. 38.2.4806 on September 12, 2025 (within thirty days after the Commission's oral vote out of an abundance of caution). *See* Dkt. No. 2024.03.028, Index #920, Petitioners' Request for Reconsideration (Mont. Pub. Serv. Comm'n Sep. 12, 2025) [hereinafter Petitioners' Request for Reconsideration].

37. The Order declined the first requested ruling for three reasons: (1) the Commission lacked authority to issue it, because the Montana Constitution is not a "statutory provision or . . . rule or order of the agency" under Mont. Code Ann. § 2-4-501; (2) the Constitution does not allow administrative agencies to construe or interpret its provisions; and (3) even if the Commission had that authority, it would decline to exercise it. Order 8029 ¶¶ 10–12.

38. The Order declined the second requested ruling on two grounds. First, the Commission asserted that reading the cited statutes to require climate consideration would insert terms the Legislature omitted. *Id.* ¶¶ 13–30. Second, the Commission stated that a ruling interpreting the statutes for future cases was "more

appropriately construed as a 'statement of general applicability' that must be adopted through rulemaking." *Id.* ¶¶ 31–32 (citing Mont. Code Ann. § 2-4-102(11)). Nothwithstanding this assertion, the Commission did not act on the rulemaking that Petitioners had asked for in the same filing and has yet to do so. It stated only that "[t]he propriety of adopting one or more rules that would achieve Petitioners' goals is a question for a different order." *Id.* ¶ 32.

39. Petitioners' Request for Reconsideration challenged each ground for denial as arbitrary and legally erroneous. Petitioners' Request for Reconsideration at 1–2. Petitioners clarified the following: (1) they had not asked the Commission to interpret the Constitution in the first instance; they instead had asked it to apply the construction the Montana Supreme Court had previously issued in *Held* and *Park County Environmental Council v. Department of Environmental Quality*, 2020 MT 303, 402 Mont. 168, 477 P.3d 288; (2) applying a settled constitutional rule raises no separation-of-powers concern; (3) the Commission already considers other inalienable rights in its decisions as a matter of course; and (4) the cited statutes, read consistently with the Constitution, require a separate consideration of climate impacts.

40. The Commission's rules provide that "[a] motion for reconsideration shall be deemed denied when it has not been acted upon within 20 days of its filing." Mont. Admin. R. 38.2.4806(5). Petitioners' Request would have been

deemed denied on October 2, 2025. On October 1, 2025, however, the Commission issued a Notice of Waiver of Reconsideration Deadline that suspended Mont. Admin. R. 38.2.4806(5) as applied to Order 8029. Dkt. No. 2024.03.028, Index #922, Notice of Waiver (Mont. Pub. Serv. Comm'n Oct. 1, 2025). On September 15, 2026, the Commission voted unanimously to deny the Request. It issued Order 8029a the same day—368 days after Petitioners sought reconsideration and 930 days, more than two and a half years, after Petitioners first asked for the rulings and filed their rulemaking petition, which remains outstanding. Dkt. No. 2024.03.028, Index #925, Order on Reconsideration 8029a (Mont. Pub. Serv. Comm'n Sep. 15, 2026) [hereinafter Order 8029a].

41. This year of further consideration produced no new legal reasoning or basis for the denial. Order 8029a restates the three grounds from Order 8029 and states that Staff's and the Commission's prior reasoning "is supported by the law cited therein." Order 8029a ¶¶ 16–17. The only new explanation in Order 8029a is in answer to Petitioners' argument that the Commission was obligated to issue a ruling. There, the Commission concluded that Mont. Code Ann. § 2-4-501 contemplates refusal, so whether to issue a declaratory ruling "is left to the discretion of the agency." *Id.* ¶¶ 10–14.

42. In total, the Commission took 552 days to deny Petitioners' two purely legal requests. This action timely follows.

LEGAL BACKGROUND

A. The Montana Constitution

43. The Montana Constitution guarantees every person the "inalienable" right to "a clean and healthful environment." Mont. Const. art. II, § 3. This right is paired with a corresponding duty: "[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." Mont. Const. art. IX, § 1(1).

44. While Petitioners' declaratory ruling requests were pending, the Montana Supreme Court decided *Held*, affirming that the constitutional right to a clean and healthful environment includes the right to a stable climate and accepting the undisputed finding that each additional ton of CO_2 emissions contributes to climate change. *Held*, ¶¶ 3–4, 29–30.

B. The Montana Administrative Procedure Act ("MAPA")

45. MAPA directs every agency to "provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the agency." Mont. Code Ann. § 2-4-501. The Legislature did not leave an agency's handling of those petitions to its unreviewable discretion. The same statute provides that "[a] declaratory ruling *or the refusal to issue such a ruling* shall be subject to judicial review in the same manner as decisions or orders in contested cases." *Id.* (emphasis added). The

Commission's own rules say the same. Mont. Admin. R. 1.3.229(2) ("A declaratory ruling or notice of refusal to issue a ruling is a final agency decision subject to judicial review"); Mont. Admin. R. 38.2.101(1) (adopting Mont. Admin. R. 1.3.226 through 1.3.229).

46. A party that has exhausted its administrative remedies and is aggrieved by an agency's final written decision is entitled to judicial review and must petition within thirty days after service of that decision. Mont. Code Ann. § 2-4-702(1)(a), (2)(a). Review is "conducted by the court without a jury and must be confined to the record." *Id*. § 2-4-704(1).

47. A court "may reverse or modify the decision if substantial rights of the appellant have been prejudiced because . . . the administrative findings, inferences, conclusions, or decisions are," among other things, "arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." *Id*. § 2-4-704(2). The same subsection separately authorizes a court to invalidate the agency's decision where its conclusions are "in violation of constitutional or statutory provisions," "in excess of the statutory authority of the agency," or "affected by other error of law." *Id.* § 2-4-704(2)(a)(i), (ii), (iv).

48. An agency acts arbitrarily or capriciously when its decision is not based on consideration of the relevant factors, reflects a clear error of judgment, or lacks a basis that could lead a reasonable person to the same conclusion. An

agency's discretion does not extend to misreading the law that governs it. A refusal to act that rests on an erroneous view of the agency's own authority is, for that reason, an abuse of discretion.

C. The Uniform Declaratory Judgments Act ("UDJA")

49. The UDJA, Mont. Code Ann. §§ 27-8-101–27-8-313, authorizes this Court to declare the parties' rights and obligations directly. "Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." *Id*. § 27-8-201.

50. The Legislature has instructed that the UDJA be read broadly. The Act "is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and it is to be liberally construed and administered." *Id*. § 27-8-102.

51. The UDJA expressly reaches questions of statutory construction. Any person "whose rights, status, or other legal relations are affected by a statute . . . may have determined any question of construction or validity arising under the . . . statute . . . and obtain a declaration of rights, status, or other legal relations thereunder." *Id*. § 27-8-202.

52. The Court's authority is not confined to the instruments listed in Mont. Admin. Code § 27-8-202. That enumeration "does not limit or restrict the

exercise of the general powers conferred in 27-8-201 in any proceeding where declaratory relief is sought in which a judgment or decree will terminate the controversy or remove an uncertainty." *Id*. § 27-8-205. A court may decline to enter a declaratory judgment only where the judgment "would not terminate the uncertainty or controversy giving rise to the proceeding." *Id*. § 27-8-206. Where a declaration is entered, "[f]urther relief based on a declaratory judgment or decree may be granted whenever necessary or proper." *Id.* § 27-8-313.

53. Montana courts regularly use the UDJA to resolve constitutional questions, including the scope of the State's obligations under Article II, Section 3 and Article IX, Section 1.

COUNT I – REQUEST FOR DECLARATORY JUDGMENT
(Uniform Declaratory Judgments Act, Mont. Code Ann. §§ 27-8-201, 27-8-202)

54. All preceding paragraphs are hereby incorporated as if fully set forth herein.

55. Petitioners request a declaration from this Court of their "rights, status, or other legal relations" with respect to the proper construction of the Commission's obligations to implement its statutory framework in a manner consistent with Montana Constitution, Article II, Section 3 and Article IX, Section 1. Mont. Code Ann. § 27-8-202. Specifically, the Constitution's environmental provisions require the Commission to consider climate change in its regulatory decisionmaking process to ensure that such decisions do not violate

Montanans' constitutional right and that they satisfy the State's affirmative responsibility to maintain and improve a clean and healthful environment. Mont. Const. art. II, § 3; art. IX, § 1.

56. Article IX, Section 1 of the Montana Constitution mandates that "[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." Mont. Const. art. IX, § 1(1). A "clean and healthful environment" includes a "stable climate." *Held*, ¶ 30.

57. The Commission has primary responsibility for regulating Montana's electric and gas public utilities and thus has a central role in minimizing state-sponsored damage to the climate caused by the selection and operation of utility resources.

58. The Commission's statutory framework, implemented consistently with the Montana Constitution, requires the Commission to account for and take reasonable steps to avoid climate costs and risks of its regulatory decisions. Among other things, the Commission is required to regulate utilities in a manner that "help[s] ensure a clean, healthful, safe, and economically productive environment," Mont. Code Ann. § 69-3-1202(1)(b); promotes the public interest, *id.* §§ 69-8-421(6)(c)(i), 69-3-1415(5)(c), 69-3-504(1), 69-3-1606(1)(b)(ii); and ensures just and reasonable utility rates and practices, *id.* § 69-3-330(1), (3). The Commission

is also granted broad authority "to do all things necessary and convenient in the exercise of the powers conferred by [Title 69]." *Id*. § 69-3-103(1); *Mont. Power Co. v. Pub. Serv. Comm'n*, 206 Mont. 359, 671 P.2d 604 (1983). While climate-related costs and risks are not the Commission's only considerations in administering these statutes, the Constitution compels climate consideration as an indispensable factor in the Commission's decisionmaking under these statutes.

59. In its Final Order and Order on Reconsideration in this matter, the Commission refused to recognize its constitutional obligations. Currently, the Commission implements the statutes it is charged with administering without regard for its constitutional obligation to avoid unreasonable environmental degradation due to climate change.

60. The Court should confirm the Commission has an affirmative duty to account for and take reasonable steps to avoid climate-related costs and risks in its decisionmaking in accordance with the constitutional right of Montanans to a clean and healthful environment.

COUNT II – PETITION FOR JUDICIAL REVIEW
(Montana Administrative Procedure Act, Mont. Code Ann. §§ 2-4-702, 2-4-704)

61. All preceding paragraphs are hereby incorporated as if fully set forth herein.

62. The Commission's denial of the petition for declaratory rulings, premised on its refusal to decide the questions presented, was arbitrary, capricious,

and based on erroneous legal conclusions in violation of MAPA. Mont. Code Ann. § 2-4-704(2)(a)(vi).

63. First, the Commission erroneously and arbitrarily found that it lacked legal authority to issue the declaratory ruling concerning its constitutional obligations. Order 8029 ¶¶ 10–11; Order 8029a ¶¶ 18–20. On the contrary, the question of whether the Commission's statutory authority must be exercised in conformity with constitutional environmental rights is a question about the application and interpretation of the Commission's statutory framework, which is squarely within the scope of Mont. Code Ann. § 2-4-501 authorizing declaratory rulings by agencies.

64. Second, the Commission's legal finding that Petitioners' request for declaratory ruling implicated a separation-of-powers issues was legally erroneous, where the Petition asked the Commission simply to apply constitutional principles clearly established in *Held* and the Constitution itself. Order 8029 ¶ 11; Order 8029a ¶ 18.

65. Third, the Commission arbitrarily declined to resolve the question presented in the petition for declaratory ruling based on its erroneous determination that it must "consider arguments about all of the Montana Constitution's inalienable rights together" on a case-by-case basis. Order 8029a ¶ 21. Recognizing the Commission's obligation to maintain and improve a clean and

healthful environment by accounting for climate-related costs and risks in its decisionmaking, broadly, would not prevent the Commission from considering other constitutional provisions that may be implicated in any particular case. The Commission's statutory obligations to make decisions in the public interest and ensure just and reasonable utility rates and practices provide appropriate vehicles for the Commission to implement its environmental obligations while also accounting for other constitutional rights.

66. Finally, the State's affirmative duty to take active steps to realize the right to a clean and healthful environment, recognized in *Park County Environmental Council* and affirmed in *Held*, requires state agencies—including the Commission—to, at minimum, acknowledge and address their constitutional obligations. The Commission's refusal to address its constitutional obligations to consider climate change is itself a violation of Article IX, Section 1's affirmative duty to maintain and improve a clean and healthful environment.

PRAYER FOR RELIEF

THEREFORE, Petitioners respectfully request that this Court:

1. Declare that the Commission has a constitutional obligation to implement its statutory framework in a manner consistent with constitution's environmental provisions, Mont. Const. art. II, § 3; art. IX, § 1, by accounting for and taking reasonable steps to avoid the climate-related costs of its decisions in

accordance with its constitutional obligations to ensure a clean and healthful environment. Mont. Code Ann. § 27-8-202.

2. Vacate the Commission's arbitrary, capricious, and unlawful decisions, Order 8029 and Order 8029a. Mont. Code Ann. § 2-4-704(2).

3. Award Petitioners their reasonable fees, costs, and expenses, including attorney fees, associated with this litigation; and

4. Grant Petitioners such further and additional relief as the Court may deem just and proper.

Respectfully submitted this 15th day of October, 2026.

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