DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA
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IN THE MATTER OF the Application of **UTILITY SOLUTIONS, LLC** to Implement Initial Rates and Charges for Water Services in its Elk Grove Subdivision, Gallatin County, Montana Service Area	)	**UTILITY DIVISION** **DOCKET NO. D2005.11.163**
		Consolidated with
IN THE MATTER OF the Application of **UTILITY SOLUTIONS, LLC** to Implement Initial Rates and Charges for Wastewater Services in its Elk Grove Subdivision, Gallatin County, Montana Service Area	)	**UTILITY DIVISION** **DOCKET NO. D2005.11.164**

STIPULATION

COMES NOW, Utility Solutions LLC, Inc., the Applicant in this proceeding, and the Montana Consumer Counsel (MCC), the Intervenor in this proceeding, and agree and stipulate as follows:

1. On October 27, 2005, Utility Solutions filed with the Commission an Application for authority to establish initial rates for regulated water service in what is commonly known as Elk Grove, a subdivision in the Four Corners area west of Bozeman, Montana. The cost of service presented in the filing was based upon a test year ended December 31, 2004. When granted in its entirety, the requested initial rates generate $163,978 per year in annual revenues, based upon the customer counts included in the Application. The Application was denominated PSC Docket D2005.11.163. On January 6, 2006, the Commission authorized, on an interim basis, the initial rates requested by Utility Solutions. Interim Order 6707. Ordering paragraph 6 of the order required Utility Solutions

to file a new cost of service, based upon a 2006 test year, no later than July 1, 2007, later extended until August 15, 2007.

2. On October 27, 2005, Utility Solutions also filed with the Commission an Application for authority to establish initial rates for regulated waste water service in its Elk Grove service area. The cost of service presented in the filing was also based upon a test year ended December 31, 2004. When granted in its entirety, the requested initial rates generate $199,188 per year in annual revenues, based upon the customer counts included in the Application. The Application was denominated PSC Docket D2005.11.164. On January 6, 2006, the Commission authorized, on an interim basis, the initial rates requested by Utility Solutions. Interim Order 6708. Ordering paragraph 5 of the order required Utility Solutions to file a new cost of service, based upon a 2006 test year, no later than July 1, 2007, later extended until August 15, 2007.

3. Utility Solutions made filings in the two docket on August 12, 2007, which sought to make the interim rates authorized in each docket permanent. On November 7, 2007, the Commission ordered the consolidation of the two dockets for purposes of hearing.

4. The consultant who prepared the Applications in the two dockets on behalf of Utility Solutions became seriously ill, then tragically died. With his passing, Utility Solutions was unable to move its August 12, 2007, Applications to hearing and establish final rates. On December 8, 2008, Utility Solutions moved the Commission to suspend the procedural order which governed the proceedings, to allow Utility Solutions to retain a new rate consultant, and to prepare a more recent cost of service based upon a test year ended December 31, 2008. The Commission granted the motion, and ordered Utility Solutions to make a general rate filing, using a 2008 test year, no later than June 30, 2009.

5. Utility Solutions made the required filing. Its Amended Application to establish permanent regulated rates for water service seeks the authorization of permanent

rates which will generate $327,499 per year in annual revenues. Its Amended Application to establish permanent regulated rates for waste water service seeks the authorization of permanent rates which will generate $356,305 per year in annual revenues.

6. The MCC has intervened in the dockets, opposing the permanent rates sought by Utility Solutions in these proceedings. It has conducted discovery and on-site audits of the books and records of Utility Solutions.

7. The pre-filed testimony of the MCC expert witness was filed in this docket on December 23, 2009. In that pre-filed testimony, the MCC concludes that Utility Solutions is entitled to permanent water rates which would generate $238,077 per year in annual revenues, and permanent sewer rates which would generate $251,877 per year in annual revenues.

8. The revenue requirements presented by Utility Solutions in these cases included a weighted cost of capital of 8.11%, using a hypothetical capital structure of 55% equity at a cost of 10% and 45% debt at a cost of 5.8%. The revenue requirements presented by the MCC in this case included a weighted cost of capital of 5.8%, derived by using a 0% equity and 100% debt capital structure.

9. For settlement purposes, a fair and equitable resolution of the issues between Utility Solutions and the MCC, and one which would result in the expeditious establishment of permanent rates at just and reasonable levels, would be to establish permanent rates at the rate levels determined by the MCC to be just and reasonable, that is permanent water rates which will generate $238,077 per year in annual revenues, and permanent sewer rates which would generate $251,877 per year in annual revenues. Attached as Appendix 1 are proposed tariffs which Utility Solutions and the MCC agree should be utilized to implement their settlement agreement.

10. The Commission, after the completion of contested case proceedings in this docket, should be moved in its discretion to issue a final order approving, adopting, and implementing the terms of this Stipulation, and authorizing as permanent initial rates the tariffs attached as Appendix 1.

11. The parties to this Stipulation present it to the Commission as a reasonable settlement of the issues raised in this docket. No party's position in this docket is accepted by the other parties by virtue of their entry into this Stipulation, nor does it indicate their acceptance, agreement, or concession to any rate making principle, cost of service determination, or legal principle embodied, or arguably embodied, in this Stipulation.

12. The various provisions of paragraphs 1 through 12 of this Stipulation are inseparable from the whole of the agreement between the parties to the Stipulation. The reasonableness of the proposed settlement set forth in this Stipulation is dependent upon its adoption, in its entirety, by the Commission. If the Commission decides not to adopt, in its entirety, the proposed settlement set forth in this Stipulation, then the entire Stipulation is null and void, no party to the Stipulation is bound by any provision of it, and it shall have no force or effect whatsoever.

13. During the pendency of this proceeding, the Commission should be moved, in its discretion, to grant Utility Solutions interim rate relief at the same level and in the same fashion as is set forth in the tariffs attached as Appendix 1.

Dated this 8th day of January, 2010.

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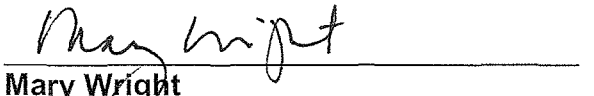
Dated this 8 day of January, 2010.

MONTANA CONSUMER COUNSEL



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