

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 13-W-0295 -

Proceeding on Motion of the Commission as to
the Rates, Charges, Rules and Regulations of
United Water New York Inc. for Water
Service.

COUNTY OF ROCKLAND RESPONSE TO THE PETITION FOR
REHEARING AND/OR CLARIFICATION ON BEHALF OF THE
MUNICIPAL CONSORTIUM

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I. INTRODUCTION

On June 26, 2014, the Commission issued an Order ("Order") in the United Water New York, Inc. ("Company") rate proceeding under Case 13-W-0295. On July 28, 2014, the Municipal Consortium ("MC"), a party to the rate proceeding comprised of municipalities and schools served by UWNY, filed a "Petition for Rehearing and/or Clarification on Behalf of the Municipal Consortium" ("Petition") challenging various elements of the Order and requesting clarification of other elements pursuant to 16 NYCRR §3.7(a). On August 12, 2014, the Department of Public Service Staff ("Staff") submitted its response to the Petition. Pursuant to 16 NYCRR §3.7(c), the County of Rockland ("County") submits this response to the Petition.

II. SUMMARY OF ORDER

As outlined in its Press Release issued June 26, 2014, to the extent pertinent here, the New York State Public Service Commission ("Commission"):

(i) found that the Company was only entitled to increase revenues to cover increases in local property taxes and required investments in the water system plus small increases in labor and other operating expenses. As a result of the Commission's determination, the Company will only be allowed to increase rates by \$ 9.8 million or 13.3 percent, the minimal amount required by State law instead of its request to increase revenues by \$21.3 million, or 28.9 percent;

(ii) expects that on the behalf of its customers, the Company will adopt aggressive measures to mitigate otherwise controllable expenses as well as look for technologies and other conservation practices that will allow it more effective control over its capital requirements;

(iii) considered the major rate increase drivers cited by the Company which included approximately \$80 million in additional capital improvements over the last three years; increases in real estate and franchise taxes of approximately \$4.6 million; and employee labor and benefits increases of \$1.1 million and only allowed the Company to recover \$7.7 million to reflect increases in taxes and capital improvements. At the same time, the Commission reduced or rejected proposed increases in several operational areas including management charges from United Water's affiliate and management incentive payments. The Commission's order further reflects an allowance of 9.0 percent return on capital as compared to the company's proposed 10.58 percent return;

(iv) in addition to disallowing much of the proposed rate increases, the Commission also directed the Company to engage in a number of efforts designed to improve its operations to avoid or reduce the level of future rate increases while improving relations with local communities. To help fund these activities, the Commission required the Company to suspend longer-term research and development investments and instead use these expenditures to address and implement needed improvements in the company's operations. The Commission

also directed the company to hire a third party to assist in these efforts and subject the management review and improvement efforts to the continued oversight of Commission Staff;

(v) In an effort to further moderate the rate increases and provide the company ample opportunity to improve its operating efficiencies and capital investment programs, the Commission also proposed an alternative ratemaking agreement where the company would accept a two-year agreement that levelizes revenue increases to \$7.4 million in each year for an approximate 9.6 percent and 7.4 percent increase to an average residential customer's annual bill. By offering this option, the Commission is providing the company with the opportunity to focus on improving its operations....

III. BASIS FOR PETITION

Pursuant to 16 NYCRR §3.7(b), a "rehearing may be sought only on the grounds that the commission committed an error of law or fact or that new circumstances warrant a different determination. A petition for rehearing shall separately identify and specifically explain and support each alleged error or new circumstance said to warrant rehearing."

Assuming, but not conceding that the Staff is correct in its assertion that the specificity of the allegations in the Petition are not adequate, the record of the pending proceedings in Case 13-W-0246 and 13-W-0303 provide a sufficient basis for a rehearing in the "exercise [of] its independent judgment...[to base] its analysis on data that was not part of the record...". *Rochester Gas & Electric Corp. v. Public Service Com.*, 135 A.D.2d 4, 10 (3rd Dept., 1987).

There is no doubt that "the Commission has the dual statutory responsibility of protecting water utility consumers from unwarranted increases in water rates while at the same time allowing water utilities like United Water the opportunity to recover and earn a reasonable return on its legitimate and prudent expenditures." The testimonial and documentary evidence in Case

13-W-0246 and Case 13-W-0303 demonstrate that the actions and expenditures relating to the Haverstraw Desalination Project 'raise the specter of imprudence'.

To the contrary, but not surprisingly, Staff asserts various reasons that the Petition filed by the MC should be dismissed by the Commission. However, as an arm of the Commission, Staff has the dual statutory responsibility of protecting water utility consumers, like the residents and ratepayers in Rockland County, from unwarranted increases in water rates, like in this case. Here, the 'specter of imprudence', like in the other cases, requires that the rate increase be reconsidered by the Commission.

Based on the foregoing, the County supports a rehearing of the Rate Order and respectfully requests that the Commission grant said Petition.

Dated: August 12, 2014
New City, New York

Respectfully submitted,



Thomas Simefi
Assistant County Attorney