

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

* * * * *

IN THE MATTER OF the Joint Application)	REGULATORY DIVISION
Of Liberty Utilities Co., Liberty WWH, Inc.,)	
Western Water Holdings, LLC, and)	DOCKET NO. D2014.12.99
Mountain Water Company for Approval of)	
a Sale and Transfer of Stock.)	

Direct Testimony

of

Dr. John W. Wilson

on behalf of

The Montana Consumer Counsel

November 4, 2015

J. W. Wilson & Associates, Inc.

Economic Counsel

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I. QUALIFICATIONS

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND ADDRESS.**

3 A. My name is John W. Wilson. I am President of J.W. Wilson & Associates,
4 Inc. Our offices are at 1601 North Kent Street, Suite 1104, Arlington,
5 Virginia, 22209.

6 **Q. PLEASE OUTLINE YOUR EDUCATIONAL BACKGROUND.**

7 A. I hold a B.S. degree with senior honors and a Masters Degree in Economics
8 from the University of Wisconsin. I have also received a Ph.D. in
9 Economics from Cornell University. My major fields of study were
10 industrial organization and public regulation of business, and my doctoral
11 dissertation was a study of utility pricing and regulation.

12 **Q. HOW HAVE YOU BEEN EMPLOYED SINCE THAT TIME?**

13 A. After completing my graduate education I was an assistant professor of
14 economics at the United States Military Academy, West Point, New York.
15 In that capacity, I taught courses in both economics and government.
16 While at West Point, I also served as an economic consultant to the
17 Antitrust Division of the United States Department of Justice.

1 After leaving West Point, I was employed by the Federal Power
2 Commission, first as a staff economist and then as Chief of FPC's Division
3 of Economic Studies. In that capacity, I was involved in regulatory matters
4 involving most phases of FPC regulation of electric utilities and the natural
5 gas industry. Since 1973 I have been employed as an economic consultant
6 by various clients, including federal, state, provincial and local
7 governments, private enterprise and nonprofit organizations. This work has
8 pertained to a wide range of issues concerning public utility regulation,
9 insurance rate regulation, antitrust matters and economic and financial
10 analysis. In 1975 I formed J.W. Wilson & Associates, Inc., a Washington,
11 D.C. corporation. Since that time I have worked as a consultant on most of
12 the major public utility rate cases before the Montana Public Service
13 Commission (MPSC). In the 1970s I was retained by the Commission
14 Staff, and since the 1980s I have been a consultant to the Montana
15 Consumer Counsel (MCC).

16 **Q. WOULD YOU PLEASE DESCRIBE SOME OF YOUR**
17 **ADDITIONAL PROFESSIONAL ACTIVITIES?**

18 A. I have authored a variety of articles and monographs, including a number of
19 studies dealing with utility regulation and economic policy. In addition to
20 working for the MPSC and the MCC, I have consulted on regulatory,

1 financial and competitive market matters with the Federal Communications
2 Commission, the National Academy of Sciences, the Ford Foundation, the
3 National Regulatory Research Institute (NRRI), the National Association of
4 Regulatory Utility Commissioners (NARUC), the Electric Power Research
5 Institute (EPRI), The Edison Electric Institute (EEI), the American Public
6 Power Association (APPA), the National Rural Electric Cooperative
7 Association (NRECA), the U.S. Department of Justice Antitrust Division,
8 the Federal Trade Commission Bureau of Competition, the Commerce
9 Department, the Department of the Interior, the Department of Energy, the
10 Small Business Administration, the Department of Defense, the Tennessee
11 Valley Authority, the Federal Energy Administration, and numerous state
12 and provincial agencies and legislative bodies in the United States and
13 Canada.

14 Previously, I was a member of the Economics Committee of the U.S. Water
15 Resources Council, the Federal Power Commission (FPC) Coordinating
16 Representative for the Task Force on Future Financial Requirements for the
17 National Power Survey, the Advisory Committee to the National
18 Association of Insurance Commissioners (NAIC) Task Force on
19 Profitability and Investment Income, and the NAIC's Advisory Committee
20 on Nuclear Risks.

1 In addition, I have testified as an expert witness in regulatory and court
2 proceedings dealing with mergers and acquisitions and other financial
3 matters in public utility industries and on regulatory matters before more
4 than 50 Federal and State regulatory bodies throughout the United States
5 and Canada. I have also appeared on numerous occasions as an expert
6 witness at the invitation of U.S. Senate and Congressional Committees
7 dealing with antitrust and regulatory legislation. In addition, I have been
8 retained as an expert on regulatory matters by more than 25 State and
9 Federal regulatory agencies. I have also participated as a speaker, panelist,
10 or moderator in many professional conferences and programs dealing with
11 business regulation, financial issues, economic policy and antitrust matters.
12 I am a member of the American Economic Association and an associate
13 member of the American Bar Association and the ABA's Antitrust,
14 Insurance and Regulatory Law Sections.

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II. OVERVIEW OF TESTIMONY

2 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS**
3 **PROCEEDING?**

4 A. I am presenting testimony in this proceeding on behalf of the Montana
5 Consumer Counsel (MCC).

6 **Q. PLEASE SUMMARIZE YOUR TESTIMONY?**

7 A. My testimony responds to the sale and transfer of stock filing by the Joint
8 Applicants¹ in this case and to certain supporting testimony by
9 Liberty/Algonquin (“the Company,” “Algonquin” or “APUC”), the
10 proposed purchaser of Park Water and Mountain Water. More specifically,
11 my testimony addresses two major areas of regulatory concern:

12 (1) The financial features of the proposed acquisition and the
13 impact of this financing on Montana consumers.

14 (2) The identity of the acquiring entity and its fitness to serve
15 public utility ratepayers in Montana.

¹ In this testimony I use the term “Joint Applicants” to refer jointly to the Carlyle entities plus the Algonquin entities. The named Carlyle entities in the Joint Applicants’ filings are Western Water Holdings, LLC and Mountain Water Company. The named Algonquin entities in the Joint Applicants’ filings are Liberty Utilities Co. and Liberty WWH, Inc. More generally as discussed in this testimony, I consider the Carlyle entities to include the Carlyle Group and Park Water and the Algonquin entities to include APUC.

1 **Q. WHAT ARE YOUR CONCLUSIONS CONCERNING THE**
2 **FINANCIAL FEATURES OF THE PROPOSED ACQUISITION AND**
3 **THE IMPACT OF THIS FINANCING ON MONTANA**
4 **CONSUMERS, AND THE FINANCIAL GAINS THAT IT WILL**
5 **PRODUCE FOR THE JOINT APPLICANTS?**

6 A. The central and most important financial feature of the proposed acquisition
7 is Algonquin Power and Utilities' ("APUC") plan to finance the proposed
8 purchase of most of Carlyle's ownership of Park Water's common equity
9 capital with low cost debt capital, and to retain the finance cost savings for
10 its own financial benefit. This is in contrast to the usual practice in public
11 utility mergers and acquisitions of passing through acquisition-related cost
12 savings to ratepayers, as is generally required and customary under just and
13 reasonable public utility cost-of-service regulation and in accord with the
14 Commission's review procedures to assure that acquisition transactions are
15 in the public interest and produce net benefits and no harms to consumers.

16 APUC intends to finance at least \$160 million of the \$250 million
17 acquisition cost of Carlyle's equity interest in Park Water with debt capital
18 costing 4.1 percent annually for thirty years.² Because Carlyle's equity
19 capital has a Commission-authorized and ratepayer-funded cost of more

² See Exhibit JW-1.

1 than 16 percent (including income tax allowance), this acquisition financing
2 will achieve a very large finance cost savings of about \$20 million per year
3 for APUC.³ Generally, in utility mergers and acquisitions, the acquisition-
4 enabled cost savings are passed through to ratepayers as a necessary
5 condition to gain regulatory approval for the acquisition.⁴

6 In fact, that pass-through is essential in order to preserve the fundamental
7 regulatory standard of cost-of-service regulation. In contradiction of these
8 cost-of-service principles, it is apparently APUC's strategy in this case to
9 retain these finance cost savings for its own benefit so as to enhance profits
10 and to fund the substantial acquisition premium that Algonquin proposes to
11 pay Carlyle. Although the Company has said that it does not intend to
12 recover its Carlyle acquisition premium from Montana ratepayers,
13 Algonquin's plans for financing the acquisition without passing through the
14 merger-related finance cost savings to ratepayers is a de facto recovery of

³ \$160 million x (.16-.04) = \$19.2 million.

⁴ Generally, there are three standards that regulatory commissions employ in evaluating sales, mergers, and acquisitions: the public interest standard, the no-harm to consumers standard, or the net-benefit to consumers standard. Order No. 6754e at P 20, In the Matter of the Joint Application of NorthWestern Corp. and Babcock & Brown Infrastructure Limited, Docket No. D2006.6.82 (August 1, 2007). In this case none of these standards is met. First, no net benefit to consumers has been shown or demonstrated. In fact, as has been clearly demonstrated in this proceeding, the City which the acquired utility would serve is vehemently opposed to the acquisition. Second, the loss of just and reasonable rates as the direct result of a public utility acquisition where many millions of dollars of acquisition-enabled finance cost savings are not passed through to ratepayers, but are instead retained as additional above cost profits for the acquiring holding company, cannot be deemed as being in the public interest. Finally, although the Joint Applicants, who would benefit immediately from the abandonment of just and reasonable cost-of-service ratemaking may argue that no *immediate* rate increase for consumers is consistent with the no harm standard, it is obvious that such a limited short term perspective would impose great harm over time with the abandonment of cost-of-service rates and just and reasonable ratemaking principles.

1 the acquisition premium from ratepayers. It is clearly Algonquin's plan to
2 fully recover the acquisition premium (and more) from Park Water's rate
3 payers, including Mountain Water's consumers in Montana. It is hard to
4 see how this large disparity between stockholder benefits and consumer
5 burdens can support a conclusion that the proposed acquisition is in the
6 public interest.

7 **Q. ARE THESE FINANCIAL RESULTS CONFIRMED BY THE**
8 **COMPANY'S OWN FINANCIAL ANALYSIS OF THE PROPOSED**
9 **ACQUISITION?**

10 A. I have not obtained access to the Company's acquisition analysis under
11 discovery provisions in this case, so I cannot say what the Company's
12 financial analysis shows with certainty. However, if Algonquin were to
13 provide transparency of its acquisition financing in this case, as is usually
14 required in public utility acquisitions,⁵ these conclusions could be
15 confirmed.⁶

⁵ In Montana this Commission has customarily required such transparency and Companies involved in public utility mergers and acquisitions before the Commission have regularly provided this information. For example, detailed financial modeling results were provided in Carlyle's prior acquisition of Mountain Water, and in Babcock & Brown's proposed acquisition of NorthWestern Energy. In both of those cases, the Commission's and Parties' access to and evaluation of that information played a significant role in the outcome of the case.

⁶ I explain below why I did not obtain access to the Company's acquisition analysis under discovery provisions in this case

1 **Q. GIVEN THE LIMITATIONS IMPOSED ON ACCESS TO THE**
2 **COMPANY'S FINANCIAL ANALYSIS WITHIN THE CONTEXT**
3 **OF THIS CASE, WHAT IS THE BASIS OF YOUR CONCLUSIONS**
4 **REGARDING THE FINANCIAL FEATURES OF THE PROPOSED**
5 **ACQUISITION?**

6 A. Despite claiming the need for extraordinary protective measures for its
7 acquisition analysis in the context of this proceeding, Algonquin has
8 extensively revealed and publicized the financial details of its acquisition
9 analysis in other contexts where such disclosure appears to have been
10 viewed by Algonquin as advancing its own interests. This publicly
11 available information, which I will discuss below, supports my conclusions,
12 even given the limitations placed on access to Algonquin's financial
13 analysis within the record of this case.⁷

14 **Q. WHAT ARE YOUR CONCLUSIONS CONCERNING THE**
15 **IDENTITY OF THE ACQUIRING ENTITY AND ITS FITNESS TO**
16 **SERVE PUBLIC UTILITY RATEPAYERS IN MONTANA?**

17 A. It is clear that APUC is the real acquiring entity in this case. As shown in
18 this testimony and exhibits, APUC has arranged and controlled virtually all
19 of the funding and organization for the acquisition of Park Water (and

⁷ Relatedly, as discussed below, Algonquin has not even appeared as a Party in this case.

1 Mountain Water). APUC has also touted the Park Water/Mountain Water
2 acquisition as APUC's acquisition in its press releases and in its reports to
3 investors and stockholders. When the acquisition closes, if it is approved,
4 Algonquin will house Park Water in its "Distribution Group," Liberty
5 Utilities, to hold and supervise the operations of Park Water and Mountain
6 Water for the benefit of APUC and its stockholders. In this testimony I use
7 the terms "Liberty/Algonquin," "APUC" and "the Company"
8 interchangeably. Exhibit JW-1 is the Company's April 30, 2015 press
9 release regarding this proposed acquisition, which describes and reflects the
10 Company's business organization as stated here.

11 Regarding fitness to serve, which is one component of the Commission's
12 merger oversight under Sections 69-3-102 and 69-3-201, MCA, it is my
13 opinion, as a public utility regulatory analyst, that in this case Liberty, a
14 fully enmeshed and dependent intermediate holding company, is not alone
15 the proper subject of the fitness to serve analysis. As discussed in more
16 detail below, Liberty's status and operations as an intermediate holding
17 company, enmeshed within the APUC organization, is quite distinguishable
18 from other holding company situations. Importantly, Liberty is not the
19 corporate treasury to which the APUC public utility operating companies
20 will need to look for financial support from time-to-time. Within the

1 Algonquin corporate family, that kind of support can only come from the
2 parent holding company, and then only if Algonquin has (1) submitted
3 itself to the regulatory jurisdiction of this Commission with respect to the
4 ownership and operation of Mountain Water, and (2) demonstrated its own
5 financial and managerial fitness to own and operate this utility in Montana.
6 At this point, despite its obvious role in structuring and controlling the
7 proposed acquisition, Algonquin has resisted every effort to require it to
8 appear as a party to this proceeding. As the Commission previously
9 recognized in Babcock and Brown's rejected acquisition of NWE, APUC's
10 status as a foreign corporation potentially compounds this issue.
11 Consequently, in my opinion a finding of fitness to serve would be
12 inappropriate and without support in the evidentiary record of this
13 proceeding.

14 **Q. ARE THERE FURTHER COMPLICATIONS CONCERNING THE**
15 **IDENTITY OF THE ACQUIRING ENTITY IN THIS CASE AND ITS**
16 **FITNESS TO SERVE PUBLIC UTILITY RATEPAYERS IN**
17 **MONTANA?**

18 A. Yes. Also as discussed and documented in more detail below, although it
19 has not been discussed in the Company's filings or testimony in this case,
20 Algonquin has entered into a Strategic Investment Agreement with a larger

1 Canadian holding company under which that company will supply capital,
2 apparently in the form of options or debt instruments convertible to equity
3 “in support of the acquisition by APUC of Park Water Company *in*
4 *Montana*”⁸ (emphasis added). Relatedly, as a consequence of this Strategic
5 Investment Agreement, this Canadian holding company, which already
6 holds a key position on APUC’s Board of Directors, may acquire a 25
7 percent ownership interest in Algonquin in 2015. Certainly, this Strategic
8 Investment Agreement, the role of this additional Canadian holding
9 company as regards the acquisition of Park Water Company *in Montana*
10 and its prospective role as the largest and controlling owner of Algonquin
11 are additional matters of concern to Montana ratepayers that must be fully
12 evaluated by the Commission in addressing the merits of this proposed
13 acquisition and fitness to serve issues in this case. However, these matters
14 have not even been disclosed, let alone addressed, in the Company’s
15 evidentiary presentations in support of its application before this
16 Commission, and there has been no opportunity to investigate them. In my
17 view, APUC’s failure to provide full and complete financial documents
18 supporting this transaction reflects an incomplete Application and should
19 be weighed by the Commission in addressing the Company’s fitness to
20 serve.

⁸ See Management’s Discussion and Analysis in APUC’s 2014 Annual Report to its stockholders.

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III. ACQUISITION FINANCING

2 **Q WHAT IS THE CENTRAL AND MOST IMPORTANT FINANCIAL**
3 **FEATURE OF ALGONQUIN'S PROPOSED ACQUISITION OF**
4 **PARK WATER AND MOUNTAIN WATER?**

5 A. As noted above, the central financial feature of the proposed acquisition is
6 the annual finance cost savings to APUC, amounting to approximately \$20
7 million each year, which the acquisition will enable. Contrary to long
8 standing cost-of-service regulatory principles that govern public utility
9 ratemaking in Montana and have for many decades, Algonquin does not
10 propose to pass through or share these substantial cost savings with its
11 water utility ratepayers.

12 **Q. HAS LIBERTY/ALGONQUIN DISCUSSED OR EVEN**
13 **ACKNOWLEDGED THIS CENTRAL AND MOST IMPORTANT**
14 **FINANCIAL FEATURE OF THEIR PROPOSED ACQUISITION IN**
15 **THEIR APPLICATION OR TESTIMONY FILED WITH THE**
16 **COMMISSION IN THIS CASE?**

17 A. No. This central financing feature of the proposed acquisition has not been
18 discussed in the Company's filings or testimony in this case. However, the
19 Company has revealed this information to its investors outside the context

1 of this proceeding, and those public disclosures would be identifiable in the
2 Company's financial modeling.

3 **Q. WHY IS IT YOUR OPINION THAT THESE FINANCE COST**
4 **SAVINGS ARE THE CENTRAL AND MOST IMPORTANT**
5 **FINANCIAL FEATURE OF THE PROPOSED ACQUISITION?**

6 A. The finance cost savings are a central and most important financial feature
7 of the proposed acquisition because they will provide very large and above
8 cost financial gains to APUC's stockholders (and corresponding cost-of-
9 service overcharges to water utility ratepayers) on an ongoing basis. These
10 financial gains will result from the replacement of a large portion of
11 Carlyle's higher cost equity capital with much lower cost debt capital.
12 Carlyle presently receives approximately a 16 percent pre-tax cost of
13 capital allowance (inclusive of income taxes) in rates approved by this
14 Commission.⁹ As a result of this acquisition, \$160 million of Carlyle's
15 equity capital will be bought out by Algonquin with debt capital costing
16 Algonquin about 4.1 percent.¹⁰ The replacement of Carlyle's relatively
17 high cost equity capital with APUC's much lower cost debt capital will
18 result in cost of capital savings that will amount to nearly \$20 million *per*

⁹ Pre-tax cost of capital allowance = ROE/1-tax rate = 10/1-0.4 = 16.67%.

¹⁰ See Exhibit JW-1.

1 *year.*¹¹ The Joint Applicants do not acknowledge this cost savings in their
2 filing and Liberty/Algonquin has made no representations that the rates will
3 reflect the actual financial cost of service and that Missoula consumers will
4 recognize the cost savings in rates paid by Park Water's and Mountain
5 Water's ratepayers.

6 **Q. DOES CARLYLE HAVE AN INTEREST IN THIS FINANCING**
7 **PLAN?**

8 A. Yes. The \$20 million of annual finance cost savings that Algonquin does
9 not intend to pass through to water utility ratepayers will enable Algonquin
10 to pay Carlyle the substantial acquisition premium that the Joint Applicants
11 have agreed to in this case. This is a large financial gain, financed by
12 ratepayers, which Carlyle would not likely have been able to achieve on its
13 own.

14 **Q. WHY IS IT YOUR OPINION THAT CARLYLE WOULD NOT**
15 **HAVE BEEN ABLE TO ACHIEVE THIS FINANCIAL GAIN ON**
16 **ITS OWN?**

17 A. If Carlyle had simply made its own filing with the Commission in which it
18 said "we are going to refinance \$160 million of our equity capital with low

¹¹ See footnote 3, above.

1 cost debt,” regulatory approval would certainly have required that the
2 resulting cost savings be passed through to ratepayers, consistent with cost-
3 of-service public utility ratemaking and the maintenance of just and
4 reasonable rates. The Joint Applicants’ contemplated financial windfall
5 here could only be accomplished by embedding the finance cost savings in
6 acquisition financing. Under any regulatory standard, public interest, no
7 harm, or net benefit, consumers should pay for the cost of service, not a
8 higher cost that fails to recognize and pass through financial cost savings
9 that are enabled by replacing high cost capital with lower cost capital.

10 **Q. UNDER SOUND PUBLIC UTILITY REGULATION SHOULD ANY**
11 **FINANCE COST SAVINGS RESULTING FROM THIS PROPOSED**
12 **ACQUISITION LIKEWISE BE PASSED THROUGH TO THE**
13 **COMPANY’S WATER UTILITY RATEPAYERS AS A CONDITION**
14 **OF ACQUISITION APPROVAL?**

15 **A.** Certainly. That is required under cost of service rate regulation.

1 **Q. ISN'T IT THE CASE THAT SUCH A PASS-THROUGH**
2 **REQUIREMENT COULD DEPRIVE CARLYLE OF THE**
3 **ACQUISITION GAIN THAT IS CONTEMPLATED IN THE JOINT**
4 **APPLICANTS' DEAL?**

5 A. Carlyle is not entitled to an acquisition gain derived from the abandonment
6 of cost of service regulation. Ratepayers are protected by law against
7 unjust and unreasonable rates, and may be required only to pay for the cost
8 of service as directed by the Commission. While this may deprive Carlyle
9 of the acquisition gain that is contemplated in the Joint Applicants' deal, an
10 acquisition gain that is premised on a profit windfall that is derived from
11 the abandonment of just and reasonable cost-of-service regulation for a
12 public utility is illegitimate and would reflect a false market value that
13 could not occur under either market competition or proper public utility rate
14 regulation.

15 **Q. ARE MOUNTAIN WATER'S CURRENT RATES JUST AND**
16 **REASONABLE?**

17 A. Mountain Water's current rates have been found to be just and reasonable.
18 Those rates are premised on a cost of service determination, including the
19 current cost of capital to finance the utility. When and if those costs

1 undergo substantial change, it is appropriate to change the rates so as to
2 maintain their justness and reasonableness.

3 Without a pass-through of acquisition-related cost savings to ratepayers,
4 this acquisition, if implemented by means of financing that replaces a
5 substantial part of the equity component of the prior owner's capital
6 structure with lower cost debt, would result in rates in place at acquisition
7 that are unjust and unreasonable as a result of the acquisition.

8 **Q. COULD CURRENT RATES BE MAINTAINED BY ADOPTING A**
9 **HYPOTHETICAL CAPITAL STRUCTURE THAT IS THE SAME**
10 **AS THE PRIOR OWNER'S ACTUAL CAPITAL STRUCTURE AND**
11 **DOES NOT REFLECT THE ACTUAL COST SAVINGS OF**
12 **ACQUISITION FINANCING?**

13 A. That would not be consistent with maintaining just and reasonable rates. It
14 is one thing to say that various regulatory considerations may sometimes
15 justify the use of hypothetical capital structures for rate making purposes.
16 It is quite another thing to advocate making a capital structure, which
17 reflects actual acquisition financing, "hypothetical" in order to facilitate the
18 extraction of cash in excess of cost-of-service from an acquired utility's
19 customers. Using its intermediate holding company structure as a platform,

1 APUC seeks to fund the Carlyle acquisition premium. This jarring
2 disparity between stockholder benefits for both of the Joint Applicants, on
3 the one hand, and consumer rate burdens far in excess of costs, on the
4 other, surely cannot be seen as making the proposed acquisition in the
5 public interest.

6 **Q. YOU HAVE TESTIFIED THAT YOU HAVE NOT OBTAINED**
7 **ACCESS TO THE COMPANY'S ACQUISITION ANALYSIS**
8 **UNDER THE DISCOVERY PROVISIONS IN THIS CASE. HOW**
9 **THEN, DO YOU KNOW ABOUT ALGONQUIN'S ACQUISITION**
10 **FINANCING AND THE COMPANY'S EXPECTED FINANCIAL**
11 **RESULTS OF THE PROPOSED ACQUISITION?**

12 A. Algonquin has extensively revealed and publicized the financial details of
13 its acquisition analysis in other contexts. My access to this publicly
14 available information supports my conclusions.

1 **Q. PLEASE DESCRIBE THE FINANCIAL INFORMATION AND**
2 **FINANCIAL MODELING RESULTS THAT ALGONQUIN HAS**
3 **REVEALED WITH RESPECT TO THE ACQUISITION IN THIS**
4 **CASE IN OTHER CONTEXTS, EVEN THOUGH IT CLAIMS A**
5 **NEED FOR EXTRAORDINARY PROTECTIVE MEASURES FOR**
6 **ITS ACQUISITION MODELING IN THIS CASE.**

7 A. Exhibit JW-1 attached to this testimony is an April 30, 2015 Algonquin
8 Power and Utilities press release concerning \$160 million of low cost
9 (4.13%), long term (30 year) financing to partially fund APUC's proposed
10 acquisition of Park Water/Mountain Water. APUC's Chief Financial
11 Officer, David Bronicheski was quoted in this press release as stating that
12 "This long term 30 year financing, with a very attractive all in coupon, is an
13 important element in achieving the *expected accretion* from our pending
14 acquisition of the Park Water System" (emphasis added). In acquisition
15 parlance, an accretive acquisition is one that increases the acquiring
16 company's earnings per share because the price paid by the acquiring firm
17 is lower than the boost to earnings that the acquisition will provide to the
18 acquiring company's earnings per share. In this case, that "expected
19 accretion" will be achieved by replacing most of Carlyle's relatively high

1 cost ROE equity financing with APUC's much lower cost debt financing
2 without passing through the cost-of-service reduction to ratepayers.

3 **Q. HAS APUC FURTHER CONFIRMED ITS INTENT TO**
4 **SUBSTANTIALLY BUY OUT CARLYLE'S EQUITY WITH LOW**
5 **COST DEBT IN OTHER PUBLIC RELEASES OF ITS**
6 **ACQUISITION FINANCING PLANS?**

7 A. Yes. APUC's strategy to substantially buy out Carlyle's equity with low
8 cost debt is further confirmed at page 2 of Exhibit JW-2, where APUC
9 states that "APUC's strong balance sheet and credit metrics support
10 financing the acquisition with more than 50% debt."

11 **Q. ARE THERE FURTHER EXAMPLES OF APUC EXTENSIVELY**
12 **REVEALING AND PUBLICIZING THE FINANCIAL DETAILS OF**
13 **ITS ACQUISITION ANALYSIS IN OTHER CONTEXTS WHERE**
14 **THAT DISCLOSURE APPEARS TO HAVE BEEN VIEWED BY**
15 **THE COMPANY AS SERVING ITS OWN PURPOSES?**

16 A. Yes. As shown in Exhibit JW-2, an "Acquisition Fact Sheet" pertaining to
17 this acquisition, which APUC provided to its investors on September 19,
18 2014, the Company revealed that at the proposed purchase price of \$327
19 million (including \$77 million of debt assumption), the Company's

1 financial modeling projected an Enterprise Value/EBITDA ratio for 2016
2 of 9.6 times.¹² The Company has also revealed in this Fact Sheet that over
3 the longer forecasted period 2016-2020 its acquisition financial modeling
4 indicates that an EBITDA compound annual growth rate (“CAGR”) of
5 about 7.5 percent could be attained. These Company revelations from its
6 acquisition modeling are reported in Exhibit JW-2 attached to this
7 testimony.

8 **Q. DESPITE THE PUBLIC DISSEMINATION OF THIS**
9 **INFORMATION HAS THE COMPANY CLAIMED THAT ITS**
10 **ACQUISITION MODELLING IN THIS CASE IS PROPRIETARY**
11 **AND CONTAINS CONFIDENTIAL TRADE SECRETS?**

12 A. Yes. That claim was made in a June 10, 2015 affidavit in this case by
13 David Pasieka, who is identified in the affidavit as president of Liberty, but
14 who is also identified in APUC documents as APUC’s “President of
15 Distribution.”

¹² This is also sometimes also referred to as the Enterprise or EBITDA multiple.

1 **Q. IS THE COMPANY’S ACQUISITION MODELLING IN THIS CASE**
2 **A UNIQUE AND SOPHISTICATED MODEL?**

3 A. While that may be implied in Mr. Pasieka’s affidavit, which states that
4 “Liberty’s due diligence efforts, including any financial analyses of
5 potential investments, are based upon years of research and investment at a
6 substantial cost to Liberty Utilities,” the Company has acknowledged
7 elsewhere that its model is simply some Excel spread sheets. That said, the
8 Company’s key financial modeling assumptions and results pertaining to
9 this acquisition (as shown in Exhibits JW-1 and JW-2, attached to this
10 testimony) have already been made public by Algonquin when the
11 Company has deemed that appropriate to serve its own purposes.

12 **Q. DO APUC’S STATEMENTS IN EXHIBITS JW-1 AND JW-2 ALSO**
13 **MAKE IT CLEAR THAT APUC IS THE REAL ACQUIRING**
14 **PARTY IN THIS CASE?**

15 A. Yes. These and other documents show clearly that APUC has managed,
16 organized, evaluated, financed, implemented, promoted and controlled this
17 deal. All of the evidence, including APUC’s Annual Report to
18 stockholders and the exhibits to this testimony, make it clear, beyond any
19 doubt, that APUC is the real acquiring party. If the proposed acquisition is

1 approved in this case, it is very important for the protection of future water
2 utility ratepayers that the Commission is clear about this matter and that it
3 asserts regulatory authority over the parent Canadian company as well as
4 over APUC's designated utility operator.

5 **Q. HAS LIBERTY CLAIMED THAT IT WILL NOT SEEK**
6 **RECOVERY OF AN ACQUISITION PREMIUM?**

7 A. The Company has stated that it will not seek an acquisition adjustment "to
8 the existing rate base" and claimed that Liberty's due diligence work papers
9 and financial projections have no impact on Mountain Water's customers.
10 As I have shown and explained above, Algonquin's financing plan for the
11 Park Water/Mountain Water acquisition is actually expected to achieve
12 many millions of dollars of cost-of-service reductions annually, without any
13 pass-through of these cost-of-service reductions to ratepayers. That, in
14 turn, will force Park Water/Mountain Water ratepayers to more than fully
15 compensate APUC for the contemplated acquisition premium to be paid to
16 Carlyle through the payment of rates that far exceed the Company's actual
17 cost-of-service. In effect, under APUC's financing plan, the acquisition
18 premium in this case would be fully paid by Park Water/Mountain Water
19 Company ratepayers. Accordingly, any related "acquisition adjustment"

1 would have to be a substantial rate base deduction that is also reflected in
2 reduced rates for Montana ratepayers.

3 The Company's approach indicates that it does not want to publicize to its
4 customers and regulators the expected acquisition cost-of-service savings
5 (without the appropriate pass-through to ratepayers) and the resulting profit
6 windfall that Algonquin will receive from the acquisition financing
7 transaction.

8 **Q. YOU HAVE TESTIFIED THAT YOU HAVE NOT ACCESSED THE**
9 **COMPANY'S ACQUISITION ANALYSIS UNDER THE SPECIAL**
10 **DISCOVERY CONDITIONS ADOPTED BY THE COMMISSION IN**
11 **THIS CASE. WHY HAVE YOU NOT ACCESSED THE**
12 **COMPANY'S MODEL UNDER THOSE CONDITIONS?**

13 A. Under these conditions, Liberty offered to provide me with electronic
14 access to APUC's acquisition model over the internet to a Company
15 computer at the offices of its attorney in Helena and, as I understand it, with
16 certain restrictions such as no copying, no printing, no ability to save my
17 work other than on APUC's network, and severely limited ability to
18 communicate with the MCC and within this proceeding generally about the
19 results of my evaluation.

1 I was not comfortable accepting access to the model under these conditions
2 for several reasons. First, with due respect to the Commission's rulings on
3 the discovery issues surrounding the Company's financial model, the
4 conditions ultimately adopted by the Commission would, in my view,
5 provide APUC and its attorneys with unreasonable opportunities for
6 surveillance, observation and access to my thought processes and my
7 interaction with the Consumer Counsel. These thoughts and interactions
8 concern theories, mental impressions and case strategies, which drive the
9 evolution of my evaluation.

10 Second, no aspect of public utility regulation requires greater transparency
11 than financing. Restricting access to such fundamental information in this
12 way would be the antithesis of the essential purpose of public utility
13 regulation.

14 Third, the assumptions and conclusions of the Company's modeling have
15 been substantially disclosed, and indeed publicized, by the Company in
16 other forums.

17 Direct proof of the Company's own internal deliberations on structuring the
18 acquisition which suitable access to its financial model might have
19 provided would, of course, be a desirable enhancement to the

1 Commission's deliberations. However, the proof provided by the
2 Company's public pronouncements is more than sufficient, in my view, to
3 establish what needs to be established in this case about the adverse impact
4 of the Company's structuring of its acquisition on the public interest

5 Finally, I believe that, had I accepted access to the Company's modeling as
6 offered, some may have attempted to portray what I have reported here as
7 an improper disclosure of information acquired by means of that access. In
8 short, it was my judgment, as an economist, that the terms of access offered
9 entailed a prohibitively high price for little likely benefit.

1 IV. FITNESS TO SERVE

2 **Q. EARLIER YOU TESTIFIED THAT IT IS CLEAR THAT**
3 **ALGONQUIN POWER AND UTILITIES CORP IS THE**
4 **ACQUIRING ENTITY IN THIS CASE AND THAT FITNESS TO**
5 **SERVE ISSUES CANNOT BE PROPERLY ADDRESSED ABSENT**
6 **CONSIDERATION OF APUC. HOWEVER, APUC IS NOT A**
7 **PARTY TO THE CASE, AND THE JOINT APPLICANTS CLAIM**
8 **THAT IT IS LIBERTY UTILITIES CO. THAT IS THE ACQUIRING**
9 **ENTITY. CAN YOU EXPLAIN FURTHER WHY IT IS YOUR**
10 **OPINION THAT APUC IS THE ACQUIRING ENTITY?**

11 A. Yes. APUC derives its name from its two principal “Business Groups”
12 (wholly owned subsidiaries) that comprise the Company. These are (1)
13 Algonquin Power Co. (which APUC refers to as comprising its “generation
14 and transmission business groups”), which holds the Company’s non-
15 regulated electric generation businesses and its regulated electric and gas
16 transmission businesses, and (2) Liberty Utilities (which APUC calls its
17 “Distribution Group”), which holds the Company’s regulated water,
18 natural gas and electric distribution utility businesses. Financing for the
19 acquisitions and operations of both of these wholly owned subsidiaries (i.e.,
20 “Business Groups”) is arranged through APUC.

1 It is appropriate to refer to the acquiring company in this case as
2 Liberty/Algonquin or APUC (rather than Liberty alone) since it is APUC
3 that has arranged, controlled and funded the acquisition of Park Water. If
4 the proposed acquisition is approved, APUC will assign Park Water's
5 ownership to its Distribution Group, Liberty Utilities, to hold and supervise
6 the water utility distribution operations for the benefit of APUC and its
7 stockholders. As I previously stated in this testimony, I use the terms
8 "Liberty/Algonquin," "APUC" and "the Company" interchangeably.
9 Exhibit JW-1 is the Company's April 30, 2015 press release regarding this
10 proposed acquisition, which describes and reflects the Company's business
11 organization as stated here.

12 **Q. IN YOUR VIEW, WHY DOES ALGONQUIN'S DECISION TO**
13 **UNDERTAKE ITS ACQUISITION OF MOUNTAIN WATER/PARK**
14 **WATER THROUGH AN INTERMEDIATE HOLDING COMPANY**
15 **CREATE AN ISSUE CONCERNING FITNESS TO SERVE?**

16 A. As noted in the summary above, fitness to serve is a component of the
17 Commission's merger oversight under Sections 69-3-102 and 69-3-201,
18 MCA. It is my opinion, as a public utility regulatory analyst, that in this
19 case Liberty, which is a fully enmeshed and dependent intermediate
20 holding company within APUC, is not, alone (or in conjunction with only

1 its operating utility subsidiaries), the proper subject of the fitness to serve
2 analysis. As discussed in more detail below, Liberty's status and
3 operations as an intermediate holding company within the APUC
4 organization is quite distinguishable from other holding company
5 situations. Importantly, Liberty is not the corporate treasury to which the
6 APUC public utility operating companies will need to look for financial
7 support from time-to-time. Within the Algonquin corporate family, that
8 kind of support can only come from the parent holding company, and then
9 only if Algonquin has (1) submitted itself to the regulatory jurisdiction of
10 the Commission with respect to the ownership and operation of Mountain
11 Water, and (2) demonstrated its own financial and managerial fitness to
12 own and operate a utility in Montana. At this point, despite its obvious role
13 in structuring, financing and controlling the proposed acquisition,
14 Algonquin has resisted every effort to require it to appear as a party to this
15 proceeding. As the Commission previously recognized in Babcock and
16 Brown's rejected acquisition of NWE, APUC's status as a foreign
17 corporation potentially compounds this issue. Consequently, in my opinion
18 a finding of fitness to serve would be inappropriate and without support in
19 the evidentiary record of this proceeding.

1 **Q. YOU SAY THAT LIBERTY, THE INTERMEDIATE HOLDING**
2 **COMPANY IN THIS CASE, IS NOT, ALONE (OR IN**
3 **CONJUNCTION WITH ONLY THE OPERATING UTILITIES),**
4 **THE APPROPRIATE FOCUS FOR ASSESSING FITNESS TO**
5 **SERVE BECAUSE IT IS NOT THE CORPORATE TREASURY TO**
6 **WHICH THE UTILITY OPERATING COMPANIES WILL NEED**
7 **TO LOOK FOR FINANCIAL SUPPORT FROM TIME-TO-TIME.**
8 **YOU ALSO STATE THAT, WITHIN THE ALGONQUIN**
9 **CORPORATE FAMILY, THE NECESSARY FINANCIAL SUPPORT**
10 **CAN ONLY COME FROM THE PARENT HOLDING COMPANY.**
11 **ARE THERE NOT SOME OTHER SITUATIONS WHERE UTILITY**
12 **OPERATING COMPANIES ARE, IN TURN, OWNED BY**
13 **INTERMEDIATE HOLDING COMPANIES?**

14 **A.** Yes. There are some situations where that is the case. However, the
15 circumstances here are sufficiently unusual, and potentially adverse to the
16 public interest, to require some special attention.

1 **Q. WHAT ARE THE SPECIFIC CIRCUMSTANCES THAT, IN YOUR**
2 **VIEW, WOULD MAKE IT INAPPROPRIATE TO FOCUS ONLY**
3 **ON LIBERTY AND THE OPERATING UTILITIES, WITHOUT**
4 **APUC, IN ADDRESSING FITNESS TO SERVE ISSUES IN THIS**
5 **CASE?**

6 A. A second-tier holding company like Liberty exposes consumers to the risk
7 that financial pressures on a diversified parent holding company will leave
8 the second-tier holding company loaded with debt, but without recourse to
9 the parent holding company's treasury. That risk is complicated in this
10 case by two factors: (1) some unusual entrepreneurial risk at the first-tier
11 holding company level, and (2) the possibility of an undisclosed principal
12 in Algonquin's intercorporate relationship with another Canadian utility
13 holding company that, as of May 8, 2015, owned approximately 21 percent
14 of APUC's stock and held "subscription receipts" (a form of debt security
15 convertible to equity) equivalent to an additional five percent of APUC's
16 stock. As I discuss further below, this additional Canadian holding
17 company is described by APUC as a direct source of funding for Liberty's
18 acquisition of Park Water *in Montana*.

19 The basic regulatory problems inherent in the corporate and financial
20 structure that APUC is using for this acquisition are that (1) it is difficult

1 for the Commission to identify precisely, and maintain confidence in, the
2 entity that is ultimately financially responsible for the provision of utility
3 service within Montana, and (2) it is equally difficult for the Commission to
4 assess the risks that the acquisition poses to the provision and maintenance
5 of adequate utility service at rates that are just and reasonable, because it
6 cannot identify with certainty which entity in the corporate group is holding
7 what exposure.

8 Here, Liberty is entirely a creature of APUC. APUC refers to Liberty as its
9 “Distribution Group.” The “president” of Liberty is actually APUC’s
10 “President of Distribution.” Not only does APUC issue all of the corporate
11 family equity capital, when debt capital is “placed” with Liberty, as in this
12 case, the debt capital financing is entirely arranged for and managed by
13 Algonquin and ultimately placed with Liberty by Algonquin. Moreover, in
14 this case, equity capital being used for this acquisition is being supplied by
15 another Canadian utility holding company (which is also not a party to this
16 proceeding) under a financing arrangement with Algonquin, the details of
17 which have not been revealed in this proceeding, but to which Liberty is
18 apparently not even a party. In short, despite Liberty’s legal status (as
19 structured by APUC) as the proposed parent of the operating water utilities,
20 APUC is, without question, the real acquiring entity that the Commission

1 and consumers must ultimately look to for the utilities' financial support
2 and solvency.

3 **Q. ARE THERE SPECIFIC RISKS ASSOCIATED WITH APUC THAT**
4 **RAISE CONCERNS ABOUT THE ABILITY OF ITS SECOND-TIER**
5 **HOLDING COMPANY, LIBERTY, TO PROVIDE RELIABLE AND**
6 **ADEQUATE UTILITY SERVICE IN MONTANA?**

7 A. Yes, there are. For example, APUC owns fifty percent of a variable interest
8 entity ("VIE") which is engaged in developing a \$322 million wind farm in
9 Minnesota. The expression "variable interest entity" in accounting parlance
10 means that, although APUC is a majority investor in the facility, it does not
11 control a majority of the voting shares of the entity. This position poses
12 significant economic risks, and APUC has acknowledged that, as of
13 December 31, 2014, it has a maximum exposure to loss of \$312 million in
14 this deal.¹³

15 APUC also has loans outstanding to Silverleaf Resorts, a timeshare
16 developer, at extraordinary interest rates that suggest unusual risk. APUC
17 has also made significant construction advances to Red Lily, a 26.4 MW
18 wind facility in Saskatchewan, which are at risk if the project is not
19 completed.

¹³ See footnote 8 at page 30 of APUC's Annual Report for 2014.

1 APUC's financial statements also reflect that "Certain long-term debt
2 issued at a subsidiary level relating to a specific operating facility is secured
3 by the respective facility with no other recourse to the Company. The loans
4 have certain financial covenants, which must be maintained on a quarterly
5 basis. Noncompliance with the covenants could restrict cash
6 distributions/dividends to the Company from the specific facilities." The
7 debt to which Liberty is exposed in this fashion includes the acquisition
8 costs for New England Gas, Peach Tree Gas, the Pine Bluff (Arkansas)
9 water system and unspecified investments by its revolving credit facility.
10 Thus, while it is true that there are some other situations where utility
11 operating companies are, in turn, owned by intermediate holding
12 companies, the circumstances here are unique and quite different than other
13 instances that I am aware of.

1 Q OTHER THAN THE FAILURE TO ACKNOWLEDGE AND
2 CREDIT RATEPAYERS WITH THE ACQUISITION FINANCE
3 COST SAVINGS, AND THE FITNESS TO SERVE ISSUE RAISED
4 BY ALGONQUIN'S INTERPOSITION OF AN INTERMEDIATE
5 HOLDING COMPANY IN ITS ACQUISITION STRUCTURE, ARE
6 THERE ADDITIONAL SHORTCOMINGS IN THE JOINT
7 APPLICANTS' FILING SEEKING COMMISSION APPROVAL
8 FOR THE TRANSFER OF OWNERSHIP?

9 A. Yes. The anticipated achievement of stockholder benefits for APUC and a
10 related large acquisition premium for Carlyle at the expense of Mountain
11 Water's consumers is unquestionably the largest shortcoming of the Joint
12 Applicants' ownership transfer plan. However, there remain additional
13 drawbacks that also warrant the Commission's rejection of the acquisition
14 proposal. In particular, although it has not been discussed in the
15 Application or testimony by Joint Applicant witnesses, acquisition equity
16 financing in this case – specifically for the water utility property *in*
17 *Montana* -- is to be provided by a third larger holding company. Also, that
18 same larger holding company's acquisition of substantial ownership
19 interests in APUC (also not discussed in the Application or testimony of
20 Joint Applicant witnesses) may warrant rejection of the Application or at

1 least the implementation of significant additional ring-fencing measures if
2 the acquisition were to be approved.

3 **Q. PLEASE IDENTIFY THIS THIRD LARGER HOLDING COMPANY**
4 **AND ITS INTERESTS IN THIS ACQUISITION APPROVAL**
5 **PROCEEDING.**

6 A. At page 55 of APUC's 2014 Annual Report to its stockholders (as
7 published in 2015) APUC states that:

8 "On December 2, 2014, the Corporation issued 3,316,583
9 subscription receipts of APUC at a purchase price of \$9.95 per
10 subscription receipt for an aggregate subscription price of \$33.0
11 million. The investment was made under the Strategic Investment
12 Agreement between Emera and APUC, in support of the
13 acquisition by APUC of Park Water Company *in Montana* (the
14 "Park Water Acquisition"). [emphasis added] The proceeds of the
15 subscription are intended to be used by APUC to partially
16 finance the Park Water Acquisition. Subject to the adjustments as
17 provided in the applicable subscription agreement, Emera may
18 convert the Subscription Receipts into common shares of APUC
19 on a one-for-one basis on December 29, 2015 (the first
20 anniversary of the closing of the subscription transaction) or the
21 closing of the Park Water Acquisition, whichever is first to
22 occur.

23 Conversion of the aforementioned Subscription Receipts into
24 common shares is conditional on Emera's holdings not exceeding
25 25% of the outstanding common shares of APUC at the time of
26 conversion.

1 As of March 15, 2015, in total, Emera owns 50,126,766 APUC
2 common shares representing approximately 21.0% of the total
3 outstanding common shares of the Company, and there are
4 12,024,753 subscription receipts currently held by Emera."

5 These statements in APUC's Annual Report state, clearly and explicitly,
6 that APUC is the entity that is acquiring Park Water.

7 Emera is a Canadian holding company, headquartered in Nova Scotia,
8 which owns utilities in both Eastern Canada and the Northeastern U.S.
9 Emera's enterprise value (equity plus debt) is approximately \$10 billion
10 (more than twice the size of APUC). The referenced "Strategic Investment
11 Agreement" between Emera and APUC, in support of the acquisition by
12 APUC of Park Water Company in Montana (the "Park Water Acquisition")
13 has not been provided by the Applicants in this case. In my view, this is
14 both a glaring deficiency in the completeness of the Application and
15 separate proof of lack of fitness to serve.

16 Except as may be inferred by its status as a wholly-owned subsidiary of
17 APUC, Liberty Utilities Company does not appear to be a party to, or a
18 signatory of, the Strategic Investment Agreement between Emera and
19 APUC, in support of the acquisition by APUC of Park Water Company in
20 Montana. Emera's Chief Executive Officer holds a seat on APUC's Board
21 of Directors. The 25 percent standstill agreement referred to in the above

1 quotation from APUC's Annual Report has not been provided in this case,
2 and its history and how and when the standstill percentage may change over
3 time are unknown.¹⁴

4 In short, without APUC as a party to this proceeding, both to explain and
5 take responsibility for these potentially critical unaddressed matters and to
6 assume formal responsibility for the future financial adequacy and solvency
7 of the operating water utilities that it wishes to acquire, a fitness to serve
8 finding cannot be reasonably made in this case.

9 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY IN THIS**
10 **CASE?**

11 **A.** Yes; it does.

¹⁴ To the best of my knowledge, the only reference to Emera in the record in this case is in a letter attached to Data Response PSC-028(e) where Emera is mentioned by APUC in correspondence to Wells Fargo (at WWH000911) as an "institutional shareholder ... which owns a 25% equity ownership position in APUC." Emera, which, like APUC, is a utility holding company, does not fit the usual U.S. description of an "institutional shareholder." Institutional shareholders are entities which pool money to purchase securities, real property and other investment assets or originate loans. Institutional shareholders include banks, insurance companies, pensions, hedge funds, investment advisors, endowments and mutual funds.

Exhibit No. ____ (JW-1)

D2014.12.99

Liberty Utilities

Direct Testimony of

Dr. John W. Wilson

on behalf of the Montana Consumer Counsel

Algonquin Power & Utilities Corp. Announces Completion of Private Placement Debt Financing

**Algonquin Power & Utilities Corp. Announces Completion of Private Placement Debt Financing**

Company Release - 04/30/2015 11:33

OAKVILLE, ON, April 30, 2015 /CNW - Algonquin Power & Utilities Corp. ("APUC" or the "Company") (TSX: AQN) today announced that APUC's regulated distribution utility business (the "Distribution Group") has closed a U.S. \$160 million private placement of senior unsecured 30 year notes bearing a coupon of 4.13%. The proceeds will be used to partially fund the previously announced acquisition of the Park Water System occurring later in 2015, and for general corporate purposes.

The funds are being drawn in two tranches: U.S. \$90 million immediately on closing and U.S. \$70 million in the second quarter of 2015. The financing is the fourth series of notes issued pursuant to the Distribution Group's master indenture.

"We are very pleased with the confidence and support that our U.S. private placement investors continue to have in our Company's strong, stable utility operations," stated David Bronicheski, APUC's Chief Financial Officer. "This long term 30 year financing, with a very attractive all in coupon, is an important element in achieving the expected accretion from our pending acquisition of the Park Water System."

The senior notes have been assigned a credit rating of BBB (high) by DBRS Limited.

About Algonquin Power & Utilities Corp.

Algonquin Power & Utilities Corp. is a \$4.1 billion North American diversified generation, transmission and distribution utility. The distribution business group operates in the United States and provides rate regulated water, electricity and natural gas utility services to over 488,000 customers. The non-regulated generation business group owns or has interests in a portfolio of North American based contracted wind, solar, hydroelectric and natural gas powered generating facilities representing more than 1,050 MW of installed capacity. The transmission business group invests in rate regulated electric transmission and natural gas pipeline systems in the United States and Canada. Algonquin Power & Utilities delivers continuing growth through an expanding pipeline of renewable energy development projects, organic growth within its regulated distribution and transmission businesses, and the pursuit of accretive acquisitions. Common shares and preferred shares are traded on the Toronto Stock Exchange under the symbols AQN, AQN.PR.A and AQN.PR.D. Visit Algonquin Power & Utilities at www.AlgonquinPowerandUtilities.com and follow us on Twitter @AQN_Utilities.

SOURCE Algonquin Power & Utilities Corp.

Exhibit No. ____ (JW-2)

D2014.12.99

Liberty Utilities

Direct Testimony of

Dr. John W. Wilson

on behalf of the Montana Consumer Counsel

September 19, 2014

ALGONQUIN POWER & UTILITIES CORP.



ACQUISITION FACT SHEET

TSX: AQN



LIBERTY UTILITIES: ACQUISITION OF WATER UTILITIES IN CALIFORNIA AND MONTANA

Acquisition Overview

- Acquisition of Park Water Company comprised of three water distribution utilities in California (2) and Montana (1), serving approximately 74,000 customer connections
- Aligned with Liberty Utilities' on-going roll-up strategy of U.S. regulated utilities
 - Represents 8th regulated utility acquisition in the U.S. since 2010
- Maintains Algonquin Power & Utilities Corp's (APUC) strategic business mix of regulated utilities and non-regulated power generation, positioning the company for future growth
- Expands Liberty Utilities' California presence, builds on strong water utility expertise and easily integrates operations into existing U.S. platform by leveraging current infrastructure
- Purchase price of U.S. \$327 million, expected EV/2016 EBITDA of 9.6x
- Continuing opportunities for capital investment in growth and infrastructure replacement programs expected to drive 7.5% EBITDA CAGR through 2020
- Increased regulated earnings improve APUC's business risk profile, strengthens credit rating metrics and improves financial flexibility
- Closing subject to regulatory approvals

Key Facts

Purchase Price	U.S. \$327 million
Net property, plant and equipment and regulatory assets expected at closing (Net of accumulated depreciation of U.S. \$98 million)	U.S. \$259 million
Customer Connections	73,590
Employees	160

Distribution and Seasonality	Q1	Q2	Q3	Q4	Total
Approximate Gallons Distributed (Billions)	3.0	4.1	5.9	3.6	16.6
EBITDA Seasonality Percentages	18%	25%	35%	22%	100%

"THE PARK WATER ACQUISITION BUILDS ON OUR STRONG WATER UTILITY EXPERTISE, PROVIDES CONTINUING OPPORTUNITY FOR ORGANIC GROWTH AND IS ALIGNED WITH OUR ON-GOING ROLL-UP STRATEGY OF U.S. REGULATED UTILITIES." - IAN ROBERTSON, CEO



Liberty Utilities

Liberty Utilities Co., the Company's distribution utility business, provides regulated water, natural gas and electric utility services to nearly 500,000 customers through operations in nine states.



Algonquin

Algonquin Power Co., our electric generation subsidiary owns and has interest in 39 clean, renewable energy facilities representing more than 1,100 MW of gross installed capacity and 500 MW of capacity under development/construction.

September 19, 2014

ALGONQUIN POWER & UTILITIES CORP.



www.AlgonquinPowerAndUtilities.com



AFFIRMING OUR SUCCESSFUL APPROACH TO GROWTH

Regulatory Environment

- Constructive regulatory environments in California and Montana
- Several regulatory mechanisms serve to support stable and predictable earnings, including:
 - Rate adjustment and tracking mechanisms providing recovery of costs related to purchased water and power with minimal regulatory lag
 - Recovery of post rate case inflation impact on operating costs in California
- California rate cases on mandated three year cycle with forward looking test year
 - 9.79% approved return on equity with 57.0% equity thickness in last rate case
 - New rates expected to be implemented in 2015 in both California service territories
- Montana rate cases historically filed every 2-3 years
 - 9.80% return on equity with 56.1% equity thickness approved in last rate case

Acquisition and Utility Financing

- Acquisition includes assumption of U.S. \$77 million of existing long term debt
 - fixed effective borrowing cost of 6.8% reflected in current tariffs
- APUC's strong balance sheet and credit metrics support financing the acquisition with more than 50% debt
- Developer advances/contributions in aid of construction of U.S. \$64 million and accumulated deferred income taxes of U.S. \$27 million expected at closing
- Consistent with previous utility acquisitions, financing for the balance of acquisition costs to be arranged closer to the acquisition date

Continuing Capital Investment Program

- Expected 5-year capital investment program representing ~U.S. \$195 million, with U.S. \$31 million and U.S. \$38 million targeted for investment in 2016 and 2017, respectively
- On-going capital investment program to renew aging infrastructure and serve new customers expected to drive ~7.5% CAGR in EBITDA from 2016 through 2020
- Expected net property, plant and equipment and regulatory assets of U.S. \$259 million at closing (11/1/2016) with average depreciable life remaining of ~27 years



September 19, 2014

ALGONQUIN POWER & UTILITIES CORP.



www.AlgonquinPowerAndUtilities.com

CAUTION REGARDING FORWARD-LOOKING INFORMATION

Certain statements included in this document contain information that is forward-looking within the meaning of certain securities laws, including information and statements regarding prospective results of operations, financial position or cash flows. These statements are based on factors or assumptions that were applied in drawing a conclusion or making a forecast or projection, including assumptions based on historical trends, current conditions and expected future developments. Since forward-looking statements relate to future events and conditions, by their very nature they require making assumptions and involve inherent risks and uncertainties. Algonquin Power & Utilities Corp. ("APUC") cautions that although it is believed that the assumptions are reasonable in the circumstances, these risks and uncertainties give rise to the possibility that actual results may differ materially from the expectations set out in the forward-looking statements. Material risk factors include those set out in the management's discussion and analysis section of APUC's most recent annual report and quarterly report, and APUC's Annual Information Form. Given these risks, undue reliance should not be placed on these forward-looking statements, which apply only as of their dates. Other than as specifically required by law, APUC undertakes no obligation to update any forward-looking statements or information to reflect new information, subsequent or otherwise.

NON-GAAP FINANCIAL MEASURES

The term "earnings before interest, taxes, depreciation and amortization" ("EBITDA") may be used in this document. EBITDA is not a recognized measure under GAAP. There is no standardized measure of EBITDA, consequently APUC's method of calculating this measure may differ from methods used by other companies and therefore may not be comparable to similar measures presented by other companies. A calculation and analysis of EBITDA can be found in APUC's most recent Management Discussion & Analysis.