

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket Nos. DW 10-141, DW 07-105, DW 10-043, and DW 11-021

Lakes Region Water Company, Inc.

MOTION TO STRIKE TESTIMONY OF PROPERTY
OWNERS ASSOCIATION OF SWISSEVALE, INC.

NOW COMES the Lakes Region Water Company (the Company) and moves to strike the October 14, 2011 Testimony of John Skelton on behalf of Property Owners Association at Swissevale, Inc (POASI) pursuant to Puc 203.20 as follows:

1. Puc 203.20 (a) states that: “All participants in settlement conferences shall treat discussions at settlement conferences as confidential and shall not disclose the contents of such discussions to third parties or seek to introduce them into evidence.”

2. On October 14, 2011, POASI submitted testimony of John Skelton disclosing his opinions and involvement in settlement discussions, in violation of Rule Puc 203.20.

3. For example, on Page 7, Line 241, Mr. Skelton provides a response to the question: “What role has POASI played in this docket and the settlement discussions related to this and the other dockets?” He then describes his participation “personally in virtually all of the settlement meetings and discussions since the spring of 2011” and offers an opinion related to discussions that are the subject of a Confidentiality Agreement “executed by POASI and LRWC” and the settlement discussions. *See e.g.* Page 9 of 10, Lines 318-326.

4. This testimony is prohibited by Puc 203.20. The Company disagrees with the testimony, but statement of the reasons for disagreement would require disclosure of

the settlement discussions and further violate the rule. The Company has therefore prepared Exhibit A, which removes those portions of the testimony submitted in violation of the Commission's rules.

5. In addition to violating rule Puc 203.20, settlement discussions have no relevance to the issues to be decided in this proceeding. *See Public Service Company*, 89 N.H. PUC 226 (2004); *City of Nashua*, Order No. 24,654 (August 7, 2006), *rehearing denied*, Order No. 24,671 (September 22, 2006); *Public Service Company*, Order No. 25,714, Page 18 (November 24, 2010) ("In contrast to the results of any such negotiations, we can conceive of no circumstances in which we would deem information about the negotiations themselves admissible."). Testimony concerning settlement discussions would take up time at the Commission's hearing better allocated to address the merits of issues before the Commission.

WHEREFORE, the Lakes Region Water Company requests that the Commission:

- A. Grant this Motion to Strike;
- B. Order that the Testimony of the POASI be struck as shown in Exhibit A; and
- C. Grant such other relief as justice may require.

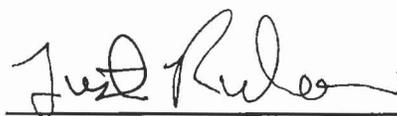
Respectfully submitted,

**LAKES REGION WATER
COMPANY, INC.**

By its Counsel,

UPTON & HATFIELD, LLP

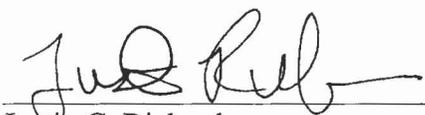
Dated: January 5, 2012



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day forwarded to all parties on the official service lists for DW 10-141, DW 07-105, DW 10-043, and DW 11-021.



Justin C. Richardson