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

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

CITY OF MISSOULA'S RESPONSE TO
PUBLIC SERVICE COMMISSION'S NOTICE OF OPPORTUNITY TO COMMENT

Rather than awaiting the Public Service Commission's ("PSC") decision, Carlyle Infrastructure Partners, LP ("Carlyle") and Algonquin Power & Utilities ("Algonquin") and the entities they deemed at the beginning of this matter to be the Joint Applicants—Liberty Utilities Co. ("Liberty Utilities"), Western Water Holdings, LLC ("Western Water"), and Mountain Water Company ("Mountain Water")—have decided, in effect, to rule for themselves, unilaterally deciding that their merger is "approved." In their view, the Joint Applicants have the final say, the last word, and the only control over whether Montana law requires PSC approval. In their view, Algonquin gets to decide when to write the $327 million check to Carlyle, and Carlyle gets to decide when to pay itself and its executives (including Mountain Water President, John Kappes) out of the proceeds.

Indeed, the current website for Mountain Water reflects the Joint Applicants' disdain for the process of PSC approval that was initiated at their election, and which has been winding its way toward a conclusion for the past 13 months:

See Mountain Water homepage, www.mtnwater.com (accessed January 25, 2016). The Joint Applicants consider their stealthy closing of the transaction without PSC approval a *fait accompli*, implying that the PSC is powerless to exercise its statutory authority.

At Algonquin's "Investor Day" presentation on December 1, 2015, Greg Sorenson (Liberty's President of California operations) told Algonquin's investors that the PSC's hearing would be in late January and that Algonquin/Liberty expected a "[PSC] decision approving the transaction would occur in Q1 with closing anticipated shortly thereafter."[1] Ian Robertson, Algonquin's CEO, told Algonquin's investors the same thing on a November 6, 2015 earnings call: "[W]hen the MPSC completes their work and presumably grants us approval, we will complete and close the transaction."

[1] *See* Algonquin's Investor Day Presentation at time 3:21:00, http://www.smpav.ca/sign-in.php?ID=28554 (accessed January 26, 2015).

(Ian Robertson, Algonquin Earnings Call Transcript, November 6, 2015, p. 8, attached as Exhibit A.) What changed between then and now?

History is important here. Four years ago, it was Carlyle—the ultimate owner of both Western Water and Mountain Water—who sought PSC approval of its acquisition of Missoula's Water System. Carlyle sought that approval even though it was "only" acquiring the shares of the same out-of-state holding company that had owned and operated Mountain Water Company for many years, Park Water Company of California. (In other words, Carlyle knew it needed PSC approval even though it was in the exact same position that Algonquin/Liberty are in now.) PSC approval was so critically important to Carlyle that its Managing Director Robert Dove persistently recruited the City of Missoula ("City"), the Mayor of Missoula, and the Clark Fork Coalition to publicly support and urge PSC approval of the purchase.

Carlyle ultimately obtained that support by convincing the Mayor, the City, and the Clark Fork Coalition that Carlyle would turn around and sell the Water System to the City just as soon as Park Water's founding principal, Sam Wheeler, left its Board of Directors. Carlyle thereby obtained PSC approval based, in large part, on the City's support coupled with presumptively truthful testimony before the PSC to the effect that Carlyle would not "buy and flip"[2] its ownership to another speculative investor, and that Carlyle would use its superior liquidity and access to capital markets to invest further in the Water System's leaking and aging infrastructure, with the clear

[2] In a 2011 presentation to the PSC, for example, Carlyle represented that "Carlyle Infrastructure does not 'buy and flip' its portfolio companies." ("Meeting with Montana PSC & MCC Staff," The Carlyle Group, Jan. 13, 2011, p. 6, attached as Exhibit B.)

implication that additional Carlyle funds would be invested. As this Commission is well aware, the PSC had a longstanding interest in 2011 in making sure that the owner of Mountain Water dedicated sufficient funds to address the unprecedented leakage in the Water System.

None of those promises made by Carlyle and Mr. Dove were true, as it turns out. Based on the evidence presented in the District Court last March and April in support of the City's successful condemnation of the assets of the Missoula Water System, we now know: (1) that Carlyle was planning its "buy and flip" exit from Missoula even as it was signing the papers to acquire the Water System; (2) that Carlyle always planned to sell the entirety of Park Water to the next speculative bidder at the highest price possible and, despite its many assurances to the contrary, it had no intention of ever offering it for purchase by the City as a standalone proposition; (3) that Carlyle invested not even a single dollar of new money in Park Water, Mountain Water or Missoula's Water System during its entire tenure, but instead required the Missoula rate payers to fund unnecessary and unduly expensive charges for "administrative services" performed in California as a means of diverting revenues to Park Water; (4) that Carlyle allowed the leakage in the Water System to remain unaddressed and not fixed for the entire duration of its ownership; (5) that Carlyle instead required Park Water to dividend $11,000,000 of profits to Carlyle over a three-year period; (6) that Carlyle, its principals including Mr. Dove, and Mountain Water directors and officers—including Mountain Water President, John Kappes—secretly positioned themselves to receive millions of dollars in Class B shares if the proposed sale to Liberty were to close; and (7)

that Missoula's Water System suffered neglect and further deterioration for the entire period of Carlyle's ownership due to Carlyle's steadfast refusal to authorize the capital expenditures necessary to address leakage and other long overdue and deferred maintenance. (Findings of Fact, Conclusions of Law, and Preliminary Order of Condemnation, ¶¶ 9–14, 22–45, 57–63, 76–87, 185;[3] Condemnation Trial Testimony of Robert Dove, Tr. Trans., 2811:15—2812:23, attached as Exhibit C.)

Carlyle fooled everyone in 2011, and neither the PSC nor the City of Missoula can go back now and change the decisions made then that allowed Carlyle to acquire the Water System. But we can make sure the City and the PSC are not fooled again.

Carlyle persistently and aggressively sought PSC approval four years ago for two reasons. First, it was the law—PSC approval is required under Montana law for any private change of ownership, particularly a change of ownership involving out-of-state or foreign ownership. Carlyle knew that, and it acted accordingly. Second, it was the right thing to do—to ensure that the Commissioners responsible for the welfare of Montana ratepayers had the information necessary to make an informed decision based on Mr. Dove's sworn testimony and other evidence adduced in the approval process.

Now, however, Carlyle would have the PSC believe that what was the law four years ago is not the law today and that "doing the right thing" in 2011 does not mean that the right thing need be done in 2016. The Joint Applicants have taken the

[3] District Court Judge Karen Townsend's Findings of Fact, Conclusions of Law, and Preliminary Order of Condemnation were attached to the City's Notice of Preliminary Order of Condemnation and Motion to Dismiss or, in the Alternative, to Stay the Proceedings, which was filed with the PSC on June 24, 2015.

unprecedented and unlawful step of unilaterally withdrawing their Joint Application that has been pending for 13 months. They proceeded to close the transaction as if the PSC *never* had any right to review it. They decided that the only entity that has the ability to approve the sale of Mountain Water is the foreign conglomerate in Canada that boasted to its shareholders on January 11, 2016 that it is now the ultimate owner, and it simultaneously told the State of Montana that Liberty's and Carlyle's actions are outside of the PSC's scope of authority, beyond the jurisdiction of the State of Montana's courts, and immune from the PSC's oversight. (Ian Robertson, Algonquin Earnings Call Transcript, August 13, 2015, p. 4, attached as Exhibit D; Algonquin Press Release, January 11, 2016, attached as Exhibit E.)

But not even Algonquin's CEO really believes that. Mr. Robertson knew PSC approval was required, and he made sure Algonquin was protected in case PSC approval was not forthcoming.[4] Algonquin's 164-page, US$327,000,000 Plan and Agreement of Merger has a significant contingency to the obligation to close the deal, namely the PSC denying Joint Applicants' petition or otherwise not approving the change in ownership. That speaks volumes—a genuine mega-deal between a sophisticated seller and a sophisticated purchaser where the principal contingency is PSC approval. Algonquin and Carlyle clearly understood when they signed their contract that PSC approval was necessary and important because it was both the law

[4] Mr. Robertson repeatedly acknowledged on earnings calls with Algonquin's investors that PSC approval would be required before the proposed sale could be closed. (*See, e.g.*, Algonquin Earnings Call Transcript, November 6, 2015, p. 8, Ex. A; Algonquin Earnings Call Transcript, August 13, 2015, p. 4, Ex. D; Ian Robertson, Algonquin Earnings Call Transcript, May 8, 2015, p. 3, attached as Exhibit F ("Regarding the acquisition of Park Water company, approval from both the California Public Utilities Commission and the Montana Public Services Commissions are required.")

and the right thing to do for Montana ratepayers. The contract speaks for itself, providing that Algonquin is excused from performance and Carlyle is not entitled to US$327,000,000 if PSC approval is not obtained by the extended date of March 2016.

What also speaks volumes is that the Joint Applicants' decision to unilaterally withdraw their Application and purportedly close the sale is not a decision that could have been made overnight—they have to had known for months, that they would ultimately disregard the PSC and illegally do as they wish if it suited their financial interests. Yet Algonquin and Carlyle would have the PSC Commissioners believe today that they never thought approval was required or even desirable. Who is trying to fool whom here?

The Joint Applicants are happy to tell the PSC one thing (that it doesn't have jurisdiction) but then tell ratepayers another in order to create a false sense of security. In a public relations campaign launched a month before the necessity trial in the City's condemnation action, Algonquin/Liberty proclaimed that the top reason "why Liberty Utilities is the best option for Missoula" is:

> **1. Better consumer protections**
> As a privately owned utility, we are tightly regulated by the Montana Public Service Commission, which consists of an elected group of commissioners and a full-time professional staff whose sole job is to watch over regulated utilities like us.
>
> PSC oversight ensures that rates are justified by real costs, that everything you pay for water is clearly and completely presented on your monthly bill, and that our investment strategy is prudent for the citizens of Missoula. As a consumer you are also represented by the Montana Consumer Counsel (MCC).
>
> All of that is lost if the city government takes ownership of the water system, because city-owned utilities aren't regulated by the PSC and the consumer doesn't have the same protections provided by the MCC

"Why Liberty Utilities? 10 good reasons," http://www.mountainwaterfacts.com/liberty-utilities-10-good-reasons/ (accessed January 26, 2016).

Of course, the Joint Applicants' withdrawal and notice of closing show that their promise of "consumer protections" and their self-proclaimed belief that they are "tightly regulated by the Montana Public Service Commission" is a farce. Algonquin/Liberty tried to paint a rosy picture for the ratepayers, but its misconduct before the PSC and the District Court reveal the truth: Algonquin and Liberty have no interest in being "tightly regulated by the Montana Public Service Commission." They believe they can do as they wish, when they want. That spells disaster for ratepayers under any circumstance.

The Joint Applicants' bait-and-switch tactics have resulted in a substantial waste of time, money, and resources for Missoula's ratepayers, the PSC, the Montana Consumer Counsel, and the Clark Fork Coalition. Moreover, such tactics have made a mockery out of the regulatory process that Carlyle assiduously followed in 2011. Joint Applicants' actions have also provided additional evidence why the Canadian conglomerate and its wholly-owned subsidiary cannot be trusted and should be joined in these proceedings. At this unexpected juncture, the PSC should either stay the Joint Application until such time as the City's condemnation proceedings are finalized, which would moot the Application now before the Commission, or outright deny the Joint Application on the merits at this time because Joint Applicants have essentially defaulted on their pending Application for Approval.

I. Jurisdiction

The City's position on the PSC's jurisdiction has been consistent throughout these proceedings, is consistent also with how Carlyle understood its obligations in

2011, and is plainly correct under Montana law:

> (1) Absent the City's condemnation action, the City does not dispute that the PSC has jurisdiction over the sale of a utility between two private entities.
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> (2) Since, however, the District Court has concluded City ownership is necessary and the City constructively owns the Water System, the PSC no longer has jurisdiction over this transaction and should therefore dismiss or stay the proceeding pending the outcome of the condemnation action.

Setting aside the City's position on jurisdiction, the inescapable truth is that the Joint Applicants' position—that the PSC has no jurisdiction over a sale between two private entities—is entirely unsupported, contrary to Montana law, and clearly not in the best interests of Montana ratepayers which, after all, is something of a litmus test here. If PSC approval is not required, how can the PSC look out for the best interests of the ratepayers?[5]

A. The PSC has Jurisdiction Over a Sale Between Two Private Entities.

Joint Applicants are well aware of the PSC's general jurisdiction over the sale of a utility between two private entities. Carlyle's counsel in this case was also its counsel in the 2011 sale of Mountain Water, which the PSC approved. (Docket No. D2011.1.8.) As a condition of the its approval of that sale, the PSC imposed and Carlyle agreed that "[t]he Commission would review any future transfer of Mountain to the City or any other entity under the same standards that govern its decision in this case." (*Id.* at ¶ 9;

[5] Joint Applicants would have the PSC conclude that approval of rates is the extent of its authority. To take an extreme example, Joint Applicants would have the Commission believe that if Carlyle had sold to an Iranian holding company, the only oversight available would be approval of rate increases. That surely is incorrect.

see also ¶ 48(h) (Carlyle stipulating that the PSC must approve asset sales in excess of $1 million).)[6] What could be clearer, and what could be more binding?

Now, however, Carlyle and the Joint Applicants have purported to effectively re-write the Commission's 2011 ruling to strip that language from the Order, as if it never had occurred. Not only is their position wrong as a matter of law, it also is barred by collateral estoppel given that Joint Applicants stand in the shoes of Carlyle with regard to the conditions imposed in 2011 on any future sale. Finally, their effort to recant has also amounted to an enormous waste of ratepayers' dollars. If they really believed PSC approval was something they could "take or leave" at their whim, why force everyone to spend all the time and money that has been sunk into this process for more than a year? And why put the contingency into the $327,000,000 contract? Joint Applicants' arguments today are betrayed by their conduct and their behavior every single day over the preceding year.

Montana law vests the PSC with "full power of supervision, regulation, and control of . . . public utilities . . . to the exclusion of the jurisdiction, regulation, and control of such utilities by any municipality, town, or village." Mont. Code Ann. § 69–3–102. The PSC has the authority "to do all things necessary and convenient in the exercise of [its] powers." Mont. Code Ann. § 69–3–103(1). The PSC substantially articulated the basis for its jurisdiction over private utilities in its final order in *In re the*

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[6] As Judge Townsend concluded in the condemnation proceeding, however, the PSC does not have jurisdiction over the City's acquisition of the Water System through condemnation. Order Denying PSC's Motion to Intervene, Cause No. DV–14–352 (Doc. No. 50).

Joint Application of Northwestern Corp. to Babcock & Brown Infrastructure Limited, Docket No. D2006.6.82, Order No. 6754e, ¶¶ 19–32.

The Montana Supreme Court has acknowledged that sales between private utilities are invalid unless approved by the PSC. *See Crowley v. Valley W. Water Co.*, 267 Mont. 144, 882 P.2d 1022 (1994). In *Crowley*, the Court addressed the appointment of a receiver to administer the assets of Valley West Water Company, a small water utility in Missoula County. The Court wrote:

> Although Montana law requires that any sale of assets of a public utility be approved by the Montana Public Service Commission, the Commission did not approve any sale of Valley West's assets between 1981 and 1991 and does not recognize either of these sales as valid.

Id. at 147, 882 P.2d at 1023–24.

Here, the Joint Applicants' misconduct is not only contrary to Montana law, it is also inconsistent with the Joint Applicants' own position in this case. The Joint Applicants vehemently opposed the City's Motion to Dismiss or Stay this proceeding on account of the condemnation action. In doing so, they argued: "The Joint Applicants will be harmed by a stay because approvals from the Commission and the California Public Utilities Commission <u>are required</u> to complete the sale of Western Water stock." (Western Water and Mountain Water's Response Br., p. 8, June 30, 2015 (emphasis added).) They further argued that "disclaiming Commission jurisdiction over the utility and its operations would put Mountain Water and its customers into a regulatory nowhere land." (*Id.* at 4.) They raised what they believed were a number of unanswered questions that would remain if the PSC had no jurisdiction over this sale:

> [H]ow would Mountain Water seek rate adjustments to recover the capital investment made to improve its distribution system, including the planned investments to address leakage consistent with the Commission approved capital investment plan? Would Mountain Water still be required to file annual reports with the Commission? Would Mountain Water still be bound by the Commission's statutes, rules, and orders?

(*Id.*) In an about-face, the Joint Applicants have now decided they need not concern themselves with these questions, nor permit the PSC to answer them. The Joint Applicants have declared themselves to be in control, and they will decide for themselves who owns what, who controls what, and who decides what.

B. The PSC Should Stay this Proceeding in Light of the City's Condemnation Action.

In Question 2 of the PSC's request for comment, the PSC asks for clarification on the City's position with respect to jurisdiction in this case. The City's position has been consistent throughout this case: While the City does not dispute that the PSC generally has jurisdiction over utility sales between private entities, the City continues to maintain that the PSC does not have jurisdiction over *this particular sale* on account of the condemnation proceeding. The City has extensively briefed its position, and the PSC's decisions on that question are presently being reviewed by District Court Judge Leslie Halligan.

The City moved to dismiss the PSC proceeding on this basis, but dismissal is not the only option the City proposed. Instead of dismissing the Joint Application, the PSC could have also stayed this matter pending the resolution of the condemnation case. Doing so would have avoided a substantial waste of resources and would not have

resulted in any harm to the Joint Applicants. The PSC still has the opportunity to do that in response to the Joint Applicants' withdrawal—it can stay the PSC proceedings pending the outcome of the condemnation proceeding and then dismiss the PSC proceedings for lack of jurisdiction once the condemnation proceedings are final.

Moreover, even though the PSC lacks jurisdiction over the proposed merger in light of the condemnation action, the PSC still has "full power" to "supervise," "regulate," and "control" Mountain Water as long as it is privately owned. *See* Mont. Code Ann. § 69–3–102. As discussed in Section III below, there are immediate steps the PSC should take to preserve the status quo of the Water System, as it existed prior to the purported closing of the sale.

The City's position on jurisdiction aside, what is abundantly clear is that the Joint Applicants' position is dead wrong. It is legally and factually unsupported, contrary to the PSC's express ruling in the 2011 Babcock and Brown case, and inconsistent with the previous positions they have taken. They should therefore be estopped from disregarding jurisdiction, and the PSC should either deny their application on the merits or stay these proceedings pending the outcome of the condemnation case.

II. Before Issuing a Stay or Denying the Joint Application on the Merits, the PSC Should Join Algonquin and Sanction the Joint Applicants.

The Joint Applicants' misconduct in this proceeding is truly remarkable—especially since they continue to operate utilities in other states and are subject to the regulation of other public utilities commissions. The Joint Applicants' unilateral withdrawal of their application sends a direct message to all public utilities

commissions, including Montana's: Neither Carlyle nor Algonquin/Liberty can be trusted or expected to comply with the law. They will do as they wish in order to meet the needs of their private investors without regard to ratepayers, regulators, or the laws governing their utilities. The City has made this point throughout this proceeding, a point that should now be crystal clear. If the PSC elects to not stay the proceedings pending the resolution of the condemnation proceeding, it should join Algonquin, award sanctions, and deny the Joint Application on the merits.

A. The PSC Should Join Algonquin.

The PSC recognizes that Algonquin—not Liberty—is the decision-maker on its side of the proposed sale. (Order 7392n, ¶ 41.) Algonquin now purports to be the upstream treasury for Mountain Water, and it—not Liberty—is claiming responsibility for all financial and strategic decisions. At its December 1, 2015 "Investor Day" presentation, Greg Sorenson, Liberty's President for California, announced that Algonquin/Liberty plans to increase Park Water's rate base by 14% by the year 2020.[7] What is also clear from that presentation is that Algonquin's interests lie in California and Arizona, not Montana. At the Investor Day presentation, Mr. Sorenson stated "the focus of our investment is California, driven by the Park Water needs, as well as Arizona." *See id.* at 3:18:00. With that investment, Algonquin expects to realize an $18 million operating profit for Park Water by 2020. *Id.* Algonquin proposes to continue

[7] *See* Algonquin's Investor Day Presentation at time 3:20:00, http://www.smpav.ca/sign-in.php?ID=28554 (accessed January 26, 2015).

Carlyle's tradition of using revenue from Missoula ratepayers to subsidize its California water systems.

Still, even though Algonquin has shown time and again that it—not Liberty—is the decision-maker, the PSC elected to not exercise personal jurisdiction over Algonquin because it reasoned that failing to do so would not result in a "fraud or injustice." (*Id.* at ¶ 43.) The City disagrees with that analysis, but, even if it applied, there can no longer be any doubt that a "fraud or injustice" has been committed. The decision to unilaterally ignore the PSC and purportedly close this sale came from an Algonquin boardroom in Canada. It was not a Liberty decision. (*See, e.g.*, Algonquin's January 11, 2016 Press Release, attached as Exhibit E.) Algonquin believes it is safe to do as it wishes without regard to the PSC and Montana law precisely because it remains unaccountable to the PSC.[8] If the PSC fails to exercise personal jurisdiction over Algonquin, it will receive more of the same.

The PSC can, and should, exercise personal jurisdiction over Algonquin. Algonquin has established sufficient minimum contacts in Montana, as was previously determined in the District Court. And, even if the alter-ego test applied to this proceeding, Algonquin has continued to show that failing to join it results in a fraud and injustice. The PSC should, in response to the Joint Applicants' withdrawal, join Algonquin, so it can stop hiding out north of the border and thumbing its nose at ratepayers, the regulators, and courts.

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[8] This rings especially true since the PSC has imposed special confidentiality protections on the Joint Applicants' discovery material in this case, which has prevented the City and the Montana Consumer Counsel from fully understanding Algonquin's proposed future plans for the Water System. Judge Halligan is presently reviewing the appropriateness of those special protections.

B. The PSC Should Sanction the Joint Applicants and Seek a Declaration Voiding the Sale.

The Joint Applicants' withdrawal violates Montana law for the reasons discussed above. Mont. Code Ann. §§ 69–3–206, 69–3–209 allows the PSC to levy a $1,000-per-day fine for every day the Joint Applicants continue to violate Montana law. Given the Joint Applicants' clear violation of Montana law, the PSC should levy this fine with the beginning date as the date the Joint Applicants filed their application and continuing until this matter or any related litigation is fully resolved. The Joint Applicants should pay this sanction to the Montana Consumer Counsel for the benefit of Missoula ratepayers in furtherance of the Counsel's constitutional duty to "represent[ ] consumer interests" before the PSC. Mont. Const. Art. 13, Sec. 2.

A fine alone, though, is not a sufficient remedy for billion-dollar corporations and is dwarfed by the millions in Class B share agreement payouts that Carlyle and Mountain Water executives received as a result of the purported sale. As discussed above, the PSC should either stay the PSC proceeding pending the outcome of the condemnation action or join Algonquin and deny the Joint Application on the merits.

Moreover, given the substantial waste of resources caused by the Joint Applicants, the PSC should order them to pay the City's, Montana Consumer Counsel's, and Clark Fork Coalition's attorney's fees, costs, and expenses and impose any additional sanctions it deems appropriate. At a minimum, it should make factual findings that will allow the District Court, through the City's Petition for Review, to award any fees, costs, and expenses it deems appropriate.

Further, beyond imposing a remedy in this proceeding, the PSC, perhaps through the Agency Legal Services Bureau at the Attorney General's office, could file an action in state District Court seeking a declaration that the purported sale is void under Montana law. The PSC should take that step even if it denies the Joint Application on the merits, since denying the application will not likely prevent Algonquin/Liberty from going forward with its purported ownership of the Water System and disregard for the ratepayers, the PSC, and the Courts.

Finally, regardless of what sanctions the PSC imposes, it should bar the Joint Applicants from passing along any fees, costs, or expenses associated with this matter on to ratepayers. *In re Qwest*, D99.8.200, Order 6199d, ¶ 80 (Mont. PSC May 8, 2000) (exercising authority to prohibit passing of merger costs to ratepayers).

C. The PSC Should Deny the Joint Application on the Merits.

The PSC employs one of three standards when evaluating a private sale or transfer: the public interest standard, the no-harm-to-consumers standard, or the net-benefit-to-consumers standard. If the PSC chooses to not stay this proceeding in light of the condemnation proceeding, it should deny the Joint Application on the merits.

Throughout this case, the PSC has made clear that understanding Algonquin's investment strategy, financing, and operational plans for Mountain Water is highly relevant to the determination of whether the proposed sale meets any of these three standards. Early in this proceeding, the PSC recognized that "sources of financing, including the parent corporation, are relevant to sale and transfer decisions." (Order 7392b, ¶ 20 (citations omitted).) In particular, "the effectiveness of ring fencing may

depend on a parent's relationship with its subsidiary," and the "investment strategy of the parent company over subsidiaries" is relevant to whether the PSC should approve or deny the proposed sale. (Order 7392b, ¶ 20 (citations omitted).) Among other considerations, the PSC acknowledged it must consider "whether a parent's proposed ownership of a subsidiary presents the likelihood that the subsidiary's capital structure will deteriorate and become unacceptably leveraged." (Order 7392n, ¶ 47 (citations omitted).)

The Joint Applicants' misconduct and the purported closing of their sale have prevented the PSC from considering any of these factors.[9] It has also prevented the ratepayers of Missoula from gaining any insight into what Algonquin's proposed ownership of the Water System would mean for them going forward. There is no way, then, that the PSC can legitimately evaluate the proposed sale under any of the three standards. If anything, the Joint Applicants' unilateral disregard for the PSC and Montana law show that the proposed sale is not in the public interest, would harm Missoula ratepayers, and offers no benefits to the ratepayers. The PSC has no other choice but to deny the Joint Applicants' proposed sale—Algonquin refuses to be accountable to the PSC or ratepayers, opting instead to do as it wishes behind closed doors in a foreign country.

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[9] The Joint Applicants' unilateral decision and Algonquin's refusal to participate in these proceedings prevents the PSC from fully evaluating the extent of any ring-fencing violations or the need for any rate adjustments in this matter. If the PSC allows the Joint Applicants' purported sale to go forward it calls into question whether the ring-fencing provisions remain in place and whether the Algonquin/Liberty would deem it necessary to seek PSC approval for rate increases. While the Joint Applicants' withdrawal of their Joint Application might constitute a violation of ring fencing provisions and warrant a rate adjustment, the more appropriate action by the PSC would be to join Algonquin and deny the Joint Application on the merits. If the PSC comes to the point of deliberating on a rate adjustment, then it is condoning the sale.

III. The PSC Can and Should Take Steps to Ensure the Status Quo—as it Existed Prior to the Purported Closing of the Sale—is Maintained.

Despite the Joint Applicants' misconduct, the PSC has "full power of supervision, regulation, and control of . . . public utilities . . . to the exclusion of the jurisdiction, regulation, and control of such utilities by any municipality, town, or village." Mont. Code Ann. § 69–3–102. So, even if the PSC lacks jurisdiction over the proposed transfer between the Joint Applicants in light of the condemnation proceeding, the PSC has the authority to "supervise," "regulate," and "control" Mountain Water, as long as it is privately owned. The PSC should exercise that authority and take steps to ensure that Algonquin/Liberty does not take any actions that would be contrary to the ratepayers' interests. If, for example, the PSC seeks declaratory relief against the Joint Applicants, that will take some measure of time to resolve and steps must be taken to preserve the status quo. The same is true if the PSC stays this proceeding pending the outcome of the condemnation action. Regardless, though, of what actions the PSC takes, it should take affirmative steps to maintain the status quo:

- Mountain Water and any upstream owner should be prohibited from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, without approval by the PSC.

- Mountain Water and any upstream owner should be prohibited from creating, assuming or permitting any mortgage, pledge or other lien or encumbrance upon its assets or property outside the ordinary course of business.

- Mountain Water and any upstream owner should be prohibited from entering into any contract or commitment, or incurring or agreeing to incur any liability, or make any capital expenditures outside the ordinary course of business.

- Mountain Water and any upstream owner should be prohibited from engaging in any intercompany transactions of any nature and from declaring or paying any dividend or making any distributions with respect to its stock without approval of the PSC. The term "intercompany transactions" includes but is not limited to any and all transactions associated with the Administrative Services Agreement or related "home office" expense agreements. Monies paid by local rate payers should not be allowed to leave Montana to line the pockets of Algonquin\Liberty's executives or foreign investors.

- Mountain Water and any upstream owner should be prevented from effecting any significant alteration to the assets, including but not limited to altering computer hardware and software, business records, accounting information, procedures, or protocols without approval by the PSC.

- Mountain Water and any upstream owner should be prevented from effecting any significant change regarding personnel, including hiring, firing, promoting, demoting, transferring, or altering the compensation or benefits of any Mountain Water employee without approval by the PSC.

- Algonquin and the Joint Applicants should be required to provide to the PSC all documents related to the purported January 8, 2016 closing of the merger agreement between Carlyle and Algonquin\Liberty, including emails, letters, and any other communications pertaining to the accelerated closing.

- Carlyle and Algonquin\Liberty should be required to explain, in detail, their plan for the fulfillment of Mountain Water's contractual obligations to Missoula-area developers pursuant to the "Developer Extension Agreements."

- Carlyle, Algonquin\Liberty and Mountain Water should be required to maintain the business records of Mountain Water including customer billings records, accounts receivable and accounts payable in good and proper order.

The Joint Applicants extraordinary actions and misconduct necessitate the PSC's oversight in order to protect the ratepayers' interests, at least until the condemnation matter has concluded and the City takes possession of the Water System. Allowing Algonquin to continue its presumed oversight of Mountain Water is letting the fox watch the henhouse.

IV. The Joint Applicants' Withdrawal Violated the District Court's Stay of the PSC Proceedings.

Judge Halligan stayed the PSC proceeding while she reviews the merits of the City's Petition for Judicial Review. [10] That means the Joint Applicants were not lawfully permitted to file Notice of Closing and Withdrawal of Joint Application. By doing so, they directly violated the District Court's Stay Order. The only conceivable reason the Joint Applicants filed their withdrawal with the PSC and not the District Court is a misguided attempt to avoid District Court sanctions, including attorney's fees.

Given the Joint Applicants' violation of the Stay Order, the City therefore reserves its right to request that Judge Halligan hold the Joint Applicants in civil contempt and levy appropriate sanctions, including paying the City's attorney's fees, costs, and expenses and preventing the Joint Applicants from recovering their attorney's fees, costs, and expenses from the ratepayers. By disregarding the PSC and the District Court, the Joint Applicants have forced Missoula's ratepayers, the PSC, the Montana Consumer Counsel, and the Clark Fork Coalition to needlessly waste time, resources, and money. Those costs include the costs of the Joint Applicants' attorneys, which the Joint Applicants will inevitably attempt to pass on to ratepayers if the proposed sale is allowed to go forward. The ratepayers, the PSC, the Montana Consumer Counsel, and the Clark Fork Coalition should not be punished for the Joint Applicants' disregard of the law. The PSC should make findings regarding the Joint Applicants' misconduct, which may then be acted upon by the District Court. In

[10] Judge Halligan's stay remains in effect with respect to all issues in this proceeding except the PSC's resolution of the Joint Applicants' Notice of Withdrawal and Closing of Sale. Once the PSC responds to the notice, that response will also be reviewable by the District Court.

particular, the PSC should find that the Joint Applicants have violated Montana law by attempting to close the sale without PSC approval and that, throughout this proceeding and the course of their proposed sale, the Joint Applicants have made material misrepresentations to the parties, the PSC, and, most importantly, the ratepayers.

CONCLUSION

Liberty acknowledges this Commission's "jurisdiction to regulate rates and service" aspects of Missoula's Water System and Mountain Water Company's operations. (Liberty Response at page 1.) What Liberty does not concede, although it is equally obvious, is that no entity has greater influence over rates sought to be charged and the quality of service to be offered than the ultimate owner of the Water System. Until January 8, 2016, the ultimate owner of Missoula's Water System was Carlyle. Today, the purported ultimate owner is Liberty, a wholly-owned subsidiary of a foreign conglomerate.

Oversight of service quality is what drove the PSC to impose certain requirements in 2011 as to what would be included in the process of approval if and when Carlyle sold Mountain Water at a later time. PSC approval was one of those requirements, and that "later time" is now. Oversight of service quality is what caused the Commissioners to insist on certain commitments from Carlyle's CEO during the approval process in 2011. Oversight of service quality is what caused the PSC to insist on certain studies, planning, and milestones for improvement of the Water System's leakage under Carlyle. Oversight of service quality is what requires the PSC to pass

judgment on the identity of any new private owner of the Water System today, particularly when that owner is an out-of-state, foreign conglomerate.

Now, however, when it is inconvenient for the far-flung shareholders of Liberty/Algonquin and the wealthy investors of Carlyle to follow through on those commitments previously made, they simply tell the Commission, "You have no say over a change in ownership, no matter what was understood in 2011, and even though the record before you signals significant implications for the quality of service that can be expected." As far as Liberty and Carlyle are concerned, they can use the PSC to their advantage when they wish, but they can jettison the PSC and strip it of its regulatory authority any time they desire when it suits their purposes to do so. Their behavior over the past two weeks is a unilateral power grab, to take the law into their own hands. Instead of risking an outcome before the PSC that would result in the transfer of ownership being denied approval, they think they can simply pull the plug, withdraw their Application, and not be bound by whatever decision the PSC makes. The audacity of their conduct is striking, among other reasons, by the fact that these proceedings were stayed by court order prior to January 8, 2016, yet they purport to pull rank on the District Court of Montana and unilaterally terminate these proceedings even as a lawful court order has frozen the status quo such that no party, and not even the PSC, is permitted to take any action absent a proper lifting of the stay.

In Liberty's and Carlyle's view of the world, they have it pretty good. When PSC rulings are to their advantage, they are subject to such regulation. But when PSC rulings are not likely to be to their advantage, they alone can remove themselves from

such regulation. The problem is, of course, that Liberty's and Carlyle's view never has been the law in the State of Montana. Now is not the time to depart from what is expected and deserved of every private owner of a public utility in this State who seeks to transfer ownership -- compliance with the law. The PSC should issue an Order Denying Approval of the Transfer of Ownership to Liberty.

Liberty made an informed decision on September 19, 2014, to enter into a Purchase & Sale Agreement with Carlyle, with full knowledge of the City's condemnation case which had been threatened for a year and well underway for five months before their deal was signed. Now Liberty and Carlyle seek to be relieved from participating in the PSC approval process because the City's condemnation lawsuit interferes with their plans. Their problem is of their own making -- if they did not want to try to buy and sell a Water System under condemnation, they should not have voluntarily entered into their Purchase & Sale Agreement halfway through the condemnation case. They made a bad decision and now want to blame the City for the predicament they put themselves in.

The proposed sale offers no benefits to the ratepayers. Instead, as evidenced by the purported withdrawal and notice of closing, the proposed sale would only subject ratepayers to backroom dealing and no voice when it comes to the future of their Water System.

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Dated this 27th day of January 2016.

Scott M. Stearns
Natasha Prinzing Jones
BOONE KARLBERG P.C

Jim Nugent
City of Missoula
City Attorney's Office

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail and email upon the following counsel of record at their addresses this 27th day of January 2016:

Thorvald A. Nelson Nikolas S. Stoffel Holland & Hart LLP 6380 South Fiddlers Green Circle, Suite 500 Greenwood Village, CO 80111 tnelson@hollandhart.com nsstoffel@hollandhart.com cakennedy@hollandhart.com aclee@hollandhart.com	Michael Green Gregory F. Dorrington CROWLEY FLECK PLLP P.O. Box 797 Helena, MT 59624-0797 mgreen@crowleyfleck.com gdorrington@crowleyfleck.com cuda@crowleyfleck.com cgomez@crowleyfleck.com
Robert Nelson Monica Tranel Montana Consumer Counsel 111 North Last Chance Gulch, Suite 1B P.O. Box. 201703 Helena, MT 59620-1703 robnelson@mt.gov mtranel@mt.gov ssnow@mt.gov	Christopher Schilling Chief Executive Officer Leigh Jordan Executive Vice President Park Water Company 9750 Washburn Road Downey, CA 90241 cschilling@parkwater.com leighj@parkwater.com
John Kappes President & General Manager Mountain Water Company 1345 West Broadway Missoula, MT 59802-2239 johnk@mtnwater.com	Barbara Hall Legal Director The Clark Fork Coalition P.O. Box 7593 Missoula, MT 59801 Barbara@clarkfork.org
Todd Wiley Assistant General Counsel Liberty Utilities 12725 West Indian School Road, Suite D-101 Avondale, Arizona 85392 todd.wiley@libertyutilities.com	Gary Zadick #2 Railroad Square, Suite B P. O. Box 1746 Great Falls, MT 59403 gmz@uazh.com
Public Service Commission 1701 Prospect Avenue Helena, MT 59620-2601 lfarkas@mt.gov jkraske@mt.gov jlangston@mt.gov **ORIGINAL SENT VIA OVERNIGHT DELIVERY**	Tina Sunderland

EXHIBIT “A”

EXHIBIT “A”

Seeking Alpha α

Algonquin Power & Utilities' (AQUNF) CEO Ian Robertson on Q3 2015 Results - Earnings Call Transcript

Executives

Chris Jarratt - Vice Chairman

Ian Robertson - CEO

David Bronicheski - CFO

Amanda Dillon - IR

Analysts

Nelson Ng - RBC Capital Markets

Rupert Merer - National Bank

Sean Steuart - TD Securities

Ben Pham - BMO Capital Markets

Paul Lechem - CIBC

Jeremy Rosenfield - Desjardins Securities Inc.

Algonquin Power & Utilities Corp (OTCPK:AQUNF) Q3 2015 Results Earnings Conference Call November 6, 2015 10:00 AM ET

Operator

Good day, and welcome to the Algonquin Power and Utilities Corp Q3 2015 analyst and investor call. Today's conference is being recorded. At this time I would like to turn the conference over to Mr. Chris Jarratt, Vice Chair. Please go ahead, sir.

Chris Jarratt

Thank you. Good morning, everyone. Thanks for joining us on our 2015 third-quarter conference call. As mentioned my name is Chris Jarratt and I'm the Vice Chair of the Board of Directors at Algonquin. Joining me on the call today are Ian Robertson, our Chief Executive Officer, and David Bronicheski, our Chief Financial Officer.

For your reference, additional information on the results is available for download at our website. On the call today we will provide additional information that relates to future events and expected financial positions that should be considered forward-looking.

Amanda will also provide additional details at the end of the call, and I also direct you to review the full disclosure on the quarterly results page of our website.

This morning Ian is going to start with a discussion on the highlights of the quarter. David will follow with a review of the financial results, and then we'll open the lines for questions. And we ask that you restrict your questions to two and then re-queue if you have additional questions to allow others the opportunity to participate.

And with that, I will turn it over to Ian Robertson to review the quarterly results.

Ian Robertson

Thanks, Chris. Appreciate everybody taking the time today. It's a blustery, rainy day here in Toronto and I guess given that we have hydro, wind, and solar facilities two out of three ain't bad in terms of our production.

But in summary for the quarter, we believe that the strong quarter results that we've posted are evidence of the continued solid growth in the earnings and cash flows from our generation and distribution businesses. We think that this type of growth is clearly the underpinning support for future dividend increases, and frankly it's the basic investment thesis for Algonquin Power and Utilities Corp.

During the third quarter, we realized a 70% increase in adjusted EBITDA, delivering 70.2 million versus the 41.4 million reported during the same period last year. Earnings per share growth was equally meaningful, with $0.06 per share this quarter comparing favorably to the Q3 2014 results.

With $0.31 of earnings per share a year-to-date and a strong seasonal quarter in Q4 for us, we are cautiously optimistic regarding the ability to meet or outperform the current consensus earnings estimates for 2015. The year-over-year growth reflects contributions from our regulated and non-regulated business groups, with three renewable energy facilities having achieved commercial operations, positive rate case settlements within our distribution utilities, and the impact of a stronger U.S. dollar for the third quarter.

The generation business group experienced natural resources in the third quarter that were lower than long-term averages. It's a theme that appears somewhat consistent across the IPP sector with some blaming it on the El Nino impact.

But happily more than offsetting this naturally occurring volatility the distribution business group had a great quarter, with a 20% overall increase in net utility sales and a 45% increase in operating profit primarily attributed to the implementation of recent rate cases. We believe that this yin and yang proves the effectiveness of the diversification strategy on which our portfolio is founded.

So with that little summary of the quarter, I'll turn things over to David to speak specifically to the Q3 financial results. David?

David Bronicheski

Thanks, Ian. Good morning, everyone. We're very pleased to be again reporting strong quarterly results. Our focus on growth is clearly evident.

Our adjusted EBITDA in the third quarter totaled $70.2 million, a 70% increase over the amount reported in the same quarter a year ago, which is primarily due to the impact of rate case settlements, commercial production at our St. Damase and Morse wind facilities and Bakersfield I Solar Facility, as well as the stronger U.S. dollar.

Adjusted EBITDA for the nine months of 2015 was $266 million, a 29% increase over the amount reported for the nine months of 2014. The benefits of our diversified portfolio of regulated distribution utilities and independent power generation are clearly proving their worth.

Moving on to some detail from our operating subsidiaries, in the generation group for the third quarter of 2015, the combined operating profit of the group totaled 35.5 million as compared to 24 million during the same period in 2014.

For the nine months, the operating profit of the Generation Group totaled 27 million as compared to 108 million during the nine months of last year. During the third quarter of 2015, the Generation Group's renewable energy division, which consists of wind, hydro, and solar facilities, generated electricity equal to 93% of long-term average resources, which is up significantly from the previous year.

And this increase was primarily due to higher wind resources realized in Canada and the U.S. as compared to the previous year. For the nine months, our renewable energy division generated electricity equal to 90% of the long-term average, compared to 92% a year ago.

Moving on to our Distribution Group, in the third quarter of 2015, the Distribution Group reported an operating profit of $32.6 million compared to $22.5 million reported in the same quarter a year ago. The increase in operating profit is

primarily due to the impact of rate case settlements as well as contracted utility services.

Contracted utility services represents an ongoing source of revenue for Liberty Utilities. This consists of utility services provided on U.S. government owned territories where the operating paradigm requires us to provide utility services under contract rather than through regulated tariffs.

In the nine months of 2015, the Distribution Group reported an operating profit of $130.7 million as compared to $108.7 million for the nine months of 2014.

Now to touch just briefly on our recent financing activities. On July 15, the Distribution Group issued $70 million of notes representing the second of two tranches of our $160 million senior unsecured financing of April 2015, where we were able to achieve a 30-year private placement with a coupon of 4.13%.

The notes have been assigned a rating of BBB high by DBRS. The financing is the fourth series of notes issued pursuant to Liberty Utilities master indenture.

I will now hand back things over to Ian.

Ian Robertson

Thanks, David. Before we open up the lines for questions as is our practice, I will provide you a quick update on some of our growth initiatives. And I will start with the projects that we have under construction.

Our 200 megawatt Minnesota based Odell wind project commenced construction in mid-May of this year, and we're pleased to report that currently all 100 turbine foundations have been completed and the first tower was erected this week. Transmission lines complete, construction of the substations is well underway.

The first turbine is projected to deliver energy to the MISO grid in mid-January of next year, with commercial operations in the entire facility scheduled for early next year. I will mention that agreements were finalized during the quarter for the provision of certain tax equity financing to the project.

The 10 megawatt Bakersfield II Solar Project, adjacent to our 20 megawatt Bakersfield I Solar Project, is now under construction following the granting of the final building permits during the quarter. Commercial operation is scheduled to begin in the fourth quarter next year.

And lastly, during the quarter we were pleased to add another project to our portfolio with the addition of the 150 megawatt Deerfield Wind Project. Construction has now commenced on this project located in central Michigan.

Energy from the project will be sold pursuant to a 20-year power purchase agreement with the local electric distribution utilities. Switching to the development pipeline of opportunities, the 75 megawatt Amherst Island Wind Project, located down near Kingston, received its approval to proceed with the issuance of the Renewable Energy Approval, or REA as it's called, in August. The expected appeal of the REA by certain parties was raised in September. And we will point out with the Ontario Ministry of the Environment, taking over 29 months to comprehensively review and approve our application, we're confident in the outcome of this review process which is expected to conclude in March of next year.

Engineering and procurement of long lead equipment has commenced with the commercial operation of the facility expected in mid-2017. Final permitting approvals for our 177 megawatt wind project located near Chaplin, Saskatchewan, right now are expected to be secured in the next couple of months.

Switching to our regulated distribution business group, applications have now been filed seeking a total of more than $30 million in revenue increases in California, Arizona, Massachusetts, and Georgia; and we expect final decisions on these six rate proceedings within the next 12 or so months.

With respect to the acquisition of our Park Water company, our water utility located in California and Montana, a settlement agreement regarding approval from the California Public Utilities Commission was reached earlier this year and an order approving the transaction is expected before year end.

In Montana, the hearing before the Public Service Commission is scheduled for early January of 2016, and consequently we expect a complete the transaction following the receipt of all approvals early next year.

Lastly, with respect to the transmission business group, permitting work is continuing on the $3.3 billion Northeast energy direct natural gas pipeline in which we have an up to 10% interest.

In July, we were pleased that Kinder Morgan announced that its Board of Directors had approved proceeding with the project subject to receiving all applicable permits. The environmental review was filed with FERC in June, and filing of the formal FERC certificate application is planned for later this year.

Construction is expected to begin in January 2017, with commercial operation targeted for November 2018. The transmission business group development opportunities, with respect to those, we are continuing to expand our presence in the liquefied natural gas business in New England.

In addition to the existing facility, which we have under development to serve LDC peak shaving needs, the transmission business group is working with Kinder Morgan to meet additional power generation natural gas loads in the Northeast which were the subject of a recent open season conducted by Kinder Morgan.

I would note that several New England states are moving forward with regulatory initiatives to support the pass through, if you will, by electric utilities of long-term gas supply capacity costs, which will obviously help support further infrastructure development.

And lastly, our transmission business group is working hard on expanding its pipeline footprint further upstream into New York and Pennsylvania. And while these tidbits and other development opportunities set might seem like teasers, it's only because they are.

For the full story on our growth pipeline, which is approaching $4 billion over the next 4 to 5 years, we would invite you to attend our investor morning being held on December 1st here in Toronto. Details are available on our website or please give Amanda Dillon of our investor relations group a call if you want to hear more about it.

And lastly, before we go to questions, I'd like to offer a couple of comments about valuation and perhaps the noted change you would see in terms of our dividend. We believe that our dividend current -- our current dividend deal is not fully reflective of the fundamental value of our business.

In particular we speculate that perhaps the full Canadian dollar value of our dividend and its growth has not been fully appreciated by the market. Consequently we've taken the step of providing our shareholders clarity in terms of Canadian dollar dividend, which is available to our shareholders and in this quarter it is more than $0.125 Canadian dollars.

And we hope that this certainty in value helps Canadian investors fully appreciate the compelling investment proposition which we believe that Algonquin provides.

So with that, operator, I would like to open it up for the question-and-answer session. Thanks. Operator?

Question-and-Answer Session

Operator

Thank you. [Operator Instructions]

Okay. Now, we'll take the first question from Nelson from RBC Capital Markets. Please, go ahead.

Nelson Ng

Great. Thanks, good morning everyone.

Ian Robertson

Great. How you are doing?

David Bronicheski

Good morning, Nelson.

Nelson Ng

Quick question on the utility division. I think there was like a large increase in other revenues. I think the disclosure indicates that it was contracted services. Can you provide a bit more color as to like whether this is a like recurring item, or did something one-off take place in Q3?

Ian Robertson

Sure, Nelson. It is most definitely recurring revenue. I think David had mentioned in his remarks that for services that we provide to let's call it U.S. government owned facilities you can't provide -- even if we are the utility of record, you don't get to provide them under the normal state supervised paradigm of regulated tariffs. You provide them under contract. It so happened in this quarter because it's the summer we obviously did a lot of work on -- in one of our facilities that we supply that.

But it is ongoing revenue, it just so happens that this quarter happened to be a big quarter because of the summer. But if it is definitely recurring, we are the continuing utility service provider to these bases, and so that’s really the short answer.

Nelson Ng

I see. So going forward you would see continuing other revenue but generally it's larger during the summer?

Ian Robertson

Oh, yes. Of course, I mean, most of the time obviously we do a lot of work during the summer, but yes, it’s just part of the ongoing business, Nelson.

Nelson Ng

Okay. And then, maybe we could take this offline, but what drove the reduction in interest expense on the renewable division? I think it was down year-over-year and also down relative to Q2, but I think the debt has been I guess flat or higher.

David Bronicheski

Yes, no. It's primarily driven by capitalized interest. So we've got a number of projects that are under way, and so that's been I would say the largest driver of that. In addition to that, we retired the LIPSCO bonds, and the LIPSCO bonds, and this is an accounting issue, we’re at a premium because it was on the books at the time. Because of the higher interest rate the bonds carried we retired it, and so that premium went through as is required under GAAP, the interest expense line.

I think that was about $1 million I think. But the balance of that was largely just the fact that we've got such an extensive capital program that we have higher capitalized interest.

Nelson Ng

All right. Thanks. I will get back in the queue.

Ian Robertson

Thanks, Nelson.

Operator

Thank you. We will now take the following question from Rupert Merer from National Bank. Please, go ahead.

Rupert Merer

Thanks very much. Good morning, everyone.

Ian Robertson

Hey, Rupert.

Rupert Merer

Great quarter. Just a follow up with respect to the contracted services revenues. I see that we've had other revenues on that line in the past, but it does seem like quite a large step change. And I understand there's some seasonality here, but I think if we went back last year it may not have been quite so large. So just wondering has there been any changes in the business that would see a higher sustainable rate in contracted services in the future? Or should we be looking more at a long-term average there?

Ian Robertson

Well, two things. Let's point out that it's the fourth good quarter in a row, Rupert. I didn't want to cutback. Anyway, in terms of those contracted services, obviously as you can imagine that as projects arise over the course of pipes wear out, things need to be replaced, you just happen to be seeing that in this -- with this customer because it happens to be called out on a separate line item.

So yes, this quarter did represent -- there's a lot of work that was being done on the bases this quarter, and so it just so happens that they happen to have -- should have aggregated together and shown up in the quarter.

But as I point out, it's really very normal course utility operations for us. And while there will be big quarters and low quarters, and as you pointed out last year we didn't have as big a quarter, this year it happened -- there happened to be a lot of projects that needed to be done and it just so happened to have generated substantial earnings.

But the business is continuing on, so it's probably not unreasonable if you want to think about this from your perspective, that there's just a long-term average that would come out of this and this just happened to be a big quarter. Much as in the way we have other big quarters in other parts of our utility business, it just gets mapped and you don't see it as -- with the clarity because of the accounting treatment.

Rupert Merer

Okay. Great. And then quickly, you mentioned El Nino and there's a broad expectation for warm weather in North America. And that could impact your power assets, but looking at the regulated utility business, can you remind us of the sensitivity to the weather and how much decoupling you have right now in your utilities business earnings?

Ian Robertson

It's pretty broad based, our decoupling. I would actually flip it around and say their New Hampshire is probably one of the primary jurisdictions where we don't have sort of solid decoupling from weather phenomenon. So, but in most other states the decoupling mechanisms are pretty effective. Meaning we are pretty insulated from the weather impacts.

Rupert Merer

What percentage of the …

Ian Robertson

Sorry, Rupert.

Rupert Merer

Sorry. What percentage of your earnings you think would be decoupled today?

Ian Robertson

Well over two-thirds. Well, and I'm speaking just of the utility business, obviously.

Rupert Merer

Right, yes. Okay, very good. Thanks very much.

David Bronicheski

And Rupert, I will add, and this will sound like an advertisement for our investor day again, but at our investor day we always provide an annual update on the progress that we're making in all of our jurisdictions with respect to decoupling and other mechanisms. So we will definitely be providing a full update at our upcoming investor day.

Rupert Merer

Great. Thank you.

Ian Robertson

Thanks, Rupert.

Operator

[Operator Instructions] We will now take the next question from Sean Steuart from TD Securities. Please, go ahead.

Sean Steuart

Thanks. Good morning, everyone.

David Bronicheski

Hi, Sean.

Sean Steuart

Question on the discussions with the Emera with respect to the ownership cap. Has there been any progress there? Any update you can provide for us.

Ian Robertson

Yes, I will say that the discussions are ongoing. You can imagine we are probably not getting 100% of their attention right now that -- with their TECO transaction going through. But as recently as this week, I sat down with Chris Huskilson and -- there continues to be strong commitment certainly from the Emera side to their interest, enthusiasm, and excitement for their investment in Algonquin.

The work on the strategic investment agreement, I think Chris Huskilson certainly shares my perspective that there are some synergistic opportunities that we can work on together to enhance shareholder value.

So I guess I would just say, Sean, that -- and I know people have asked the question because of the transformative work that Emera has done with TECO whether there is continued interest. I'd say from our perspective, the relationship feels as strong as it has ever been.

Sean Steuart

Okay. Thanks for that detail. And just follow up on Mountain Water. Just want to make sure I'm understanding the timing of the appeal for the condemnation, and I guess what happens between now and then and how this feeds into your closing time frame for that acquisition.

Ian Robertson

Sure. Let me start by saying the whole condemnation process is proceeding in parallel with and really unconnected to the regulatory approval process. Except that I will say that the noise from the condemnation definitely has spilled over to occasion some delays in the Montana Public Service Commission's approval.

The current hearing in that with the Montana PSC is scheduled to believe to start I believe January 16, if I'm not mistaken. And so that’s the regulatory approval process for which we've been working with MPSC on. And to be frank, it feels very normal of course for us.

In parallel with this has been the whole city of Missoula's aspirations to own the mountain water system. And that's been a parallel process in terms of a right to take hearing, which as you accurately point out is under appeal in Montana. But in addition, there is a valuation proceeding, because the next step in a normal condemnation or appropriate expropriation as we would call it here in Canada, is the valuation process. And that's being held by an independent board of three commissioners who are examining evidence from both sides as to the value of the utility.

And their hearing is, if not concluded expects to conclude in the next couple of days with a decision from them probably before year end. And to be frank, if either party doesn't like the outcome of that decision, there is an opportunity to pursue a jury trial.

But I will say that whole condemnation process is independent and unrelated to our acquisition to be frank, when the MPSC completes their work and presumably grants us approval, we will complete and close the transaction; obviously the condemnation will continue on.

But that is an under -- an ongoing process that anybody who happens to own utilities, and particularly water utilities, which are coveted by the cities that they own, are always open to the condemnation proceedings.

And so I will say, Sean, that whole process, you really need to separate the two. And if you're focused on when we would see the utility join the Liberty Utilities family, it's really tied to the MPSC hearing. I'm sorry for going on for so long with the answer, but I hope that was -- added some more color.

Sean Steuart

No, that's great. I appreciate it. Thanks, Ian. That's all I had.

Ian Robertson

No worries, Sean.

Operator

Thank you. We'll now take the next question from Ben Pham from BMO. Please, go ahead.

Ben Pham

Okay. Thank you. I wanted to go back to other revenue and then just dig inside a little bit more. And I'm wondering, are you providing -- you said utility services to government customers. Is that you're providing electricity and water? And why is it -- why are you characterizing it as contracted? Is it some sort of contract you have in place for a set period of time?

Ian Robertson

No, well, yes and no, Ben. You can imagine that if a U.S. military base needs water, natural gas service, they don't obtain those services in the same way as we provide those services under what's called CC&N, or certificate of convenience and necessity, the way we would do in a normal community and so that you become the provider of those services under extremely long-term contracts. Like 50-year contracts.

And so it just so happens that the provision of services to the U.S. government for their bases isn't provided in a way that from an accounting point of view that it gets lumped in with all of the rest of our utility revenues and utility earnings. It happens to get called out as contracted services because we are the utility provider to that facility, or facilities which are quite large, via contract rather than via a tariff, which is issued and approved by the local state Public Utilities Commission.

So it really is the exact same services that we would provide to a customer in Columbus, Ohio or Columbus, Georgia that we might provide to an Army base located in Columbus. Or an Air Force Base located in Goodyear, Arizona versus the customers that we would serve in Goodyear, Arizona. So it really is the exact same business, Ben, and I guess it happens to be step to standing out because this quarter happened to be a big quarter for us in providing services because there were lots of projects that were being undertaken in -- on those bases in the summer.

And as Rupert had pointed out earlier, yes, it's a big seasonal quarter. Obviously you do a lot of your construction in the summer, but on an absolute basis it happens to be a big volume just because there was some pent-up demand over the

past few years for work that needed to get done.

But I would offer up that those revenues shouldn't -- should be thought of as ongoing and consistent recurring revenues, perhaps not in the exact same quantum that they happen to be there, but in the same way as we have yins and yangs in our -- in the rest of our utility business across all of our service territories. This just happens to be as I said standout because of the accounting treatment that it receives.

Ben Pham

Okay. Are you earning the same returns on that?

Ian Robertson

Yes, we are, sir.

Ben Pham

Okay. All right. And lastly on Amherst Island, I'm wondering are you -- it seems like you are moving ahead with getting the groundwork started before ERT. Is that the plan? Are you going to put a bit of capital before?

Ian Robertson

Sure. I think we're highly confident in the outcome of the ERT, as I sort of mentioned in my opening remarks. Gosh, the Ministry of the Environment took 29 months to review and approve our renewable energy application. And to be frank, as you know, the ERT is really a review of the government's work in terms of the review of the application. And we are highly confident that the government left no stone unturned in terms of their review.

And so it makes common sense given that I will say time is money when it comes to projects like this, that we should move ahead on some of the long lead time items. Obviously, we're doing it prudently, but it certainly represents I think our confidence in the outcome of the process.

Ben Pham

Okay, got it. Thanks, guys.

Ian Robertson

Thanks, Ben.

David Bronicheski

Thanks Ben.

Operator

[Operator Instructions]

We will now take the following question from Paul Lechem from CIBC. Please, go ahead, sir.

Paul Lechem

Thank you. Good morning.

Ian Robertson

Hey, Paul.

Paul Lechem

Good morning. Just a couple of questions around the wind projects under construction, Odell and Deerfield. And you have

50% ownership in those. Just wondering what the terms are to acquire the other 50%? What your decision factors will be, whether you exercise the option or not. And why was it set up this way?

Ian Robertson

Well, I think in both cases, both Deerfield and Odell, our partners in those projects represent the original developers of those projects. And so clearly you can imagine the community relations, the relations with the -- on the permitting point of view they made ideal partners for us in terms of becoming 50/50 partners.

I think though having said that, it's probably totally reasonable to understand that nobody goes into a partnership without a way to exit it. And so there are exit provisions for certainly for up to a buyout in the case of Odell and Deerfield, our 50/50 partners. But that's certainly not going to happen until the projects get into commercial operation.

And we will make the decision at the time as to what makes sense as we look going forward. But we are certainly thrilled to have those guys having a continuing interest. In my mind it's certainly represents their commitment and belief in the value of those projects.

And so what the future holds, don't really know, Paul, whether we're going to continue to be 50/50 owners or ultimately buy out our partners and those, which we certainly have the right to do. We will make that decision at the time.

Paul Lechem

Does the purchase price option -- is it at a premium to the original investment or to reflect the de-risking through construction, or is at the same price?

Ian Robertson

Same price.

Paul Lechem

Got you. Just on the Ontario market, what's your level of interest in participating in potential consolidation of the LDCs in Ontario? What would be your competitive positioning in that market if you were to do so?

Ian Robertson

Well, we obviously have a high interest in expanding our regulated distribution utility business. We would certainly like to participate in the consolidation of electric LDCs. As you know, it's been a complicated process over the past number of years, largely occasioned by some structures that have been implemented by the government. In some respects I might argue to prevent commercial consolidation to the extent that with the -- with Hydro 1 becoming a public entity, maybe the landscape is changing a little.

I think our competitive advantages are a cost of capital which is as competitive as anyone from our perspective in the business, but perhaps as importantly a core competency in running regulated utilities. I think I'm very proud with the organization's track record of providing cost-effective reliable service in all the utilities we provide and man, wouldn't we love to do it in our own backyard.

So I guess from my perspective, Paul, we're sitting here watching this landscape unfold, but we are cautiously optimistic with the changes from Hydro 1's perspective that maybe there are some changes afoot and maybe there would be some opportunities for us to participate. So I don't know if that's responsive to question.

Paul Lechem

One follow up on that. Have you actually initiated discussions within any municipalities?

Ian Robertson

Yes, we certainly have a list and we certainly have had some dialogues with them. Obviously I don't think it's appropriate that I disclose with whom with everyone which we've spoken, but we have been active in the process, let's put it that way.

Paul Lechem

Okay, thank you.

Ian Robertson

Thanks, Paul.

Operator

We'll now take the following question from Nelson Ng from RBC Capital Markets. Please, go ahead.

Nelson Ng

Great. Thanks. I just want to ask about Bakersfield 1. Could you elaborate on the equipment malfunction and the damage to the inverters? And is it covered -- I presume it's covered by insurance, and do you have business interruption insurance or would you get the missed revenues back some time in the future?

Ian Robertson

Well, I'll answer very shortly, Nelson, yes, yes, and yes. But I'll give you a little bit more color on that. The damage to the inverters occurred during an extremely high volume rain event, and it resulted from the ingestion of moisture into the forced air ventilation system in 3 of the 10 inverter houses. And so the inverters, as you can appreciate, don't mix well with water. The replacement inverters are on-site and being commissioned as we speak. The repair costs are certainly covered under the original EPC contract.

In fact, since final completion actually hasn't been achieved, even though a substantial completion is there for commercial operations was, this remains the work of the original EPC contractor, and so we're confident of that. Yes, in terms of business interruption insurance and it's a 30-day waiting period.

To be frank, you can imagine there's a little bit of complexity with the original contractor as to who is responsible. Is it our insurance company or is it the original contractor to whom we can seek recourse for the lost revenue which is measured in the order of probably $150,000 a month, and so it's real money. And but that's the only reason we haven't made the claim so far, because we're still trying to sort out all of the contractual liabilities of the various parties. But we're obviously comfortable that we'll have recourse ultimately to our insurance company.

I think the hope is that within weeks perhaps by the end of this month the plant will be restored to service, and so any lost revenue with respect to it will cease.

Nelson Ng

I see. Is there any risk of a design flaw for the ventilation system if it got wet because it was raining a lot?

Ian Robertson

Clearly, there are design changes being made to prevent a recurrence of that water ingestion. I mean the rain event, while being severe; it wasn't like a tidal wave came from the coast all the way inland to Bakersfield. So clearly the contractor has made design changes, Nelson. And so we're confident that we actually won't have a repeat of this.

Nelson Ng

Okay. That's good to hear. And then just one last question on the Deerfield wind project. Are you able to comment what level the PPA was set at and how that compares to Odell?

Ian Robertson

I don't want to get into the specific numbers of the PPA because you can imagine obviously all the utilities are sort of sensitive to the specific quantum of the rates that are being paid. I think it is fair to say that both of the PPAs were awarded under a competitive process by the respective utilities.

I will say that Deerfield enjoys a higher rate than Odell, just for whatever reason. We actually weren't involved in the bidding of it, but the rate is higher at Deerfield than it is at Odell.

But I think really from our perspective as we look at the those projects and we looked at our returns accretion from an earnings perspective, accretion from a cash flow perspective, and from an overall project value on an elaborate after tax IRR perspective, we are a little bit in different maybe agnostic as to the PPA rate as long as the projects meet all of those value accretion criteria which I'm pleased to say that both Deerfield and Odell handily meet.

So they're both solidly in our strike zone from a return perspective, sort of almost notwithstanding the fact that the PPA rates are slightly different. And that's obviously affecting the total capital cost for the projects are different building in Michigan is different than building in Minnesota. But all in all, they're both great projects from our perspective.

David Bronicheski

And Nelson, one other thing in case you may have missed it, as we normally do with projects and acquisitions we have posted a fact sheet on our website, and I'm happy to send it to you if you happen to have missed it.

Nelson Ng

And I read it and I was thinking like my rough guess was maybe $40, but I just wanted to check in terms of per megawatt hour, but if you don't want to say it's fine.

Ian Robertson

I'm going to be silent right now, Nelson.

Nelson Ng

All right. That's great. Thanks again. Okay. Have a good one.

Ian Robertson

All right, thank you.

Operator

We'll now take the following question from Jeremy Rosenfield. Please, go ahead.

Jeremy Rosenfield

And your silence speaks volumes. I'd like -- just keeping on Deerfield, maybe you can provide a little bit of detail on the financing plan? I know looking at the tax equity and other sources of financing, can you just comment in terms of where you see that coming in and what the market is like for ongoing financings for this type of project?

David Bronicheski

Sure. I'm happy to take that. The financing for Deerfield would be very much the same as the plan that we have for Odell. I think half the project on a long-term basis is going to be financed from tax equity, and those discussions are ongoing. And I think the market is pretty deep for that in the US so we have full confidence of being able to get that. And then as we go through construction, the construction will be financed at a non-recourse basis through a club of lenders in the U.S.

It will have the back leverage option for that as well, which the project can slide into for the leverage on the back part of it. And depending on whether we opt to purchase the other 50% or not, and if we do take it onto our balance sheet, then in that instance there's every opportunity to simply finance the debt portion off our bond platform that we have.

Jeremy Rosenfield

Okay. Great. Let me just turn to Energy North. There was a comment in the results about potential system expansions in New England. Can you talk a little bit about what the size of that investment might be potentially?

Ian Robertson

Sure. It's a bit of a longer answer, Jeremy, because it actually relates to our ability to maximize the synergies between our transmission business group, which as you know is involved in the development of the Northeast Energy Direct a pipeline which runs from right New York, through Massachusetts, up into New Hampshire, back down into Massachusetts at Dracut. Well, you can imagine that pipeline is running through some fairly virgin territory, and I mean virgin, virgin in the context of its service with natural gas.

They don't call New Hampshire the granite state for nothing. It's very expensive to run pipelines. And so consequently, the installation of the Northeast Energy Direct is going to occasion substantial opportunities for towns to avail themselves of natural gas service to get off of heating oil as a primary heating fuel. We want to obviously support and encourage that conversion.

We have filed a number of regulatory -- opened a number of regulatory proceedings applying to be the utility of record for towns that we believe can be economically served by the proximity of the Northeast Energy Direct pipeline.

And so the size of that opportunity could be material. We estimate that there is up to 30,000 new customers that could be served along the course of that pipeline in southern New Hampshire. And so it's going to be substantial.

I will point out that we are planning to give a lot more detail, Jeremy, at our investor morning. And so as I said, a shameless plug for our investor morning; I hope you make the trip up here from Montreal.

But certainly it is part of the material expansion thesis for our presence of -- in the New England natural gas marketplace. I don't know if that gives you some comfort or some color.

Jeremy Rosenfield

I was kind of looking for sort of a dollar investment amount, but I guess I'll have to make the trip up to find the correct answer there.

Ian Robertson

There you go.

Jeremy Rosenfield

I appreciate it. Those are my questions. Thanks.

Ian Robertson

Thanks, Jeremy.

Operator

[Operator Instructions] There are no further questions. Please continue.

Ian Robertson

Great. Thanks, everyone. Appreciate you taking the time on our Q3 2015 conference call. And obviously, as always, I ask you to remain on the line for a riveting review of our disclaimer by Amanda Dillon. Amanda?

Amanda Dillon

Thank you, Ian. Certain written and oral statements contained in this call are forward-looking within the meaning of certain securities laws and reflect the views of Algonquin Power and Utilities Corp with respect to future events based upon assumptions relating to among others the performance of the Company's assets and the business, financial, and regulatory climates in which it operates.

These forward-looking statements include, among others, statements with respect to the expected performance of the Company, its future plans, and its dividends to shareholders. Since forward-looking statements relate to future events and

conditions, by their very nature they require us to make assumptions and involve inherent risks and uncertainties.

We caution that although we believe our assumptions are reasonable in the circumstances, these risks and uncertainties give rise to the possibility that our actual results may differ materially from the expectations set out in the forward-looking statements.

Material risk factors include those presented in the Company's most recent annual financial results, the annual information form, and most recently quarterly Management's discussion and analysis.

Given these risks, undue reliance should not be placed on these forward-looking statements. In addition, such statements are made based on information available and expectations as of the date of this call and such expectations may change after this date.

APUC reviews materials forward-looking information it has presented not less frequently than on a quarterly basis. APUC is not obligated nor does it intend to update or revise any forward-looking statements whether as a result of new information, future developments, or otherwise, except as required by law.

With respect to non-GAAP financial measures, the terms adjusted net earnings, adjusted earnings before interest, taxes, depreciation, and amortization, adjusted EBITDA, adjusted funds from operations, per share cash provided by adjusted funds from operations, per share cash provided by operating activities, net energy sales, and net utility sales, collectively the financial measures, are used on this call and throughout the Company's financial disclosures. The financial measures are not recognized measures under generally accepted accounting principles, or GAAP.

There is no standardized measure of these financial measures. Consequently, APUC's method of calculating these measures 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 the financial measures and a description of the use of non-GAAP financial measures can be found in the most recently published Management's discussion and analysis available on the Company's website and on SEDAR.

Per share cash provided by operating activities is not a substitute measure of performance for earnings per share. Amounts represented by per share cash provided by operating activities do not represent amounts available for distribution to shareholders and should be considered, in light of various charges and claims, against APUC. Thank you for your time today.

Operator

Ladies and gentlemen, this concludes the conference call for today. We thank you for your participation. You may now disconnect your lines and have a great day.

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EXHIBIT “B”

EXHIBIT “B”

THE CARLYLE GROUP

GLOBAL PRIVATE EQUITY

Meeting with Montana PSC Staff & MCC Staff

January 13, 2011

Discussion Topics

- Who is Carlyle?
- Why are we acquiring Park Water?
- What are our plans for Mountain Water?

Who we are: The Carlyle Group

- Founded in 1987, Carlyle is one of the world's largest and most experienced alternative asset management firms, with $97.7 billion of assets under management committed to 76 active funds.
- Investors in Carlyle include state pension funds in the U.S., organized labor pension funds, and university foundations.
- Carlyle invests both in the U.S. and internationally.
- In the aggregate, Carlyle's active portfolio companies generate $84 billion in revenue and employ more than 398,000 people around the world.
- With head offices in Washington D.C., Carlyle employs more than 900 people in 19 countries.

Who we are: Carlyle Infrastructure Partners, LP

- Carlyle Infrastructure is the Carlyle fund agreeing to purchase Park Water.
- Carlyle Infrastructure is a $1.14 billion US-based fund focusing on water and transportation infrastructure assets in the US and Canada.
  - Water and wastewater treatment and distribution assets.
  - Toll roads and highway assets, bridges and tunnels, transit and rail assets, airports and aviation services, and maritime ports & waterways.
- Our investors have invested in our infrastructure fund because they have a long-term view and want low risk investment.
  - Qualities included essential service, public benefit.
  - The projects have predictable and sustainable revenue and cash flow based on user fees, long-term contracts, or regulated rates.
- Carlyle invests in infrastructure assets under either private or public ownership.
  - Virtually every Carlyle infrastructure company has a high level of interaction with public agencies and/or government entities and understand constituent, regulatory, and user needs.

Who we are: Carlyle Infrastructure Portfolio Companies

CONNECTICUT CT SERVICE PLAZAS	A 35-year public-private partnership with the State of Connecticut to redevelop, operate, and maintain Connecticut's 23 highway service areas across the state. $180 million Rest stops Like a Howard Johnson's AURUK share of revenue
SYNAGRO A Residuals Management Company	A company with over 600 municipal contracts in 32 states providing recycling of organic, non-hazardous waste and wastewater residuals.
Illinois Central School Bus	A Midwest school bus transportation business, providing home-to-school bus services for public schools, school charter services, and non-school charter services.
ITS Technologies & Logistics, LLC ISO 9001-2000 Certified	An intermodal services company (a) providing lift-on/lift-off of containers from trains and trucks, and (b) furnishing maintenance and repair of transport and lift equipment, and checkpoint administration for the U.S. freight and logistics system. 48 Locations

6 customers

Who we are: Our Investment Approach

- Carlyle's philosophy is to invest behind strong management teams.
  - Carlyle does not serve as day-to-day managers, instead it invests in well-managed companies and provides expertise through active participation on the board of directors.
- We are a patient holder of assets and focus on creating long-term value.
- Carlyle Infrastructure does not "buy and flip" its portfolio companies.
- We create partnerships with all stakeholders.
  - We include employees, customers, communities, regulators, etc.
- We have been a leader in responsible investor principles and corporate citizen values.
  - Carlyle developed a set of investment guidelines drawing on a number of sources including the U.N. Global Compact and the U.N. Principles for Responsible Investment. The guidelines were integral to the development of the Guidelines for Responsible Investment later adopted by the Private Equity Growth Council.
  - We are focusing on environmental stewardship by partnering with the Environmental Defense Fund in our EcoValuScreen which identifies the most promising environmental management opportunities and incorporates the information into our post-investment management of our portfolio companies. One of the five key areas of focus is water use.
    - EDF called it "a first for the private equity sector."

Why we are acquiring Park Water: Our Interest in Water Utility Assets

worked with
Wheeler last couple of years

- Significant capital requirements
  - We are seeking to match our investors funds with the significant capital need in the water and wastewater sectors faced with aging infrastructure, increased EPA regulations, and the need for large capital improvement programs.
  - There is a fragmented industry with a large number of small utilities that do not have adequate access to capital.
- Stable investments
  - A water utility provides an essential service and a public benefit that is closely regulated in a transparent fashion.
  - Therefore our investments are not speculative and produce a low-risk, predictable and sustainable revenue and cash flow.
- Private sector investment provides an additional stream of capital for the water utility sector which is facing less public investment, while providing investors with a lower risk/lower return asset.

Our Strategy on Mountain Water

- The proposed transaction is at the Park Water corporate level and will not affect Mountain Water's direct ownership by Park Water.
  - Based in California, Park Water does not conduct business in the State of Montana.
- Carlyle believes Mountain Water, under the leadership of Arvid "Butch" Hiller and John Kappes, is a well-run and well-managed company.
  - There is no plan to change Mountain Water staffing, operation, leverage, or strategy.
  - The current management will continue to lead Mountain Water when Carlyle acquires Park.
  - Consistent with our investment approach, our involvement will primarily be in the form of active board of directors participation at the Park Water corporate level.
- Carlyle understands the importance of reinvesting capital on the utility's infrastructure assets and will provide Mountain Water with added flexibility and support in its operation.
  - We will seek to take a prudent and responsible approach to replacing aging pipe infrastructure while being mindful of the impact of such capital expenditure on customer rates.

EXHIBIT “C”

EXHIBIT “C”

1 IN THE SUPREME COURT OF THE STATE OF MONTANA

2 STATE OF MONTANA,

3 Plaintiff-Appellee,

4 vs.

5 THE CITY OF MISSOULA, a
6 Montana municipal corporation,

7 Plaintiff,

8 vs.

9 MOUNTAIN WATER COMPANY, a
Montana corporation; and CARLYLE
10 INFRASTRUCTURE PARTNERS, LP,
A Delaware limited partnership,

11 Defendants.

12 THE EMPLOYEES OF MOUNTAIN
13 WATER COMPANY, et al.,

14 Intervenors.

15

16 **TRANSCRIPT ON APPEAL**
VOLUME 10

17

18

19 In the District Court of the
Fourth Judicial District
20 State of Montana
In and for the County of
21 MISSOULA

22 Before the Honorable Karen Townsend
Judge of the Fourth Judicial District

23

24

25

1 A. During the period of any hold, whether it's two years
2 or 20 years.
3 Q. If the Algonquin deal goes through, you'll exceed that,
4 right?
5 A. Yes.
6 Q. Okay. Now, with respect to Carlyle, basically the
7 business of Carlyle is to make money for its investors, right?
8 A. The business of Carlyle is to make investments on
9 behalf of its limited partners.
10 Q. And to make a return for those investors?
11 A. And to make a return.
12 Q. In fact, for 27 years Carlyle has focused on one goal,
13 right, performing for your investors?
14 A. Absolutely.
15 Q. And you have done well, right?
16 A. The firm has done well. I have been with them for nine
17 years.
18 Q. But you have contributed to their most recent
19 successes?
20 A. Hopefully.
21 Q. The corporate equity fund in 2013 appreciated 30
22 percent, right?
23 A. The main buyout fund, yes.
24 Q. You have done some corporate carve-outs where you sell
25 off pieces of the business you've acquired, right?

1 A. Well, let's be clear. These are not transactions which
2 have been done by the Carlyle Infrastructure Fund, these are
3 being done by other Carlyle entities.
4 Q. Sure. Different funds have different --
5 A. Objectives and different risk profiles.
6 Q. Okay. All right. Do you recall the mission statement
7 of the Carlyle group?
8 A. I recall there is a mission statement. If you want me
9 to recite it, that may be a challenge, but if you can show it
10 to me, I'm sure I'll agree.
11 Q. I don't mean to test your memory but does it sound
12 something like this: Our mission is to generate superior
13 investment returns.
14 A. I think that's the correct statement.
15 Q. All right. Now, you made a bit of a premium to buy
16 Park Water Company over its book value, right?
17 A. That is correct.
18 Q. And you heard testimony earlier in the week about how
19 some companies will acquire utilities and sell them at a
20 premium to the next investor, Vivende, U.S. Filter, RWE in
21 Germany, Siemens?
22 A. And other water companies, but you're right, one
23 generally tries to buy an investment at a good price, work to
24 improve the return, and then at some point exit.
25 Q. And that's -- in effect, that's on a smaller scale of

1 some of those transactions, that's what Carlyle is doing here,
2 right?
3 A. Correct.
4 Q. All right. And you never put any more new money into
5 it, did you? You paid the purchase price back in 2011, but you
6 never put any more Carlyle capital into the businesses, did
7 you?
8 A. That's correct.
9 Q. You didn't put in any more capital to assist in
10 replacing infrastructure?
11 A. There was not a need to do so.
12 Q. Okay. And whatever access to capital the company had,
13 it wasn't coming from Carlyle's conference, right?
14 A. It was coming from the retained earnings and defer the
15 debt.
16 Q. And the earnings of the utilities, that's essentially
17 what the customers pay for their monthly bills, less expenses,
18 right?
19 A. That's a simplistic way of putting it, but yes.
20 Q. Over the course of a couple years or so, no new money
21 in, you were able to take out 11 and a half million in
22 dividends that went to Carlyle, right?
23 A. I think it was 11, but I'm not going to argue.
24 Q. All right. Now, in your dealings with Mayor Engen, you
25 did your best to be forthright and candid with him, right?

1 A. Yes.
2 Q. And honest, of course?
3 A. Yes.
4 Q. And you didn't mean to mislead him in any way, did you?
5 A. No.
6 Q. You didn't intend to omit any important information or
7 information that might be important to him, did you?
8 A. No.
9 Q. Let me ask you this, once Carlyle acquired Park Water
10 Company, you followed a pretty standard procedure of making
11 sure that the company was controlled by Carlyle, right?
12 A. Absolutely. We put in the equity, so we control the
13 board.
14 Q. Again, I'm not suggesting there's anything wrong with
15 that. I just want to make sure we understand it.
16 A. I'm just making sure you understand the reason why we
17 control the boards, we put the capital in.
18 Q. I think I do. And I appreciate your help. So the
19 board is controlled by Carlyle appointees, correct?
20 A. Correct.
21 Q. And they sit on Western Water board?
22 A. Yes.
23 Q. And they sit on the Park Water board?
24 A. And in addition on the Park Water board, we have an
25 independent director.

EXHIBIT “D”

EXHIBIT “D”

Seeking Alpha α

Algonquin Power & Utilities' (AQUNF) CEO Ian Robertson on Q2 2015 Results - Earnings Call Transcript

Aug. 14, 2015 4:44 PM ET

by: SA Transcripts

Algonquin Power & Utilities Corp (OTCPK:AQUNF) Q2 2015 Results Earnings Conference August 13, 2015 10:00 AM ET

Operator

Good day and welcome to the Alqonquin Power & Utilities Corp Q2 2015 Analyst and Investor Call Conference Call. Today's conference is being recorded. At this time, I would like to turn the conference over to Ms. Alison Holditch, Manager Investor Relations. Please go ahead.

Alison Holditch

Thank you. Good morning everyone. Thanks for joining us on our 2015 Second Quarter Conference Call. My name is Alison Holditch, Manager of our Investor Relations function. Joining me on the call today are Ian Robertson, our Chief Executive Officer and David Bronicheski, our Chief Financial Officer.

For your reference, additional information on the results is available for download from our web site at AlgonquinPowerandUtilities.com. I would like to note that on this call, we will provide information that relates to future events and expected financial position that should be considered forward-looking. We will provide additional details at the end of the call and I direct you to review our full disclosure on forward-looking information and non-GAAP financial measures in our results published yesterday which are available on the quarterly results page of the investor center on our web site.

This morning, Ian will discuss the highlights for the quarter, David will follow with a review of the financial results and then we will open the lines for questions. I would ask that you restrict your questions to two and then requeue if you have any additional questions to allow others the opportunity to participate.

Now I would like to turn things to Ian to review the quarter's results.

Ian Robertson

Thanks Allison and thanks to everyone for joining us for our Q2 results call from [indiscernible] I would point out that it rained last night but it is sunny and windy today which is kind of the tri-sector for an organization which is in the hydro, solar and wind power business. So anyway, in summary for the second quarter, we were pleased to see the continuation of increased year-over-year financial results. During the second quarter, we realized a 22% increase in our adjusted EBITDA with $81.1 million generated versus the $66.4 million we reported at the same period a year ago.

This growth is the result of incremental contribution from both our generation and distribution business groups and it is highlighted in the second quarter with two renewable energy facilities having achieved commercial operations is favorable rate case settlements in our regulated utilities.

Within the generation business group, the company's eighth generating facility, the 23 megawatt Morse Project in Saskatchewan and the company's second solar facility, the 20 megawatt Bakersfield I Solar Project located in California. Both achieved commercial operations in April, these facilities operate under 20 year power purchase agreements with large investment grade electric utilities effectively extending our average power purchase agreement.

While the resource levels of wind, solar and hydro naturally fluctuate from quarter-to-quarter, we were pleased that the diversification strategies on which our portfolio is constructed were to effectively to mitigate the lower than average resources experienced in the Generation Business Group.

As a note, regarding further reductions in our already competitive cost of capital in their reaffirmation of the General Business Group DBRS changed their outlook commentary to positive obviously such trend will change is consistent with our view of the credit positive activities within this business group.

Moving on, the Distribution Business group had a good quarter with a 9% overall increase in net utility sales and a 27% increase in operating profit. Growth in net utilities sales is driven primarily by successful rate case outcomes specifically the EnergyNorth asset and received final order on its spending rate case request approving a US$12.4 million revenue increase.

And lastly, APUC's Transmission Business group announced last November that its participation in the joint development of Kinder Morgan's NorthEast energy direct natural gas pipeline transmission project in the North East US. We were pleased that in July that Kinder Morgan Board of Director approved proceeding with the project development, this opportunity now adds more than US$300 million to our growth pipeline.

Before I turn things over to David, I like to provide a quick update on our continuing strong relationship with our larger shareholder in Emera. By way of background, open in Emera entered into a strategic investment agreement or SIAS we call it five years ago, which crafted a collaborative commercial relationship between our respective organizations.

Without a doubt our [indiscernible] enjoyed benefit from our close relationship with the Emera through their endorsement of our growth strategies, their continuing financial commitments would just help drive down our comp to capital and last but not least the continuing contributions of Chris Huskilson, Emera's CEO as a member of our Board.

Over the intervening five years, Algonquin has undergone profound growth and evaluation to put that in perspective in 2010, Algonquin was $980 million organization focused primarily on independent power development. In pretty start contrast today's Algonquin is a $4.5 billion organization competing across the entire generation distribution and transmission utility value spectrum serving over 0.5 million electric natural gas utility customers owning over 1,100 megawatts of electric generation and driving growth through our $2.6 billion pipeline of identified opportunities.

It might be important to note that is just Emera or Algonquin who is just growing and changing in addition to Algonquin's broadening strategic interest over the past five year Emera has also continued to evolve it's business focus with a recently stated interest in natural gas utilities.

In recognition of these natural evaluations in our respective organizations over the past five years, Emera and ourselves jointly concluded that our strategic investment agreement or SIA would benefit from an update to its terms. And therefore, we're now in the process of updating this agreement to serve us better for the next five years while the final document is an active work in progress. There are three main areas of which the changes are focused.

First, we are seeking to reflect the pursuit of larger transactions by Algonquin giving the reduced size differential between our respective companies. Second, the amended SIA needs to acknowledge the evolving sectorial and geographic areas of interest of both organizations. And lastly, we will remove the existing share ownership restrictions, which would potentially allow Emera to increase its interest in Algonquin beyond the current 25%.

In summary, we believe and I'd hope that Emera would also agree that the relationship embodied in the SIA has served us well for the past five years, delivering significant benefits to both of us and we look forward to continuing to create mutual value with Emera for the years to come.

With that, I'll turn things over to David to speak to the Q2 results, David?

David Bronicheski

Thanks, Ian. And good morning, everyone. We're pleased to be reporting yet another solid quarter of earnings. The benefits of the diversification of our portfolio are evident in our results, as well as the benefits from having 80% of our operations in the US given the recent strength of the US dollar. As an example should the current exchange rate of a US$1.30 hold to the end of the year, we would expect this contribute over and above everything else we are doing, and additional $0.40 per share relative to the $1.10 exchange rate that we experienced in 2014.

Adjusted EBITDA in the second quarter totaled $81.1 million, a 22% increase over the amount reported a year ago, which was primarily due to rate case settlements of full three months of production that are Morse and Bakersfield solar facilities and of course, as I mentioned a stronger US dollar. Adjusted EBITDA for the six months came in at $195.6 million, a 19%

increase over what was reported in the first six months of 2014.

Taking that close to look at some of the numbers are just a net earnings came in at $22.2 million compared to $16.6 million a year ago for the quarter and on a six-month basis, our adjusted net earnings were $64.6 million compared to $53.6 million last year. So now I let's move into a little bit more detail about our operating subsidiaries beginning with the generation group.

For the first six months of 2015, the Generation Groups renewable energy division generated electricity equal to 88% of long-term average resources compared to a 100% during the first six months of 2014. For the second quarter of this year, the combined operating profit of the Generation Group that will $45.9 million as compared to the $43.3 million during the same period in 2014.

Moving on to our distribution group in the second quarter of 2015, the distribution group reported an operating profit of $35.4 million compared to the $27.9 million reported in the same quarter a year ago. The increase in the operating profit is primarily due to the impact of rate case settlements.

In the first six months of 2015, the distribution group reported an operating profit of $98.3 million compared to $86.1 million for the six months of last year. And a little bit more detail, the electricity division within the distribution group had net utility, electricity sales totaling $17.4 million compared to $18.1 million last year.

For the first six months of 2015 net utility electricity sales totaled $36.1 million which adjusting for the retroactive recognition of $2.5 million for new revenues granted under the granted state electric system rate case implemented in the first quarter of last year or consistent basically year-over-year.

Moving on to the natural gas division. In the second quarter of 2015 net utility natural gas sales and distribution revenue was $34.7 million compared to the $29.9 million for the same period a year ago. We have been quite successful in our rate cases and that accounts for most of that increase.

Moving on to the water division in the second quarter of 2015 revenue from water distribution and waste water treatment totaled $15.6 million compared to $15.1 million during the same period in 2014. Again, rate increases and our successful prosecution there up was a main contributing factor as was the acquisition of White Hall Water System.

Now I want to update on recent financing activities at April 30, 2015 the distribution group completed a private placement of the U.S. issuing $160 million of senior unsecured 30 year notes bearing the coupon of 4.13% this was the first time the utility group issued 30 year notes and we were very pleased with the offering.

The proceeds of the financing would be used to partially financing our pending part water system acquisition, which is expected to occur later this year and some of that for general corporate purposes. This offering a very attractive rates and long tender clearly demonstrates the strong currencies that are elaborating utilities on platform has in the U.S. private placement market. I'm also pleased to report as Ian had mentioned DBRS is also changed the rating trend to positive on a generation business, which we view as a quite positive and reflective of the strengthening credit of our generation business.

I'll now hand things back to over Ian.

Ian Robertson

Thanks, David. Before we open the line up for question as usual, I would like to provide a quick update on our growth initiatives. Within the generation business group construction work at our 200 megawatt, Odell Wind project in Minnesota commenced in May of this quarter and I can report that all of the access rows and foundation [indiscernible] has now been completed. We're started on the collection and introduction facilities for approximately three quarters of transmission line haven't been installed.

With the California Bakersfiled, one solar facility now completed. The generation business groups team has begin work on the adjacent 10-megawatt Bakersfiled 2 expansion project. During the quarter, the final permit complaints binders were submitted to the county, engineering designer facility as well underway in procurement of long lead-time electrical equipment in solar panels has begin.

Within the distribution business group applications now have been filed seeking a total of $26.2 million in revenue increases collectively for the CalPeco electric system in California, the Black Mountain Sewer system in Arizona, Dracut system in Massachusetts and the Missouri natural gas system final decisions on all for rate proceedings are expected within the next 12 months. Regarding the acquisition of the Park Water company, which David spoke, approval from both the California Public Utilities Commission and the Montana Public Service Commissions are required.

An approval application was filed in November 2014 with the CPUC seeking approval to acquire the two water utilities, which are located in California. In this regard, a joint settlement agreement has now been executed with the office at the ratepayer advocate and a joint motion to approve settlement was filed with the CPUC in May.

The settlement agreement is currently before the administrative law judge and the decision is expected in the fourth quarter of this year. In Montana, an approval application was filed in December last year with the Montana Public Service Commission seeking approval to acquire the Montana Utility Mountain Water Company. I would say notwithstanding the ongoing twist and turns in the condemnation proceeding with the city in Missoula are regulated - a regulatory hearing with the State of Montana is now scheduled for October 19 of this year with the decision on the Montana application expected before the end of the year. Within the transmission business group permitting work on the Northeast Energy Direct continued with the Environmental Review being filed with the FERC in June and the filing of the formal FERC certificate application planned for October of this year.

Construction is currently forecast to begin in January 2017 with the commercial operation targeted for late 2018. In closing, we trust the shareholders were pleased with the dividend increase that we announced early in Q2. I will point out that this represents the fifth consecutive year of dividend increases bringing our current five-year dividend CAGR in Canadian dollars to over 15%. APAC has confirmed its expectations for double-digit earnings in cash flow growth to support future targeted dividend increases.

And lastly, before we go to questions, I would like to offer the commentary that we believe that our current dividend yield is not fully reflected of the fundamental value of our business. In particular, we speculate that perhaps it’s not fully appreciated that the material growth in our annualized dividend is more than $0.48 Canadian per share to our normal course increases together with appreciation of the U.S. dollar is actually supported by increased Canadian equivalent earnings coming from 80% of our operations, which are located in the U.S.

We’re confident that as we continue to communicate their hedging and deliver on the promised earnings cash flow and dividend growth from our clearly identified $2.6 billion growth pipeline this will ultimately reflect in a continued rise in our share price for the balance of 2015. So with that, let’s open the line for the question-and-answer session.

Question-and-Answer Session

Operator

Thank you. [Operator Instructions] Your first question will come from the line of Rupert Merer with National Bank. Please go ahead.

Rupert Merer

Good morning everyone.

Ian Robertson

Good morning, Rupert.

David Bronicheski

Good morning, Rupert.

Rupert Merer

So on growth and M&A with your updated agreement with [indiscernible] it sounds like you could cast your net a little wider for growth, can you talk about how your focus could change and then what are you seeing on transaction multiples recently, maybe a little color on how prices vary between asset types and what you could see in broader geographies?

David Bronicheski

Sure, I'm not so sure that in broader geographies we clearly obviously have been, I won't say home bodies because we have a North American focus and I think of your question would we consider regulated utilities outside of North America and I don't think it would be unreasonable for us to think that there is - there maybe opportunities for us in OECD countries obviously outside of our current focus.

In terms of the multiples, I think it's not - they remain strong and robust, the interest rates are continued to be low though I think we are cautiously optimistic that I think there is an interesting dynamic developing between Canada and the U.S. as you read every day in the newspaper with continued slide in the oil and gas prices, the prospect for increases in Canadian interest rates is somewhat muted whereas in the U.S. I think the prospect of interest rate increases is probably if not a foregone conclusion. It's certainly a probability.

I think that's creating an interesting dynamic that would improve the competitiveness of Canadian organizations in the M&A space as we think about US. So perhaps think about it this way, improving PDEs in Canada versus falling PDEs in the US and so I think we are cautiously optimistic Rupert that our competitive advantage generated by the differential between the Canadian environment in the US market will create some very interesting opportunities over the next 12 to 18 months.

Rupert Merer

Great. And then a follow-up on growth talking about Kinder Morgan pipeline, it looks like our COD target November 2018, and I believe you mentioned potentially starting construction January 2017. Talk about what the milestones look like for that project leading up to construction what you are going to need to see to be sure you are moving forward that's' and what the returns look like compared to some of your other investment opportunities.

Ian Robertson

Sure. Well, I think we all in this business obtaining the FERC Certificate is a huge gaiting item right now but the first FERC is expected to be filed in October of this year so October 2015 I think a year worth of prosecution of that application is probably are reasonable so therefore October 2016 is a reasonable period to expect that FERC certificate.

Our construction start of January 2017 really kind of falls on the expected receipt of that certificate late fall next year. I will say that, what is ongoing and I think Algonquin Liberty can play an important role in it is all of the outreach programs that are going on certainly across New Hampshire. We are thinking an active role in demonstrating the benefits that this pipeline can bring to the existing customers of liberty utilities, but also potential new customers that pipeline is going through a sections of the state which are underserved by natural gas as I sort of joke.

They don't call the Hampshire the granted state for non and that the installation of pipelines is quite expensive and so I think we are taking a lead role and trying to show the talent and communities that will now be within economic distance of the pipeline, the opportunity to participate in what is undeniably a convenient and cost effective field. So I think that the next year is going to be busy for us in terms of supporting Kinder's prosecution of the FERC and our own continued outreach in New Hampshire.

You asked the question about returns, I think we are confident that the returns of the Kinder Morgan pipeline are going to meet or exceed the returns that we see from our other utility investments and frankly depending how the capacity of the pipeline has increased to incremental compression to get at it, the returns could significantly exceed the regulated returns on our distribution utilities. I hope that's helpful, Rupert.

Rupert Merer

Yes. That's helpful. Thanks very much.

Ian Robertson

Thanks,

David Bronicheski

Thanks,

Operator

Your next question will come from Paul Lechem with CIBC. Please go ahead.

Paul Lechem

Thank you. Good morning.

Ian Robertson

Good morning, Paul.

Paul Lechem

Good morning. And just continuing the question on Northeast Energy Direct, you have an option to increase your ownership from 2.5% to 10% so I just wondering under what circumstances would you exercise that, are you looking, are you waiting out through the FERC process, for you do so, is that something else you are waiting for.

Ian Robertson

No our auction is continuing until the FERC certificates in hand and frankly when we negotiated it with Kinder, the fault was, where is the FERC certificates in hand, it's pretty clear what the future is going to look like and so I'm not sure there is really practically any value in exercising the options since it's at book value if you want to think of it that way before that date.

So October 2016 will be called on to make a decision, it's hard to frankly to imagine a circumstance as we look at the project today to say that you wouldn't be exercising that option. I think the project is an attractive opportunity to commit as I said close to US$300 million to other opportunity, which will generate returns, which are kind of consistent with our expertise of our regulated utilities and so with the approval of Kinder Morgan's board of directors of the project.

I think from my perspective and you'd I have spoken and historically I have always characterized the Northeast energy direct opportunity really more I asked people to characterized it more as an additional of the entrepreneurial spirit alive and well within our [indiscernible] to be able to set out this kind of an opportunity but I think now with the approval in hand and the commitment from Kinder Morgan that we start to think about this being added to the do this rather than that perhaps the spec of that nature that might had before.

Paul Lechem

Okay, thanks and then back on the [indiscernible] agreement given your expanding geographic and scope of the acquisitions you'd look at how do you avoid complex between the two companies when you go after these new expanded opportunities access, of the areas where you still delineates which company will go after what's or is that potential now for you both to start looking at similar kind of opportunities?

Ian Robertson

Well I think I'll start by saying is that, is this has been an incredibly collaborative relationship over the past five years and well we certainly we evolved and Emera's evolved and I'm highly confident that reasonable people can come to a reasonable understanding in terms of what's best for both of us and I think that there is, there remains obviously a size differential I think they would probably agreed or the very, very focused on the North East, U.S. in terms of and Eastern, in terms of their focus and so I think there, I see way more opportunities for mutual support then for competition if you want to think of that way and but I think it is important if we just recognized that what was five years to go probably requires a update this and so we're going into this, I don't say positive and enthuse and you have to ask Chris but I would probably say the same from his perspective, it's been a great run and we obviously wanted to continue.

Paul Lechem

Okay, thanks again.

Ian Robertson

Thanks Paul.

Operator

Your next question will come from Nelson Ng with RBC Capital Markets. Please go ahead.

Nelson Ng

Great, thanks good morning everyone.

Ian Robertson

Good morning Nelson.

Nelson Ng

Just two follow up on that Emera arrangements would there any projects where over the last year so we're you actually wanted to pursue but based on your current arrangement with Emera you current per sale.

Ian Robertson

Yes, no, that I mean that it's not about should have not being able to pursue and then just saying no or asked the say no clearly it's a much more as I said collaborative relationship with that I think if you read the SIA that existed five years ago there were some sort of size though limits in there that probably don't make as much sense any more we are clearly with the NED have got foot in the natural gas pipeline business which is with never contemplated before I think Chris acknowledged on his call that I think their interest per utility they're spending to include natural gas a distribution utilities that was in contemplate.

So I think we just need to. I think we just need to, I think it's all about are just recognizing that the companies look different today but I think their remains the commitment to create mutual value as they said its worked really well and we're filled with the relationship I don't what more I can add because we're obviously in the discussions for right now but we're - we strive can kind of provide transparency in terms of these sort of ongoing relationships that's kind what we are talking about it.

Nelson Ng

And could you just remind us when you expect to have that agreement revised or completed.

Ian Robertson

Its, discussions is going on right now, I think but there is couple of things that we've certainly have committed to and I kind of outline them in the agreement and one of them is obviously the agreement made reference to restrictions to - interest in Algonquin [indiscernible] totally appropriate any more given the size of Algonquin and so its underway right now, it's in active working progress Nelson.

Nelson Ng

Okay. Got it. And then I guess somewhat related in terms of pursuing M&A or development opportunities, I guess there is a lot of activity in Mexico and I was just wondering whether you would look at doing transmission or pipeline or power opportunities there?

Ian Robertson

We actually have looked at some solar projects down in Mexico, obviously whatever other thing is a big step for us to be thinking about introducing country risk and potentially currency risk depending on how the PPA or is denominated but Mexico is not too far certain Dallas, Arizona utility and so I think there would definitely be a comfort there and I think what are the things that maybe just getting back to my prepared remarks is broadening its horizon on that one and as we look forward to the next five years, I think there are opportunities that we need be at least cognizant of that - that would be considered international as we think about U.S. and Canada today but I might provide reasonable growth and value opportunities for our shareholders. So I'll give you, the short answer to your question Nelson is yes I mean I think we are interested in looking there.

Nelson Ng

Okay, got it. And then just one last question in terms of the Park Water acquisition on the Missoula condemnation process, I believe there was a ruling in favor of the city and can you provide us with an update on the process going forward, presuming you are appealing the decision and how long will that take and when do you think that will be final decision on that?

Ian Robertson

Sure. Well maybe the best way to quote the answer to your question is to quote the Montana Commission when they were petitioned by the City to dismiss our approval - transfer approval application in the commission basically said back to the City, when you are a long way away from actually owning this utility and some check is written, we are going to continue on, it's a long road as you point out Nelson, we are in early innings that as you suggest the ruling on necessity which is only half of the process has been appealed by us the next part of the process is the valuation section of a condemnation and that is crafted to make sure that under the fifth amendment of the U.S. constitution we [indiscernible] just consideration.

And I would point out that the value application, the valuation that is being submitted by Park Water in respect of that valuation process is close to $200 million and we're just as I said this is a twist and turns kind of road, but we are looking for to completing the acquisition that we signed up for with Carlyle and we will continue to prosecute the condemnation part of this - the condemnation proceeding in the way we would do in any other of our jurisdictions and it's certainly a process that we've been familiar with, you may recall we kind of bumped into this in Texas and so I see them as two completely independent and parallel processes now.

So we're looking forward to completing the acquisition of the whole [indiscernible] late this year.

Nelson Ng

Okay, great. Thanks for the clarification.

Ian Robertson

Thanks Phil, thank you.

Operator

Your next question will come from Matthew Akman with Scotiabank. Please go ahead.

Matthew Akman

Thank you. Good morning.

Ian Robertson

Good morning, Matthew.

Matthew Akman

My question is just follow up on the agreement with - one thing I'm not sure if you mentioned was whether you would consider doing development with [indiscernible] in line with possibly doing larger acquisitions?

Ian Robertson

That's an interesting thought, until now historically as you're aware - development has really kind of focused on development within the regulated utility footprint and joint ventures with other developers. And it is I guess I got to be frank and say that that is something that we would need to explore to see whether that is of interest with Emera I think one of the things I think this is where the heart of your question is that the development, I will call it again but the development process for power projects is becoming should have not again for Mom's and Pop's as you know Odell project is a third of US$1 billion.

We've looked at other projects which are significantly larger and so there may well be an opportunity for a collaboration between Emera ourselves and some of these larger projects up to now we've been pretty comfortable with the things that we've been able to announce Emera has obliviously implicitly supported our initiatives by stepping up to the plate with continued commitments of equity capital and there has obviously been a history of us working together, you will recall the CalPeco acquisition was done in direct partnership with Emera and ultimately they rolled their direct interest into us to create an indirect one. So I think it's a great thought and certainly something that will be on the table as we're sort of continuing discussions over the coming weeks.

Matthew Akman

Okay. Thank you. And just one other question is with the Obama administration announcing that they will be putting in place more incentives for clean energy in the US, I'm wondering if you have started to give any thought to opportunities around your existing US footprints that might arise from that.

Ian Robertson

I think you are making reference to the whole rule, Section I 11D of that clean power plant. We think that's a real shot in the arm for a positive shot in the arm for the renewable sector and so for sure I think as we contrast the activity that's taking place in Canada versus the US, there is no doubt about it, our development teams are keeping their Canadian passports in good stead because there is tons of opportunity down there and frankly, to be frank we actually don't bump into as many certainly in Canadian competitors who are comfortable with the US tax equity landscape and the US electricity markets and so for sure I think the recent announcements and you might continue, you might phrase it as Obama is continuing war on coal, I think is a really good things as positive implications for an organization with our focus.

Matthew Akman

Okay. Thank very much. Those are my questions.

Ian Robertson

Thank you.

David Bronicheski

Thanks, Matthew.

Operator

Your next question will come from Ben Pham with BMO. Please go ahead.

Ben Pham

Hi, thanks, good morning everybody.

Ian Robertson

Hi, Ben.

Ben Pham

I just wanted to go back and then maybe if you can quantify the size of the [indiscernible] opportunity for you in terms of acquisitions when you consider your EBTIDA mix and just where you want to go, geographically going forward.

Ian Robertson

Sure. I think in terms of our, I mean I will start with the question about EBITDA mix. Currently we are about 50-50, we are completely comfortable with 50-50 though I will say we are not wedded to 50-50 and acquisitions such as the Odell project, or Park Water, they tend to be lumpy, we don't add our EBITDA $1 in time. So we acknowledge that, that split could temporarily move in one direction or the other. I think we are mindful of the fact that our credit rating is primmest on the organization as a whole, which is obviously reflect of significant portion of our earnings on regulated utilities and so we are mindful of that.

In terms of our sweet spot for transaction, I think we were obviously comfortable with the Odell project, a third of a US$1 billion. And so arguably maybe our sweet spot has certainly increased as the organization is headed for $5 billion in total size but the good news is projects tend to be getting larger in size and the scale as well and so we are tending to find those larger projects.

In terms of M&A, acquisitions, I don't think it's a reasonable rule of some to say that quite comfortably an organization could probably do M&A equal to about one-third of its size without creating huge [indiscernible] in the marketplace and so as we head for $5 billion we're definitely north of $1.5 billion in terms of the acquisition that we can do on our own. But just a follow on, I know that was Matthew's question but one of the benefits of the relationship of the Emera is allowing us to punch way above our weight in terms of that scale and scope of M&A activity I mentioned our California experience which Amherst took a direct interest in the utility, the allowing us to as definitely hunt in a size range that would be north of that $1.5 billion which would be our left or own devices kind of threshold and so I think it's just been another example of how we benefited from that opportunity of the [indiscernible] relationship to be able to explore opportunities which have a very wide dynamic range

Ben Pham

And you mentioned about the CalPeco JV and years back when you first starting you guys thinking that's one own with the utility side of things when you think about that doing from our side and thinking about the nears comments about the OTC gas, I remain are you having more discussions about bringing back that JV structure going forward with Amherst?

Ian Robertson

Well, I think it would, I think it's obviously circumstantial dependent, we have, when do you we gone at on our own I think that the short answer is we've identified utility acquisitions and growth opportunities that obviously to seem to make sense to fit into our portfolio perk water in examples that's hard to imagine how JV with the [indiscernible] on that would have been strategically aligned for them but obviously right on the fair away from our perspective but I think as we think about some of the larger opportunities and I think we're thrilled that [indiscernible] has an interest in gas LDCs because now all the sudden there is a possibility to collaborate on some of the larger LDC sales where - would say yeah, we are interested in a direct opportunity up till now to be frank I think it would been reasonable to a thought that those JV opportunities would have been pretty much limited to electrical distribution company because that's where [indiscernible] focus was so I think it actually just expand the potential scope for in terms of modality and in terms of geography for collaborating with - so I think it's all good.

Ben Pham

Okay, got it. That's all I have.

David Bronicheski

Thanks Ben.

Operator

Your next question will come from Sean Steuart with TD Securities. Please go ahead.

Sean Steuart

Thanks good morning guys.

Ian Robertson

Hi Sean.

David Bronicheski

Good morning.

Sean Steuart

Thanks for all the general commentary on I guess broader growth ambitions I just have a couple of projects specific questions. On Odell you guys have an option to take full ownership there, can you give us a little bit of context of you're thinking on when that actually happens?

Ian Robertson

Sure and I think it's important as we think about managing our balance sheet through the development cycle and those we think about all of the metrics by which we're elevated that joint venture structure is a good way to address what is the very short term part of the overall life of a generating station and so when you think that once the generated station hit COD you'll got 30, 40 years of life in front of you but the development pace is 12 months long.

And so we were comfortable putting that development structure in place during the construction phase but would have to rethink whether we would prefer to own a 100% of that come to COD of the project and we've obviously crafted an option to do that and so I think may be so just to be so to be specific in responses to your question we would probably a evaluate whether we want to 100% of that project at the end of the development phase once we got through the COD and that's where we probably be thinking about it.

Sean Steuart

Okay, understood and on Amherst you guys give a little bit of commentary in the MD&A about some recent progress there any inside on what we might be looking at for construction beginning and expected appeals from locals any general update on Amherst?

Ian Robertson

Sure and obviously we kind of give up, given specific dates for how we think this process will but broadly and that the which is the renewable energy approval and we're thinking end of summer the appealed process which is you aware is called the Environmental Review Tribunal ERT at the six month process and so it sounds like as we have been managing our construction timing and contracting that next year we jumped heavily into that construction process at the end of the ERT which kind of sounds early 2016.

Sean Steuart

Okay. Thanks very much Ian.

Ian Robertson

All right. Thanks, Sean.

End of Q&A

Operator

[Operator Instructions] There are no further questions at this time, please continue.

Ian Robertson

Well again, thanks everyone for joining us on our Q2 investor call and we appreciate all the questions and interest that you've demonstrated. So with, I would ask everyone to remain on the line for a review of our disclaimer. Alison.

Alison Holditch

Certain written and oral statements contained in this call are forward-looking within the meaning of certain securities laws and reflect the views of Algonquin Power & Utilities with respect to future events based upon assumptions relating to among others, the performance of the company's assets and business financial and regulatory climates in which it operates. These forward-looking statements include among others statements with respect to the expected performance of the company, its future plans, and its dividends to shareholders. These forward-looking statements relate to future events and conditions by their very nature and require us to make assumptions and involvements here and uncertainties.

We caution that although we believe our assumptions are reasonable in the circumstances, these risks and uncertainties give rise to the possibility that our actual results may differ materially from the expectations set out in the forward-looking statements. Material risk factors include those presented in the company's most recent annual financial results, the annual information found in most recent quarterly management discussion and analysis. Given these risks, undue reliance should not be placed on any forward-looking statements.

In addition, such statements are made based on information available and expectations as of the date of this call and such expectations may change after this date. APUCs reviews materials, forward-looking information that is presented not less frequently than on a quarterly basis. APUC is not obligated to nor does it intend to update or revise any forward-looking statements whether as a result of new information, future developments, or otherwise except as required by law.

With respect to non-GAAP financial measures, the terms adjusted net earnings, adjusted earnings before interest tax and depreciation and amortization, or adjusted EBITDA, adjusted funds from operations, per share cash provided by adjusted funds from operations, per share cash provided by operating activities, net energy sales, and net utility sales collectively the financial measures are used on this call and throughout the company's financial disclosures. The financial measures are not recognized measures under generally accepted accounting principles or GAAP.

There is no standardized measure of these financial measures, consequently APUC's method of calculating these measures may differ from methods used by other companies and therefore may not be comparable to similar measures presented by other companies. Our calculation and analysis of the financial measures and a description of the use of non-GAAP financial measures can be found in the most recent and published management discussion and analysis available on the company's website and cedar.com.

Per share cash provided by operating activities is not a substitute measure of performance or earnings per share. Amounts represented by per share cash provided by operating activities do not represent amounts available for distribution to shareholders and should be considered in light of various charges and clearance against APUC.

Operator

Ladies and gentlemen, this does conclude the conference call for today. Thank you for participating. You may now disconnect your lines.

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EXHIBIT “E”

EXHIBIT “E”

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- Algonquin Power & Utilities Corp.
-

- Algonquin Power & Utilities Corp. Announces Closing of Previously Announced Water Utility Acquisitions
  Company Release - 01/11/2016 06:00

  OAKVILLE, ON, Jan. 11, 2016 /CNW/ - Algonquin Power & Utilities Corp. ("APUC") (TSX: AQN) announced that, Liberty Utilities, APUC's regulated utility business, has closed a previously announced agreement with Western Water Holdings, a wholly-owned investment of Carlyle Infrastructure, to acquire the regulated water distribution utility Park Water Company ("Park Water").

  The acquisition of Park Water was originally announced in September 2014. Park Water owns and operates three regulated water utilities engaged in the production, treatment, storage, distribution, and sale of water in Southern California and Western Montana. The three utilities collectively serve approximately 74,000 customer connections and have more than 1,000 miles of distribution mains.

  Total consideration for the utility purchase was U.S.$327 million, which includes the assumption of approximately U.S.$77 million of existing long-term utility debt. This acquisition maintains APUC's strategic business mix and further enhances its investment grade consolidated capital structure.

  "The acquisition of Park Water strategically expands our utility presence in the United States," commented Ian Robertson, Chief Executive Officer of APUC. "The acquisition builds on our strong water utility expertise, provides continuing opportunity for organic growth, and increases the proportion of our earnings from long-term, stable utility assets. We look forward to bringing our local and responsive business approach to the communities served by Park Water."

  Scotiabank acted as exclusive financial advisor to Algonquin Power & Utilities Corp.

  Wells Fargo Securities, LLC acted as financial advisor to Western Water Holdings.

  About Algonquin Power & Utilities Corp.

  Algonquin Power & Utilities Corp. is a $4.5 billion North American diversified generation, transmission and distribution utility. The Distribution Group operates in the United States and provides rate regulated water, electricity and natural gas utility services to over 560,000 customers. The non-regulated Generation 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 Group invests in rate regulated electric transmission and natural gas pipeline systems in the United States and Canada. Algonquin Power & Utilities Corp. delivers continuing growth through an expanding opportunity set 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

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Algonquin Power & Utilities' (AQUNF) CEO Ian Robertson on Q1 2015 Results - Earnings Call Transcript

May 8, 2015 4:11 PM ET

by: SA Transcripts

Algonquin Power & Utilities Corp (OTCPK:AQUNF) Q1 2015 Earnings Conference Call May 8, 2015 10:00 AM ET

Operator

Welcome to the Alqonquin Power & Utilities Corporation Q1 2015 Analyst And Investor Conference Call. Today's conference being recorded. At this time I would like to turn the conference over to Mr. Chris Jarratt. Please go ahead.

Chris Jarratt

Thank you. Good morning and thanks for joining us on our 2015 first quarter conference call. With me on the call today are as usual, Ian Robertson our Chief Executive Officer. David Bronicheski, our Chief Financial Officer and Kelly Castledine, our Director of Investor Relations.

For your reference, additional information on the results is available on our web site www.algonquinpower.com. I would like to note on this call we will provide information that relates to future events and expected financial position that should be considered forward-looking and Kelly is going to provide additional details at the end of the call. I also direct you to review our full disclosure on forward-looking information and non-GAAP financial measures in the results that were published yesterday.

These are also available on our web site. This morning, Ian is going to start with a discussion regarding the highlights of the quarter and David will follow with a full review of the financial results and then we will open up the lines for questions. And we would ask that you restrict your questions to two and then requeue if you have additional questions which will allow others the opportunity to participate.

And with that I will pass it over to Ian Robertson.

Ian Robertson

Good morning and thanks, Chris. I appreciate everyone joining us on this beautiful sunny May day. I will say with the company's increased exposure to the solar sector I have a new appreciation for days like today. But, in summary for the first quarter, we did continue to see the positive impact of our growth strategy with 2014's achievements now being reflected in a full quarter of results.

I do hope that shareholders are satisfied with the dividend increase which was announced this quarter. We are pleased to confirm that the recently completely growth initiatives which are obviously showing up in our 2015 results now and our pipeline of near term commercially available expansion opportunities has given the Board confidence to endorse our targeted annual dividend growth rate of 10%.

We view the just announced dividend increase as consistent with the earnings cash flow and dividend growth guidance that we provided at our most recent investor morning last November.

Specifically for this quarter, adjusted EBITDA at s$114.5 million continues on its upward trajectory. A 17% increase from the same period a year ago. I think contributions from our generation and distribution groups with two new renewable energy projects having achieved commercial operations and favorable rate case settlements in the first quarter of this year can take a large portion of the credit for that continuing growth.

We remain focused on building and maintaining our well balanced diversified portfolio across utility spectrum and as always our continued success as a result of the dedication and commitment of our employees across our generation, distribution and most recently transmission business sectors.

For the Generation Group, Q1 marked the first full quarter production from the Saint-Damase wind facility in gas [indiscernible] region of Quebec which achieved commercial operation in late 2014. Contributions from Saint-Damase helped offset weaker than expected wind resources through the quarter. I will mention that our diversified portfolio is the only practical way to hedge against these naturally occurring fluctuations in resource availability and we're pleased that our portfolio is showing the strength of that diversification. The Generation Group experienced a year-over-year increase in revenue due to the addition of solar power generation to the portfolio with the Cornwall Solar facility being fully operational for the first quarter of this year.

Recently, the Generation Group completed construction of two of its renewable energy projects. The 23 megawatt Morse Wind Project in Saskatchewan and a 20 megawatt Bakersfield I Solar Project in California. These facilities are expected to generate a combined 157 gigawatt hours of energy per year with both of the projects selling their offtake under 20 year power purchase agreements with large investment grade utilities, exactly the model we strive for.

With the recent completion of these facilities the 2015 construction program for the Generation Group shifts to focus on three new projects representing approximately 235 megawatts and about $0.5 billion of capital investment and I will give you a little more color on those at the end of the call.

Moving on to the distribution business group, successful rate case settlements significantly contributed to the quarter's financial growth, the implementation of new rates at four of the group's utilities represent cumulative accumulative annual revenue requirement increase of approximately $14.3 million. Early in the quarter the Distribution Group completed its acquisition of New Hampshire Gas, a tuck-in regulated gas distribution utility which added a little over a thousand customer connections to the group's expanding service territory.

And lastly, the transmission group was pleased to have received final permitting approvals from the California Public Utilities Commission and other agencies for the construction of its $50 million California based transmission line which is dedicated to serving the Distribution Group's CalPeco utility and construction on that project will start this summer.

With that back ground I will hand things over to David to speak specifically to the Q1 financial results. David?

David Bronicheski

Thanks, Ian. Good morning everybody. We're pleased to be reporting today record Q1 revenues, record EBITDA and record cash flow. Our adjusted EBITDA in the first quarter as Ian said totaled $114.5 million, a 17% increase over the amount reported in the same quarter a year ago. And it was primarily due to a strong quarter from our gas utilities given the colder than usual winter we had with the addition of the impact of rate case settlements started production at our Saint-Damase Wind Facility and our Cornwall facility as well as a stronger U.S. dollar.

Certainly the benefits of our diversified portfolio of regulated distribution utilities and independent power generation are evident in our results. So as we look at some of the key metrics, top line revenue $381.9 million compared to $343 million in the same quarter a year ago. Our adjusted net earnings were $42.5 million compared to $36.9 million. So let's move on to a bit more detail from our operating subsidiaries beginning with the Generation Group and the Generation Group the first quarter of 2015 the combined operating profit totaled $45.6 million, as compared to $40.2 million during the same period in 2014.

In the first quarter, the Generation Group's renewable energy division which consists of wind, hydro and solar, generated electricity equal to 89% of long-term average resources compared to 97.5% for the prior year. The decrease was primarily due to low hydrology as a result of below seasonal temperatures, the Donnacona hydro facility in Quebec being offline and weaker wind resources as well as additional icing and snow on the solar panels at our Cornwall facility.

For the first quarter of 2015, total net revenue which includes net energy sales and revenue from renewable energy credits totaled $46.6 million compared to $40.2 million in the same period last year. Moving on to the Distribution Group, in the first quarter, the Distribution Group reported operating profit of $63.5 million compared to $58.4 million in the same quarter a year ago. The increase in operating profit is primarily due to the impact of rate case settlements and below seasonal temperatures experienced in the New Hampshire service territory.

For the electricity distribution utilities during the first quarter net utility electricity sales totaled $18.8 million compared to $21.7 million in the same period a year ago. It was down slightly due to the fact that severe winter weather caused certain commercial and industrial businesses to be closed for a brief period of time in February.

Natural gas in the first quarter net utility gas sales and distribution revenue was $63.2 million compared to $51.6 million compared to the same period a year ago. And in the water division in the first quarter revenue from water distribution and wastewater treatment totaled $13.8 million compared to $13.3 million in the same period last year. Just a brief update on our financing activities, you probably noticed we put out a press release related to our entry into the private placement market shortly after the end of the quarter. We were quite pleased with that financing. We completed a private placement issuing $160 million of senior unsecured 30 year notes bearing what we believe to be an attractive 4.13% coupon. We are going to draw the funds in two tranches. We have already drawn $90 million shortly after the end of Q1 and we will be drawing another $70 million in Q3 and certainly we believe that the offering demonstrates the strong currency of our liberty utilities bond platform in the US private placement market and the offering we believe contributes to the overall accretion of our pending Park Water acquisition.

So with that I will hand things back over to Ian.

Ian Robertson

Thanks, David. Appreciate that. Before as always we open the lines up for questions I would like to provide an update on some of our growth and development initiatives specifically as I mentioned at the start of the call our 2015 construction program is underway with our 200 megawatt Odell Wind project in Minnesota, another 25 megawatt wind project in Quebec referred to a Val-Eo and the 10 megawatt expansion Bakersfield 2 solar project underway in California.

We are pleased that the Odell wind project located in Minnesota construction is now underway. The project just by way of background has a 20 year power purchase agreement with the [indiscernible] company with a subsidiary of Xcel Energy, so a highly credit worthy counter party.

For our Bakersfiled one solar facility, it's now operational and so the Generation Group is shifting its focus to the adjacent second phase of this project and in Q1 of this year the final permitting submissions were made and the interconnection work is now underway.

Switching over to the Distribution Growth, last year the energy nor gas system in New Hampshire filed a rate case application for approximately $16 million, temporary interim rates of an increase of 7.5 million was approved in November and we're expecting that the new premier rates will be included in the third quarter of this year but just to remind everyone other than New Hampshire regulatory construct these rates will be retroactive back to November of 2014.

Regarding the acquisition of Park Water company, approval from both the California Public Utilities Commission and the Montana Public Services Commissions are required. The requisite applications were filed in California in November of 2014 and decision is expected in the second half of this year from the State of California.

Additionally, the approval application for the that of Montana was filed in December of last year. Both those applications are moving purposefully forward and we are answering the questions that posed to us but we are satisfied with the progress that's been made.

And sum up just before we go to questions I would like to say that I hope that people are comfortable and confident that Algonquin is continuing to execute on its growth objectives. We have a clearly identified project pipeline of over a $1 billion over the next two or three years. And we are committed to continuing to create long term accretive growth in the business which delivers value to the shareholders.

So operator, with that I would like to open the line up for questions.

Question-and-Answer Session

Operator

[Operator Instructions]. And we will take our first question from [indiscernible] with National Bank.

Unidentified Analyst

So looking at your growth pipeline in the power sector and also looking at your recent financing can you discuss your financing alternatives for your power projects? What will be your preferred source of debt? Will you be looking at corporate debt for those projects or maybe project finance? And what kind of factors are you looking at there. I know cost is obviously one but anything else you are looking at?

Ian Robertson

We haven't changed our strategy as far as the long-term financing with respect to the projects on the power side of the business. We have got an excellent platform for issuing bonds there. What we are doing, however, is during the construction phase of the project we are looking to arrange construction financing through the construction of the project so that has really been the change and approach rather than drawing on our general credit lines, we are looking for construction financing during construction.

Unidentified Analyst

And as the portfolio of assets grows, will you look at some amortizing facilities for the power projects?

David Bronicheski

We don't really think that we need to do that. I think we can manage the amortization of our debt on the power side, simply during the maturity process of the bullet bonds that we have out there. You know, the weighted average length of our debt is not unlike the weighted average tenure of project specific financing if you look at the certain projects that get the 20 year financing, they end up being secured, they are more heavily covenanted but they don't benefit from any better coupon than what we are able to achieve on our bond platform and their weighted average tenure is in or above the 12 year mark and we are going be looking to put out at least 10 year bonds on the power side of the business. So, we still believe that we have done an excellent financing platform.

Ian Robertson

And it is Ian, just to add a little color to that, I think when you think about our bond platform and our approach to amortization I think you've to think about and keep in mind our payout ratio on our dividend. Unlike organizations you have a payout ratio which is if you will eating into the depreciation of projects which is for all intents and purposes is that return of capital, our payout ratio being within our net income, I think allows us the flexibility to redeploy 100% of the depreciation that return out capital appropriately and so I think that is perhaps a distinguishing characteristic of our organization against other companies in the IPP space.

Unidentified Analyst

And then secondly, of course you talked about your growth pipeline in the power sector. Can you give us an update on the outlook for organic growth in the Distribution Group or is the market evolving at all, have your thoughts changed at all on the rate of investment into the Distribution Group and increasing the rate base?

Ian Robertson

Well, organically I think we remain as optimistic as we ever have just to give you a couple of data points. We have made great progress on the construction of a solar project in California by our Distribution Group, our CalPeco Distribution Group to meet its renewable portfolio standards and held a little RFP, selected a couple of entries and we are well into an approval process and that is not inconsequential. That would be 60 megawatts worth of solar and probably 4100 million of total that we would consider to be organic growth.

So the organic growth continues to be strong and I think you should comfort from that, if I think we would be remiss if we didn't touch on the acquisition market place. And I don't think these comments will be different than previous quarters. It's an expensive market out there right now. I think as David mentioned to unveil I guess 30 year money at 4.13% but that has an impact to be frank you know that exact cost of capital on the value of acquisition candidates in the utility sector in the U.S.

And so while we are thrilled and happy that we continue to invest organically it is a tough market as we start to continue to think about acquisitions. And I guess the only good news from our point of view as you know [indiscernible] we tend to be hunting in the smaller sector which perhaps there is a little bit less competition but the prices are still robust.

Operator

And our next question comes from Nelson Ng with RBC.

Nelson Ng

Just a quick question on the Q1 results, roughly what was the impact from the colder than usual winter? And also can you remind me which utilities still have volume risk?

Ian Robertson

Sure. Well, I think the impact of the colder man usual winter in some respects was offset by the positive impact by the negative impact of our wind because really the only utilities that which we have really a volumetric risk is New Hampshire and is our primary risk and perhaps to a lesser extent some of the mid-stake in New Hampshire and Massachusetts but it's much more muted because of the regulatory constructs there. So really the big one is energy north in New Hampshire and so the total impact there is a couple of million dollars just to put it in context.

Nelson Neil Gibson

And then one more question just on the tuck-in the New Hampshire Gas acquisition. Can you just give some color to what the rate base was and then also I was just wondering whether there is any like other strategic rationale for the acquisition? Is it located right next to the your other utilities. I notice that it was a propane distribution business, so is there an opportunity to switch to gas or grow the--

Ian Robertson

Sure. When I say it is propane, don't think of it as a superior propane with trucks driving around selling dotted tanks, this is a propane air system. So it just so happens there are pipes in the ground running all through the town of Keene and so it happens to use air propane as the fuel but it looks identical to a natural gas distribution system for all intents and purposes.

And the question is what is the strategic rationale? I think you should take it as evidence of our commitment that we will put a, try to plant a flag regulatory in a jurisdiction we want to look around that flat and find all the opportunities that we can find to tuck in and expand the service territory. And that as - where there is an interesting comp convergence between the work that’s being done in the transmission group and the work that’s being done in the Distribution Group the Northeast Energy direct project is now slated to move through New Hampshire and there is 22 communities just by way of example that will now be within a reasonable distance of that new pipeline that we can bring natural gas to those utilities and in the case of New Hampshire Gas that would be one that we would probably convert to natural gas. Though having said that, obviously the cost of the commodity is passed through to our rate payers and unless there is a compelling cost proposition we are happy to continue to have propane air mixture running through those pipes rather than natural gas but certainly that would be something that we would ultimately look to do as part of the expansion efforts that will be occasioned by the Northeast Energy Direct.

Nelson Neil Gibson

My other question was do you have an update on the Park Water acquisition in terms the regulatory approval time frame? Has anything changed?

Ian Robertson

No, it hasn't changed. Right now hearings are scheduled both in New Hampshire - in Montana and California for early Q3 so July of this coming summer. And then it as matter of working through the process. We are in discussions and negotiations with all of the stakeholder groups including [indiscernible] advocates in California. We’re answering data requests in Montana.

And that is proceeding along. You didn't ask the question but I'm happy to add the additional color, the hearing for the first half of the hearing on the condemnation by the city - town of Missoula whether concluded back in early April and a decision from the judge is pending so don't know anything more on that part of it.

Nelson Neil Gibson

And the completion of the transaction is still expected to be about yearend?

Ian Robertson

Let's put it this way. We fully expect you to include a full year of 2016 earnings in your model from Park Water and as you know we are loath to handicap exactly the timing of regulatory approval processes but I think that is a totally safe.

Operator

And we will take our next question from Sean Steuart with TD Securities

Sean Steuart

A couple of questions. I know there is a lot of moving parts with respect to the table for [indiscernible]. Can you remind us when does the asset need to be online under the terms of the PPA with I guess the ISO now?

Ian Robertson

I think the final and we call it the long date is under the PPA is 2018 is I guess that is the long date. Without any further extensions by the government. And so just to give you context of where we stand right now, the real work is just about finished from our perspective. You may recall that the ministry of environment asked us to do some more public consultation on the concrete batch plant which is obviously required for the construction of the facility. the question period for that closed on at the end of April and we are responding to all the comments and questions that came in about the batch plant. I mean hopefully they are relatively routine, it's a pretty well-known piece of equipment and we will be answering all those. I guess we are optimistic to getting the [indiscernible] in relatively short order and so consequently that long date, if you will, will hopefully not really factor into our thinking all that much.

Sean Steuart

So construction under your current time table starts 2016, I guess?

Ian Robertson

I mean actually it may start in the fall. We will have to look at it - look at, scheduling some things. There is docs and stuff that need to go in. You can imagine it is an [indiscernible] after all and may make sense to build those over the course of the fall rather than waiting for the ice to come in. But it's that kind of stuff.

Sean Steuart

Second question I had more on some of your perspective growth opportunities. You talked in the past about CNG and LNG opportunities in Massachusetts. Any update you can give on progress on that front?

Ian Robertson

Sure. We have an LNG plant that we are working on developing right now and we are pleased that we have got sufficient lead customers committed to that project that we believe the economic feasibility of the project has been confirmed. I will say it's not a huge project, it's a $135 million capital project. We are partnering up with an experienced engineering and EPC firm in the development of that project. But I think it is a great opportunity for us to start planting some flags in the LNG, CNG business in New England. And so I think the answer is yes and I think you should look at this - and again evidence of when we have a presence in the sector how do we find all of the opportunities that exist and building this LNG facility and having long term uptake contracts with local utilities is exactly the way for us to exploit that. So it's smoother to hedge on.

Operator

Our next question comes from Paul Lechem with CIBC.

Paul Lechem

Just continuing on the question of longer date development projects, you mentioned Ian if I heard correctly that you've got approvals for one of your transmission projects, your electric transmission project in California. Is there anything else required for that to move ahead?

Ian Robertson

No, construction is underway. I will mention that it's broken in a couple of phases. The first phase is what is going be constructed over the course of the summer. It's about $20 million of the total $50 million and that's underway and there are in the approvals for that the commission asked us to come back and provide some sort of follow-up information on subsequent phases but I think we are kind of hoping and I think the evidence would be to extent that the requirement for the first phase is established that it would be hard to find that the second phases don't enjoy sort of the same requirements. It will be undertaken over the next couple of years but the first phase this summer, Paul, is $20 million.

Paul Lechem

So you had another transmission project that you are pursuing in Nevada. Can you talk about any progress there or where that is?

Ian Robertson

That one is I will not say it's going slower. Unfortunately, just to give you a little bit of color on the way projects get moved through the socialization process in California, they all get submitted in a planning process application in the fall that gets reviewed by CALISO over the course of the spring and announced in March. Unfortunately, the project that you are making reference to didn't get picked up in this last round of the TPP the transmission planning process by the CALISO. I don't think it tells us the project is dead, it's just that as the CALISO looked at the project that stood in front of it, it didn't get down to the level. But we are optimistic that we will be pushing on it to get that project. Additionally, and that we are continuing to explore opportunities jointly with NV Energy, you know, the Nevada Utility which is the provider of energy and capacity for our CalPeco project. We are exploring a number of joint opportunities for expansion of transmission capacity in and around the state border between Nevada and California and I think we are optimistic that some more stuff will be freed up in that to go into the transmission group.

Paul Lechem

Just wondering David maybe you can give some color on this in terms of seasonality now on the utility side especially with the new rate cases. How should we think about the split between the quarters. Is Q1 a more seasonal quarter than typical that we might see some softness therefore in some of the other quarters? How should we think about the split between different quarters?

David Bronicheski

Certainly there is seasonality in the utility business largely drive by the gas utilities. At our Investor Day and I'm happy to share the slides with you, we gave pretty specific guidance in terms of the seasonality percentages that you could expect quarter by quarter through the year. And what we also had it for the power side as well. So happy to get you that information.

Paul Lechem

Q1 track to that expectation in terms of the split?

David Bronicheski

Yes.

Paul Lechem

And the rate case settlements would follow the same kind of pattern?

Ian Robertson

Sure, just add some color to that. Obviously the rate case settlements proportionately affect every quarter the same if you want to think about of it that way, if you are just increasing the rates and the EBITDA is expected to go up by $100. It really generally - those proportional splits should be applicable to the notional $100, Paul.

Operator

[Operator Instructions]. And we will next move to Ben Pham with BMO Capital Markets.

Ben Pham

I just want to move back to Amherst Island and reading in the press and there is this wind project very close to Amherst Island at the Ontario court denied an application just because of impact on endangered species. And since it's so close to Amherst Island, I just to check does the project face the same type of implications and have you seen an increase in public opposition since the that court ruling?

Chris Jarratt

In terms of the similarities from what we understand on that particular project that you are talking about it's a very specific issue. And I think there is probably a couple of other differences between that project and ours primarily that one is constructed on public lands and I think that is a pretty significant distinct. I would say you can't really compare the two propane and the actual specific issues on that. The second part of the question have we seen additional involvement with the public, I would say no. I mean it has been a project that is under the fair amount of scrutiny and we are going through all the processes and approval permits and we always have been. I think the punch line is if we still feel the project has numerous benefits to the township as well as the island of Amherst Island and so we're kind of just working our way through the process.

Ben Pham

I just wanted to go back to the commentary about the M&A market being robust. I wanted to clarify, is that commentary for both contracted at par and regulated U.S. utility?

Ian Robertson

To be specific, Ben, I was speaking of the regulated utility sector. As you know, on the contracted power business, we are not really in the market place to buy operational contracted assets. And I think you know we are kind of acknowledging that that's a sector that's being dominated by the U.S. yield cos in terms of pricing. And in some respects I don't want to say we are fine to leave it to them, our focus is really on development projects. We think they add value during that development phase and harvest that over the operational life of the project. So yes, to your question that the market in contracted IPP assets is very robust, but no it was not a market that we see ourselves participating in at this stage. We are just not sure that we are going to create value for our shareholders the way we want to.

Ben Pham

Any thoughts on redeploying instead?

Ian Robertson

You mean if we are not buyers should we be sellers?

Ben Pham

Yes.

Ian Robertson

Well, we look at it always. It would about remiss if as a management team we weren't always looking at how to maximize shareholder value and obviously we look at the yield co phenomenon, is that something that we can take advantage of, how would we take advantage of it, are we leaving money on the table. Nothing to announce at this stage other than to say this kind of stuff is always on our radar scope, Ben.

Operator

And ladies and gentlemen with no further questions in queue I would like to turn the conference back over to management for any closing remarks.

Ian Robertson

Great, thanks, everyone. Appreciate you guys taking the time for our Q1 2015 call. And as always, stay on the line for a review of our disclaimer. Kelly?

Kelly Castledine

Certain written and oral statements contained in this call are forward-looking within the meaning of certain securities laws and reflect the views of Algonquin Power & Utilities with respect to future events based upon assumptions relating to among others, the performance of the company's assets and business financial and regulatory climates in which it operates. These forward-looking statements include among others statements with respect to the expected performance of the company, its future plans, and its dividends to shareholders. These forward-looking statements relate to future events and conditions by their very nature and require us to make assumptions and involvements here and uncertainties.

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