

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

Rockwell Utilities, LLC	)	
	)	Docket Nos. 06-0522
Petition for a Certificate of Public Convenience,	)	06-0523 cons.
And Necessity to provide water and sanitary	)	
sewer service to parcel in Lake County, pursuant	)	
to Section 8-406 of the Public Utilities Act.	)	

Revised  
Direct Testimony of

**JOHN P. CARROLL**

President and Chief Executive Officer  
Kirk Corporation

On behalf of  
Rockwell Utilities, LLC

March 21, 2007

1 **I. INTRODUCTION**

2 **Q. Please state your name, occupation and business address.**

3 A. My name is John P. Carroll. I am the President and Chief Executive Officer of the Kirk  
4 Corporation (“Kirk”). My business address is 201 Juniper Circle, Streamwood, Illinois,  
5 60107.

6 **Q. Please describe Kirk?**

7 A. Kirk, the sole member of Rockwell Utilities, LLC (“Rockwell”), has been involved in real  
8 estate development for nearly 30 years. Kirk is a privately held company that owns  
9 approximately 16 operating companies. These companies do business primarily in  
10 northern Illinois. Over the years, Kirk and its affiliates have constructed over 7,000  
11 homes, town homes and condominiums. Kirk employs 90 people. Additionally, Kirk has  
12 assisted municipalities to expand and update water and wastewater treatment facilities.

13 **Q. Please describe Rockwell?**

14 A. Rockwell is an Illinois limited liability company whose sole member is Kirk. Rockwell  
15 was organized on December 16, 2005, and was granted a Temporary Certificate of Public  
16 Convenience and Necessity by the Commission on August 16, 2006, to provide water and  
17 wastewater services in portions of the Village of Lakemoor, Lake County, Illinois.

18 **Q. Are you familiar with the Amended Petition for Certificate of Public Convenience  
19 and Necessity (“Petition”) that has been filed in this proceeding?**

20 A. Yes. Rockwell entered into an Agreement for the Sale of Sewer and Water System  
21 (“Asset Purchase Agreement”) with Lakemoor Building Corporation (“Lakemoor”) to  
22 purchase the water and wastewater assets that Lakemoor was using to provide service to

23 certain locations within the Area as defined herein. As a part of the transaction,  
24 Rockwell seeks to obtain a Certificate of Public Convenience and Necessity pursuant to  
25 Section 8-406 of the Public Utilities Act in order to serve the Area.

26 **Q. Would you please provide an overview of Rockwell’s Amended Petition?**

27 A. Yes. In addition to the Amended Petition, Rockwell filed a number of attachments, as  
28 follows:

- 29 • Attachment A, Agreement for the Sale of Sewer and Water System (“Asset  
30 Purchase Agreement”), which is incorporated herein by reference as Exhibit JPC-  
31 1.1;
- 32 • Attachment B, Maps of Rockwell’s Proposed Service Area, which is incorporated  
33 herein by reference as Exhibit JPC-1.2;
- 34 • Attachment C, Legal Description of Rockwell’s Proposed Service Area, which is  
35 incorporated herein by reference as Exhibit JPC-1.3;
- 36 • Attachment D, Village of Lakemoor Correspondence, which is incorporated  
37 herein by reference as Exhibit JPC-1.4;
- 38 • Attachment E, Sewer and Water Service and Tap-On Agreement (“Jupiter  
39 Agreement”), which is incorporated herein by reference as Exhibit JPC-1.5;
- 40 • Attachment F, Affiliate Services Agreement between Rockwell and Kirk, which is  
41 incorporated herein by reference as Exhibit JPC-1.6;
- 42 • Attachment G, Operating Agreement between Rockwell and Kirk, which is  
43 incorporated herein by reference as Exhibit JPC-1.7; and
- 44 • Attachment H, Water and Sewer Service Agreement between Rockwell and  
45 Rockwell Place, LLC (“RWP”), which is incorporated herein by reference as  
46 Exhibit JPC-1.8.

47 **Q. What is the purpose of your testimony?**

48 A. I will provide the necessary background and supporting information relative to  
49 Rockwell’s Amended Petition. In doing so, I will discuss, among other things,  
50 Rockwell’s acquisition of the water and wastewater facilities (the “System”) previously

51 owned and operated by Lakemoor for service in the Area. I will provide information on  
52 difficulties Lakemoor had in providing service and steps Rockwell has taken to remedy  
53 the issues and improve service in the Area. I will discuss Rockwell's affiliate  
54 agreements. I will also testify that Rockwell's projected operating expenses, projected  
55 capital expenditures and projected revenues, while developed, will be considered in a  
56 separate proceeding. Additionally, I will testify to Rockwell's proposed financing, both  
57 equity and debt, and debt refinancing within 12 months of approval of the Amended  
58 Petition. Finally, I will set forth the General Terms and Conditions pursuant to which  
59 Rockwell proposes to provide service.

60 **Q. Are you sponsoring any Exhibits in this proceeding?**

61 A. Yes. I am sponsoring Exhibits JPC-1.1 - 1.8 which are attachments to the Amended  
62 Petition. In addition, I am sponsoring the following Exhibits:

63 Exhibit JPC-1.9: IEPA Violation Notice served on Lakemoor alleging its Failure to  
64 Use a Certified Operator and Submit Monthly Reports;

65 Exhibit JPC-1.10: IEPA No. 2006-GO-1421 renewal of Permit to Operate issued to  
66 Lakemoor on July 31, 2006;

67 Exhibit JPC-1.11: IEPA No. 2006-HB-1398 Permit to Construct, issued to Lakemoor  
68 and Rockwell Place, LLC on July 7, 2006;

69 Exhibit JPC-1.12: IEPA No. 2006-HB-1397 Permit to Construct, issued to Lakemoor  
70 and Rockwell Place, LLC on August 4, 2006;

71 Exhibit JPC-1.13: IEPA No. 2006-HB-1398-1 Permit to Construct, issued to  
72 Lakemoor and Rockwell Place, LLC on January 5, 2007;

73 Exhibit JPC-1.14: IEPA No. 2006-HB-2645 Permit to Construct, issued to Lakemoor  
74 and Rockwell Place, LLC on January 5, 2007;

75 Exhibit JPC-1.15: IEPA No. 2007-GO-3071 Permit to Operate, issued to Rockwell  
76 on February 7, 2007;

77 Exhibit JPC-1.16: Kirk's Combined Financial Statement, year ended December 31,  
78 2005, which is Confidential and Proprietary; and

79 Exhibit JPC-1.17: Rockwell's General Terms and Conditions for Water and for  
80 Sewer.

81 **Q. Who else will be testifying in support of Rockwell's Amended Petition?**

82 A. Jeremy Lin of LinTech Engineering, will provide testimony addressing Rockwell's  
83 original cost study, depreciation and contributions in aid of construction ("CIAC").  
84 (Rockwell Ex. 2.0R). David Monie of G.P.M. Associates Inc. will sponsor a depreciation  
85 exhibit for years 2007 through 2010 and discuss the appropriateness of Rockwell's  
86 treatment of CIAC and the acquisition adjustment, and those items' impact on rates.  
87 (Rockwell Ex. 3.0R). Mike Albach, Kirk's Vice President and Chief Financial Officer,  
88 will address accounting issues. (Rockwell Ex. 4.0R).

89 **II. BACKGROUND AND EXPERIENCE**

90 **Q. What is your education, professional and business background?**

91 A. I have more than 29 years of construction and real estate development experience. I am  
92 President and CEO of Kirk, and have been President since 2001. Prior to being  
93 President, I was Senior Executive Vice-President and was responsible for overseeing all  
94 construction operations, utility installation and land development work conducted by  
95 Kirk and its affiliates. Prior to joining Kirk, I worked for Centex Homes for over 5 years  
96 where I was a Project Manager and Director of Land Development & Acquisition. Prior  
97 to Centex Homes, I worked full time at Carroll Builders, a family owned construction and  
98 development company as Vice-President, and both full and part time as a Project

99 Manager while completing my education in Civil Engineering at the University of  
100 Illinois. In total, I have over 30 years of construction and management experience.

101 **Q. Please explain your job responsibilities at Kirk?**

102 A. I am responsible for the general oversight of Kirk and its affiliates. I am responsible for  
103 the management and forward planning for the company. As such, I will have overall  
104 responsibility for the operations of Rockwell.

105 **III. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

106 **A. SERVICE AREA**

107 **Q. Would you please describe the Area for which certification is requested?**

108 A. Exhibits JPC-1.2 and JPC-1.3, respectively, are attached to the Amended Petition and  
109 incorporated herein by reference, and are the maps and legal description of the Area to be  
110 served by Rockwell. Generally, the Area consists of certain real estate commonly  
111 referred to as the “Sullivan Lakes Parcel,” which RWP owns and/or is the contract  
112 purchaser of, in the Village of Lakemoor, Lake County, Illinois. The Area also consists  
113 of certain real estate owned by JRC Lakemoor Investments Limited Partnership (“Jupiter  
114 Investments”) and JRC Lakemoor Development Company, LLC (“Jupiter Development”)  
115 (Jupiter Investments and Jupiter Development collectively “Jupiter”) that is located  
116 adjacent to the System and commonly known as The Meadows Apartments (the  
117 “Apartment Project”). Finally, the Area includes other real estate owned by Lakemoor  
118 and its affiliates in the Village of Lakemoor, Lake County, Illinois.

119 **Q. Does Rockwell have sufficient capacity to provide service to the Area?**

120 A. Yes. I believe Rockwell has sufficient capacity to serve the Area or can make the  
121 necessary enhancements to its system, if required.

122 **Q. How many customers does the System serve currently?**

123 A. As of February 22, 2007, Rockwell was providing water and sewer service to 496  
124 customers at the Jupiter Apartments, and 34 single family homes and 44 town homes at  
125 the Sullivan Lakes Parcel.

126 **Q. Is it anticipated that the number of customers will increase?**

127 A. The Sullivan Lakes Parcel may be developed with additional dwelling units. It should be  
128 noted that any development in the Area would be subject to market conditions. RWP has  
129 put together its best projection for additional development based on current market  
130 conditions, which is addressed by Mr. Lin in his direct testimony. This projection is  
131 subject to the caveat that RWP would not develop the Sullivan Lakes Parcel beyond the  
132 number of homes and town homes that the Illinois Environmental Protection Agency  
133 (“IEPA”) determines the System has capacity to serve from time to time in the future.

134 In addition, Jupiter may build up to 224 additional apartment units at the  
135 Apartment Project. However, I have been informed by a representative of Jupiter that it  
136 has no firm plans to develop the Apartment Project further for the next several years.  
137 Regardless, the System has capacity that is currently available that would be sufficient to  
138 cover such development when and if it occurs.

139 The property in the Area owned by Lakemoor and its affiliates may be developed  
140 in the future. However, pursuant to Paragraph 2 of the Asset Purchase Agreement,

141 Lakemoor and its affiliates may use the System for such areas only to the extent the  
142 System has capacity to serve more than the Sullivan Lakes Parcel. To the extent  
143 Lakemoor and its affiliates need additional capacity, they would be required to pay for  
144 the capital improvements necessary to create the additional capacity.

145 Finally, it should be noted that certain portions of the Area are zoned for  
146 commercial use; however, I am not aware of any plans to construct buildings for  
147 commercial use at this time.

148 **Q. If more capacity is required in the future, are there things Rockwell can do to**  
149 **increase capacity without making a substantial capital investment?**

150 A. There are several techniques that can be employed to increase capacity without  
151 expending substantial capital, including but not limited to: 1) asking the IEPA to  
152 reevaluate the existing capacity due to the construction of a larger pond than was required  
153 by the original computation of the facilities' capacity; 2) asking the IEPA to reassess  
154 population equivalents per dwelling unit due to use of water saving devices and actual  
155 experience of existing similar units; and 3) providing additional irrigation on the golf  
156 course.

157 **Q. Does Rockwell project that some capital investment may be required to serve the**  
158 **projected development in the Area?**

159 A. Yes. Mr. Lin discusses those enhancements in his revised direct testimony.

160 **B. THE SYSTEM**

161 **Q. Where can a description of the System be found?**

162 A. The system is described in Mr. Lin's revised direct testimony.

163 **C. THE PURCHASE PRICE**

164 **Q. When did Rockwell enter into the Agreement to purchase Lakemoor’s water and**  
165 **sewer treatment assets?**

166 A. On or about January 13, 2006, Rockwell entered into the Asset Purchase Agreement with  
167 Lakemoor to purchase the System.

168 **Q. What is the purchase price that Rockwell is required to pay for the System?**

169 A. Rockwell acquired the System for a purchase price that is equal to the Available Capacity  
170 of the System multiplied by \$5,000.00 but not to exceed \$3,535,000.00 as set forth in 2(a)  
171 of the Asset Purchase Agreement. The Available Capacity is equal to the number of  
172 homes in the Area that may be served by the System as determined by the IEPA and/or  
173 the Commission over time. The Available Capacity may increase, subject to the  
174 determination of the IEPA, as set forth in Paragraph 2 of the Asset Purchase Agreement.  
175 As such, at closing, Rockwell made a down payment to Lakemoor of \$1,825,000 with a  
176 letter of credit for \$1,710,000, totaling the maximum purchase price (\$1,825,000 +  
177 \$1,710,000 = \$3,535,000). Based on the IEPA’s determination of the System’s Available  
178 Capacity from time to time, Rockwell’s letter of credit will be drawn upon to increase the  
179 purchase price payment to Lakemoor.

180 In addition, at closing, Lakemoor assigned to Rockwell a Sanitary Sewer and  
181 Water Service and Tap-On Agreement dated July 13, 1998, between Lakemoor and  
182 Jupiter (“Jupiter Agreement), which provides for Rockwell to provide water and sewer  
183 service to the Apartment Project. The Jupiter Agreement also provides for a credit to the  
184 purchase price payable to Lakemoor. Pursuant to Paragraph 10 to the Jupiter Agreement,

185 Jupiter Development is to pay Rockwell, as the assignee for Lakemoor, \$2,000.00 for  
186 each additional apartment unit developed plus \$300.00 for each excess bedroom in such  
187 additional units as set forth in Subparagraphs 10(a)(i) and (ii). In turn, pursuant to  
188 Paragraph 5 of the Asset Purchase Agreement, Rockwell is to pay Lakemoor 50% of such  
189 payments from Jupiter Development. Rockwell is to retain the remaining 50% of such  
190 payments received from Jupiter Development as a credit to the purchase price.

191 **Q. Has Rockwell incurred any costs to start a business as a public utility and become**  
192 **authorized to provide service with the Commission?**

193 **A.** Yes. Rockwell either has incurred or projects to incur the following costs:

- 194 • Shepard, Schwartz & Harris, LLP; \$20,000 for financial and accounting  
195 services
- 196 • Mackie Consultants, LLC; \$64,875.97 for engineering services
- 197 • MGD Water Systems, Inc.; \$9,777.50 for operator and consulting  
198 services
- 199 • Meltzer, Purtill & Steele, LLC; \$72,932.82 for legal services to organize  
200 Rockwell and prepare legal agreements
- 201 • Sonnenschein, Nath & Rosenthal; \$175,000 for legal advice on operation as a  
202 public utility, to prepare and prosecute this  
203 filing and to prepare and prosecute a filing  
204 to obtain permanent rates for service
- 205 • G.P.M. Associates Inc.; \$25,000 for expert services in the  
206 preparation of this filing, in the preparation  
207 of a filing to obtain permanent rates for  
208 service and for service as an expert witness
- 209 • LinTech Engineering, LLC; \$15,000 for expert services in the  
210 preparation of this filing and service as an  
211 expert witness

212 **D. CERTIFICATION IS IN THE PUBLIC INTEREST**

213 **Q. Why is Rockwell seeking a certificate to allow it to provide water and sewer service**  
214 **to the Area?**

215 A. No other entity, other than Lakemoor’s private utility, offered the immediate availability  
216 of water or sewer service to the parcels located within the Area.

217 **Q. Is the transfer of the assets from Lakemoor to Rockwell in the public interest?**

218 A. Yes. The transfer of Lakemoor’s assets to Rockwell is in the best interest of the using  
219 and consuming public. Rockwell was formed to serve an Area within the Village of  
220 Lakemoor that was not served by any other municipal utility or public utility. It is my  
221 understanding that the Village of Lakemoor is not immediately prepared to or interested  
222 in extending either water or sewer service to the Area. It is also my understanding that no  
223 public utility is prepared to provide both water and sewer service to the Area.  
224 Additionally, it is my understanding that no nearby water or sanitary district is  
225 immediately prepared to provide both water and sewer services to the Area. Other than  
226 Rockwell, no entity is prepared to provide both water and sewer service to the customers  
227 within the Area.

228 **Q. Why shouldn’t Lakemoor continue to serve the Area?**

229 A. First, Lakemoor wanted to exit the utility business. It is my understanding that the  
230 principal shareholder of Lakemoor was physically unable to attend to the day-to-day  
231 operations of the private utility due to out-of-state confinement. Second, there were  
232 serious IEPA concerns about the manner in which Lakemoor operated the System. The  
233 IEPA served a Violation Notice charging Lakemoor with failure to use a certified

234 operator and failure to submit monthly reports. A copy of this Notice is attached hereto  
235 as Exhibit JPC-1.9. Third, after entering into the Asset Purchase Agreement, Rockwell  
236 assisted Lakemoor in obtaining the necessary experts to bring the System into IEPA  
237 compliance, including the issuance of capacity and operational permits. As such,  
238 Lakemoor's customers already have benefited from Rockwell's involvement and will  
239 continue to benefit from the safe and reliable water and sewer service resulting from the  
240 System's change in ownership. With Rockwell's recommendations and financial  
241 assistance, the IEPA reissued Lakemoor a permit to operate on July 31, 2006, which is  
242 attached hereto as Exhibit JPC-1.10. In addition, the IEPA has issued Lakemoor and  
243 RWP several construction permits beginning July 7, 2006, which are attached hereto as  
244 Exhibit JPC-1.11, Exhibit JPC-1.12, Exhibit JPC-1.13, and Exhibit JPC-1.14. Further,  
245 the IEPA issued Rockwell a permit to operate the wastewater facility on February 7, 2007  
246 as the new owner, which is attached hereto as Exhibit JPC-1.15. Rockwell's customers  
247 will benefit from the management experience and financial strength that Rockwell brings.  
248 Rockwell's financial wherewithal ensures consistent compliance with environmental  
249 protection regulations. For these reasons, the transfer of the water and sewer facilities to  
250 Rockwell serves the public interest.

251 **E. ROCKWELL HAS THE REQUISITE CAPABILITY**

252 **Q. Does Rockwell have the technical, financial and managerial ability to operate and**  
253 **maintain the System for service to the Area?**

254 **A. Yes.**

255 **Q. Will the System be operated using the personnel previously used by Lakemoor?**

256 A. Rockwell will not retain Lakemoor's primary operator or any Lakemoor employees.  
257 Prior to Rockwell's acquisition of the System and at Rockwell's insistence, MGD Water  
258 Systems, Inc. ("MGD") was retained to conduct testing and provide operational support  
259 to comply with the IEPA. Rockwell has since engaged MGD for the day-to-day  
260 operations of the System.

261 **Q. Why is MGD being engaged?**

262 A. MGD is being engaged to provide both its water and wastewater treatment operations  
263 expertise. MGD's principal, Mr. Michael Megurdician, will lead the operation  
264 management team from MGD. Mr. Megurdician has over 20 years of utility plant  
265 operation experience with the City of Rockford Water Utility, including 16 years as its  
266 Well Facilities Unit manager. He is a Class A Certified Water Treatment Operator and a  
267 Class 4 Certified Wastewater Treatment Operator. Mr. Megurdician received his  
268 undergraduate degree from Eastern Illinois University and is a member of the American  
269 Water Works Association and the Northern Regional Ground Water Protection and  
270 Planning Committee. MGD has been in business since 1989 and currently employs 6 full  
271 and part-time employees. MGD provides Rockwell with the depth at operations that it  
272 seeks.

273 **Q. Does MGD provide water and wastewater plant operation assistance elsewhere?**

274 A. Yes, it does. MGD provides water and wastewater plant operation assistance to the  
275 Village of Pingree Grove, Village of Creston, Woodlawn Utilities Corporation, and  
276 Beacon Hill/Great Oaks Apartments.

277 **Q. Will Rockwell provide engineering or will it rely upon an expert?**

278 A. Rockwell has engaged the services of LinTech Engineering (“LinTech”) to provide  
279 expert engineering services. LinTech will assist Rockwell with engineering, IEPA  
280 compliance and permit issues. LinTech has over 30 years of water and wastewater  
281 treatment facilities planning and design experience. Lintech provides water and  
282 wastewater plant engineering assistance to the Village of Pingree Grove, Village of  
283 Huntley, Village of Hinckley, Village of Fox River Grove, Village of Deerfield, the City  
284 of Bensenville, the City of Elmhurst and the City of Carol Stream. Additionally, LinTech  
285 has engineered new water treatment plant and improvement projects for the Village of  
286 Pingree Grove, Village of Huntley, and the Village of Gilberts. LinTech also has  
287 experience working with Illinois-American Water Company on multiple water treatment  
288 and wastewater treatment projects.

289 **Q. Please describe Rockwell’s financial capability?**

290 A. As explained above, Rockwell’s sole member is Kirk. In 2005, Kirk’s revenues exceeded  
291 \$134,000,000. Kirk expects 2006 revenues to exceed \$100,000,000. Kirk’s assets are  
292 worth nearly \$100,000,000 and its equity is in excess of \$40,000,000. Based upon its  
293 healthy equity position, Kirk has access to a \$75,000,000 line of credit. On average, Kirk  
294 has \$30,000,000 of credit available to it from its line of credit. Because of its low  
295 leverage/equity position, Kirk provides significant available capital to fund and operate  
296 Rockwell. Kirk’s Combined Financial Statement, year ended December 31, 2005 is  
297 attached hereto as Exhibit JPC-1.16.

298 **Q. Who will be leading Rockwell's management team?**

299 A. I will.

300 **Q. Who will assist you in the management of Rockwell?**

301 A. Mike Albach, Lon Marchel and Paul Rose.

302 **Q. What is their experience?**

303 A. Mike Albach has more than 23 years of financial experience. He has been Kirk's Vice-  
304 President and Chief Financial Officer since 1998. As Vice-President and Chief Financial  
305 Officer, Mr. Albach is responsible for overseeing Kirk's general ledger, profit and loss  
306 statement, and interfacing with lenders and the company's auditors. Mr. Albach  
307 supervises a staff of 8 and has an annual budget of over 5.7 million dollars. Prior to  
308 joining Kirk, he worked for several certified public accounting firms for 14 years as an  
309 auditor, and is a Certified Public Accountant.

310 Lon Marchel has more than 30 years of construction and real estate development  
311 experience. He has been a Vice-President and Regional Manager for Kirk since 1994.  
312 As Vice-President and Regional Manager, Mr. Marchel is responsible for overseeing,  
313 maintaining, purchasing and installing public utility plant and infrastructure. He  
314 supervises a staff of 20 and has an annual budget of over 60 million dollars. Prior to  
315 joining Kirk, he worked for Centex Homes for over 17 years where he rose to the  
316 position of Vice-President of Construction and at Town & Country Homes where he  
317 worked as a Project Manager.

318 Paul Rose has more than 25 years of construction and real estate development  
319 experience. He has been Kirk's Vice-President of Land Acquisition and Development

320 since 2004. He supervises an acquisition staff of 2 people as well as all of Kirk's  
321 engineering and consulting companies involved in acquisitions. His annual budget for  
322 2006 is in excess of 17 million dollars. As Vice-President of Land Acquisition and  
323 Development, Mr. Rose is responsible for analyzing and verifying utility systems and real  
324 property acquisitions. Prior to becoming Vice-President of Land Acquisition and  
325 Development, he was a Regional Manager for 4 years with Kirk. Prior to joining Kirk,  
326 he worked for Four Oaks Development as Vice President of Construction for 4 years and  
327 as a Project Manager for Centex Homes for 6 years.

328 **IV. TERMS AND CONDITIONS OF SERVICE**

329 **Q. Will service to all current customers as well as any future customers be provided on**  
330 **a non-discriminatory basis?**

331 A. Yes, it will.

332 **Q. Will Rockwell agree to comply with the Public Utilities Act and with all applicable**  
333 **Commission rules?**

334 A. Yes, it is Rockwell's intent to comply with the Commission's rules.

335 **Q. What are the general terms and conditions pursuant to which Rockwell proposes to**  
336 **provide service?**

337 A. The tariff sheets setting forth the general terms and conditions pursuant to which service  
338 would be provided are attached as Exhibit JPC-1.17.

339 **V. AFFILIATE AGREEMENTS**

340 **Q. Is an Affiliate Services Agreement contemplated between Rockwell and Kirk?**

341 A. Yes. A copy of the Affiliate Services Agreement is attached to the Amended Petition and  
342 incorporated herein as JPC-1.6.

343 **Q. Does Rockwell seek the Commission's approval of the Affiliate Services Agreement**  
344 **between it and Kirk?**

345 A. Yes. Rockwell seeks the Commission's approval of the Affiliate Services Agreement.

346 **Q. With respect to the Affiliate Services Agreement, please describe the relationship**  
347 **between Rockwell and Kirk?**

348 A. Kirk will provide executive, administrative, secretarial and clerical, accounting, human  
349 resources, information systems, as well as financial and billing services to Rockwell.

350 **Q. Will Kirk charge Rockwell a management fee in addition to the fees for the services**  
351 **identified above?**

352 A. No, Kirk will not charge a management fee. Kirk will only charge Rockwell the  
353 prevailing market rate for the actual services it provides. Further, pursuant to the  
354 agreement between Kirk and Rockwell, Kirk may charge Rockwell no more than the rate  
355 Kirk charges to unaffiliated companies for the same service or, if Kirk does not provide  
356 the service to unaffiliated companies, it must document to Rockwell that the rate charged  
357 is no greater than rates charged for similar services to other companies in the surrounding  
358 area.

359 **Q. Is there an operating agreement between Rockwell and Kirk?**

360 A. Yes. An operating agreement is a necessary component to the creation of a limited  
361 liability company. A copy of the Operating Agreement of Rockwell Utilities, LLC is  
362 attached to the Amended Petition and incorporated herein by reference as JPC-1.7.

363 **Q. Does Rockwell seek the Commission's approval of the Operating Agreement of**  
364 **Rockwell Utilities, LLC?**

365 A. Yes. Rockwell seeks the Commission's approval of the Operating Agreement of  
366 Rockwell Utilities, LLC.

367 **Q. With respect to the Operating Agreement of Rockwell Utilities, LLC, please**  
368 **describe the relationship between Rockwell and Kirk?**

369 A. The Operating Agreement of Rockwell Utilities, LLC sets for the obligations and  
370 responsibilities of Rockwell and Kirk to each other relative to the formation and  
371 continued operation of Rockwell as a limited liability company. It also sets forth the  
372 terms pursuant to which Kirk will provide Rockwell with capital and debt.

373 **Q. Is a Water and Sewer Agreement contemplated between Rockwell and another**  
374 **affiliate of Kirk?**

375 A. Yes. RWP is a developer of property within the proposed service territory. Kirk is also  
376 affiliated with RWP. A copy of the proposed Water and Sewer Agreement is attached to  
377 the Amended Petition and incorporated herein by reference as JPC-1.8.

378 **Q. Does Rockwell seek the Commission's approval of the proposed Water and Sewer**  
379 **Agreement between it and RWP?**

380 A. Yes. Rockwell seeks the Commission's approval of the proposed Water and Sewer  
381 Agreement.

382 **Q. With respect to the proposed Water and Sewer Agreement, please describe the**  
383 **relationship between Rockwell and Rockwell Place, LLC?**

384 A. The Water and Sewer Agreement sets forth the obligations and responsibilities of  
385 Rockwell and RWP to each other. Under the agreement, RWP is to provide for the  
386 construction of water and sewer facilities for certain property within Rockwell's service  
387 territory, and Rockwell is to provide water and sewer services.

388 **VI. PROJECTED OPERATING EXPENSES**

389 **Q. Has Rockwell projected its operating and maintenance expenses?**

390 A. Yes. Projections of operating and maintenance expenses through 2010 have been  
391 prepared for both the water utility and the sewer utility. This action illustrates  
392 Rockwell's considered analysis in this undertaking. However, based upon the ALJ's  
393 ruling denying Rockwell the ability to recover rates other than the temporary rates  
394 previously authorized, these projections will be made apart of a separate proceeding.

395 **VII. PROJECTED CAPITAL EXPENDITURES**

396 **Q. Has information been prepared showing the projected capital expenditures?**

397 A. Yes. Projections of capital expenditures were made. This action illustrates Rockwell's  
398 considered analysis in this undertaking. However, based upon the ALJ's ruling denying  
399 Rockwell the ability to recover rates other than the temporary rates previously authorized,  
400 these projections will be considered in a separate proceeding.

401 **Q. What portion of Rockwell's development is estimated to be contributed property?**

402 A. Contributed property will include all water mains, water service lines, meters, meter  
403 installations and fire hydrants in the newly developed areas. Contributed plant will also  
404 include the sewer collection system and sewer laterals in the new developments.

405 **VIII. PROJECTED REVENUE GROWTH**

406 **Q. Has Rockwell projected revenue growth?**

407 A. Yes. Projections of revenue growth through 2010 have been prepared for both the water  
408 utility and the sewer utility. This action illustrates Rockwell's considered analysis in this  
409 undertaking. However, based upon the ALJ's ruling denying Rockwell the ability to  
410 recover rates other than the temporary rates previously authorized, these projections will  
411 be considered in a separate proceeding.

412 **IX. ROCKWELL'S FINANCIAL STRUCTURE**

413 **Q. What is Rockwell's proposed capital structure?**

414 A. Kirk will be providing all of the capitalization for Rockwell. The capital structure that is  
415 being used is 40% equity and 60% debt. 40% equity provides adequate equity capital to  
416 allow financing of the balance of the capital required. Although this equity amount on a  
417 loan to value basis is higher than the percentage of equity typically provided to other Kirk  
418 affiliates, it is my understanding that it is within the range of other utilities to obtain  
419 financing.

420 **Q. How did you arrive at the proposed cost of debt?**

421 A. The proposed a cost of debt is 8.75%, which is 0.5% above the national prime rate of  
422 8.25% on February 16, 2007. Kirk has agreed to providing debt capitalization at this rate.

423 **Q. What is Rockwell's required capitalization for 2007?**

424 A. As noted above, Rockwell has a letter of credit from Kirk for \$1,710,000 for increases in  
425 the purchase price that will arise from time to time as the IEPA permits additional  
426 capacity for the System. In addition, Rockwell needs capital to pay for the non-  
427 contributed plant additions. The total required capitalization, not including the letter of  
428 credit, through 2007 is \$2,930,401.

429 **Q. Is Rockwell seeking Commission approval of its initial financing?**

430 A. Yes. Rockwell seeks the Commission's approval to the extent it is required pursuant to  
431 Article VI of the Public Utilities Act. The precise terms of Rockwell's initial financing  
432 are set forth in the Operating Agreement of Rockwell Utilities, LLC.

433 **Q. With respect to debt, does Rockwell seek the ability to refinance its debt?**

434 A. Yes. Pursuant to Section 6-102 of the PUA, Rockwell requests the ability to refinance all  
435 or a portion of its debt with an alternative debt instrument on terms at least as favorable  
436 as those contained within the line of credit. The authorization Rockwell seeks is limited  
437 in time. If, after 12 months from the issuance of its Certificate of Public Convenience  
438 and Necessity, Rockwell has not refinanced as requested herein, its request shall lapse.

439 **X. RATES**

440 **Q. Has Rockwell developed rates to recover costs of providing service?**

441 A. Yes. Rockwell has developed rates. This action illustrates Rockwell's considered  
442 analysis in this undertaking. However, based upon the ALJ's ruling denying Rockwell  
443 the ability to recover rates other than the temporary rates previously authorized, the

444 establishment of the Company's first non-temporary rates will be made apart of a  
445 separate proceeding

446 **XI. CONCLUSION**

447 **Q. Does that complete your testimony?**

448 **A.** Yes, it does at this time.