

APPENDIX A

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Joint Application of Liberty Utilities Co., Liberty WWH, Inc., Western Water Holdings, LLC, Park Water Company (U 314 W), and Apple Valley Ranchos Water Company (U 346 W) for Authority for Liberty Utilities Co. to Acquire and Control Park Water Company and Apple Valley Ranchos Water Company.

Application 14-11-013
(Filed November 24, 2014)

**SETTLEMENT AGREEMENT
AMONG THE OFFICE OF RATEPAYER ADVOCATES,
LIBERTY UTILITIES CO., LIBERTY WWH, INC., WESTERN
WATER HOLDINGS, LLC, PARK WATER COMPANY (U 314 W),
AND APPLE VALLEY RANCHOS WATER COMPANY (U-346-W)**

1. GENERAL

1.1 Pursuant to Article 12 of the Rules of Practice and Procedure ("Rules") of the California Public Utilities Commission ("Commission"), Liberty Utilities Co. ("Liberty Utilities"), Liberty WWH, Inc. ("Liberty WWH"), Western Water Holdings, LLC ("Western Water Holdings"), Park Water Company ("Park Water"), and Apple Valley Ranchos Water Company ("AVR") (collectively, "Joint Applicants") and the Office of Ratepayer Advocates ("ORA") (collectively, the "Parties") have agreed on the terms of this Settlement Agreement which they now submit for approval. This Settlement Agreement addresses the Joint Application of Liberty Utilities, Liberty WWH, Western Water, Park Water, and AVR for authority for Liberty WWH to merge with and into Western Water Holdings, and Liberty Utilities, as a consequence of such merger, to acquire Western Water Holdings and thus indirectly control Park

Water and AVR ("Application"). The Parties respectfully request that the Commission grant such authorization, subject to the terms and conditions of this Settlement Agreement.

1.2 Since this Settlement Agreement represents a compromise by each of them, the Parties have entered into each stipulation contained in the Settlement Agreement on the basis that its approval by the Commission should not be construed as an admission or concession by any Party regarding any fact or matter of law in dispute in this proceeding. Furthermore, the Parties intend that the approval of this Settlement Agreement by the Commission not be construed as a precedent or statement of policy of any kind for or against any Party in any current or future proceeding (Rule 12.5, Commission's Rules on Practice and Procedure).

1.3 The Parties agree that no signatory to the Settlement Agreement assumes any personal liability as a result of their agreement. All rights and remedies of the Parties are limited to those available before the Commission.

1.4 The Parties agree that this Settlement Agreement is an integrated agreement, so that if the Commission rejects any portion of this Settlement Agreement, each Party has the right to withdraw. Furthermore, the Settlement Agreement is being presented as an integrated package such that Parties are agreeing to the Settlement Agreement as a whole rather than agreeing to specific elements of the Settlement Agreement.

1.5 This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and the counterparts together shall constitute one and the same instrument.

1.6 No Party has relied or presently relies upon any statement, promise or representation by any other Party, whether oral or written, except as specifically set forth in this

Settlement Agreement. Each Party expressly assumes the risk of any mistake of law or fact made by such Party or its authorized representatives.

1.7 This Settlement Agreement constitutes and represents the entire agreement among the Parties and supersedes all prior and contemporaneous agreements, negotiations, representations, warranties and understandings of the Parties with respect to the subject matter set forth herein.

1.8 This Settlement Agreement settles all outstanding issues in this proceeding among the Parties.

2. BACKGROUND

2.1 On September 19, 2014, Liberty Utilities, Liberty WWH, Inc. and Western Water Holdings executed a Plan and Agreement of Merger (the "Merger Agreement"). Pursuant to the terms of the Merger Agreement, Liberty WWH and Western Water Holdings will merge and the surviving entity, Western Water Holdings, will become a direct wholly owned subsidiary of Liberty Utilities, as of the effective time of the merger (the "Effective Time"). Thus, as of the Effective Time, Western Water Holdings will continue to be the direct parent company of Park Water and AVR.

2.2 On November 24, 2014, the Joint Applicants filed the Application, A.14-11-013, to request Commission authorization of the proposed acquisition of ownership and control over Park Water and AVR by Liberty Utilities Co. pursuant to the Merger Agreement. A prehearing conference was held on February 6, 2015, before Administrative Law Judge ("ALJ") Kim, and ALJ Kim also presided over public participation hearings held in the afternoon and evening of March 16, 2015, in the Town of Apple Valley.

2.3 On May 6, 2015, ORA delivered a set of proposed regulatory commitments to the Joint Applicants that provided the framework for a settlement. The terms of the present Settlement Agreement were developed through a series of further communications among the Parties.

2.4 On May 19, 2015, in accordance with Rule 12.1(b), the Joint Applicants, with the concurrence of the Office of Ratepayer Advocates and the Town of Apple Valley, convened and invited all parties to the proceeding to participate in a conference for the purpose of discussing settlement, to be held by conference telephone call on May 27, 2015.

2.5 A draft document with terms identical to those of the present Settlement Agreement was sent to all parties to the proceeding on May 21, 2015, along with a draft Motion for Commission approval of the Settlement Agreement.

2.6 The previously noticed settlement conference was held as scheduled on May 27, 2015, with participants including representatives of the Parties as well as the Town of Apple Valley. Participants discussed and clarified certain aspects of the Settlement Agreement and also discussed the Parties' intention to file a joint motion for Commission approval of the Settlement Agreement and the procedural events to follow.

2.7 The Parties executed the Settlement Agreement and submitted it for filing with the Commission on May 29, 2015.

3. REGULATORY COMMITMENTS

3.1 The proposed transaction shall have no effect on the Commission's authority over the provision of public utility service to the public by Park Water Company ("Park Water") and Apple Valley Ranchos Water Company ("AVR").

3.2 Park Water and AVR shall comply with all applicable California and federal laws and administrative regulations.

3.3 Park Water and AVR shall each continue to be held in separate legal entities. Affiliates of Liberty Utilities own and operate a non-utility cogeneration power plant in the Fresno area (“Sanger Cogeneration”). Affiliates of Liberty Utilities also own, are constructing and intend to operate a solar generation facility project in the Bakersfield area (“South Kern Solar”). There shall be no overlapping of employees or responsibilities between the operations of Sanger Cogeneration and/or South Kern Solar and Park Water and/or AVR.

3.4 Affiliates of Liberty Utilities own and operate Liberty Utilities (CalPeco Electric) LLC (U-933), (“Liberty Utilities CalPeco”), which is an electric distribution public utility regulated by the California Public Utilities Commission. With respect to the relationships between Liberty Utilities CalPeco and Park Water and/or AVR:

3.4 (a) The assets of Park Water and AVR shall be held in legal entities separate from Liberty Utilities CalPeco; and

3.4 (b) The capitalization and financing for Park Water and AVR and for Liberty Utilities CalPeco shall be separate.

3.5 Park Water and/or AVR shall not provide financing or guarantees for, extend credit to, or pledge utility assets in support of Liberty Utilities CalPeco, Liberty Utilities, Western Water Holdings, LLC (“Western Water Holdings”), Sanger Cogeneration or South Kern Solar or any of their affiliates except as permitted by the Affiliate Transaction Rules. Liberty Utilities CalPeco, Liberty Utilities, Western Water Holdings, Sanger Cogeneration, and South Kern Solar each shall finance and fund their respective other business activities independently of Park Water and AVR.

3.6 To the extent that Liberty Utilities, Liberty Utilities CalPeco, Western Water Holdings, Sanger Cogeneration, or South Kern Solar shall finance their respective business activities other than Park Water and AVR's respective provision of public utility water service, any such financing shall provide the financing parties no recourse to either Park Water's and/or AVR's assets.

3.7 Park Water and AVR shall not transfer any physical assets owned by Park Water or AVR and used to provide regulated utility services to their respective customers to either Liberty Utilities, Western Water Holdings, or Liberty Utilities CalPeco or any of their respective affiliates without first obtaining the necessary approvals from the Commission.

3.8 Park Water and AVR shall each hold all of their respective assets in their own name, and will maintain adequate capital and have access to sufficient employees and other personnel to perform their respective public utility responsibilities.

3.9 Park Water and AVR shall be provided adequate capital to fulfill all of their public utility service obligations. The term "capital" encompasses "money and property with which a company carries on their corporate business; a company's assets, regardless of source, utilized for the conduct of its corporate business and for the purpose of deriving gains and profits; and a company's working capital," and is not limited to mean only "equity capital, infrastructure investment, or any other term that does not include, simply, money or working cash." (Decision 02-01-039, Findings of Fact 5 and 6. 2002 Cal. PUC LEXIS 5 *57.)

3.10 Park Water and AVR shall be provided the capital necessary to provide safe and reliable utility standard water service.

3.11 Park Water and AVR will notify the Commission of any dividends and distributions to Western Water Holdings or other affiliates in their Annual Reports to the Commission (filed on or about March 31 of each year).

3.12 Neither Park Water nor AVR shall issue long-term debt or guarantee any debt of any of their affiliates without prior approval by the Commission.

3.13 Neither Park Water nor AVR shall sell, transfer, or encumber any utility assets necessary or useful to provide utility service, or any water rights, without prior approval by the Commission.

3.14 Park Water and AVR shall continue to maintain their books and records in accordance with all Commission rules. Park Water's and AVR's books and records shall be maintained and be available in California. With respect to any charge or allocation from an affiliate for which Park Water or AVR seeks rate recovery, the documents necessary to support and substantiate the charge shall be available to the Commission.

3.15 The transfer of ownership and control will not adversely affect Park Water's or AVR's provision of regulated water service to customers, or practices relating to operations, financing, accounting, capitalization, rates, depreciation, maintenance, or other matters relating to the public interest or utility operations.

3.16 Customer service to Park Water's and AVR's customers will not be affected by the transaction. Park Water's and AVR's commitment to high quality public utility water service and community involvement shall be maintained.

3.17 Park Water and AVR shall maintain their current operational headquarters in California and shall maintain local offices as appropriate to maintain the high quality of customer service and community involvement.

3.18 The proposed transaction shall not adversely affect any of the outstanding debt owed and recorded as liabilities on the regulated books of Park Water and AVR. There shall be no increase in Park Water's or AVR's cost of service or reduction in quality of service resulting from the proposed transaction. Credit extended by Liberty Utilities, Western Water Holdings or

any of their parents or affiliates to Park Water or AVR will be at rates and upon terms no less advantageous than those otherwise available to Park Water and AVR from unaffiliated third parties for similar transactions.

3.19 The utility customers of Park Water and AVR shall not incur, directly or indirectly, any transaction costs or other liabilities or obligations arising from the proposed transaction. In particular, any expenses incurred by Park Water or AVR due to the proposed transaction or the related Commission proceeding in which the parties to the transaction are seeking Commission approval for the transaction (such as outside legal expense and travel costs) shall be accounted for as non-utility expense and shall not be included in the recorded base of any account included in the calculation of revenue requirement for future rate cases. Park Water and AVR, respectively, recognize that their incurrence of any such "transaction costs" is not related to the provision of water service to their respective customers and thus these costs are necessarily to be borne exclusively by their owners.

3.20 Park Water and AVR shall not incur any additional indebtedness, issue any additional securities, or pledge any assets to finance any part of the proposed transaction.

3.21 Affiliates of Park Water and Western Water Holdings shall take no actions that would impair Park Water's or AVR's ability to fulfill their public utility obligations to serve and to operate in a prudent and efficient manner.

3.22 Any activities or actions directed at enhancing or increasing Western Water Holdings' investment in Park Water or AVR will require Commission approval for reflection of such investment in rates.

3.23 Affiliates of Park Water, including Western Water Holdings, shall not require Park Water or AVR to take any action inconsistent with AVR's rights under the terms of the Mojave Basin Adjudication (*City of Barstow v. City of Adelanto*, Riverside Superior Court Case No. 208568) and the Judgment After Trial, entered January 10, 1996, as amended December 5, 2002, in that case.

3.24 Park Water and AVR, and Western Water Holdings as the parent of Park Water, shall comply with the Affiliate Transaction Rules adopted by the Commission in Rulemaking 09-04-012, Decision No. 10-10-019 as modified in D. 11-10-034 and D. 12-01-042.

3.25 Operating Commitments.

3.25 (a) Park Water or AVR will conduct business in the same or similar manner as it has under Western Water's ownership concerning functions such as water supply and delivery, contracting and management, system operation and maintenance activities, safety and service reliability, customer service functions, and billing operations.

3.25 (b) With respect to regulatory relations, Park Water or AVR will maintain a manager level representative (having such authority as may be required by the Commission) physically present in an office located within or in close proximity to their California service territories with primary responsibility for maintaining the companies' positive relationships with, and responding to requests for information from, the Commission and other State regulatory agencies.

3.25 (c) For an initial period extending through the filing of their respective next general rate cases, Park Water and AVR will maintain all their respective tariff rates existing at the day of completion of the transfer of ownership to Liberty Utilities (Closing Date) or approved by the Commission in response to filings made by Park Water or AVR prior to the Closing Date, or arising from such filings (*e.g.*, step rate adjustments, rate base offsets provided

for in GRC decisions, or applications for rehearing), cost of capital filings in accordance with the rate case plan, or cost offset filings as allowed by the Commission. In this § 854(a) proceeding, neither Park Water nor AVR is requesting any increase in rates or in the total revenue requirement as a result of this transaction. Accordingly, on the day after the Closing Date, rates for the customers of each of Park Water and AVR shall not change as a result of this transaction and the total revenue requirement for each of Park Water and AVR also shall not change as a result of this transaction.

3.25 (d) Park Water and AVR shall provide service to their customers in compliance with all rules, regulations and decisions issued by the Commission. Among other matters, Park Water and AVR will not change any rate or any other terms and conditions of service for their respective customers without first having obtained the necessary Commission approvals and Park Water and AVR shall comply with all existing statutes and applicable Commission regulations regarding affiliated interest transactions.

3.25 (e) Liberty Utilities agrees, as part of the pending request under § 854(a) to acquire Park Water and AVR, that the acquired utilities shall maintain their respective existing low-income programs. Park Water and AVR shall each operate within the existing rate case cycles now in effect for Park Water and AVR, respectively, including for general rates, annual step rate adjustments, and cost of capital reviews, in accordance with the rate case plan (*see*, D.07-05-062, App. A).

3.25 (f) Park Water and AVR shall adopt, maintain and strive to improve the high quality of service standards that Park Water and AVR presently provide their customers.

3.26 Premium and Cost Synergies.

3.26 (a) Park Water and AVR agree that their respective rate recovery shall be calculated based on the amount of their respective rate base that has been or will be authorized, totally independent of the purchase price for Liberty Utilities to acquire Park Water and AVR. Park Water and AVR shall in no event seek to recover the excess of the purchase price over the regulatory basis of the utility assets (i.e., “premium”) in rates. Any premium which Liberty Utilities shall pay shall not be recorded in the accounts of Park Water or AVR utilized in the establishment of rates and tariffs for either Park Water or AVR.

3.26 (b) The cost levels Park Water and AVR shall use to request rates in future general rate cases shall be based on the actual recorded and forecasted costs of Park Water and AVR, respectively, consistent with Commission practice and precedents for the setting of general rates and will incorporate any cost savings synergies arising in comparison to the baseline costs to be established in AVR’s Test Year 2015 and Park Water’s Test Year 2016 rate cases, respectively. In AVR’s Test Year 2018 and 2021 general rate applications and in Park Water’s Test Year 2019 and 2022 general rate applications, respectively, the applicant shall report on any significant changes that have been made, or are intended to be made, to their respective corporate structure and on their estimated financial impacts on the AVR and Park Water operations, respectively.

4. REGULATORY COMMITMENTS AS CONDITIONS OF APPROVAL OF THE PROPOSED TRANSACTION

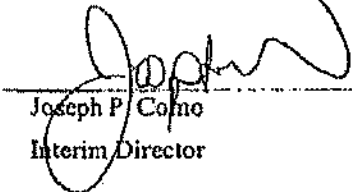
4.1 As conditions of approval of the proposed transaction, the Joint Applicants accept and agree to all of the specific regulatory commitments set forth in Part 3 of this Settlement Agreement, which will govern certain aspects of the relationship among Park Water and AVR on

the one hand and the acquiring company, Liberty Utilities, and its affiliates on the other, as well as the Commission's oversight of Park Water's and AVR's future operations.

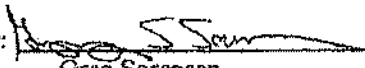
4.2 The Joint Applicants agree to abide by each and every one of the regulatory commitments set forth in Part 3 of this Settlement Agreement upon the Commission's approval of the Application and consummation of the proposed transaction.

Respectfully submitted,

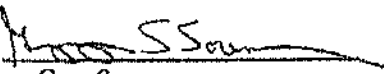
OFFICE OF RATEPAYER ADVOCATES

By: 
Joseph P. Colino
Its: Interim Director

LIBERTY UTILITIES CO.

By: 
Greg Sorensen
Its: President

LIBERTY WWH, INC

By: 
Greg Sorensen
Its: Chief Financial Officer, Secretary and Treasurer

WESTERN WATER HOLDINGS, LLC

By: _____
Robert Dove
Its: Chairman of the Board

PARK WATER COMPANY

By: _____
Christopher Schilling
Its: President / Chief Executive Officer

APPLE VALLEY RANCHOS WATER COMPANY

By: _____
Leigh K. Jordan
Its: Executive Vice President

Dated: May 29, 2015

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Respectfully submitted,

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Its: Interim Director

By: _____
Greg Sorensen
Its: President

LIBERTY WWH, INC

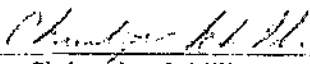
WESTERN WATER HOLDINGS, LLC

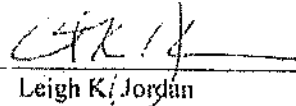
By: _____
Greg Sorensen
Its: Chief Financial Officer, Secretary
and Treasurer

By:  _____
Robert Dove
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PARK WATER COMPANY

APPLE VALLEY RANCHOS WATER
COMPANY

By:  _____
Christopher Schilling
Its: President / Chief Executive Officer

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Leigh K. Jordan
Its: Executive Vice President

Dated: May 29, 2015