

**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 DESIGNATE STAFF ADVOCATES**

NOW COMES the Lakes Region Water Company, Inc., by and through Upton & Hatfield, LLP, and moves for designation of Staff Advocates pursuant to RSA 363:32 as follows:

1. RSA 363:32 provides for designation of Commission Staff as “advocates” in cases where Staff have taken a “highly adversarial position” or when “the docket concerns an issue or matter which is particularly contentious or controversial and which is significant in consequence.” RSA 363:32, I(a) and (b).

2. On October 14, 2011, Staff witness Mark Naylor filed testimony noting that “[w]hile the company has made progress in addressing some of the problems it has had with its physical water systems, the company’s most urgent problem is financial.” *Testimony*, Page 3. Staff acknowledges that “the company’s stockholders have contributed new equity capital in the last two years.” *Id.* However, rather than evaluate the Company’s financial proposals made in this proceeding, Mr. Naylor testified that “Staff recommends that the Company seek a qualified buyer and sell its utility assets.” *Testimony*, Page 4.

3. Staff’s position that the Company should be sold, despite undisputed progress it has made and additions of new capital by its investors, is “highly adversarial” and “controversial” and “significant in consequence” to the Company and its customers,

within the meaning of RSA 363:32, I. Because Mr. Naylor states that his position reflects that of staff, as opposed to his personal opinion, designation of the Commission's staff as advocates is appropriate.

4. In addition, it appears that Staff has sought to implement its recommendation even before the Company or the Commission has had an opportunity to fully consider the recommendation. Less than one week after Staff's testimony was filed, a technical conference was held on Wednesday October 19, 2011. The following day, Lakes Region Water Company was contacted by the CEO of Aquarion Water Company, who indicated that Staff and its legal counsel had put "pressure" on it to purchase Lakes Region Water Company.

5. Lakes Region Water Company has a statutory and constitutional right to rate or other relief that compensates it fairly for the risks associated with its operations. *Appeal of PSNH*, 130 N.H. 748, 751 (1988) citing *Appeal of PSNH*, 130, N.H. 265, 275 (1988) ("The "constitutional consequence of this type of risk allocation is that those who bear the risk must be compensated by a return on their investment that reflects the risk that the statute places upon them."). Under Part I, Articles 2, 8 and 14 of the New Hampshire Constitution, the Company's right to appropriate relief must be weighed based on the record in this proceeding, and not against offers that might be presented to Staff outside of this case. Designation of staff advocates is therefore required in order to protect the Company's right to a fair hearing as guaranteed by the New Hampshire Constitution and RSA 541-A:31, IV.

WHEREFORE the Lakes Region Water Company, Inc. respectfully requests that:

- A. The Commission designate Staff witnesses and counsel as Staff Advocates pursuant to RSA 363:32; and
- B. Grant such other relief as justice may require.

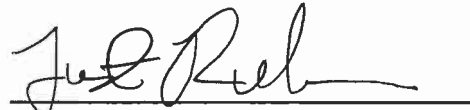
Respectfully submitted,

**LAKES REGION WATER  
COMPANY, INC.**

By its Counsel,

**UPTON & HATFIELD, LLP**

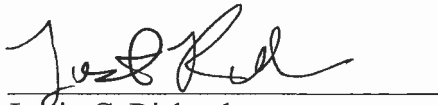
Dated: November 1, 2011



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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