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January 25, 2007

Arizona Corporation Commission  
**DOCKETED**

JAN 25 2007

Arizona Corporation Commission  
Docket Control  
1200 West Washington Street  
Phoenix, Arizona 85007

DOCKETED BY	<i>me</i>
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Re: Sunrise Utilities, LLC; Docket Nos. WS-04247A-04-0604 and W-03067A-04-0216;  
Decision No. 68247; Compliance Filing

Dear Sirs:

Enclosed please find 15 copies of the Company's Mohave County Franchise as required by the subject Decision, the due date for which was extended by Procedural Order dated November 28, 2006.

In the event you have any questions regarding this matter, please do not hesitate to call.

Sincerely,

Richard L. Sallquist

Enclosures

Cc: Steve Timinkas

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2007 JAN 25 P 2:40  
AZ CORP COMMISSION  
DOCUMENT CONTROL

**FRANCHISE AGREEMENT  
and  
FRANCHISE  
for  
PUBLIC SERVICE CORPORATIONS**

Date of Franchise: January 8, 2007  
Term of Franchise: 25 years  
Renewal Date Option: January 8, 2032

This is a Franchise Agreement between the County of Mohave, State of Arizona, and Sunrise Utilities, L.L.C., authorizing the location, construction, maintenance and operation of a water and wastewater utility within the unincorporated areas of Mohave County. This Franchise specifically grants to Sunrise Utilities, L.L.C. the privilege of using the Public Rights-of-Way and Easements of Mohave County in accordance with established policies, practices, and procedures of Mohave County and its several departments.

**RECITALS**

WHEREAS, the Mohave County Board of Supervisors has the duty and responsibility to protect the health, safety and welfare of the residents of Mohave County; and

WHEREAS, the Mohave County Board of Supervisors has the duty and responsibility to assure that Public Rights-of-Way and Easements of Mohave County are used in a responsible manner consistent with the best interests of the residents of Mohave County; and

WHEREAS, the Mohave County Board of Supervisors strives to authorize the use of the Public Rights-of-Way and Easements of Mohave County in a uniform manner among all users; and

WHEREAS, the Mohave County Board of Supervisors deems this form of Franchise Agreement and Franchise to be fair, reasonable and appropriate for Public Service Corporations;

NOW, THEREFORE, the Mohave County Board of Supervisors and Sunrise Utilities, L.L.C. do hereby state, promise and agree as follows:

**SECTION 1. DEFINITIONS.**

As used in this Franchise Agreement and Franchise, the following terms have been agreed to have the meanings indicated:

- A. "Agreement" means this Franchise Agreement and Franchise.
- B. "Area of Jurisdiction" means that part of Mohave County for which this Franchise is granted.
- C. "Board" means the Mohave County Board of Supervisors.
- D. "County" means Mohave County, Arizona.
- E. "Emergency" means any occurrence that may arise without prior notice to Franchisee.
- F. "Franchise" means this Franchise Agreement and Franchise.
- G. "Franchisee" means Sunrise Utilities, L.L.C.
- H. "Franchising Authority" means the Mohave County Board of Supervisors.
- I. "Franchise Property" means all materials, equipment, and facilities of Franchisee located, constructed, maintained, and/or operated in the Public Rights-of-Way and Easements of Mohave County pursuant to the terms and conditions of this Franchise Agreement and Franchise.
- J. "Gross Annual Receipts" means any compensation derived from any Subscriber or User in payment for delivery of a product or services from Franchisee. This meaning shall not include any taxes collected by Franchisee and transmitted to a governmental agency, and it shall not include any amounts collected by Franchisee by virtue of the Franchise Fee provisions of this Franchise.
- K. "Intergovernmental Agreement" means the joint exercise of powers authorized by Title 11, Chapter 7, Article 3 of Arizona Revised Statutes.
- L. "Public Rights-of-Way and Easements" means that real property located within unincorporated areas of Mohave County within which the Mohave County Board of Supervisors has the power and authority to grant a Franchise.
- M. "Rights-of-Way and Easements" shall mean the surface of, the space above, and the space below the Public Rights-of-Way and Easements reasonably necessary to construct, operate, and maintain the Franchise Property.
- N. "Service Area" means the unincorporated areas of Mohave County in which the Franchisee delivers the service for which this Franchise is granted.
- O. "Subscriber or User" means any person or entity receiving, for any purpose, the services of the Franchisee.

## Section 2. **GRANTING OF FRANCHISE.**

A non-exclusive Franchise is hereby granted to Franchisee for the purpose of locating, constructing, and maintaining Franchise Property in the unincorporated area of Mohave County. This Franchise shall include the authority, privilege, and power to construct, operate, and maintain all necessary Franchise Property in, over, under, across, and upon the Public Rights-of-Way and Easements consistent with the terms and conditions of this Franchise.

## Section 3. **TERM OF FRANCHISE.**

This Franchise shall be for an initial term of twenty five (25) years beginning on the date of Board approval. This term may be extended only by reapplication and grant of an extension. Application for an extension shall be submitted to the Board no sooner than three hundred sixty-five (365) days, nor later than one hundred twenty (120) days, prior to the expiration date of this Franchise.

## Section 4. **TERMS AND CONDITIONS.**

This Franchise shall be subject to the following conditions:

A. This Franchise shall not be deemed to limit the authority of the Board to include other conditions or restrictions which may be necessary for the protection of the health, safety and welfare of the residents of the County and/or for the efficient administration of the Rights-of-Way and Easements in general.

B. This Franchise is non-exclusive.

C. The Board has granted this Franchise in reliance upon the Franchisee's business skill, reputation, financial capacity, and character. Accordingly, this Franchise and/or any interest hereunder, shall not be assigned, transferred, conveyed, or otherwise encumbered without the express written consent of the Board. Failure of performance by the Franchisee of any of the terms and conditions of this Franchise may be cause for termination of this Franchise pursuant to Section 16 of this Agreement.

D. No privilege or exemption shall be granted or inferred unless specifically set forth in this Franchise.

E. Any privilege claimed under this Franchise by the Franchisee in any Right-of-Way or Easement shall be subordinated to any prior lawful occupancy of the Right-of-Way or Easement.

F. Prior to commencing any activity authorized by this Franchise, the Franchisee shall submit plans and specifications for such activity to the County Public Works Director for approval; provided, however, whenever Franchisee is required to undertake emergency activities required to protect the health, safety and welfare of the public and/or the safety and reliability of the Franchise Property, Franchisee shall notify the County Public Works Director not later than twenty four (24) hours after notice of the emergency; and provided further, however, should such emergency present an immediate threat or danger to the health, safety and welfare of the public, Franchisee shall notify the County Manager or the County Public Works Director or the County Emergency Services Coordinator or the Chairman of the Board within one (1) hour of notice of the emergency.

G. Any failure of the Board, or its agents, to promptly enforce compliance of the terms and/or conditions of this Franchise shall not be deemed a waiver of such terms and/or conditions.

H. The Franchisee shall have no recourse against the Board or its agents for any loss, cost, expense, or damage arising out of any term, condition or enforcement of this Franchise.

I. The Franchisee shall be subject to all County rules, regulations and/or specifications pertaining to the use of Public Rights-of-Way and Easements which may be adopted from time to time by the Board.

J. Prior to the grant of this Franchise by the Board, and annually thereafter, Franchisee shall submit to the Board a complete financial statement that reflects the current financial status of the Franchisee and a list of names and addresses of proprietors, owners, or beneficial shareholders who hold more than a ten percent (10%) interest in the corporation, organization, or regulated entity.

#### **SECTION 5. RECORDS TO BE KEPT AND MAINTAINED; REPORTS; INSPECTION OF RECORDS.**

A. Franchisee shall prepare and furnish to the Board, or its agents, such reports and records of its operations, affairs, transactions and/or property as the Board deems necessary or appropriate for the enforcement of performance by the Franchisee according to the terms and conditions of this Franchise.

B. Franchisee shall keep and maintain within the County, and make available for County inspection upon reasonable request, full and complete plans and records showing the exact location of all Franchise Property installed and/or in use in the Public Rights-of-Way and Easements.

C. Franchisee shall file with the County Public Works Director, on or before the 31st day of December of each year, a map and/or a set of plans showing all Franchise Property installed and/or in use in the Public Rights-of-Way and Easements current as of the immediately preceding November 30th.

D. Franchise shall keep its Franchise Property in good operating condition, and Franchisee shall cause all customer complaints to be duly investigated and, where the circumstances warrant, corrected within a reasonable period of time. Records reflecting such complaints, and the time and manner in which they are resolved, shall be maintained by the Franchisee for at least one (1) year and shall be made available for inspection by the Board or its agents upon reasonable request.

## **SECTION 6. INSTALLATION STANDARDS.**

A. Franchisee shall be responsible for meeting all County, State, Federal, and local installation standards.

B. Any other provision of this Franchise notwithstanding, all installations of Franchise Property shall be made in a safe and workmanlike manner and maintained in good condition at all times. Except for the conduct of normal construction and repair activities, all such installations of Franchise Property shall be approximately placed so as not to interfere in any manner with the rights of the public or individual property owners and shall not interfere with the use of public property by the public and shall not obstruct or impede traffic. The Board reserves the right of regulation of the erection and construction of any Franchise Property, by Franchisee and its agents or employees, and to designate where such Franchise Property shall be placed. Franchisee agrees to make changes in its plans, specifications and/or Franchise Property to conform with all requirements of the Board.

C. Franchisee shall be responsible for obtaining all necessary licenses, certificates, permits and approvals from all government authorities having jurisdiction over the activities to be conducted under this Franchise.

## **SECTION 7. UNDERGROUND LINES.**

Franchisee shall, at its own expense, place its lines underground in areas which it serves where telephone and electric power lines are, or are required to be, underground.

## **SECTION 8. LOCATION OF FRANCHISE PROPERTY.**

Franchise Property shall be constructed or installed in Public Rights-of-Way and Easements of the County only at such locations and in such manner as shall be approved by the Board or its agents. Construction or installation of Franchise Property shall be in accordance with all Federal, State, and County laws and regulations.

## **SECTION 9. REPAIR OF ROADS, STREETS, RIGHTS-OF-WAY AND EASEMENTS.**

Franchisee shall, at its own expense, promptly repair and restore any and all roads, streets, sidewalks or other public and/or private property altered, damaged, or destroyed by

Franchisee in exercising the privileges granted herein to Franchisee.

**SECTION 10. FAILURE TO PERFORM AS REQUIRED IN SECTION 9 ABOVE.**

A. Upon failure of Franchisee, and its agent or employees, to complete any work required by this Franchise, the Board or its agents may notify Franchisee of non-compliance by registered mail. Franchisee shall have fourteen (14) days from the receipt of the notice to complete the repairs or to enter into an agreement with the Board and/or its agents for the completion of the repairs.

B. If, in the opinion of the County Director of Public Works and/or the County Manager, the failure to repair or complete construction presents a serious and immediate danger to the public health, safety and welfare, they, separately or together, may take immediate action to mitigate the damage. All costs associated with such actions will be the sole responsibility of Franchisee, and Franchisee shall reimburse the County for such costs within thirty (30) days after receipt of an itemized bill.

**SECTION 11. REMOVAL AND ABANDONMENT OF FRANCHISE PROPERTY.**

A. In the event the use of any Franchise Property is discontinued for a continuous period of twelve (12) months and Franchisee is unable to reasonably demonstrate the usefulness of such Franchise Property for future use, Franchisee shall either remove such Franchise Property or abandon such Franchise Property in place.

B. In the event Franchise Property is installed in violation of any requirements of this Franchise, and Franchisee fails to take reasonable measures to cure such violation within thirty (30) days after written notice of such violation, Franchisee shall either remove such Franchise Property or abandon such Franchise Property in place.

C. Franchise Property to be abandoned in place shall be abandoned in accordance with applicable law. Upon abandonment of Franchise Property in place, Franchisee shall submit to the Board an instrument satisfactory to the Board transferring the ownership of such Franchise Property to the County.

**SECTION 12. CHANGES REQUIRED BY PUBLIC IMPROVEMENTS.**

Franchisee shall, at its own expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, any Franchise Property when required by the Board or its agents by reason of County public improvements; provided, however, Franchisee shall have the right to abandon Franchise Property as provided in Section 11 above.

### **SECTION 13. INDEMNIFICATION OF COUNTY.**

Franchisee shall defend the County against all claims for injury to any person or property caused by the negligence of Franchisee, its agents and/or employees, in the construction or operation of Franchise Property, and, in the event of a determination of liability, shall indemnify the County, the Board, its agents and/or employees. More particularly, Franchisee, its successors and assigns, does hereby agree to indemnify and hold harmless the County, the Board and/or its agents and employees, from any and all liability, claim, demand or judgment arising out of any injury to any person or property as a result of a violation or failure on the part of Franchisee, its successors and assigns, to observe their proper duty or because of negligence in whole or in part arising out of the construction, repair, extension, maintenance, or operation of Franchise Property of any kind or character used in connection with this Franchise.

### **SECTION 14. LIABILITY INSURANCE REQUIRED.**

Franchisee agrees that, at all times during the existence of this Franchise, Franchisee will carry a minimum of \$1,000,000 in excess liability insurance on a combined single limit basis above any permitted self-insured retention. Self-insured retention shall be permitted so long as Franchisee continues to report to the Securities and Exchange Commission of the United States a Total Assets amount in excess of \$100,000,000. The insurance coverage required by this Section shall be provided by one or more insurers permitted under Title 20 or Arizona Revised Statutes to transact insurance business. Further, Franchisee shall provide, to the Clerk of the Board of Mohave County, a Certificate of Insurance naming the County, the Board and/or its agents and employees as additional insured. The Certificate will provide for notification to the Clerk of the Board of Mohave County prior to any change in said policy, or cancellation of said policy, for any reason including nonpayment of premiums.

### **SECTION 15. FRANCHISE FEE.**

A. Franchisee shall pay to the County an annual Franchise Fee in an amount equal to two percent (2%) of Franchisee's Gross Annual Receipts derived from the operation of Franchise Property so long as the Board shall have the authority to levy a Franchise Fee. Further, Franchisee shall not be required to pay to the County any other Franchise fee or Permit fee in connection with this Franchise. There shall be no offsets for any other taxes or assessments, i.e., sales tax, fuel tax, personal property tax, general ad valorem property tax, special assessments for local improvements or any other tax or assessment not directly related to the use of the Public Rights-of-Way and Easements that may be required of Franchisee by any governmental agency.

B. The annual Franchise Fee shall be paid no later than the first (1st) day of May following each calendar year during the term of this Franchise. All such payments shall be made to the Mohave County Finance Department, P.O. Box 7000, Kingman, Arizona 86402-7000. So long as the Board shall have the authority to levy a Franchise Fee, failure to pay such Franchise Fee by the first (1st) day of May following the calendar year is a

material breach of this Franchise Agreement and is subject to the termination provisions of Section 16 hereinafter.

C. The Board shall have the right to inspect and audit all Franchisee's books and records which may be necessary in determining Franchisee's Gross Annual Receipts derived from the use of the Public Rights-of-Way and Easements and the right of audit and re-computation of any amount paid under this Section; provided, however, that the right of re-computation shall be limited to the two (2) calendar years immediately preceding the initiation of any such audit. Financial statements required by this Franchise Agreement for each calendar year shall be submitted annually on or before April 15 of each year. No acceptance of any payment shall be construed as a release or accord and satisfaction of any claim the County may have for further or additional sums payable under this Section or for the performance of any obligation under this Franchise Agreement.

D. The percentage of Gross Annual Receipts set forth in this Section and the insurance requirements set forth in Section 14 above shall be subject to reevaluation by the Board every fifth year of this Franchise; provided, however, that no reevaluation shall occur so long as Franchisee continues to report to the Securities and Exchange Commission of the United States a Total Assets amount in excess of \$100,000,000. If reevaluation of the amounts due under this Section or the insurance requirements set forth in Section 14 above should result in a dispute between the parties, the dispute shall be presented to a neutral Arbitration Board for decision and settlement. The Arbitration Board shall consist of either one person mutually acceptable to the parties to this Franchise Agreement or to the American Arbitration Association. In the event of arbitration, the parties shall each pay their individual costs for such arbitration. The standard procedures and policies of arbitration shall apply in all cases.

#### **SECTION 16. TERMINATION.**

A. This Franchise Agreement and Franchise may be terminated by the mutual consent of the Board and the Franchisee evidenced by a writing.

B. This Franchise Agreement and Franchise, and all rights granted hereunder, may be terminated by the Board upon any breach of the terms and conditions hereof by Franchisee and Franchisee's failure to undertake reasonable measures to cure such breach within thirty (30) days subsequent to Franchisee's receipt of written notice of such breach. Written notice shall be by registered mail.

#### **SECTION 17. OTHER PROVISIONS.**

Franchise shall keep a copy of its current Tariffs applicable to Subscribers or Users in Mohave County on file with the Clerk of the Board of Mohave County.

**SECTION 18. RESERVATION OF POWERS.**

A. There is hereby reserved to the Board every right and power which is required to be reserved and Franchisee, by its acceptance of this Franchise, agrees to be bound thereby and to comply with any action or requirements of the Board in its exercise of any such right of power enacted or established.

B. Neither the granting of this Franchise nor any of the provisions contained herein shall be construed to prevent the Board from granting any identical, or similar, Franchise to any person or corporation other than Franchisee.

**SECTION 19. SEVERABILITY.**

In the event any provision of this Agreement is rendered inoperative by virtue of the entry of a final judgment of a Court of competent jurisdiction, such event shall not affect any other provision of this Agreement that can be given effect without such inoperative provision and, for this purpose, the provisions of this Agreement are hereby declared to be severable.

**SECTION 20. OFFICIAL NOTICES.**

Notices concerning this Franchise Agreement and Franchise shall be sent to:

**FOR THE COUNTY:**

Clerk of the Board  
Mohave County  
P.O. Box 7000  
Kingman, AZ 86402-7000  
520-753-0731

**FOR FRANCHISEE:**

President  
Sunrise Utilities, L.L.C.  
2960 S. Scenic Blvd.  
Littlefield, AZ 86432  
702-346-2280

SECTION 21. EFFECTIVE DATE.

This Franchise shall take effect upon the date of approval by the Board.

Approved by the Mohave County Board of Supervisors this 8<sup>th</sup> day of January, 2008.

For the Board:

By: Pete Byers

Chairman of the Board

Accepted for Franchisee:

By: [Signature]

Its President

Approved as to form:

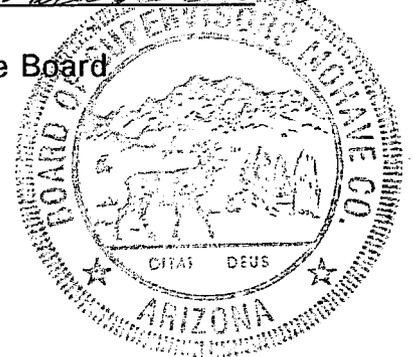
William J. Edstrom Jr.

Dep County Attorney

ATTEST:

By: Barbara Bracken

Clerk of the Board



**FRANCHISE AGREEMENT BETWEEN MOHAVE COUNTY AND SUNRISE UTILITIES, L.L.C.**

**ATTACHMENT "A"  
LEGAL DESCRIPTION**

AS THIS AGREEMENT SUPERSEDES ANY PREVIOUS FRANCHISE AGREEMENTS, THIS LEGAL INCLUDES AREAS PREVIOUSLY APPROVED BY THE BOARD OF SUPERVISORS AND ANY ANNEXATION AREAS THAT ARE REQUESTED (IF ANY)

Please see attached  
Legal Description and Map

**Sunrise Utilities, L.L.C.**  
**Requested Water and Wastewater Franchise Area**

The South one-half of the Southwest Quarter of Section 3, and

The East one-half of Section 10, and

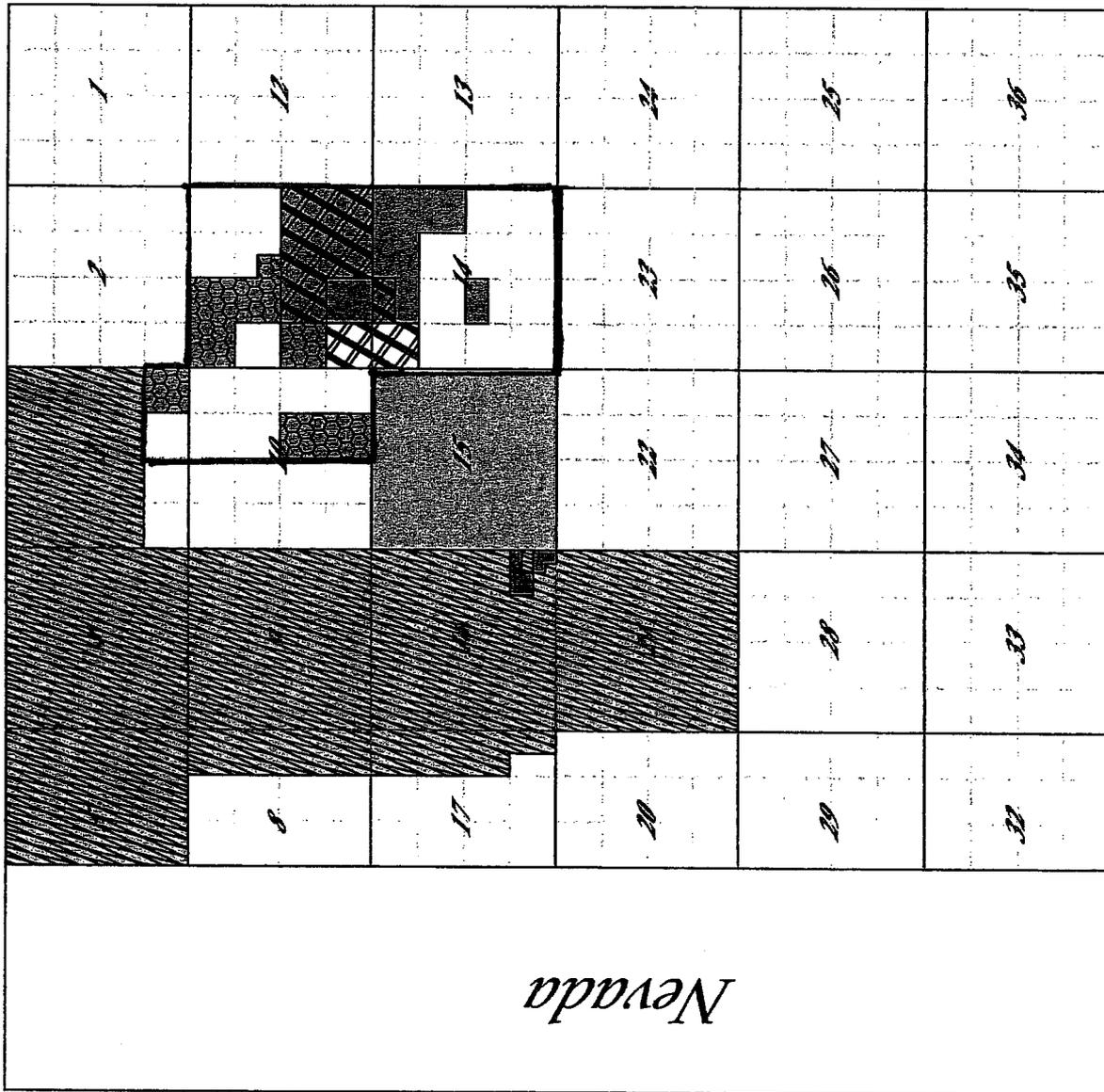
All of Sections 11 and 14,

All in Township 39 North, Range 16 West G&SRB&M, Mohave County Arizona.

# COUNTY: Mohave

## RANGE 16 West

## TOWNSHIP 39 North



W-3067 (4)

Beaver Dam Water Company, Inc.



W-3551 (1)

Virgin Mountain Utilities Company



WS-4247 (1)

Sunrise Utilities, LLC



(1)

Sunrise Well Association, Inc. (Nonjurisdictional)



Sunrise Utilities, L.L.C.  
Requested Franchise Area



Beaver Dam Water Company, Inc.  
Docket No. W-03067A-06-0397  
Application for Sewer CC&N



Virgin Mountain Utilities Company  
Docket No. W-3551-04-325  
Application for Extension