

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS-AMERICAN WATER)
COMPANY, AMERICAN WATER)
WORKS COMPANY, INC., THAMES)
WATER AQUA US HOLDINGS, INC.,)
and THAMES WATER AQUA HOLDINGS)
GmbH)
) Docket No. 06-0336
Joint Application For Approval of Proposed)
Reorganization and Change In Control of)
Illinois-American Water Company)
Pursuant To Section 7-204 of the Illinois)
Public Utilities Act.)

**PROPOSED ORDER REGARDING
PROTECTION OF CONFIDENTIAL INFORMATION**

In the course of this proceeding, the parties to the proceeding, including Illinois-American Water Company ("IAWC"), American Water Works Company, Inc., Thames Water Aqua US Holdings, Inc., and Thames Water Aqua Holdings GmbH (collective, the "Joint Applicants"), and including interveners the Illinois Attorney General ("AG"), the Village of Homer Glen , the Village of Bolingbrook and the City of Champaign, as well as any potential future interveners (each a "Party," and collectively the "Parties"), and their attorneys, may produce or receive certain confidential or proprietary information by way of documents, testimony, and answers to discovery requests, or through informal discussions or another method of recording or transmitting information, including but not limited to any electronic, e-mail, or other computer-related communication. To protect against the unregulated use of such confidential or proprietary information and to facilitate disclosure in this case, it is hereby Ordered, pursuant to Sections 4-404 and 5-108 of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/4-404 & 5/5-108, and Section 200.430 of the Rules of the Illinois Commerce

Commission ("Commission"), 83 Ill. Admin. Code § 200.430, as follows:

Process For Designation of Information

1. Where any Party believes in good faith that a specific document that it will produce, file, or otherwise submit in this proceeding contains information that is entitled to protection as confidential or proprietary under the law, that Party ("Producing Party") shall identify such information by marking such information "Confidential" or "Proprietary," signifying that the Producing Party has in good faith made a legal and factual determination that the information is entitled to confidential or proprietary protection in accordance with Section 200.605 of the Commission's Rules, 83 Ill. Admin. Code § 200.605. The Producing Party shall visually distinguish the confidential or proprietary information from the other information appearing in the same document. Where any Producing Party believes in good faith that specific information it will convey orally includes information that is entitled to protected treatment under the law, that Producing Party shall also identify such information by stating that it is "Confidential" or "Proprietary," signifying that the Producing Party has in good faith made a legal and factual determination that the information is entitled to confidential or proprietary protection in accordance with Section 200.605 of the Commission's Rules, 83 Ill. Admin. Code § 200.605. Each specific document so marked as "Confidential" or "Proprietary," or specific information so identified as "Confidential" or "Proprietary," will be referred to hereafter as "Confidential Information." Confidential Information shall be afforded all protections set forth below, as applicable, unless and until a contrary ruling is made by the Administrative Law Judge(s) or the Commission.

2. "Confidential Information" as used herein includes non-public information maintained by a Party in confidence in the ordinary course of business and which such Party has

a business interest in maintaining in confidence. Confidential Information shall include other categories of documents and information as recognized as confidential under applicable law or by order of the Administrative Law Judge(s) or the Commission in this Docket. Confidential Information shall also include materials concerning critical infrastructure the disclosure of which could adversely affect public safety and/or security, private personnel information, high level business information, financial information that might be material under securities laws, information the disclosure of which could result in a possible "gun-jumping" violation under federal securities laws, documents that reflect the strategic thinking of the Producing Party on competitive or financial issues, market data, trade secrets, and personally identifiable customer information.

Confidential Information

3. Subject to rights to challenge confidential and proprietary designations made by a Producing Party described herein, information that is produced and designated as "Confidential Information", or any information contained therein or obtained therefrom, shall not be delivered, exhibited, or disclosed to any person (other than Commission officers and employees, including Staff Witnesses, who are not subject to this Order, but are governed by 220 ILCS 5/4-404 & 5/5-108) who has not read this Order, signed Form 1 attached hereto, and delivered Form 1 to the Producing Party.

4. Persons who comply with Paragraph 3 above shall use or disclose the Confidential Information only for purposes relating to this proceeding, and then solely as provided in this Order, and shall take all necessary precautions to keep the Confidential Information secure in accordance with the purposes and intent of this Order. This includes appropriate precautions to prevent the unauthorized transfer of information in any type of

electronic format. All Confidential Information produced or exchanged in the course of this proceeding shall be used solely for the purpose of this proceeding or any appeal arising therefrom.

5. Parties may make Confidential Information available only to those individuals who need access to the information for purposes relating to this proceeding and who have executed the attached Form 1 as provided in Paragraph 3 above. The aforementioned individuals shall include the Parties' attorneys, experts, consultants, and other individuals that exercise decision-making authority within the Parties' organizations. Parties shall not make more copies of any Confidential Information than are reasonably required to prepare for and conduct this proceeding, unless the Producing Party otherwise agrees in writing. This includes the dissemination of information in an electronic format including, but not limited to, e-mail transmission.

6. If a Party inadvertently produces Confidential Information not marked as such and the Producing Party subsequently notifies the recipient that such information is Confidential Information, the receiving Party will treat such information as identified by the Producing Party in accordance with the provisions of this Order and will use its best efforts to recall or retrieve any such information that has been distributed not in accordance with this Order.

7. In the event that any Party seeks to use or uses any Confidential Information in testimony, exhibits, discovery responses, cross-examination, briefs, or other documents to be filed in this case, the following shall apply:

- a) The testimony, exhibits, discovery responses, cross-examination, briefs or other documents containing Confidential Information shall be so identified and served only on (1) the Staff Witnesses and other Commission personnel identified on the service list; (2) the attorneys for the Parties granted access to the Confidential Information pursuant to this Order; and (3) experts or consultants who have executed the attached Form 1. This includes, but is not limited to, the service of

documents in electronic formats (such attorneys may distribute Confidential Information so received as provided herein);

- b) the pages containing Confidential Information shall be clearly marked and the cover of the testimony or other documents shall indicate that Confidential Information is contained within the document inside. In the case of electronic data or documents, such designation shall be made by labeling the entire CD-ROM, disk, or other media containing electronic data;
- c) all Confidential Information shall be redacted from the copies of such testimony, exhibits, discovery responses, briefs, or other documents including electronic documents and e-mail, that may be provided to individuals and their attorneys who are not granted access pursuant to this Order;
- d) when a Party seeks to electronically file a document containing Confidential Information, it must file a "public redacted version" of such document for public viewing and a unredacted "proprietary" version with the Commission via the e-docket and in accordance with 83 Ill. Admin. Code § 200.430(d), and serve the public and proprietary versions in accordance with 83 Ill. Admin. Code § 200.1050(b); and
- e) each Producing Party will maintain a list of all persons granted access to Confidential Information pursuant to this Order, and will make that list available to other Parties upon request.

8. Cross-examination involving Confidential Information shall be conducted during proceedings that will be closed to all those who are not allowed access to the Confidential Information under this Order. The portion of the transcript of such proceedings involving Confidential Information shall be kept confidential.

9. If at any time another court, administrative agency, person, or entity subpoenas, requests, or orders production of Confidential Information or documents containing the same, the Party receiving the subpoena, request, or order shall promptly notify the Producing Party of that fact and provide the Producing Party with an opportunity to seek appropriate remedies in order to adequately protect the release of any Confidential Information.

10. The Commission will follow its procedures regarding the protection and treatment of any Confidential Information submitted in this docket, and shall segregate Confidential

Information in its files and on its electronic network and databases from the material available to the public. 83 Ill. Admin. Code 200.430 and 200.1050(b). When the Commission's order in this proceeding is final and no longer subject to appeal, the confidential portion of the Commission's record (paper and electronic) shall be retained as confidential by the Commission, pursuant to the time limits set forth in Paragraph 13.

11. All Parties possessing Confidential Information or copies of documents containing Confidential Information (including but not limited to testimony, exhibits, transcripts, discovery, responses, briefs, e-mails, and disks) shall, within thirty (30) days after receiving a written request from the Producing Party or after the Commission order becomes final and no longer subject to appeal, return all those materials to the Producing Party, or shall destroy the materials and certify in writing to the Producing Party that such materials have been destroyed. Parties receiving Confidential Information shall also destroy all notes, working papers, e-mail, disks, and computer or other network memories and other documents containing Confidential Information and shall certify in writing to the Producing Party that such notes, working papers, documents and electronic records have been so destroyed within thirty (30) days after receiving a written, oral, or electronic request from the Producing Party to do the same.

12. This Order shall remain in effect for a period of five (5) years from its date of entry, unless such period shall be extended at some future time pursuant to applicable Commission rules.

Dispute Resolution

13. If a Party does not agree with the Producing Party's designation of documents and information as Confidential Information, such Party (the "Challenging Party") shall give the Producing Party reasonable written notice, by e-mail or by U.S. Mail, of the objection. If the Producing Party continues to believe that the Confidential Information contains information that

justifies such designation, it shall so inform the Challenging Party within five (5) business days of receipt of the Challenging Party's objection. If the Challenging Party continues to object to the confidential designation, it should raise the matter with the Administrative Law Judge(s) in the form of a written notice of objection that shall identify the documents or portions thereof that are the subject of the challenge. Following the filing of the notice of objection by the Challenging Party, the Administrative Law Judge(s) shall determine the procedure for resolving the challenge, which may include requiring the Producing Party to file a motion, pursuant to 83 Ill. Admin. Code 200.430, within ten (10) business days of the written objection, requesting an order granting the documents continued confidential protection. A document designated as Confidential Information shall be treated as such by all Parties during the pendency of any challenge to such designation until the Administrative Law Judge(s) issues a ruling altering such designation. In the event of a challenge to a confidentiality designation by the Producing Party, the Producing Party shall bear the burden to support its designation.

14. If a Party has a good faith belief that a person who has signed Form 1 is not entitled to receive Confidential Information or is likely to use or disclose Confidential Information in violation of this Order, such Party may object to the delivery of Confidential Information to such person by motion to the Administrative Law Judge(s). A person who is the subject of such a motion shall not receive Confidential Information until the Administrative Law Judge(s) issues a ruling on the motion.

Applicability of Order to Commission Personnel and the Attorney General's Office

15. Staff Witnesses and other Commission personnel are governed by Sections 4-404 and 5-108 of the Act, 220 ILCS 5/4-404 & 5/5-108, and Staff Witnesses are subject to 83 Ill. Admin. Code 200.605 and 200.1050(b) regarding the disclosure of confidential information or

documents, and are not subject to this Order.

16. The Office of the Attorney General is governed by 15 ILCS 205/6.5(a)-(d) and will receive information in this proceeding on behalf of the People of the State of Illinois. The Office of the Attorney General shall treat Confidential Information in accordance with the terms of this Order and shall file and distribute pleadings or testimony in accordance with the terms of this Order.

Remedies

17. Each Party agrees that any violation of this Agreement by unauthorized disclosure of any Confidential Information may result in liability for damages and penalties as provided by law and that the Producing Party shall have the right immediately to pursue all legal and equitable remedies available, including specific performance of the terms of this Order, provided that a showing that the information so disclosed is not entitled to confidential treatment under the law is a defense against any and all claims under this Order.

18. Designations of Confidential Information that are not made in good faith, including, but not limited to, blanket designations made without consideration of the nature of the specific information being designated, shall constitute a violation of this Order and may result in liability for damages.

19. Further protective orders or rulings may be issued, as needed.

Dated this _____ day of August, 2006.

Administrative Law Judge

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ILLINOIS COMMERCE COMMISSION

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) Docket No. 06-0336
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CERTIFICATION FOR PRODUCTION OF CONFIDENTIAL INFORMATION

(FORM 1)

I certify my understanding that (i) Confidential Information is being provided to me pursuant to the terms and restrictions of the Protective Order dated July ____, 2006, and issued in the above-captioned Docket; (ii) I have been given a copy of and have read the Protective Order; and (iii) I agree to be bound by it. I understand that the contents of any Confidential Information, and any notes, memoranda, or any other form of information regarding or derived from that Confidential Information, shall not be disclosed to anyone other than in accordance with the Protective Order, and shall be used only for the purposes stated in the Protective Order. I acknowledge that a violation of this Certificate constitutes a breach of the Protective Order.

SIGNED: _____

Name: _____

Title: _____

Employer: _____

Employer's Address: _____

Party Representing: _____

SUBSCRIBED AND SWORN

to before me this _____
day of _____, 2006.

Notary Public

My commission expires on _____.

Seal: