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*Attorneys and Counsellors at Law*

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May 13, 2014

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P. O. Box 3265  
Harrisburg, PA 17105-3265

In re: Insurance Company of Greater New York v. United Water Pennsylvania Inc.  
Docket No. C-2013-2393832

Dear Secretary Chiavetta:

We are counsel for United Water Pennsylvania Inc. in the above matter and are submitting via electronic filing the enclosed Petition for Protective Order. Copies of the Petition are being served in accordance with the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Charles E. Thomas, III

Encl.

cc: Certificate of Service  
James M. Terranova, Esq.  
Brooks R. Foland, Esq.

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Insurance Company of Greater New York	:	
a/s/o Quail Run Real Estate L.P. d/b/a Quail	:	
Run Apartments	:	
	:	
v.	:	Docket No. C-2013-2393832
	:	
United Water Pennsylvania Inc.	:	

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**PETITION FOR PROTECTIVE ORDER**

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Pursuant to 52 Pa. Code § 5.365, United Water Pennsylvania Inc. (“United”), Respondent in the above matter, files this Petition for the issuance of a Protective Order, in the form attached hereto as Attachment A, to limit the disclosure of proprietary and confidential information (“Confidential Information”) produced in discovery or submitted for the record by any party in the above-captioned proceeding. In support thereof, United respectfully represents as follows:

1. This proceeding involves a formal Complaint filed with the Pennsylvania Public Utility Commission (“Commission”) by the Insurance Company of Greater New York a/s/o Quail Run Real Estate LP d/b/a Quail Run Apartments (“INSCO”) against United, concerning United's provision of fire protection service at or around the time of a fire which occurred on June 11, 2010 at Quail Run Apartments, located at 4001 Rawleigh Street, Lower Paxton, Pennsylvania 17109.

2. The Commission’s regulations at 52 Pa. Code § 5.365 permit the entry of a Protective Order to limit or prohibit disclosure of confidential information where the potential harm to the party would be substantial and outweighs the public’s interest in having free and open access to the confidential information.

3. United has received, and expects to continue to receive, interrogatories and requests for production of documents from INSCO that may require the production of Confidential Information or documents containing Confidential Information. Some of the outstanding discovery seeks information about United's water distribution system, including scaled mechanical drawings, maps, and diagrams of the United system and its facilities. The disclosure of such Confidential Information, without restriction, would expose United and/or its customers to potential harm and security threats.

4. The possibility also exists that the materials which United and other parties will be furnishing in the course of this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or as a courtesy to others, will contain Confidential Information. Accordingly, the issuance of a Protective Order covering Confidential Information produced by any party in response to discovery and Confidential Information that parties may seek to introduce into evidence is appropriate and will facilitate the orderly and efficient progress of this proceeding.

5. Limiting disclosure of Confidential Information will not prejudice the rights of the parties. The proposed Protective Order is fully consistent with due process rights and evidentiary burdens and balances the interests of the parties, the Commission, and the public. It allows parties to retain the right to question or challenge the confidential or proprietary nature of information and to challenge the admissibility of confidential or proprietary information. The Protective Order also provides that the party claiming that the information is confidential or proprietary retains the burden of demonstrating that such designation is necessary and appropriate.

6. The form of Protective Order attached as Attachment A is similar to protective orders entered in other proceedings involving water utilities. *See, e.g., Pa. P.U.C. v.*

*Pennsylvania-American Water Co.*, Docket No. R-2013-2355276, Protective Order – Order #5 (July 11, 2013); *Pa. P.U.C. v. Aqua Pennsylvania Inc.*, Docket No. R-2009-2132019, Order Granting Issuance of Protective Order (March 26, 2010).

WHEREFORE, for all of the foregoing reasons and as discovery is presently ongoing, United respectfully requests that Administrative Law Judge Colwell expeditiously grant this Petition and issue a Protective Order in the form attached hereto as Attachment A.

Respectfully submitted,



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UNITED WATER  
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Harrington Park, NJ 07640-1799

*Attorneys for  
United Water Pennsylvania Inc.*

DATED: May 13, 2014

# ATTACHMENT A

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Insurance Company of Greater New York	:	
a/s/o Quail Run Real Estate L.P. d/b/a Quail	:	
Run Apartments	:	
	:	
	:	
v.	:	Docket No. C-2013-2393832
	:	
	:	
United Water Pennsylvania Inc.	:	

**PROTECTIVE ORDER**

United Water Pennsylvania Inc. (United) has filed a petition for the issuance of a protective order in this proceeding pursuant to 52 Pa. Code § 5.365. No party has objected to the petition. The petition should be granted.

THEREFORE,

IT IS ORDERED:

1. That the petition for a protective order filed by United is granted with respect to all materials and information identified in Paragraph 2 below, which are filed with the Pennsylvania Public Utility Commission (Commission), produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. That the materials subject to this Protective Order are all correspondence, documents, data, information, excerpts, summaries, studies, methodologies, system maps, and other materials (including materials derived therefrom) which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or provided as a courtesy to a party to this

proceeding, which are claimed to be of a proprietary or confidential nature and which are designated by the producing party as “Confidential Information.”

3. That any information provided to the Commission or any party in connection with the above-captioned proceeding that a producing party claims constitutes or contains “Confidential Information” shall be specifically identified and marked as Confidential Information. The producing party shall designate data or documents as constituting or containing Confidential Information by affixing a conspicuous “CONFIDENTIAL” stamp or typewritten designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Confidential Information, the producing party, insofar as reasonably practicable within time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Confidential Information and shall serve such documents separately from non-confidential information.

4. That each document and the information contained therein designated as “Confidential Information” shall be used by the recipient solely for purposes relating to the prosecution, review and processing of this proceeding and for no other purpose; and such documents and information shall be maintained in secure files, separate from public information, until returned to the producing party or destroyed pursuant to the terms thereof.

5. That with respect to all Confidential Information, it is further Ordered that:

(a) Access to the documents designated as “Confidential Information,” and to the information contained therein, shall be limited to the parties and their identified attorneys, employees, and consultants whose examination of the Confidential Information is required for the conduct of this proceeding.

(b) Recipients of Confidential Information shall not disclose the contents of the documents produced pursuant to this Protective Order to any person(s) other than their identified employees and any identified witnesses/consultants whom they may retain in connection with this proceeding, irrespective of whether any such expert is retained

specially and is not expected to testify, or is called to testify in this proceeding. All attorneys, employees, consultants or experts of any party bound by this Protective Order who receive copies of documents or information produced pursuant to this Protective Order shall execute a copy of the Certification attached hereto as Appendix A, which executed Certification shall be forthwith provided to counsel for the producing party with copies to counsel for other parties.

(c) No other disclosure of Confidential Information shall be made to any person or entity except with the express written consent of the producing party or upon further order of the Commission or of any Court of competent jurisdiction which may review these matters.

6. That the acceptance by any party of documents or information which has been identified and marked as Confidential Information shall not create a presumption that the material is in fact entitled to any special status in these or any other proceedings. Accordingly, as provided in 52 Pa.Code § 5.365, a party receiving Confidential Information retains the right, either before or after receipt of such Confidential Information, to challenge the legitimacy of the claim that the information is proprietary. Any party may initiate such a challenge by notifying the Commission, with reasonable notice to all other parties, that it wishes to challenge the designation of the material as Confidential Information. In that event, the producing party, as the provider of the Confidential Information, shall have the burden of proving that the material is entitled to protected status. However, notwithstanding such challenge, all parties shall continue to treat any document and information subject to challenge as Confidential Information in accordance with the terms of this Protective Order, pending resolution by the Commission of the dispute as to its status.

7. That the producing party retains the right to seek restrictions on the production, distribution and use by other parties of the Confidential Information beyond the protection expressly afforded such Confidential Information by this Protective Order.

8. That this Protective Order shall not operate as a determination, for any purposes, that any document or information produced pursuant to this Protective Order is either admissible or inadmissible in these or any other proceedings.

9. That documents or other materials containing Confidential Information filed with the Commission in this proceeding, including but not limited to pre-filed testimony and pre-filed exhibits, shall be labeled "CONFIDENTIAL" and shall be deemed filed under seal. During evidentiary hearings, if any, in this proceeding, all persons present for such hearings shall be subject to the terms of this Protective Order and may be required to so affirm for purposes of the record. The portion of the record containing the Confidential Information, including the portions of transcripts of oral testimony discussing Confidential Information, shall be placed under seal.

10. That the Commission and any other state agency that may have access to, or receive copies of, the Confidential Information will deem and treat such information as within the exemption from disclosure provided in the Pennsylvania Right-to-Know Act set forth in 65 P.S. § 67.708(b) until such time as the information may be found to be non-proprietary by the Commission or by a court of competent jurisdiction.

11. That Confidential Information which is placed on the record of this proceeding under seal shall remain with the Commission under seal after the conclusion of the proceeding. If such Confidential Information is provided to appellate courts for the purposes of appeal(s) from this proceeding, such information shall be provided, and shall remain, under seal.

12. That upon the final resolution of proceedings in which Confidential Information has been provided, which includes the exhaustion of appeals, if any, all documents and other materials containing Confidential Information shall, within 30 days of the producing party's request, be either: (1) returned to counsel for the producing party; or (2) destroyed. If a receiving party chooses to destroy the Confidential Information, then it shall certify to the producing party that the Confidential Information has been destroyed by it and its employees, consultants, and other representatives, and that the terms of this Protective Order have been

satisfied; provided, however, that all such pleadings, briefs, statements, exhibits and transcripts containing Confidential Information shall remain subject to the terms of this Protective Order.

13. That the issuance of this Protective Order shall not prejudice the producing party's right to challenge the production of any documents or information sought in discovery by any party on the grounds that such documents or information are not properly discoverable.

Date: \_\_\_\_\_

\_\_\_\_\_  
Susan D. Colwell  
Administrative Law Judge

**APPENDIX A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Insurance Company of Greater New York :  
a/s/o Quail Run Real Estate L.P. d/b/a Quail :  
Run Apartments :  
 :  
 :  
v. : Docket No. C-2013-2393832  
 :  
 :  
United Water Pennsylvania Inc. :

**CERTIFICATION**

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of  
\_\_\_\_\_ (the receiving party).

The undersigned has read, and understands that, the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
EMPLOYER

DATE: \_\_\_\_\_

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Insurance Company of Greater New York :  
a/s/o Quail Run Real Estate L.P. d/b/a Quail :  
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v. : Docket No. C-2013-2393832  
 :  
 :  
United Water Pennsylvania Inc. :


**CERTIFICATE OF SERVICE**

I hereby certify that I have this 13th day of May, 2014, served a true and correct copy of the foregoing Petition for Protective Order upon the persons and in the manner set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

**EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID**

Honorable Susan D. Colwell  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[scolwell@pa.gov](mailto:scolwell@pa.gov)

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\_\_\_\_\_  
Charles E. Thomas, III (PA ID # 201014)