

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND

DAVID V.G. BRYDON
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
SONDRA B. MORGAN
CHARLES E. SMARR

PROFESSIONAL CORPORATION
312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 635-3847
E-MAIL: DCOOPER@BRYDONLAW.COM

DEAN L. COOPER
MARK G. ANDERSON
GREGORY C. MITCHELL
BRIAN T. MCCARTNEY
DIANA C. FARR
JANET E. WHEELER

FILED

MAY 02 2003

OF COUNSEL
RICHARD T. CIOTTONI

April 18, 2003

Missouri Public
Service Commission

HAND DELIVERED

Mr. Dale Hardy Roberts
Executive Secretary
Missouri Public Service Commission
Governor State Office Building, 9th Floor
Jefferson City, Missouri 65102
daleroberts@psc.state.mo.us

FILED²
APR 18 2003
Missouri Public
Service Commission

**Re: Protective Order Rule – Proposed Rulemaking
Missouri-American Water Company**

Dear Mr. Roberts:

I previously provided comments on behalf of Missouri-American Water Company concerning the propose protective order language being considered by the Commission. Those comments included a copy of a Resolution adopted by the National Association of Regulatory Utility Commissioners (NARUC) on February 26, 2003. In that Resolution, NARUC recognized the Information Protection Protocol EPA issued and urged public utility commissions to establish comprehensive confidentiality procedures to protect any security-related information, the disclosure of which could compromise public safety. The Resolution also included and urged commission consideration of a Model Protective Agreement together with a Summary and Rationale thereof, prepared by the Rates and Revenue and Regulatory Law Committees of the National Association of Water Companies.

It may be of interest to the Commission that on April 10, 2003, in Case No. 03-0353-W-42T, the Chief Administrative Law Judge of the West Virginia Public Service Commission chose to adopt a protective order modeled after the Model Protective Agreement attached to the NARUC Resolution. A copy of the West Virginia order is attached hereto for the Commission's consideration.

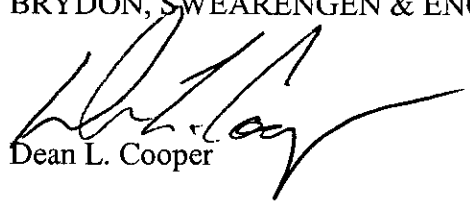
Mr. Dale Hardy Roberts
April 18, 2003
page 2

Thank you for your attention to this matter.

Sincerely yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Dean L. Cooper

DLC/tli
Enclosure
cc: Office of the Public Counsel
David Abernathy

*Public Service Commission
Of West Virginia*

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
FAX: (304) 340-0325

April 10, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael A. Albert, Esq.
JacksonKelly PLLC
PO Box 553
Charleston, WV 25322

Robert R. Rodecker, Esq.
Counsel, Lavalette Public Service District
PO Box 3713
Charleston, WV 25337

David A. Sade, Esq.
Deputy Consumer Advocate
West Virginia Public Service Commission
700 Union Building
723 Kanawha Boulevard, East
Charleston, WV 25301

Raymond Keener III, Esq.
Assistant County Attorney
Counsel for Kanawha County Commission
PO Box 3627
Charleston, WV 25336

Mark E. Kauffelt, Esq.
Counsel for Flexsys America, L.P.
Kauffelt & Kauffelt
PO Box 3082
Charleston, WV 25331-3082

Martin J. Glasser, Esq.
Co-Counsel for Kanawha County Commission
and Counsel for Regional Development Authority
of Charleston
Lewis Glasser Casey & Rollins
PO Box 1746
Charleston, WV 25326

Silas B. Taylor, Esq.
Senior Deputy Attorney General
State of West Virginia
Office of Attorney General
State Capitol, Room E-26
Charleston, WV 25305

RE: CASE NO. 03-0353-W-42T
WEST VIRGINIA-AMERICAN WATER COMPANY

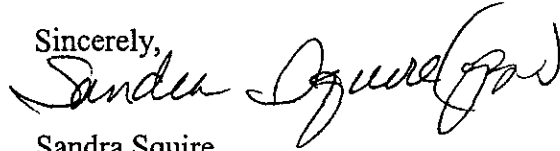
Gentlemen:

Enclosed is a copy of a Commission Order entered today in the above proceeding.

When you submit any additional documents - In addition to filing **an original and 6**

copies of all documents with the Commission, you are required to mail a copy to all other parties of record. We invite you to visit our Internet web site address at www.psc.state.wv.us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra Squire".

Sandra Squire
Executive Secretary

SS/pjh

Encl

cc: Darrell W. Blake, Chairman
West Virginia State Legislative Board
Brotherhood of Locomotive Engineers
6280 Little & Mile Road
Huntington, WV 25705

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Issued: April 10, 2003

CASE NO. 03-0353-W-42T

WEST VIRGINIA-AMERICAN WATER COMPANY
Tariff Rule 42 application to increase
water rates and charges.

PROCEDURAL ORDER ON DISCOVERY MATTERS

On March 11, 2003, West Virginia-American Water Company (Company) tendered for filing revised tariff sheets reflecting increased rates and charges of approximately 16.4% annually, or \$15,550,687, for furnishing water utility service to approximately 164,000 customers in Boone, Braxton, Cabell, Clay, Fayette, Harrison, Kanawha, Lewis, Lincoln, Logan, Mason, Mercer, Putnam, Raleigh, Summers, Wayne and Webster Counties, to become effective on April 11, 2003. In addition to increased commodity rates, the filing requested the institution or increase of certain non-commodity charges, such as the delayed payment penalty, a returned check charge, a tap fee, a reconnection fee and the leak adjustment rate. In addition to its own customers, customers of the following utilities or entities would be directly or indirectly affected by the rate application because these utilities or entities, under agreements approved by the Public Service Commission, are charged water rates which are based on the Company's rates, either in whole or in part: Boone County Public Service District, Cumberland Road Public Service District, the Town of Danville, the Town of Eleanor, Jumping Branch-Nimitz Public Service District, the Kanawha County Regional Development Authority, Lashmeet Public Service District, the Lewis County Economic Development Authority, New Haven Public Service District, Oakvale Road Public Service District, the Putnam County Building Commission, Putnam-Union Public Service District and Salt Rock Water Public Service District. In its filing the Company asserted that it had complied with the notice requirements of Tariff Rule 10.1.b.

On March 13, 2003, the Consumer Advocate Division of the Public Service Commission (CAD) filed a petition to intervene in this proceeding, asserting that this application constitutes a major proceeding with the potential for an adverse impact upon the Company's ratepayers.

On March 17, 2003, the Company filed a motion for approval of procedures and a Protective Agreement for security costs and related information, relating to the protection from unauthorized disclosure of materials relating to the protective measures; capital, operational and maintenance costs; and other information that have been or may be generated incident to the Company's ongoing efforts to safeguard its customers, facilities and personnel from potential threats and acts of terrorism.

On March 18, 2003, Commission Staff filed its Initial Joint Staff Memorandum, indicating that its investigation of this application had begun. Additionally, Commission Staff asserted that, recently, the Company had failed to timely comply with procedural deadlines.

On March 26, 2003, the Brotherhood of Locomotive Engineers filed a letter objecting to the proposed rate increases and a notice of intervention in this proceeding. However, the petition to intervene filed by the Brotherhood of Locomotive Engineers did not comply with the requirements of the Commission's Rules of Practice and Procedure.

Also on March 26, 2003, the Company responded to the Initial Joint Staff Memorandum, taking issue with the allegation regarding its failure to timely comply with deadlines.

On March 28, 2003, Flexys America, LP, filed a petition to intervene herein, by counsel, as a major customer of the Company.

On March 31, 2003, the State of West Virginia, by its Attorney General, filed a petition to intervene in this proceeding.

Also on March 31, 2003, the Company filed a request with the Commission for more time in the procedural schedule than was usually provided between the filing of prepared direct testimony and prepared rebuttal testimony, in order to allow the Company sufficient time to thoroughly review and respond to the direct testimony of the intervenors and Commission Staff in its rebuttal testimony.

On April 1, 2003, Lavalette Public Service District filed a petition to intervene in this proceeding, as a resale customer of the Company.

On April 2, 2003, the Commission issued its Order suspending the revised tariff sheets and increased rates and charges requested by West Virginia-American Water Company until 12:01 a.m., January 6, 2004, unless otherwise ordered by the Commission. The petition to intervene filed by the CAD was granted. The petition to intervene filed by the Brotherhood of Locomotive Engineers was not granted because of its failure to comply with the Commission's Procedural Rules. It was given twenty (20) days from the date of the April 2, 2003 Order to file a petition to intervene in compliance with the Commission's Procedural Rules. Additionally, the Commission established a procedural schedule for the processing and resolution of this case, which, among other things, set this matter for evidentiary hearing to begin on September 8, 2003. The Commission indicated that, at a later date, it would schedule five (5) public comment hearings and would establish notice requirements with respect to the public comment hearings and the evidentiary hearing. Any person or party who objected to a petition to intervene was given leave to file a written objection to such petition within seven days after it had been filed. Otherwise, the Commission may grant or deny intervenor status to the petitioner without further hearing. Finally, the Commission referred the handling of discovery matters, including ruling on the Company's March 17, 2003 motion, to the Division of Administrative Law Judges.

On April 3, 2003, the Kanawha County Commission filed a petition to intervene in this proceeding.

On April 8, 2003, the Regional Development Authority of Charleston filed a petition to intervene herein and the Kanawha County Commission filed an amended and supplemental petition to intervene.

Also on April 8, 2003, Commission Staff filed a letter requesting that any party who files responses to any other party's data requests also provide a copy of those responses to the Staff Attorney.

On April 9, 2003, Supervising Attorney Caryn W. Short and Earl E. Melton, P.E., Director of the Commission's Engineering Division, filed a letter with the Commission's Executive Secretary authorizing Staff Attorney C. Terry Owen and Chief Utilities Manager James W. Ellars, P.E., to have access to protected materials during the litigation of this proceeding. The authorization was filed in accordance with the provisions of Paragraph 2.B. of the proposed protective agreement filed by the Company with its March 17, 2003 motion.

Also on April 9, 2003, Commission Staff filed its response to the March 17, 2003 motion, stating that it has reviewed the proposed protective agreement and does not object to its approval by the Commission. Staff also indicated that it had been authorized by the CAD to state that the CAD has no objection to the protective agreement as proposed by the Company. According to Commission Staff, the protective agreement is based upon a model protective agreement approved by the National Association of Regulatory Utility Commissioners and is specifically designed to recognize and protect the sensitivity of security measures being adopted by public utilities in pursuit of establishing and maintaining homeland security.

DISCUSSION

Before the undersigned at this time is the March 17, 2003 motion for approval of procedures and a protective agreement for security costs and related information, filed by West Virginia-American Water Company. According to the motion, portions of the cost of service contained in the Company's rate filing in this proceeding are costs associated with increased security required to protect the Company's facilities, customers and employees. The Company maintains protected materials received or generated pursuant to those efforts. According to the Company, the sensitive and confidential nature of these materials should be obvious. The Company asserted that no outside party should be able to reproduce or have copies of this information. The Company pointed out that, in the recently completed 2003 regular session, the West Virginia Legislature enacted H. B. 3009, which amended the West Virginia Freedom of Information Act (FOIA), West Virginia Code §29B-1-1, et seq, to add a specific exemption from public disclosure for records assembled or maintained in the interest of homeland security or to prevent, mitigate or respond to terrorist acts or threats of terrorists acts, the public disclosure of which would have a substantial likelihood of threatening public safety or public health. Similarly, the National Association of Regulatory Utility Commissioners adopted a resolution at its February

2003 Board of Directors meeting which recognized the sensitivity of this type of information and recommended that public utility commissions establish comprehensive confidentiality procedures to protect any security-related information, the disclosure of which could compromise the public safety. Copies of the recent amendment to West Virginia Code §29B-1-1, et seq., and the NARUC resolution and model protective agreement were attached to the motion as appendices.

The Company prepared a protective agreement designated as Exhibit 1 attached to the motion, based on the model protective agreement approved by NARUC. The Company moved the Commission to adopt and approve the protective agreement and the procedures set forth therein as the approved and authorized means of safeguarding the protected materials in this case. As justification for its request, the Company noted that, while, generally, documents and information filed with the Commission are subject to public inspection unless an exemption from FOIA disclosure applies, the adoption of H. B. 3009, which is effective from passage, and the homeland security exemption incorporated therein, should conclusively establish that the specified information should not be subject to FOIA disclosure. Accordingly, the Company requested that the Commission grant the motion, rule that the protected materials are exempt from public disclosure under the Freedom of Information Act, approve the use of the protective agreement and the procedures and protocols spelled out therein and keep in place the various protections against public disclosure of the protected materials specified in the protective agreement. The Company further requested that the Commission implement its standard procedures in taking evidence and testimony in this case to preserve the confidentiality of any of the protected materials during and after the hearing in this proceeding.

As referenced previously in this order, Commission Staff has indicated that it has no objection to the proposed protective agreement and has been authorized to state that the Consumer Advocate Division also has no objection to the protective agreement.

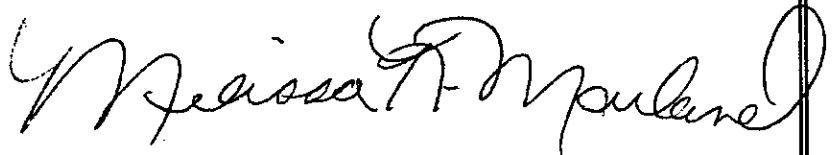
Accordingly, and upon consideration of all of the above, the undersigned will grant the motion filed by West Virginia-American Water Company on March 17, 2003, and approve the protective agreement attached thereto as Exhibit 1 with respect to the protective measures, capital, operational and maintenance costs and other information that have been and/or may be generated incident to the Company's ongoing efforts to safeguard its customers, facilities and personnel from potential threats and acts of terrorism. Therefore, no party to this proceeding may have access to such materials except under the terms and conditions set forth in that protective agreement and only after executing that agreement by a duly authorized representative.

ORDER

IT IS, THEREFORE, ORDERED that the proposed protective agreement filed herein on March 17, 2003, by West Virginia-American Water Company, regarding the protection from unauthorized disclosure of materials relating to the measures, capital, operational and maintenance costs and other information that have been and/or may be generated incident to the

Company's ongoing efforts to safeguard its customers, facilities and personnel from potential threats and acts of terrorism, be, and it hereby is, approved for use in this proceeding on and after the date of this order. The approved protective agreement is attached hereto as Appendix A. No party to this proceeding may have access to the information covered thereunder except pursuant to the procedures and terms and conditions set forth therein and only after execution of the protective agreement by a duly authorized representative.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this Order upon all parties to this proceeding by United States Certified Mail, return receipt requested, and upon Commission Staff and the Consumer Advocate Division of the Public Service Commission by hand delivery.



Melissa K. Marland
Chief Administrative Law Judge

MKM:mal
030353a.sca.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 03-0353-W-42T

WEST VIRGINIA-AMERICAN WATER COMPANY,
a West Virginia corporation

Tariff filing requesting increased rates
and charges under Rule 42

RECEIVED
03 MAR 17 PM 4:00
WEST VIRGINIA
PUBLIC SERVICE
COMMISSION
SECRETARIAT SERVICE

PROTECTIVE AGREEMENT

This Protective Agreement ("Agreement") is entered into this ___ day of March, 2003, by and among West Virginia-American Water Company (the "Company") and _____.

1. Purpose & Construction

- A. The primary purpose of this Protective Agreement ("Agreement") is to protect public health and safety by preventing unauthorized access to or release of documents and other information disclosed during the regulatory process with regard to security measures and related costs in this case. Consistent with this purpose, the Agreement provides an opportunity for protected review by authorized representatives of the Commission Staff ("Staff"), the Consumer Advocate Division ("CAD") of the Commission and other Intervenors ("Parties") of documents and other information with regard to security measures and related costs, which is reasonably necessary for effective regulatory review. The Agreement provides a mechanism for utilizing such information in regulatory proceedings, while protecting the information from improper disclosure which could compromise or impair effectiveness of the security measures and thereby potentially jeopardize public health and safety. This Agreement shall be construed, and any disputes hereunder resolved, consistent with the primary purpose to protect public health and safety.
- B. The Company may initially designate all documents or information concerning security measures and related costs as "Protected Materials". Pursuant to the protections afforded herein, Authorized Representatives will have the opportunity to review Protected Material and an opportunity to challenge the

Company's designation of any particular documents or information as "Protected Materials".

2. Definitions

- A. "Protected Materials" means documents and information, in any form, and/or tangible items pertaining to security measures and related costs, including but not limited to, responses to data requests related thereto.
- B. "Authorized Representatives" means, in respect to Commission Staff and CAD, one counsel of record and one other Staff or CAD member or person under contract to the Staff or CAD, each authorized in writing by a senior official of the Staff or CAD to have access to Protected Materials. In regard to any other party, "Authorized Representatives" means a single counsel of record and a single other person, employed by or under contract to the party, each authorized by the party to review "Protected Materials", provided such authorization is evidenced to the Company by a written certification by the party which is mutually agreeable to the parties.

With the consent of the Company, Staff and CAD and any other party may add additional Authorized Representatives. Staff and CAD and any other party may also file a motion seeking to add additional Authorized Representatives. Designation of all Authorized Representatives shall be on a "need to know" basis. Motions to add additional Authorized Representatives shall state with specificity why such individuals are necessary to effective review of Protected Materials, the qualifications of proposed individuals to review such materials, and why the additional Authorized Representatives will not increase the risk of public disclosure of Protected Materials which could adversely affect public health and safety. The Commission may allow additional Authorized Representatives only upon motion, with a finding that such additions are necessary for effective review of such expenditures and that such additions will not increase the risk of public disclosure of Protected Materials.

- C. "Intervenor" means an intervenor in this proceeding.

3. Access to Protected Materials

- A. The Company shall provide access by an Authorized Representative to Protected Materials only after such Authorized Representative has executed a non-disclosure certificate to this Agreement. Except with consent of the

Company: (i) access shall be at the offices of the Company at 1600 Pennsylvania Avenue, Charleston, West Virginia, and under the supervision of the Company; (ii) Protected Materials shall not be removed from the offices of the Company; and (iii) no copies shall be provided to an Authorized Representative except as provided herein. Authorized Representatives may make notes or memoranda from a review of the "Protected Materials" and may remove such notes and memoranda. In all other respects such notes and memoranda shall remain Protected Material and subject to the provisions hereof. The Protected Materials shall be used only to assist Staff, CAD or any other party to prepare for or to try this proceeding and shall not be used for any other purpose in this or any other jurisdiction.

- B. Notwithstanding any provision of this Order, the Company may deny or further limit access, as necessary, to documents or information the disclosure of which would constitute a serious, unacceptable risk of harm to the life, health or safety of persons or the security of the community in general, or which could compromise confidentiality protocols or procedures of government agencies related to security information. The Company shall identify any such documents with specificity and clearly describe why access to such documents should be denied.

4. Non-Disclosure

Except as provided in this Agreement, the contents of Protected Materials to which the Staff, CAD or other party is given access, and any notes, memoranda or any form of information or opinions regarding or derived from the Protective Materials shall not be disclosed to anyone other than an Authorized Representative in accordance with this Order, except that an Authorized Representative may disclose his or her conclusions or findings solely within, and for the purposes of, this proceeding and in accordance with this Order. The Protected Materials shall not otherwise be published, disclosed or divulged except as expressly provided herein. The Staff, CAD and any other party shall treat all notes and memoranda or opinions regarding or derived from the Protected Materials as highly confidential and the contents of Protected Materials and any information derived from them shall be considered confidential, and shall not be deemed public records. The Staff, CAD, any party, or the Commission may discuss any position or conclusion regarding security expenditures and testimony in Briefs, Orders, Pleadings, or hearings in this proceeding in accordance with this Agreement.

This Agreement or production of any document pursuant to this Agreement shall not constitute a waiver of any privilege or other basis for objecting to disclosure or seeking limitations on disclosure.

5. Dispute Resolution

Should an Authorized Representative reviewing or receiving any Protected Materials under this Agreement believe that the information should not be accorded confidential protection pursuant to this Agreement, or that access to any particular document or information should not be denied, he/she shall inform the Company thereof and the Company and the Authorized Representative will attempt to negotiate a satisfactory resolution of the issue. If a satisfactory resolution is not achieved, the information in dispute shall continue to be maintained as Protected Materials in accordance with this Order, but the Authorized Representative shall inform the Company in writing, electronically or otherwise, that the Authorized Representative believes the information in dispute should not be afforded confidential treatment, or why access should be permitted. In the event the Company maintains that the information in dispute should be accorded confidential treatment or access denied, the Authorized Representative may file a Motion seeking a determination that the information in dispute should not be afforded confidential treatment pursuant hereto or that access should be permitted, subject to the protections hereof. Any such Motion shall identify with specificity the disputed information, why such information should not be accorded confidential treatment or access denied and why public disclosure of the subject information will not impair the effectiveness of such measures and thereby potentially jeopardize public health and safety. The Commission may grant such Motion if it finds that public access to and disclosure of such information will not adversely affect public health and safety.

After a review of the Protected Materials, an Authorized Representative may make a written request electronically or otherwise for copies of specific Protected Materials and the Company and the Authorized Representative will attempt to resolve such requests in good faith. In the event the Company and the Authorized Representative are unable to resolve the issue, the Authorized Representative may file a Motion seeking an Order requiring the Company to provide copies of specific Protected Materials. Any such Motion shall state with specificity why provision of such copies is necessary for effective review of Protected Materials and why provision of copies will not increase the risk of public disclosure of Protected Materials which could adversely affect public health and safety. The Commission may require the Company to provide an Authorized Representative with requested copies if it finds that the provision of such copies is necessary for effective review of the Protected Material and will not increase the risk of public disclosure of Protected Materials which could adversely affect public health and safety. Any such copies shall also be considered Protected Materials and subject to all the provisions hereof.

Any motion filed under this Section 5 shall be subject to the provisions of Section 10 hereof.

The Parties hereto agree that remedies at law may be inadequate to protect the Company in the event of a breach of this Agreement and the Company may seek injunctive relief in favor of the Company to prevent the continuation of any such breach without proof of actual damages and Staff, CAD and any party shall not unreasonably oppose the Company's request for injunctive relief.

6. Receipt and Tracking

As part of its designation of Authorized Representatives, the Commission Staff, CAD and any party shall also designate an individual whose responsibility it is to insure compliance with this Protective Order, and who will acknowledge receipt of any Protected Materials. Within one month from the conclusion of this proceeding or any judicial review proceedings involving security related expenditures, the Commission Staff, CAD and any party will return any Protected Materials, any notes or memoranda related thereto and any copies thereof to the Company. Any electronic copies of Protected Materials made by Authorized Representatives shall be eliminated.

The Company may appeal any Order requiring disclosure of Protected Materials to the Commission or the Supreme Court of Appeals of West Virginia, according to law, and during any appeal process the Protected Materials shall maintain their protected status pending final resolution of said appeals.

7. Maintenance of Information In a Secured Area

Authorized Representatives shall keep all Protected Material or notes or memoranda related thereto in a secure, locked location with access limited to an Authorized Representative.

8. Responsibilities of Authorized Representatives

Every Authorized Representative must protect and safeguard Protective Materials at all times, shall not discuss such information with anyone who is not an Authorized Representative and shall promptly report any apparent violation of access to the Company. Any Authorized Representative shall continue to be bound by this Protective Order and/or Certificate even if no longer engaged by the Commission Staff, CAD or intervenor.

9. Disclosure Request

In the event Staff, CAD or any party receives a notice to produce the Protected Materials or any portion thereof by way of law, regulation, directive or any other legal document, from any governmental authority or subdivision or any party in a proceeding pending before any court or administrative agency, or otherwise becomes legally compelled to disclose any of the Protected Materials, the party shall provide Company with notice of said request for Protected Materials as soon as reasonably practicable. The Company may exercise any applicable rights to oppose the disclosure of Protected Materials including, but not limited to, the seeking of a protective order, or other appropriate remedy. The party who has received such notice shall not unreasonably oppose the Company's exercise of said rights to challenge the disclosure of Protected Materials. In the event that a protective order or other remedy is not obtained, such party will furnish only that portion of the Protected Material which it is advised, by written opinion of its counsel, is legally required, and prior to the release shall advise the Company of the extent and portion of the Protected Material being produced and shall not unreasonably oppose the Company's efforts to prevent the release or public disclosure of said Protected Materials. If required by an order of a governmental or judicial body of competent jurisdiction, a party may release to such body that portion of the Protected Material which it is legally required to do and only to the extent ordered under applicable laws and statute.

10. Treatment of Information in Filings and Hearings

Staff, CAD or any party proposing to use Protected Materials on the record must notify the Company in advance and propose a specific method for preserving its confidentiality. The Company may object to such use and, if an accommodation as to the use of Protected Materials cannot be reached, the dispute shall be presented to the Commission in accordance with applicable Commission rules and regulations and this agreement.

At a minimum, such method shall provide that no references to the Protected Materials shall be made in filings, briefs, motions or other pleadings, arguments, testimony or otherwise, or at any hearing, except in accordance with the Commission's rules and this Agreement. All discussion of the Protected Materials and of expenditures for security measures shall be in camera, the record thereof shall be under seal, and that portion of the public record of this proceeding shall be redacted. All public filings, insofar as related to security measures shall be redacted to remove any Protected Material and complete copies thereof shall be served only on Counsel of Record who are Authorized Representatives who have executed a Non-disclosure Certificate and shall be filed under seal.

Any work products or other documents developed by Staff, CAD or any party that reproduces or otherwise uses the Protected Materials will also be treated as confidential, and

the same treatment will be accorded the work product or such other documents as is accorded the Protected Materials.

11. Breach of Agreement

In the event the Staff, CAD, any party or Authorized Representative of the Staff or party breaches this Agreement, such person(s) and/or entity(ies) shall be responsible for damages in accordance with law and barred from presenting in this proceeding testimony, filings, briefs and arguments pertaining to expenditures for the security measures. In addition, such party shall be barred from further access to the Protected Materials.

WITNESS the following signatures.

West Virginia-American Water Company

By: _____

Its: _____

By: _____

Its: _____

C0702768.1