

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

<hr/> In the Matter of Staff's Investigation into United Water's Accounting Irregularities	:	Matter 14-02068
<hr/> Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of United Water New York Inc. for Water Service	:	Case 13-W-0295
<hr/> Verified Petition of United Water New York Inc. for Implementation of a Long-Term Water Supply Surcharge, And Related Tariff Amendment	:	Case 13-W-0246
<hr/> Proceeding on Motion of the Commission to Examine United Water New York Inc.'s Development of a New Long-Term Water Supply Source	:	Case 13-W-0303

**RESPONSE OF UNITED WATER NEW YORK INC., UNITED WATER NEW
ROCHELLE INC., AND UNITED WATER WESTCHESTER INC.
TO THE NOVEMBER 27, 2014 SUBMISSIONS OF JOHN J. TORMEY III**

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Dated: December 8, 2014

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United Water New York Inc., United Water Westchester Inc., and United Water New Rochelle Inc. (collectively, the “Companies” or “United Water”) respectfully submit this response to the two submissions filed by John J. Tormey III on November 27, 2014 (Thanksgiving Day). Mr. Tormey’s first submission is a letter directed to staff of the Department Public Service (“Staff,” specifically, Joseph Lochner) requesting that Staff issue and serve subpoenas compelling testimony and production of documents from 20 financial institutions in Matter 14-02068, *In the Matter of Staff’s Investigation into United Water’s Accounting Irregularities* (“Accounting Investigation Matter”). Mr. Tormey’s second submission is a letter directed to the Public Service Commission (“Commission”) and Staff attaching the text of short television news piece describing expenses incurred by United Water Management and Services Inc. (“UWMS”), an unregulated entity that is not a party to any of

these proceedings. As discussed below, both of Mr. Tormey's latest submissions are without merit and/or irrelevant to these proceedings.

Mr. Tormey has now made four separate filings in these proceedings in less than a month – the latest two on Thanksgiving Day.

On October 28, 2014, Mr. Tormey filed an "Omnibus Motion," which was comprised of 23 separate motions that addressed various and sundry topics across four separate proceedings before the Commission and the Department of Public Service ("Department").¹ The 23 motions comprising Mr. Tormey's Omnibus Motion fell into three broad categories, including a series of motions whereby Mr. Tormey impermissibly attempts to usurp control of the Accounting Investigation Matter from Staff. United Water filed timely opposition to Mr. Tormey's Omnibus Motion on November 6, 2014 ("Opposition to the Omnibus Motion"). In Section III of its Opposition to the Omnibus Motion, United Water demonstrated that there is no basis in law or logic for Mr. Tormey's various and sundry attempts to wrest control of the Accounting Investigation Matter from Staff or the Commission via motion practice. Not only has Commission precedent recognized that the intervention of private parties into an investigation conducted by Staff may be counterproductive if the entry of those other parties "will not enhance Staff's ability to conduct the fact-based investigation,"² but Mr. Tormey's efforts to control the Accounting Investigation Matter are unnecessary. Notwithstanding the erroneous information in

¹ Case 13-W-0246, *Verified Petition of United Water New York Inc. for Implementation of a Long-Term Water Supply Surcharge, And Related Tariff Amendment* ("Surcharge Case"); 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* ("Rate Case"); Case 13-W-0303, *Proceeding on Motion of the Commission to Examine United Water New York Inc. 's Development of a New Long-Term Water Supply Source* ("Continuing Need Proceeding"); and the Accounting Investigation Matter (Matter 14-02068).

² Case 11-G-0221, *Proceeding on Motion of the Commission Investigating the Acts and Practices Involving the Staking and Clearing of the Site of a Major Utility Transmission Facility in the Town of Sanford, Broome County Before the Obtaining of a Certificate of Environmental Compatibility and Public Need*, Ruling on Request for Party Status, at 4 (July 11, 2011).

the highly speculative blog posts and local media reports, it was the Companies that identified the accounting irregularity through their own internal controls. United Water then promptly commenced its own investigation, took swift corrective action including human resources and employment decisions, and retained PricewaterhouseCoopers to, *inter alia*, evaluate the Companies' conclusion that the misstatements of revenues did not impact rates for the Companies' customers. The Companies have been fully cooperative with Staff's ongoing investigation of the matter, and have committed in writing to continuing that cooperation.

Only a week after filing his Omnibus Motion (and before responses to that motion were even due), Mr. Tormey filed a "Supplementary Motion" on November 6, 2014. As United Water stated in its timely opposition filed on November 17, Mr. Tormey's Supplementary Motion sought to assert further control over the Accounting Investigation Matter by directing Staff and the Commission to compel Michael Blake and Michael Roling to either appear as parties in the matter or be subpoenaed to testify.

Mr. Tormey's latest submissions, which seek to compel Staff to subpoena 20 financial institutions, are but the latest attempt by Mr. Tormey to micromanage and usurp control of the Accounting Investigation Matter from Staff and the Commission. As United Water previously articulated in Section III of its Opposition to the Omnibus Motion (and reiterated in its opposition to Mr. Tormey's Supplementary Motion), Mr. Tormey's seemingly endless efforts to install himself as the private manager of the Department's Accounting Investigation Matter, which will contribute nothing to the resolution of Staff's investigation and will only serve to detract from Staff's investigatory process, must be denied in all respects.

Finally, the text of the television news report attached to the second of Mr. Tormey's November 27, 2014 submissions has no probative or evidentiary value to these proceedings. It is

evident that Mr. Tormey himself was the primary source of the report (he appears prominently in the piece). The existence of the UWMS expenses have no relevance to the Accounting Investigation Matter, the Surcharge Case, or the Continuing Need Proceeding.

CONCLUSION

Based on the foregoing, both of Mr. Tormey's November 27, 2014 submissions are without merit and/or irrelevant to these proceedings.

Dated: December 8, 2014

Respectfully Submitted,



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