

Service Date: April 25, 2016

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

* * * * *

IN THE MATTER OF the Investigation of the)
Montana Public Service Commission into) REGULATORY DIVISION
whether Mountain Water Company's rates are)
Just and Reasonable) DOCKET NO. D2016.2.15
)

**MOUNTAIN WATER COMPANY'S NOTICE OF FILING DOCUMENTS PURSUANT
TO ORDER TO COMPEL, ORDER NO. 7475E**

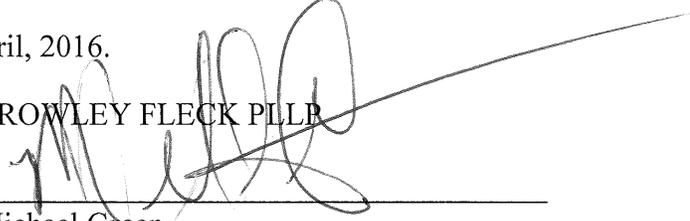
Pursuant to Order to Compel, Order No. 7475e, Mountain Water Company ("Mountain Water"), through its counsel, hereby submits a redacted version of the Closing Agreement dated December 17, 2015, and the Affidavit of John Kappes Regarding Dividends.

As to documentation regarding dividends, Mountain Water has previously indicated it has not declared or paid dividends, and consequently has no documentation reflecting the payment of any dividend. In an effort to comply with paragraph 14, of Order 7475e, Mountain Water submits the attached Affidavit of John Kappes regarding payment of dividends. This affidavit and the attached unaudited financial information reflect that in 2015, Mountain Water continued its historic practice of booking its entire net income to retained earnings. If Mountain Water were making dividend payments or otherwise transferring equity to its parent, its retained earnings balance would have declined. A review of Mountain Water's prior annual reports will reflect that increasing its retained earning balance by the amount of its net income is a long standing and consistent practice of

Mountain Water. As those reports are already available to the Commission in hard copy and to the public on the Commission's website, they are not refiled here.

As to documentation of the parties' waiver of the requirement for Commission approval of the merger, a redacted version of the Closing Agreement which governed the closing of Liberty's acquisition of Western Water is attached in response to paragraph 15 of Order 7475e. Mountain Water is not aware of and does not have possession of an email responsive to this request. The provisions of the Closing Agreement responsive to Order 7475e can be found at Section 2.2. Mountain Water objects to production of the redacted portions of the Closing Agreement on the grounds of attorney-client and attorney work product privilege. The parties to the Closing Agreement executed a Community of Interest and Joint Defense Agreement effective September 19, 2014, extending the protection of attorney-client and attorney work product privilege to communications of the parties related to their joint interests in prosecuting and defending legal matters related to Mountain Water and the Mountain Water system. Under the terms of the Joint Defense Agreement the provisions of the Closing Agreement addressing their joint interest in the litigation identified in the recitals of the Closing are entitled to privilege.

Submitted this 25th day of April, 2016.


CROWLEY FLECK PLLP

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D. Wiley Barker
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Helena, MT 59624-0797
Phone: (406) 449-4165
Fax: (406) 449-5149
Email: mgreen@crowleyfleck.com
wbarker@crowleyfleck.com
Attorneys for Mountain Water Company

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that on April 25, 2016, the foregoing was served via electronic and U.S. mail on:

John Kappes
President & General Manager
Mountain Water Company
1345 West Broadway
Missoula, MT 59802-2239
johnk@mtwater.com

Barbara Chillcott
Legal Director
Clark Fork Coalition
P.O. Box 7593
Missoula, MT 59801
barbara@clarkfork.org

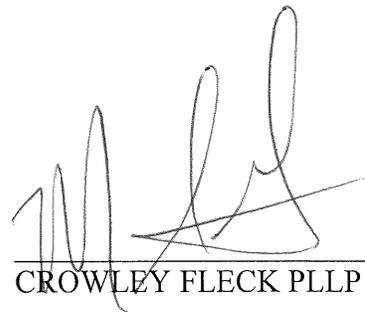
Jim Nugent
City Attorney
The City of Missoula
435 Ryman Street
Missoula, MT 59802
JNugent@ci.missoula.mt.us

Dennis R. Lopach, P.C.
4 Carriage Lane
Helena, MT 59601
dennis.lopach@gmail.com
ssnow@mt.gov

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Natasha Prinzing Jones
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P.O. Box 9199
Missoula, MT 59807-9199
sstearns@boonekarlberg.com
npjones@boonekarlberg.com

Dr. J.W. Wilson
J.W. Wilson & Associates,
1601 North Kent Street, Suite 1104
Arlington, Virginia 22209
john@jwwa.com

Robert Nelson
Montana Consumer Counsel
Box 201703
Helena, MT 59620-1703
robnelson@mt.gov



CROWLEY FLECK PLLP

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* * * * ***

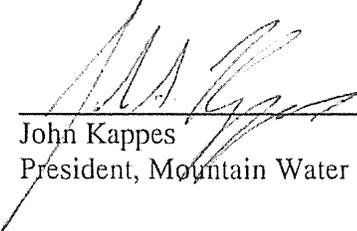
IN THE MATTER OF the Investigation of the)
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)

AFFIDAVIT OF JOHN KAPPES REGARDING DIVIDENDS

John Kappes, being duly sworn, states:

1. I am the President of Mountain Water Company ("Mountain Water").
2. Attached as Exhibit A to this Affidavit is a copy of the unaudited income statement and statement of retained earnings for 2015 for Mountain Water. The audit will be completed later in the week of April 25, 2016, to allow completion of Mountain Water's annual report to the Commission. The reported information may change as the audit is concluded, but will demonstrate Mountain Water has accrued its entire net income to retained earnings.
3. Dividends to a parent company would be reflected as a reduction to retained earnings.
4. The financial information establishes Mountain Water has retained its entire net income in retained earnings, which supports prior statements that Mountain Water has not paid any dividends or made other transfers of capital.
5. Mountain Water has not declared any dividends or transfers since Liberty acquired Western Water.

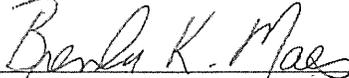
Further Affiant sayeth naught.



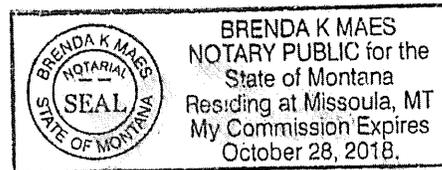
John Kappes
President, Mountain Water Company

SUBSCRIBED and SWORN to before me on the 25th day of April, 2016, by John Kappes.

[Seal]



Notary Public for the State of Montana



INCOME STATEMENT

Account Name	Current Year	Previous Year
GROSS REVENUE:		
Metered		
Residential	8,316,140	7,776,672
Commercial	5,249,131	5,065,029
Industrial	0	0
Other	2,307,415	2,163,876
Unmetered		
Residential	2,340,038	1,852,441
Commercial	153,055	155,455
Industrial	0	0
Fire Protection	251,744	244,410
Bulk Sales	0	0
Sale of Materials	0	0
Other	475,292	905,157
TOTAL GROSS REVENUE	19,092,815	18,163,040
Operation and Maintenance Expense	9,361,192	9,226,784
Depreciation Expense	2,797,864	2,693,313
Taxes Other Than Income	1,934,785	1,666,269
Income Taxes (A)	(431,238)	863,693
Deferred Federal Income Taxes	0	0
Amortized - Intangible Plant	30,154	30,154
Deferred State Income Taxes	0	0
TOTAL OPERATING EXPENSE	13,692,757	14,480,213
NET OPERATING INCOME (LOSS)	5,400,058	3,682,827
Investment Tax Credits	0	0
Non-Operating Income	0	0
Interest Income	298,747	367,745
Allow. Funds Used - Construct.	13,199	13,199
Other Deductions:		
Non-Utility Expenses	2,306	578
Interest Expense	7,159	7,329
Miscellaneous Deductions	4,829,197	3,009,222
NET INCOME (LOSS)	873,342	1,046,642

(A) Excludes \$906 of non-utility income tax expense.

EXHIBIT A

CAPITAL STOCK

	Common Stock	Preferred Stock
Par or stated value per share	No Par Value	N/A
Shares issued and outstanding	50,000	
Total par value of stock issued	6,940,578	
Dividends declared per share for year		

RETAINED EARNINGS

	Appropriated	Unappropriated
Balance first of year		37,078,810
Changes during year (Specify):		
2015 Net Income		873,342
Balance end of year		37,952,152

PROPRIETARY CAPITAL

	Proprietor or Partner	Partner
Changes during year (Specify):		
NOT APPLICABLE		
Balance end of year		

LONG TERM DEBT

Description of Obligation	Interest		Principal Per Balance Sheet Date
	Rate	Pymts	
Total	N/A	0	0

CLOSING AGREEMENT

This Closing Agreement (the "Agreement") is entered into as of December 17, 2015, by and between Carlyle Infrastructure Partners Western Water L.P. ("Class A Holder"), Western Water Holdings, LLC ("Holdings"), Liberty Utilities Co. ("Purchaser"), Liberty WWH, Inc. ("Merger Sub"), and Algonquin Power & Utilities Corp ("Liberty Parent"). The foregoing may be referred to herein collectively as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, Purchaser, Merger Sub and Holdings are parties to that certain Plan and Agreement of Merger, dated as of September 19, 2014 (the "Merger Agreement"), pursuant to which, among other things, upon the Effective Date Merger Sub will merge with and into Holdings, and Holdings will survive as a direct, wholly-owned subsidiary of Purchaser (the "Merger");

WHEREAS, Class A Holder is the sole legal and beneficial owner of 100% of the issued and outstanding Class A Units of, and thereby controls, Holdings;

WHEREAS, Purchaser and Merger Sub each are indirect wholly owned subsidiaries of Liberty Parent;

WHEREAS, Mountain Water Company ("MWC") is an indirect, wholly-owned subsidiary of Holdings and is a party to the proceedings captioned *The City of Missoula vs. Mountain Water Company and Carlyle Infrastructure Partners, LP* (together with any appeals, the "Condemnation Proceedings"), DV-14-352 (4th Judicial District, Missoula County), in which the City of Missoula (the "City") is seeking to condemn the assets of Mountain Water Company through exercise of eminent domain;

WHEREAS, MWC, Holdings, Purchaser, and Merger Sub are parties to the Montana Public Service Commission ("MPSC") proceeding captioned *In the Matter of the 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* (together with any related proceedings and appeals, the "MPSC Proceedings"), in which MPSC approval of the sale and transfer of Holdings to Purchaser is being sought;

WHEREAS, in order to facilitate the Closing under and as defined in the Merger Agreement, the Parties desire to enter into this Agreement;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. Definitions

Capitalized terms used but not defined in this Agreement shall have the meanings given to such terms in the Merger Agreement. In addition, the following capitalized terms, as and when used in this Agreement, shall have the meanings set forth below:

Redacted- Subject to Joint Defense Privilege

“Relevant Party” means MWC, Holdings, Purchaser, Class A Holder, or any Affiliate of any of the foregoing.

Section 2. Closing Date; Certain Waivers

2.1 Closing Date. Pursuant to Section 3.1 of the Merger Agreement, the Parties agree that the Closing will be held telephonically (with appropriate documentary escrow arrangements) on the later of: (a) the date that is three (3) Business Days after satisfaction or waiver, including pursuant to Section 2.2 of this Agreement, of the conditions set forth in Section 7.1 and Section 7.2 of the Merger Agreement, excluding those conditions that by their nature are to be satisfied at the Closing (but subject to the fulfillment or waiver of those conditions and subject to the waiver of the conditions set forth herein), or (b) January 4, 2015.

2.2 Waiver. The Parties hereby waive any and all conditions to Closing with respect to, and waive any and all rights to indemnity for Losses (pursuant to Section 8 of the Merger Agreement or otherwise) resulting from any failure to obtain, any Required Consent of the MPSC, as set forth in Item 2 of Schedule 7.1(e), including under Section 7.1(e) and Section 7.2(d) of the Merger Agreement. Further, any and all prior obligations under Section 6.5 of the Merger Agreement with respect to the MPSC have been fully satisfied and the Parties hereby waive any and all future obligations under Section 6.5 of the Merger Agreement with respect to the MPSC.

Redacted- Subject to Joint Defense Privilege

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

Redacted- Subject to Joint Defense Privilege

[Redacted]

[Redacted]

Section 6. Representations

Class A Holder hereby represents and warrants to Purchaser that Class A Holder is the sole legal and beneficial owner of 100% of the issued and outstanding Class A Units of Holdings. In addition, each Party hereby represents and warrants to each other Party that:

6.1 Organization and Authority; Binding Obligations. Such Party is duly organized and validly existing under the laws of its jurisdiction of formation, and has all necessary power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized, executed and delivered by such Party and constitutes

the valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, subject, as to enforceability of remedies, to limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity.

6.2 Non-Contravention; Consents. Neither the execution and delivery by such Party of this Agreement, nor the performance by such Party of its obligations hereunder conflicts with or will result in a breach of the organizational documents of such Party, or of any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which such Party is a party or by which it is bound or to which it is subject, or constitute a default under any such agreement or instrument. All consents required to authorize the execution, delivery and performance of this Agreement by such Party have been duly obtained.

6.3 No Actions, Suits or Proceedings. There are no pending or, to such Party's knowledge, threatened actions, suits or proceedings against such Party or affecting it or its properties before or by any court or administrative agency which, if adversely determined, would adversely affect its ability to perform its obligations under this Agreement.

Section 7. General Provisions

7.1 Choice of Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

7.2 Judicial Proceedings. ANY JUDICIAL PROCEEDING INVOLVING ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (EACH, A "DISPUTE") SHALL BE BROUGHT ONLY IN THE COURT OF CHANCERY FOR THE STATE OF DELAWARE OR ANY FEDERAL COURT LOCATED IN THE STATE OF DELAWARE, AND EACH OF THE PARTIES HERETO (I) UNCONDITIONALLY ACCEPTS THE EXCLUSIVE JURISDICTION OF SUCH COURTS AND ANY RELATED APPELLATE COURT AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY AND (II) IRREVOCABLY WAIVES ANY OBJECTION SUCH PARTY MAY NOW HAVE OR HEREAFTER HAS AS TO THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 7.4 HEREOF. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

7.3 Waiver of Jury Trial. THE PARTIES EACH HEREBY (A) ACKNOWLEDGE AND AGREE THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT OR ANY TRANSACTION DOCUMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND (B) WAIVE TRIAL BY JURY IN ANY

JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTERS (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT, THE TRANSACTIONS OR THE RELATIONSHIP ESTABLISHED HEREUNDER. EACH PARTY (X) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTIES HAS REPRESENTED, EXPRESSLY OR OTHERWISE THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (Y) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.3.

7.4 Notices. All notices, requests, claims, demands, disclosures and other communications required or permitted by this Agreement shall be in writing or electronic form and shall be deemed to have been given at the earlier of the date (a) when delivered personally, by messenger or by overnight delivery service by a recognized commercial carrier or (b) when received via facsimile or electronic mail (confirmed by telephone or email in each case), in all cases addressed to the Person for whom it is intended at his address set forth below or to such other address as a Party shall have designated by notice in writing to the other Parties in the manner provided by this Section 7.4:

if to Liberty Parent, Purchaser, Merger Sub or (following the Closing) Holdings:

Liberty Utilities Co.
c/o Algonquin Power & Utilities Corp.
354 Davis Road
Oakville, Ontario, Canada L6J 2X1
Attn: Chief Executive Officer
Fax: (905) 465-4514
Email: ian.robertson@APUCorp.com

with a copy (which shall not constitute notice) to:

Liberty Utilities Co.
c/o Algonquin Power & Utilities Corp.
354 Davis Road
Oakville, Ontario, Canada L6J 2X1
Attn: Chief General Counsel
Fax: (905) 465-4540
E-Mail: linda.beairsto@APUCorp.com

and with a copy (which shall not constitute notice) to:

Husch Blackwell LLP
Attention: James G. Goettsch
4801 Main Street, Suite 1000
Kansas City, Missouri 64112
Fax: (816) 983-8080

Email: jim.goettsch@huschblackwell.com

if to Class A Holder or (prior to the Closing) Holdings:

Carlyle Infrastructure Partners Western Water L.P.
Attention: Bryan D. Lin
520 Madison Avenue
41st Floor
New York, NY 10022
Fax: (212) 813-4968
Email: bryan.lin@carlyle.com

with a copy (which shall not constitute notice) to:

Holland & Knight LLP
Attention: G. Roth Kehoe, II
1180 West Peachtree Street
Atlanta, GA 30309
Fax: (404) 881-0470
E-mail: Roth.Kehoe@hkllaw.com

7.5 Headings. The underlined headings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

7.6 Assignment. This Agreement and each Party's respective rights and obligations hereunder may not be assigned, by operation of Law or otherwise, without the prior written consent of the other Parties and any attempt to do so shall be null and void. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns.

7.7 Parties in Interest. Nothing in this Agreement is intended to provide any rights or remedies to any Person other than the Parties hereto.

7.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

7.9 Entire Agreement. This Agreement and the documents referred to herein constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all other agreements, negotiations, understandings and discussions of the Parties, whether oral or written.

7.10 Waiver. No failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver thereof; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

7.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same Agreement or document. The delivery of copies of this Agreement, including executed signature pages where required, by electronic transmission will constitute effective execution and delivery of this Agreement for all purposes. Signatures transmitted electronically will constitute original signatures for all purposes.

7.12 Amendments. This Agreement cannot be amended, modified, altered or supplemented except by means of a written instrument executed on behalf of each Party.

7.13 Interpretation of Agreement. Each Party acknowledges that it has participated in the drafting of this Agreement, and any applicable rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in connection with the construction or interpretation of this Agreement. Whenever required by the context hereof, the singular number shall include the plural, and vice versa. As used in this Agreement, the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words "without limitation." [REDACTED]

Redacted- Subject to Joint Defense Privilege

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

**CARLYLE INFRASTRUCTURE PARTNERS
WESTERN WATER L.P.**

By: Carlyle Infrastructure General Partner, L.P.

Its: General Partner

By: TC Group Infrastructure, L.L.C.

Its: General Partner

By: 
Name: Robert W. Dove
Title: Managing Director

WESTERN WATER HOLDINGS, LLC

By: 
Name: Robert W. Dove
Title: Chairman

LIBERTY UTILITIES CO.

By: _____
Name:
Title:

By: _____
Name:
Title:

LIBERTY WWH, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

**CARLYLE INFRASTRUCTURE PARTNERS
WESTERN WATER L.P.**

By: _____
Name:
Title:

WESTERN WATER HOLDINGS, LLC

By: _____
Name:
Title:

LIBERTY UTILITIES CO.

By: _____
Name:
Title:

By: _____
Name:
Title:

LIBERTY WWH, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

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**CARLYLE INFRASTRUCTURE PARTNERS
WESTERN WATER L.P.**

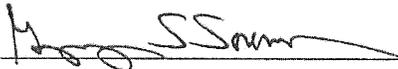
By: _____
Name:
Title:

WESTERN WATER HOLDINGS, LLC

By: _____
Name:
Title:

LIBERTY UTILITIES CO.

By: _____
Name:
Title:

By:  _____
Name:
Title:

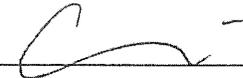
LIBERTY WWH, INC.

By: _____
Name:
Title:

By:  _____
Name:
Title:

ALGONQUIN POWER & UTILITIES CORP.

By: 
Name: _____
Title: _____

By: 
Name: _____
Title: _____