

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

<hr/> In the Matter of Staff’s Investigation into United Water’s Accounting Irregularities	:	Matter 14-02068
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<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
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<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
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<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
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**OPPOSITION OF UNITED WATER NEW YORK INC., UNITED WATER NEW
ROCHELLE INC., AND UNITED WATER WESTCHESTER INC.
TO THE SUPPLEMENTARY MOTION OF JOHN J. TORMEY III**

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Dated: November 17, 2014

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United Water New York Inc. (“UWNY”), United Water Westchester Inc., and United Water New Rochelle Inc. (collectively, the “Companies” or “United Water”) respectfully submit this response in opposition to John J. Tormey III’s “supplementary motion” (“Supplementary Motion”), which requests that Michael Blake and Michael Roling either be subpoenaed to testify or compelled to appear as parties in Matter 14-02068, *In the Matter of Staff’s Investigation into United Water’s Accounting Irregularities* (“Accounting Investigation Matter”).

Mr. Tormey filed his Supplementary Motion on November 6, 2014, before responses to his previous “Omnibus Motion” were due (Mr. Tormey filed his Omnibus Motion on October 28, 2014).¹ Mr. Tormey’s Omnibus Motion was comprised of 23 separate motions that

¹ On November 7, 2014, George Hoehmann filed papers in support of Mr. Tormey’s Omnibus Motion (“Hoehmann Response”). Although styled by Mr. Hoehmann as a “motion,” his papers indicate that they are actually an untimely *response* to Mr. Tormey’s Omnibus Motion. See Hoehmann Response at 2 (“I have read and reviewed the prior motion of [Mr. Tormey]. While I cannot adopted the totality of Mr. Tormey’s motion, I support his requests to this Commission....”). The seven requests for relief in the Hoehmann Response are

addressed various and sundry topics across four separate proceedings before the Public Service Commission (“Commission”) and the Department of Public Service (“Department”).² 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 Department staff (“Staff”). Like his instant Supplementary Motion, Mr. Tormey’s Omnibus Motion sought to direct Staff and the Department to order mandatory party status or compelled testimony by certain individuals and entities (Motions I, J, and U of the Omnibus Motion).

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,”³ but Mr. Tormey’s efforts to control the Accounting Investigation Matter are unnecessary. Notwithstanding the erroneous information in the highly speculative blog posts

substantively identical to requests included in Mr. Tormey’s Omnibus Motion, and United Water hereby responds to the Hoehmann Response by incorporating by reference the relevant arguments it has previously articulated in its November 6, 2014 Opposition to the Omnibus Motion.

² 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).

³ 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).

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.

Mr. Tormey now seeks through his Supplementary Motion to assert further control over the Accounting Investigation Matter by directing Staff and the Commission to compel Messrs. Blake and Roling to either appear as parties in the matter or be subpoenaed to testify. As United Water previously articulated in Section III of its Opposition to the Omnibus Motion (which is adopted herein by reference), Mr. Tormey's continuing 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.

CONCLUSION

Based on the foregoing, Mr. Tormey's Supplementary Motion should be denied in all respects with prejudice.

Dated: November 17, 2014

Respectfully Submitted,



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