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September 6, 2024

VIA E-FILE

Administrative Law Judge Eranda Vero
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265
pmcneal@pa.gov

RE: The Newtown Artesian Water Company
Application for Increase in Base Rates for Water Service
Docket No. R-2024-3050208

Dear ALJ Vero:

Enclosed please find The Newtown Artesian Water Company's Prehearing Conference Memorandum for filing with the PA Public Utility Commission, in the above-referenced docket.

Thank you for your attention to this matter.

Sincerely,



Courtney L. Schultz

cc: Per enclosed certificate of service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Newtown Artesian Water Company
Application for Increase in Water Base Rates
Docket No. R-2024-3050208**

CERTIFICATE OF SERVICE

I hereby certify that I have this day, served a true copy of the Newtown Artesian Water Company's Prehearing Conference Memorandum, upon the persons listed below *via E-filing and*

Electronic Mail:

Via E-File Only

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105

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Assistant Small Business Advocate
Office of Small Business Advocate
Forum Place
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/s/ Courtney L. Schultz

Courtney L. Schultz, Esq. (ID # 319643)

Saul Ewing LLP

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courtney.schultz@saul.com

Counsel for Newtown Artesian Water Company

DATED: September 6, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Eranda Vero, Presiding

Pennsylvania Public Utility Commission	R-2024-3050208
v.	C-2024-3050613
Newtown Artesian Water Company	C-2024-3050625

**PREHEARING CONFERENCE MEMORANDUM OF
NEWTOWN ARTESIAN WATER COMPANY**

The Newtown Artesian Water Company (“NAWCO” or “Company”) through the undersigned counsel, submits the following memorandum in connection with the telephonic Prehearing Conference to be held on September 9, 2024:

I. History of the Proceeding.

This proceeding concerns the Company’s Supplement No. 158 to Tariff Water-Pa. P.U.C. No. 9 (“Supplement No. 158”) filed on July 19, 2024, with an effective date of September 18, 2024. Supplement No. 158 would increase the Company’s jurisdictional water revenues by \$922,419.00 per year.

The Office of Small Business Advocate (“OSBA”) filed an entry of Appearance on August 1, 2024. The Office of the Consumer Advocate (“OCA”) filed a Notice of Appearance on August 7, 2024. OCA and OSBA filed complaints concerning the rate filing on August 7, and 8, 2024 at Docket Nos. C-2024-305613 and C-2024-3050625, respectively. The Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance on August 13, 2024.

By Order entered August 22, 2024, the Pennsylvania Public Utility Commission (“Commission”) suspended Supplement No. 158 and instituted an investigation into the

reasonableness of the proposed tariff change. The OCA filed an additional Notice of Appearance on August 27, 2024. Thereafter, on August 28, 2024, the Company submitted Supplement No. 160 to Tariff- Water-Pa. P.U.C. No. 9 (“Supplement No. 160”) suspending, by operation of law, the effective date of Supplement No. 158 until April 18, 2025. The Company submitted a corrected version of Supplement No. 160 on August 29, 2024.

The matter was assigned to Administrative Law Judge (“ALJ”) Eranda Vero. ALJ Vero scheduled this matter for a Prehearing Conference on September 6, 2024. Upon request of the Parties, the Prehearing Conference was rescheduled for September 9, 2024. The Company submits this Prehearing Memorandum and the documents referenced herein in compliance with the ALJ’s Prehearing Conference Order, issued on August 29, 2024.

II. The Company’s Counsel.

The name, postal, and e-mail addresses and telephone and fax numbers for the Company’s counsel to be included on the service list are:

Courtney L. Schultz, Esquire
Shane P. Simon, Esquire
Saul Ewing LLP
Centre Square West
1500 Market Street 38th Floor
Philadelphia, PA 19102-2186
Telephone: (215) 972-7717 || (215) 972-7160
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Thomas J. Walsh, III, Esquire
General Counsel
Newtown Artesian Water Company
3655 Route 202, Suite 105
Doylestown, PA 18902
Telephone: (267) 247-5042
Fax: (267) 247-5668
twalsh@twalshlaw.com

The Company requests that all correspondence, discovery, testimony, and other materials be served electronically.

III. Proposed Plan for Discovery, Discovery Modifications, and Schedule for Discovery.

I&E and OCA have begun to propound discovery and the Company has already submitted responses to seventy-two (72) discovery requests. The Company will respond to OCA's pending Set I discovery requests on or before their due date: September 11, 2024. It is likely that OCA and I&E will continue to propound new discovery requests and that OSBA will also issue discovery requests.

The Company proposes several discovery modifications, attached as Exhibit "A" hereto. The Company has also submitted to the parties for their consideration a proposed Protective Order, which is attached as Exhibit "B" hereto. The Company respectfully requests that ALJ Vero approve both the proposed discovery modifications and Protective Order.

IV. Possibility of Settlement.

The Company hopes to engage in discussions with all other parties in an attempt to settle this proceeding, in whole or in part, on an appropriate and reasonable basis.

V. Issues the Company Intends to Raise and Pursue.

The critical inquiry in this proceeding is whether the rates, regulations, and rules proposed by the Company in Supplement No. 158 are fair, just, reasonable, non-discriminatory, and lawful. The Company is currently unable to identify with any specificity the issues that I&E, OCA, OSBA, and any other participants in this proceeding may raise. However, the Company anticipates that the following issues will be raised during this proceeding:

1. Whether the Company's rate base claim is reasonable?
2. Whether the Company's claimed rate of return is reasonable?

3. Whether the Company's claims for operating revenue, expenses, and depreciation are reasonable?
4. Whether the Company's proposed rate-design is fair, reasonable, non-discriminatory, and lawful?

The Company submits that Supplement No. 158 and the corresponding supporting information filed along with it demonstrate that each of the foregoing issues should be resolved in the Company's favor. It is the Company's position that the rates, regulations, and rules proposed in Supplement No. 158 are fair, just, reasonable, non-discriminatory and lawful and should be permitted to go into effect as proposed.

VI. Service of Documents

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the Company agrees to accept electronic mail delivery of documents on the due date as satisfying the in-hand requirement, and proposes to serve documents electronically only as well.

VII. Amount of Hearing Time Needed.

The Company proposes to schedule two days for hearings, with the likelihood that only one day may be necessary.

VIII. The Company's Witnesses and Areas of Testimony.

The Company has provided written direct testimony from the following witnesses:

Statement	Witness	General Subject Matter
1	Daniel J. Angrove Chief Executive Officer	An overview of the Company's request and the Company's operations.
2	Gregory R. Herbert Assistant Project Manager, Rate Studies Gannet Fleming Valuation and Rate Consultants, LLC	Provides calculations and information supporting the Company's income statement, revenue

Statement	Witness	General Subject Matter
		requirements, rate base, operating revenue, expense adjustments, and rate design.
3	Harold Walker, III Manager, Financial Studies Gannet Fleming Valuation and Rate Consultants, LLC	Provides calculation supporting the Company's capital structure and the cost of capital.
4	John J. Spanos President Gannet Fleming Valuation and Rate Consultants, LLC	Provides information concerning the Company's depreciation rates.

IX. Schedule for Submission of Testimony, Hearings and Briefs.

The parties have corresponded concerning a potential schedule, but have not had sufficient time to present a unified schedule at this time. However, NAWCO presents the following schedule for submission of testimony, hearings, and briefs, which aligns with the scheduled proposed by the OCA:

Subject	Date
Prehearing Conference	September 9, 2024
Other Parties' Direct Testimony	October 4, 2024
Rebuttal Testimony (all parties and issues)	November 1, 2024
Surrebuttal Testimony (all parties and issues)	November 15, 2024
Written Rejoinder Outline (Company only)	November 20, 2024 (by noon)
Evidentiary Hearings (Telephonic)	November 21-22, 2024
Main Briefs	December 13, 2024
Reply Briefs	December 27, 2024

The Parties will confer on potential dates to discuss settlement in this matter. The Company proposes that all dates for submission of testimony and briefs may be satisfied with an electronic (e-mail attachment or electronic file transfer) copy thereof being provided on the due date.

X. Public Input Hearings.

The Company agrees to participate in any public input hearings deemed necessary in this proceeding. Additionally, the Company advocates the use of telephonic or virtual public input hearings should they be warranted.

XI. Conclusion.

Based on the evidence described above, the Company submits that the rates proposed in Supplement No. 158 are just, reasonable, and lawful. Additionally, and as explained above, the Company remains open to settling issues and concerns raised by other parties on fair and reasonable terms.

Respectfully submitted,

By: 
Courtney L. Schultz, Esquire
Shane P. Simon, Esquire
Saul Ewing LLP
Centre Square West
1500 Market Street 38th Floor
Philadelphia, PA 19102-2186
Attorneys for
Newtown Artesian Water Company

Dated: September 6, 2024

EXHIBIT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Eranda Vero, Presiding

Pennsylvania Public Utility Commission v. Newtown Artesian Water Company	R-2024-3050208 C-2024-3050613 C-2024-3050625
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PROPOSED DISCOVERY PROCEDURE MODIFICATIONS

1. When an interrogatory, request for production, request for admission or motion is served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday recognized by the Commission, the appropriate response period is deemed to start on the next business day.
2. The response period for replying to written interrogatories, requests for production and requests for admissions is ten (10) calendar days of receipt. Responses may be served electronically.
3. Objections to written interrogatories, requests for production and requests for admissions are to be communicated orally to the party serving the interrogatory within three (3) calendar days of receipt and in writing within five (5) calendar days of receipt. The parties are directed to confer, by telephone or e-mail, and attempt to resolve the objections.
4. Motions to dismiss objections and to compel responses shall be filed with the Commission and served on the Administrative Law Judge and the other parties within three (3) calendar days of receipt of the written objections. Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.
5. If the objections are not resolved, counsel will alert the presiding officer by e-mail of the need for a ruling, and a conference call will be scheduled. The presiding officer will make a ruling over the telephone and not reduce it to writing unless requested to do so.

6. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
7. Requests for admission shall be deemed admitted unless objected to within five (5) calendar days of receipt or answered within ten (10) calendar days of receipt.
8. Discovery requests, motions to compel and responses are to be served electronically.
9. Any discovery-related pleading such as objections, motions or answers served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

EXHIBIT B

EXHIBIT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Eranda Vero, Presiding

Pennsylvania Public Utility Commission	R-2024-3050208
v.	C-2024-3050613
Newtown Artesian Water Company	C-2024-3050625

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order made by Newtown Artesian Water Company (“NAWC”) in connection with the September 9, 2024 Prehearing Conference in this matter:

IT IS ORDERED THAT:

1. This Protective Order is hereby GRANTED and shall establish procedures for the protection of all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or 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. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary or confidential nature and are so designated by being stamped “CONFIDENTIAL” or “HIGHLY

CONFIDENTIAL” protected material. Such materials are referred to in this Protective Order as “Proprietary Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” protected material. A producing party may designate as “CONFIDENTIAL” those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.

4. Subject to the terms of this Protective Order, Proprietary Information shall be provided to counsel for a party who meets the criteria of a “Reviewing Representative” as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed “CONFIDENTIAL” shall be provided to a “Reviewing Representative.” For purposes of “CONFIDENTIAL” Proprietary Information, a “Reviewing Representative” is a person who has signed a Non-Disclosure Certificate and is:

- (i) A statutory advocate, or an attorney for a statutory advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- (ii) An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i) above;
- (iii) An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- (iv) Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party’s positions in this docket.

6. Information deemed “HIGHLY CONFIDENTIAL” protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of “HIGHLY CONFIDENTIAL” protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- (i) A statutory advocate, or an attorney for a statutory advocate, pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- (ii) An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i);
- (iii) An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- (iv) A person designated as a Reviewing Representative for purposes of HIGHLY Confidential protected material pursuant to paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission’s Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.365(e)) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL

protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a “Restricted Person” absent agreement of the party producing the Proprietary Information pursuant to Paragraph 11. A “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent (excluding any person under Paragraph 6.i or 6.ii), or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert’s interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establish a significant motive for violation. A “Restricted Person” shall not include an expert for the Office of Small Business Advocate or Office of Consumer Advocate.

8. If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person (other than an expert or expert firm retained by the Office of Small Business Advocate or Office of Consumer Advocate), that expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive HIGHLY CONFIDENTIAL protected material may discuss HIGHLY CONFIDENTIAL protected material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a Restricted Person, but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material. Counsel for the Bureau of Investigation and Enforcement, Office of Consumer Advocate and Office of Small Business Advocate may share Proprietary Information with the Bureau Director, Consumer Advocate and Deputy Consumer Advocate, and Small Business Advocate, respectively, without obtaining a Non-Disclosure Certificate from these individuals, provided however, that these individuals otherwise abide by the terms of this Protective Order.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting

confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

14. The Commission and all parties, including the statutory advocates and any other agency or department of state government will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Law (65 P.S. § 67.101 *et seq.*) (“RTKL”) until such time as the information is found to be non-proprietary. As set forth at 65 P.S. § 67.708, if a Reviewing Representative receives a request for Proprietary Information covered by this Protective Order from an outside party, NAWC will provide, within seven calendar days of receiving written notification from of such request, a written statement signed by NAWC’s representative explaining why the requested material is exempt from public disclosure under the RTKL. The Reviewing Representative will rely upon the written statement from NAWC in denying a RTKL request for the Proprietary Information. Proprietary Information provided to a Receiving Representative will be protected from disclosure as Proprietary Information under 66 Pa.C.S. § 335(d) and exempt from disclosure under the RTKL until such

time as the Commission (or court of competent jurisdiction, if an appeal of a Commission determination is taken) rules that the documents are not Proprietary Information and, therefore, are subject to public disclosure.

15. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

17. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

18. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

19. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within 30 days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In its request, a providing party may specify whether such materials should be destroyed or returned. In the event that the materials are destroyed instead of returned, the receiving party shall certify in writing to the providing party that the Proprietary Information has been destroyed. In the event that the materials are returned instead of destroyed, the receiving party shall certify in writing to the providing party that no copies of materials containing the Proprietary Information have been retained.

Date: September 9, 2024

/s/
Eranda Vero
Administrative Law Judge

EXHIBIT A

APPENDIX A

EXHIBIT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Eranda Vero, Presiding

Pennsylvania Public Utility Commission v. Newtown Artesian Water Company	R-2024-3050208 C-2024-3050613 C-2024-3050625
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NON-DISCLOSURE CERTIFICATE

I have read the attached Protective Order, which governs the disclosure and use of certain documents and other information produced in the above-captioned matter identified as Proprietary Information. I hereby acknowledge that I understand the terms of the Protective Order, and I agree 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: _____