

1 **THE PUBLIC UTILITIES COMMISSION OF NEVADA**

2 Annual Reports for calendar years 2017 through 2022
3 submitted by Water and Wastewater companies
4 operating in Nevada pursuant to
5 NRS 703.191, NAC 703.199 and NAC 704.225.
6 _____/

7 **PROTECTIVE AGREEMENT**

8 WHEREAS, the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission of
9 Nevada (“Commission”) has requested to review information that

10 _____ (“Company”) has provided to the Commission as part of
11 Staff’s investigation regarding the annual reports required to be filed with the Commission pursuant
12 to NRS 703.191, NAC 703.199 and NAC 704.225; and

13 WHEREAS, Company claims that some portion of the information requested is confidential,
14 proprietary and/or privileged in nature; and

15 WHEREAS, pursuant to NAC 703.527, NAC 703.5274(8), this Protective Agreement is being
16 executed in order to expedite access to such information by Staff and to establish the parameters for
17 use, treatment and maintenance of such information or material.

18 NOW, THEREFORE, the parties hereby agree as follows:

19 1. Company shall agree that that the information which the Company claims to be
20 confidential or proprietary and was provided to the Commission with the annual report may be
21 reviewed by Staff. For the purpose of this agreement, said confidential or proprietary information
22 shall include any information that is claimed to be “confidential” or
23 “proprietary” by the Company or is designated as confidential by the Commission.

24 2. All documents and information furnished subject to the terms of this Protective
25 Agreement shall be clearly stamped “Confidential” or “Proprietary” and shall hereinafter be referred
26 to as “Protected Materials.” All Protected Materials shall be accepted, maintained and utilized in
27 conformance with the provisions of NAC 703.5274 and this Protective Agreement. Protected
28 Materials shall also include any handwritten notes or computer files which summarize all or portions
of Protected Materials or otherwise disclose the substance of such materials.

1 3. It is specifically agreed and understood that Protected Materials shall not include
2 any information or documents contained in the public files of the Commission or of any federal or
3 state court, tribunal, regulatory agency or other legal entity. Nor shall it include any document or
4 information which at any prior time has been disclosed by the Company or any other party who
5 may have been in lawful possession of such material without the benefit of a written confidentiality
6 agreement or other protective agreement or device.

7 1. Staff shall not be deemed, by reason of this Protective Agreement, to have waived
8 the opportunity to argue before the Commission, or any other appropriate body, that any Protected
9 Materials are not confidential, proprietary or privileged in nature. However, it is specifically agreed
10 that unless otherwise agreed by the Parties or ordered by the Commission, all documents and other
11 discovery materials or portions thereof that have been designated as Protected Materials pursuant to
12 the terms of this Agreement shall only be used in accordance with the terms of this Agreement and
13 the applicable law.

14 2. Protected Materials shall only be disclosed to and used by counsel of record for
15 Staff, Staff Counsel, Staff Counsel's administrative assistants and Staff's technical experts. Each
16 such counsel, assistant, or expert shall review and abide by the terms of this Agreement.

17 3. Such Protected Materials shall not be included in any public files or records of the
18 Commission, whether in print or electronic format. Protected Material shall not be photocopied or
19 otherwise duplicated unless agreed to by the Company. Protected Materials may be included in Staff
20 Counsel's electronic database maintained for discovery purposes and may be reproduced for the sole
21 purpose of inclusion in the electronic database.¹

22 4. In the event Staff (a) is subpoenaed or as a result of other legal obligation or
23 compulsion intends to disclose Protected Materials to any person to whom disclosure is not authorized
24 by this Agreement, (b) wishes to include, use, or disclose the substance of Protected Materials in non-
25 confidential testimony or exhibits, or (c) wishes to object to the designation of certain information or
26 materials as Protected Materials, prior to such disclosure or objection Staff will

27
28 ¹ The Protected Materials in Staff Counsel's electronic database are maintained by Staff Counsel
Division personnel only and access to such documents is controlled by Staff Counsel's office.

1 notify counsel for the Company in writing and identify with particularity the Protected Material to be
2 used, disclosed, or objected to and the manner and substance of such proposed use, disclosure, or
3 objection.

4 8. If the Company objects to such proposed reclassification or disclosure, the Company
5 shall notify Staff in writing of their position and the reasons therefore within three (3) working days
6 of receipt of the notice described in Paragraph 7 above. Thereafter, if Staff and the Company are
7 unable to resolve the dispute, the Company or Staff may request a determination from the
8 Commission regarding the manner in which Staff should be allowed to utilize such Protected
9 Materials. Such procedure will be in conformity with NAC 703.5282. The notification and response
10 procedure and time schedule described in Paragraphs 7 and 8 of this Agreement shall not apply to the
11 unintended, unplanned and unforeseen identification, reference to, or discussion of any Protected
12 Materials during any public hearing. Should any Protected Materials specifically covered by this
13 Agreement be identified or become the subject of any public testimony or inquiry at any time during
14 a public hearing, the parties to this Agreement shall immediately seek and obtain a ruling from the
15 Presiding Officer, in conformity with NAC 703.5282, as to the status of the specific Protected
16 Materials at issue prior to further public disclosure or additional discussion or examination.

17 5. By providing access to Staff for the documents or information pursuant to this
18 Agreement, the Company retains, in all respects, every privilege and claim to confidentiality it
19 heretofore has had and hereafter may have with respect to such documents or information. Such
20 limited provision of the Protected Materials shall not be deemed in any way to constitute either (a)
21 disclosure of the Protected Materials or (b) full or partial waiver of any claim or privilege as to the
22 subject matter of the documents in this or any other proceedings or action. It is expressly understood
23 that the Company bears the burden of showing that documents or discovered material or portions
24 thereof are entitled to be protected according to the terms of this Agreement.

25 6. Nothing in this Agreement shall be construed to prevent Staff from attempting to
26 obtain through discovery, or in any other judicial or administrative action, any or all of the Protected
27 Materials subject to this Agreement.

28 7. This Protective Agreement is intended to cover any confidential material submitted

1 each year to the Commission, over a five year period of required annual reporting pursuant to NRS
2 703.191, NAC 703.199 and NAC 704.225. At the end of the five year period a new Protective
3 Agreement will need to be executed for annual reports in subsequent years.

4 12. This Protective Agreement shall continue to be binding upon all parties and all persons
5 to whom the Protected Materials have been disclosed or communicated pursuant to this Agreement as
6 stated herein. Pursuant to NAC 703.5274(2)(c), Protected Materials will be treated as confidential for
7 a period of five years following receipt by the Commission. After the five year period the Protected
8 Materials will no longer be retained consistent with Nevada law.

9 8. This Protective Agreement embodies the full agreement by and between the parties.

10
11 COMPANY NAME (please print)

12 _____

13 Dated: _____ By: _____

14 Company Representative name :

15 _____

16 Company's mailing address :

17 _____

18 _____

19
20 REGULATORY OPERATIONS STAFF

21 Dated: _____ By: _____

22 Tammy Cordova, Staff Counsel

23 Please return the completed, executed Protective
24 Agreement to the attention of Staff Counsel, at pucn.sc@puc.nv.gov, fax (775) 684-6109, or at
25 the Commission's offices at: 1150 East William Street, Carson City, Nevada 89701.
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