

**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.)

MOTION TO STRIKE THE TESTIMONY OF MICHAEL J. DREY

Pursuant to 83 Ill. Admin. Code 200.190(a), Illinois-American Water Company ("IAWC"), American Water Works Company, Inc. ("American Water"), Thames Water Aqua US Holdings, Inc. and Thames Water Aqua Holdings GmbH (collectively, "Joint Applicants"), by and through their undersigned attorneys, move to strike the Direct Testimony of Michael J. Drey, filed on behalf of intervener the Village of Bolingbrook ("Bolingbrook"). In support of this motion, Joint Applicants state as follows:

1. On April 21, 2006, the Joint Applicants filed a Petition with the Illinois Commerce Commission ("Commission") in this matter seeking approval of a reorganization pursuant to Section 7-204 of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/7-204.
2. Joint Applicants filed Direct Testimony on June 7, 2006.
3. Bolingbrook sought leave to intervene in this proceeding on July 12, 2006. Bolingbrook was granted leave to intervene on July 31, 2006.
4. Pursuant to the Case Schedule promulgated by the Administrative Law Judge

("ALJ") on May 24, 2006, Staff and Interveners' verified direct testimony was due on August 7, 2006.

5. Bolingbrook filed the Direct Testimony of Mr. Michael J. Drey on August 8, 2006.

6. Mr. Drey's Direct Testimony addresses Bolingbrook's consideration of the acquisition of IAWC's utility plant that serves Bolingbrook and the purported benefits of such acquisition, certain recently enacted legislation that relates to municipal condemnation of utility plant, and a Letter of Intent between Bolingbrook, the Village of Homer Glen, and the Village of Plainfield pursuant to which these three Villages have agreed to investigate the possibility of acquiring IAWC's utility plant used to serve the respective Villages.

7. Mr. Drey's testimony does not address or relate to any of the standards for approval for a reorganization as set forth in Section 7-204 of the Act, or any other issue in this proceeding.

8. Mr. Drey's Direct Testimony (p. 3) notes that IAWC has not approached Bolingbrook with respect to conveyance to Bolingbrook of IAWC's utility plant serving Bolingbrook.

9. Neither IAWC nor American Water is willing to pursue a voluntary sale to Bolingbrook of utility assets at this time.

10. Various Illinois statutory provisions, including, for example Divisions 117 and 139 of the Illinois Municipal Code, 65 ILCS 5/11-117-1 *et seq.* and 65 ILCS 5/11-139-1 *et seq.*, provide authority for a municipality to acquire utility assets. These authorities are independent of, and unrelated to, this proceeding, and are available for Bolingbrook to pursue at any time. The outcome of this proceeding will not affect Bolingbrook's ability to utilize

condemnation authority provided by one of the various statutory provisions if it so chooses.

11. Provisions of Public Act 94-1007, as referenced in Mr. Drey's Direct Testimony (p. 2), also provide municipalities with the ability to acquire utility assets. These authorities will become available to Bolingbrook on January 1, 2007, again irrespective of the outcome of this proceeding.

12. Because neither IAWC nor American Water is willing to pursue a voluntary sale of utility assets to Bolingbrook, and because Bolingbrook may pursue acquisition of IAWC's utility assets under a variety of statutory authorities at any time (regardless of the outcome of this proceeding), Mr. Drey's Direct Testimony does not set forth a basis for consideration by the Commission in this proceeding of Bolingbrook's desire to acquire IAWC's utility assets serving Bolingbrook.

13. Therefore, because Mr. Drey's testimony does not relate to the criteria in Section 7-204 of the Act, nor state a basis for Commission consideration of a sale of IAWC's plant to Bolingbrook, Mr. Drey's testimony is irrelevant to this proceeding and should be stricken.

WHEREFORE, for all of the reasons set forth above, Joint Applicants respectfully request that the Direct Testimony of Michael J. Drey be stricken in its entirety.

September 8, 2006

Respectfully submitted,

ILLINOIS-AMERICAN WATER
COMPANY, AMERICAN WATER
WORKS COMPANY, INC., THAMES
WATER AQUA US HOLDINGS, INC.,
and THAMES WATER AQUA HOLDINGS
GmbH

By: /s/ Albert D. Sturtevant

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