

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on July 18, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
James L. Larocca
Gregg C. Sayre
Diane X. Burman

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.

ORDER INSTITUTING PROCEEDING

(Issued and Effective July 19, 2013)

BY THE COMMISSION:

INTRODUCTION

United Water New York, Inc. (UWNY or the Company) proposes to construct a desalination plant as a new source of water supply in Rockland County to obtain sufficient capacity to supply the County's projected future peak demand for water required for public health and safety (the Haverstraw Project or the Project). The Company filed its proposal to construct the Haverstraw Project in compliance with an order issued by this Commission in 2006, requiring UWNY to develop a plan for meeting long-term demand, projected to exceed supply by the end of 2015.¹

¹ Case 06-W-0131, United Water New York - Rates and Case 06-W-0244, United Water New York Inc. and United Water South County - Merger, Order Approving Merger and Adopting Three-Year Rate Plan (issued December 14, 2006) (2006 Rate Order).

In 2010, the Commission continued its requirement that the Company construct a long-term water supply source by the end of 2015.²

This Order institutes a proceeding to examine the continuing need for and public interest in development of a new water supply source. In instituting this proceeding, we require UWNY to provide a report of the most current information relating to the need for a new water supply source. We will provide an opportunity for interested persons to submit written comments and, after UWNY submits its report, to make statements at public statement hearings.

BACKGROUND

UWNY Profile

UWNY is a private investor-owned water company that provides drinking water and water for fire protection to the residents and businesses in Rockland County, excluding the Villages of Suffern, Nyack and South Nyack. UWNY serves a small portion of Orange County in parts of the Towns of Tuxedo, Warwick and Monroe. It is required to provide a safe and adequate supply of water to satisfy the needs for domestic and firefighting water use of a quality that complies with safe drinking water standards (Public Service Law (PSL) §89-b(1)).

It supplies water service to 73,000 customers of record in Rockland County; it serves approximately 87% of the County residents. The 2010 census indicates that the County's population increased by about 20% since 2000 - to nearly 312,000

² Case 09-W-0731, United Water New York Inc. - Rates, Order Adopting Joint Proposal as Modified and Establishing a Three-Year Rate Plan (issued July 20, 2010) (2010 Rate Order).

residents; and, the County projects a growth in population to 344,000 by 2035.

Regulatory Jurisdiction

The Commission exercises jurisdiction over private investor-owned water-works corporations, including provision of safe and adequate service at just and reasonable rates (PSL §89-b(1) and §89-c) and facilities necessary to provide service (PSL §89-b(1)). The Commission's rules set forth requirements applicable to water pressure and quantity of supply (16 NYCRR Part 503). A water corporation that uses a surface source of supply or groundwater sources is required to calculate its maximum projected demand based upon ten year forecasts; if projections show demand exceeds supply, to undertake reasonable efforts to reduce and control future demands; and, if appropriate, to develop plans, consistent with state requirements, to secure additional supply (16 NYCRR §503.4).

The New York State Department of Conservation (DEC) regulates drinking water supply through public water supply permits, which set withdrawal amounts and other conditions for withdrawal of drinking water from each drinking water source (Environmental Conservation law (ECL) Article 15 and its implementing regulations (6 NYCRR Part 601)). Each applicant seeking a public water supply permit is required to document its existing and future water conservation plans as part of the permit review process.

The New York State Department of Health regulates water quality as it relates to Public Health.³ The Rockland

³ Public Health Law §§201 and 225; 10 NYCRR Chapter 1, Part 5, New York State Sanitary Code, Subpart 5-1 and Public Water Systems, Part 170, Sources of Water Supply.

County Department of Health (RCDOH) is responsible for enforcing certain public health laws relating to water supply in Rockland County, including the New York State Sanitary Code.

Long-Term Water Supply History

The history of the development of a water supply project for projected future Rockland County water demands dates back to the 1960s. At that time, the UWNY's predecessor devoted its efforts to the development of a surface water reservoir, known as the Ambrey Pond Reservoir located in the Town of Stony Point. In 1987, DEC approved the water supply permits for the Ambrey Pond Reservoir, upon the condition that it would issue the permits if water demand on the water system reached a specified level for a certain number of years.⁴ Several government entities and numerous organizations opposed construction of the Ambrey Pond Reservoir, based upon need, cost, environmental impacts and potential seismic risks. UWNY did not proceed to secure the Army Corps of Engineers approval for the Ambrey Pond Reservoir. Since that time, UWNY undertook a number of measures to delay the need for construction of the Ambrey Pond Reservoir, including a water conservation program, adoption of a summer and winter differential rate structure to encourage conservation, short-term water supply improvements and addition of a new well field to its supply system.

⁴ DEC's conditional approval of the application for water permits was upheld by the New York State Appellate Division, Hudson River Fisherman's Association v. Department of Environmental Conservation, 139 A.D.2d 234, 531 N.Y.S.2d 379 (3d Dept. 1988).

Commission Proceedings

In the Commission proceeding resulting in the 2006 Rate Order, RCDOH asserted, in testimony set forth by its witness, that a new water supply initiative was essential, given its projections of UWNYS inability to satisfy average and peak demand by the end of 2015. In its 2006 Rate Order, the Commission approved a two stage proposal to satisfy projected water demand described in testimony from the Rockland County Department of Health: first, development of new intermediate supplies and maximizing existing supplies; second, development of a long-term water supply project implemented in stages to meet projected demands over the next 20 years. Specifically, the first stage consisted of an intermediate plan for UWNYS to increase the average water supply for the County by a total of 1.5 million gallons per day (mgd) and its peak supply by a total of 7.1 mgd by the end of 2015; and the second stage involved a plan for a long-term major water supply project that the Company would build and operate. The 2006 Rate Order required, among other things, that United Water develop and begin construction of the long-term new water supply project no later than May 31, 2013, in order to ensure that the plant is in service by the end of 2015.⁵ RCDOH stated that it was neutral with respect to selection of a long-term water supply solution. The Order required UWNYS to file its proposal for a long-term water supply proposal in January 2007. The intervening parties in the proceeding supported the development of a new water supply source and agreed to use their best efforts to assist the Company in meeting its construction milestones on time and to

⁵ 2006 Rate Order, Joint Proposal, Exhibit 11. Construction was expected to require approximately 30 to 33 months.

take action to facilitate the DEC and other regulatory permitting processes.⁶

In 2007,⁷ UWNY submitted to the Commission a project description for a long-term major water supply project, including a description of the Haverstraw Project and an explanation of the reasons for its selection, when compared with other options. It evaluated a number of potential long-term water supply sources, including the Ambrey Pond Reservoir, desalination of Hudson River water, additional groundwater supplies, reuse of wastewater, increased use of Lake De Forest and use of the Suffern Quarry. UWNY determined that several of these possible sources did not provide viable long-term water supply solutions, concluding that only two viable supply projects remained, specifically, the Ambrey Pond Reservoir and Hudson River desalination. It further evaluated these two projects, according to criteria relating to drought tolerance, dam safety concerns, expandability, permitting requirements, complexity of construction and cost. UWNY concluded that Hudson River desalination, i.e., the Haverstraw Project, would best serve the public health and safety because it is a more reliable, financially prudent, and environmentally sound option than the Ambrey Pond Reservoir project.⁸ In January 2008, UWNY filed an initial Draft Environmental Impact Statement (DEIS) with the DEC in connection with its request for permits

⁶ 2006 Rate Order, Joint Proposal, XI.1.

⁷ Case 06-W-0131, supra, and Case 06-W-0244, supra, Long Term Water Supply Project, dated January 12, 2007.

⁸ Although the 2006 Rate Order recognized that the Commission could institute a proceeding to investigate the proposal, no such action was taken. (2006 Rate Order, Joint Proposal, XI.3).

authorizing its withdrawal of water from the Hudson River for use in the Haverstraw Project.

In its 2010 Rate Order, the Commission noted that DEC had begun its environmental review of the Haverstraw Project and anticipated that the final determination and schedule for development of a new, long-term supply source would result from the combined actions of state government, local communities, concerned citizens and the Company in the DEC proceeding. Given the DEC process and its opportunities for public involvement, the Commission decided not to conduct another examination of UWNY's plans for a long-term water supply source.

The Commission adopted milestones for, among other things, development of short and intermediate water supply projects and initiation of construction no later than May 31, 2013 of a new long-term water supply source with a December 31, 2015 in-service date, to carry out its responsibility to provide sufficient water supplies to meet RCDOH's projected demand.⁹ The Company was authorized to file for Commission approval a surcharge to recover development costs associated with a long-term major supply sources at the time significant construction began, which was expected to be on May 31, 2013. The 2010 Rate Order remained neutral on UWNY's project choice to satisfy long-term needs. In the event that the Company will not meet a construction milestone, the 2010 Rate Order requires the Company to advise the parties in writing and schedule a meeting to discuss the matter.¹⁰ No negative performance incentive payment is attached to failure to begin construction on or before the target date.

⁹ 2010 Rate Order, Joint Proposal, Appendix 7.

¹⁰ 2010 Rate Order, Joint Proposal, Section X.2.

Haverstraw Project

The Haverstraw Project involves the construction and operation of a new water intake, intake pumping station and water treatment facility in the Town of Haverstraw. The Project would collect and treat water from the Hudson River and deliver up to 7.5 mgd of potable water for the use of Rockland County customers. UWNY intends to build the Project in stages, as needed to satisfy the pace of future water demands. UWNY proposes the Haverstraw Project because it is the least expensive and most viable option for acquisition of a new water supply source to satisfy future demand.

DEC serves as the lead agency for environmental review of the Project, in accordance with the State Environmental Quality Review Act.¹¹ Its permitting authority for the project includes several permits relating to development of a new water supply source. In September of 2008, UWNY submitted an initial version of a Draft Environment Impact Statement (DEIS), evaluating the potential environmental impacts of the Project. On June 30, 2009, DEC issued a final scoping document to focus its analysis on key issues during its review of the Draft Environmental Impact Statement (DEIS).¹² The scoping document requested extensive information on population and demand growth projections, existing water capacity and yield and analyses of water supply. On January 18, 2012, DEC accepted the DEIS as complete and ready for public review (Combined Notice of

¹¹ Department of Environmental Conservation, Application for Permits Pursuant to Environmental Conservation Law Articles 15 (Water Supply and Protection and 17 (Water Pollution Control) et al. by United Water New York Inc.)

¹² Department of Environmental Conservation, New York State Environmental Quality Review Act Final Scoping document - United Water New York, Haverstraw Water Supply Project, dated June 29, 2009.

Complete Application and Notice of Acceptance of the Draft Environmental Impact Statement, Public Hearing and Public Comment Period). On January 31, 2012, DEC issued a supplemental public notice extending the public comment period and announcing a new legislative public hearing date. As of the date of this Order, DEC has not issued a Final Environmental Impact Statement.

PUBLIC SUPPORT AND OPPOSITION

Earlier Activity

In 2006, the intervening parties in the Commission's proceeding unanimously agreed with the UWNY proposal that a capital investment program was required to achieve short-term and long-term average day and peak day supply targets. In 2010, several organizations and elected officials participated in the rate proceeding. The organizations¹³ and the majority of elected officials and municipal bodies who commented opposed the Project. The opposing parties argued that the proposed desalination plant would be too costly to run and maintain, that the Lake DeForest Reservoir water yield figures were set too low, and that New Jersey receives more water from the Lake DeForest Reservoir than it should; and, they expressed concerns about excessive commercial development in Rockland County.¹⁴ They requested a current evaluation of the need for the Project and suggested environmentally friendly alternatives. The RCDOH

¹³ Scenic Hudson, Inc., Food and Water Watch, Riverkeeper, Inc. and Stony Point Action Committee for the Environment.

¹⁴ Associated concerns included unwieldy growth, greater population density with high-rise buildings, large public schools, and the potential for high crime rates and increased taxes.

continued its strong support for development of a new long-term water supply source by the 2015 in-service date.

Recent Requests from Elected Officials

Since the 2010 Rate Order, several elected officials and municipalities have submitted letters and resolutions to us opposing the Project and requesting that the Commission initiate a review of new studies and new information. They claim that these new studies and new information call into question the Commission's past determinations relating to future demand and the need for a major capital investment in a new water supply source. A summary of the main issues raised in the letters and resolutions is contained in Appendix A.

UWNY Letter

On June 3, 2013, UWNY filed a letter describing its obligations under its rate plan relating to long-term water supply and the Haverstraw Project.¹⁵ A summary of the letter is contained in Appendix B to this Order. UWNY asserts that, as recently as March 12, 2013, Dr. Daniel Miller of RCDOH confirmed the need for the Project during a public presentation to the Rockland County Water Quality Committee, stating that water demand requires placing a long-term water supply project in service by December 31, 2015.

UWNY makes several requests in its letter, including a request for clarification from the Commission on its determination that the Company engage in the Project's development; at this point, it maintains, a Commission decision relating to the continuation of the Project is clearly in the

¹⁵ Case 09-W-0731, supra, Milestone Compliance Filing, dated May 31, 2013.

customers' best interest. UWNY clarifies that it is not asserting that the Project is not needed, because analyses indicate that the Project is crucial to avert a serious water supply crisis in Rockland County and is the most environmentally and cost-effective option.¹⁶

DISCUSSION

The Commission exercises general jurisdiction over UWNY to ensure that it provides safe and adequate service at just and reasonable rates. Our rules require UWNY, a user of surface and ground water supply sources, to project demand based upon ten year forecasts, undertake reasonable efforts to reduce and control future demand, and, when necessary consistent with state requirements, to secure additional supply (16 NYCRR §503.4). In accordance with these requirements, in our 2006 Rate Order, we determined that projected demand for water would outstrip estimates of available water supplies in approximately ten years, or the beginning of 2016, and directed UWNY to plan and propose a new long-term water supply source. This determination was consistent with testimony filed by the Rockland County Department of Health and supported unanimously by elected officials and municipalities.

In our 2010 Rate Order, we reaffirmed that Rockland County demand required a new water supply source, based upon updated projections. The Commission remained neutral as to the choice of the source. Many elected officials and organizations requested a new Commission assessment based upon current information, raising issues relating to environmental alternatives for reducing demand, proposals for increasing

¹⁶ On June 14, 2013, UWNY filed a Petition for Implementation of Long-Term Water Supply Surcharge (Case 13-W-0246, United Water New York Inc. - Long-Term Water Supply Surcharge).

supply estimates, high construction and operation and maintenance costs associated with a desalination plant, and excessive commercial development in the County. In view of the fact that, in 2008, DEC initiated a proceeding to review UWNYS application for a water withdrawal permit and DEIS, the Commission decided not to conduct another examination of UWNYS plans for a long-term water supply source.

Since 2008, DEC has undertaken a comprehensive review of the Project under its jurisdiction, including the provision of process to allow parties opposing the Project additional opportunities for public statements and comments. The DEC process included issuance of a final scoping document requiring additional information, designation of the DEIS as complete and preparation of draft permits. The DEC has not yet issued its FEIS, which would authorize UWNYS to apply for other state and local permits and to initiate construction by May 31, 2013, which would in turn trigger the milestone under the 2010 rate order to implement a surcharge to begin recovery of the capital costs related to the Projects pre-construction expenditures.

UWNYS, concerned about the time required for completion of DEC review, seeks clarification from the Commission on its directive relating to development of a new water supply source and the Company's pursuit of the Projects development. It maintains that, at this point, a Commission decision relating to the continuation of the Project is clearly in its customers' best interest. Numerous elected officials submitted letters to us requesting an evaluation of the projected demand for water supply and the need to secure additional supplies, under the changed facts and circumstances applicable to that assessment. Some argue that studies were conducted since the issuance of our 2006 and 2010 Rate Orders providing significant new information that was not available when the Commission made its

determination on the need for a long-term new water supply in Rockland County; they assert that this information may indicate that the County's real usage needs were overestimated. Others point out a high level of local concern and state that it is important that elected officials and residents are confident that the Commission thoroughly reviews all pertinent current information concerning the County's water supply needs before UWNY proceeds with its Project. These letters cause us to consider whether we should conduct an updated review of the issue of future demand and need for a major capital investment in a new water supply source.

We determine that a review of the assessment of the projected demand and need for a new long-term water supply source is required at this time, in light of UWNY's request for clarification and the numerous requests to update our the assessment from the elected representatives and organizations in Rockland County. The Commission is responsible to oversee UWNY's efforts to ensure adequacy of water supply and long-term planning for development of new water sources; and this investigation may provide assurances to the public and the Company relating to Rockland County's future water supply needs. The DEIS referred, among other things, to our 2006 and 2010 Rate Orders to support the Company's position that a new water supply source is needed for Rockland County. Our investigation of this issue will allow us to account for new information or changed circumstances, to determine whether continuance of safe and adequate water service in Rockland County requires the development of a major new water supply source.

To initiate our investigation, we direct UWNY to file, on or before 30 days after the issuance of this Order, a report containing the most recent information relating to projected demand and need to secure a new water supply source in Rockland

County. The report shall set forth UWNY's rationale supporting its judgment to continue its plan to construct the Haverstraw Project; corroborate the December 31, 2015 in-service date to meet projected water demand; respond to concerns and issues raised by public officials and organizations; and, present any other information UWNY deems relevant. We will provide an opportunity for a public comment period and conduct public statement hearings after the Company submits its report regarding projected demand and methods used to provide the necessary water supplies to satisfy Rockland County's needs.

The Commission orders:

1. A proceeding is instituted to assess the projected demand and the requirement to secure a new long-term water supply source in Rockland County.
2. United Water New York is directed to file on or before 30 days after the date of the issuance of this Order a report, as discussed in the body of this Order.
3. The Secretary to the Commission is authorized to extend the deadline set forth in ordering clause 2.
4. The proceeding is continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

APPENDIX A
SUMMARY OF ISSUES PRESENTED BY
ELECTED OFFICIALS AND MUNICIPALITIES

Elected Officials

I. Letter from Assemblymember Ellen C. Jaffee dated August 5, 2012: Requests re-evaluation of the Commission determination that Rockland County requires a new water supply source because of new information and unforeseen circumstances. The following arguments are contained in the letter.

A. United Water New York, Inc. (UWNY) did not prepare the financial analysis of alternatives included in the Draft Environmental Impact Statement (DEIS) in accordance with industry standards, citing a study by Ed MacMullan, Senior Economist for ECONorthwest, M.S. Agricultural Economics and International Agricultural Development, University of California at Davis. According to the Study, the Haverstraw Project would raise rates by a minimum of \$300 and an outside estimate of \$500 the first year. The letter notes that UWNY construction cost estimates increased from \$98 million to \$189 million.

B. The Draft Environmental Impact statement (DEIS) does not conform to the commonly-accepted standards for measurement and description of cost-effective comparisons among competing alternatives; it evidences a complete lack of transparency and documentation regarding data, assumptions and analytical methods used to generate cost results; and, it lacks credibility as a source of information and consistent measures of cost effectiveness across all alternatives. The letter requests that the Public Service Commission require an independent financial analysis of the alternatives in conformance with industry standards.

C. According to experts, due to intensive energy use, desalination could, over time, cost more than other alternatives. The letter requests that the Public Service Commission conduct a transparent, exhaustive study of alternatives, comparing the long-term costs of each alternative.

D. A New York State Water Resources Institute, Department of Earth and Atmospheric Sciences, Cornell University study, titled "Desalination in Northeast U.S.: Lessons from Four Case Studies" states that flawed alternatives analysis are apt to occur in cases, such as UWNY's project, because of an inherent conflict of interest. The Public Service Commission has a duty to require transparency of UWNY's data to prevent detrimental economic impacts to the County; and, ratepayers

deserve a full airing of data to learn how UWNY arrived at the desalination alternative.

E. The SEQRA process is ambiguous on rigorous exploration of the many alternatives to the project. These include treated wastewater, additional surface and groundwater sources, storm water runoff, and conservation measures, such as, use of water-efficient fixtures, leak detection and full-cost pricing of water.

F. The new Rockland County conservation plan could substantially reduce demand from one to three million gallons a day (mgd). UWNY shows little interest in pursuing goals that would quantify water savings from conservation. In its DEIS, UWNY states: no clearly identifiable measures of enhanced water conservation or development of green infrastructure would reduce water demand to avoid the need for a new water supply project beyond the end of 2015.

G. A study by a U.W. Geological Survey hydrologist states that United Water has not instituted an active industrial commercial and institutional water conservation program, which would net large potential savings, affecting 5.6% of Rockland's water use.

H. The Public Service Commission's strict view of conservation is a concern: it does not count theoretical increases without a physical change toward satisfaction of the supply increase commitment. The letter requests that the Public Service Commission consider the case of Brockton, MA, where conservation significantly cut demand after a desalination plant was built, to the extent that the city needs very little to none of the desalinated water.

I. Substantial loss of water through leakage exceeds the allowable limit. The July 17, 2012 Rockland Journal News reported 25% leakage in UWNY's New Jersey pipes, exceeding the permissible leakage rate by 10%. Restoring this lost water to Rockland County would add roughly .76 mgd of water.

J. The Public Service Commission should recalculate Rockland County's water needs, based on a history of illegal releases documented subsequent to its 2006 Rate Order. These unauthorized water releases include water supplied to New Jersey that exceeded UWNY's Lake DeForest operating permit, indicated, for example, by a Department of Environmental Conservation (DEC) fine for excess releases of water in 2007. As a result of

unauthorized releases, the 2006 analysis showed a need for a larger supply of water.

K. Rockland County's Comprehensive Plan shows a commitment to conservation measures; and, these measures should be factored into the supply needs for Rockland County, with possible water savings ranging from one to three mgds per day.

L. The current water discharge curve rule determining the flow of water to New Jersey expires in 2013; and, the current arrangement requires a release of seven mgds. A change in this agreement could further alter Rockland County's actual water needs.

M. In 2005, information provided to the Public Service Commission clearly stated that Rockland's ground water was in imminent danger of depletion. A new United States Geological Survey Study released in February 2011 determined that Rockland's groundwater supply is far healthier than originally reported.

N. The Lake DeForest water treatment plant has a capacity of 20 mgds; DOH limits production to an average of 10 mgds. The letter claims that DOH agreed to an increase and a decision is pending with DEC. It claims that this would allow the Company to rest the aquifer and well fields, augmenting the overall supply during high use periods and requests that the Commission recalculate the County's need based on ability to rest wells.

O. Executive Order 24 mandates 50% cost reductions in energy use by 2050 and 15% by 2015. The desalination alternative would significantly increase energy usage, contrary to this directive and impede the State from achieving these objectives.

P. The public mistrusts United Water and the desalination project is unpopular. The letter states that many calls and emails to the Assemblymember's office oppose the desalination project.

II. Letter from New York State Senator David Carlucci dated September 11, 2012: The letter states that the cost of the Project doubled to \$189 million; the Company performed no transparent study on effectiveness of alternatives; new information relating to groundwater levels indicates additional water is available; release of excess water from Lake DeForest

Reservoir limited availability of water from that source; substantial leakage results in unwarranted loss of water; environmental impacts of the Project are too great; and lack of transparency and study of alternative methods taints the decision that the plant is needed.

III. Letter from Harriet Cornell, Chairwoman, and Alden Wolfe, Vice Chair, of the Legislature of the County of Rockland dated October 23, 2012: The letter requests reopening and reconsideration of Case 06-W-0131 due to newly discovered information and unforeseen consequences, including infrastructure leakage in New Jersey, adoption of Rockland County's Comprehensive Plan in 2011, reduced industrial demand (closing of Pfizer Global Manufacturing in 2010), water supply problem limited to summer peak, potential golf course reduction in consumption, effect of the construction of the Tappan Zee Bridge Project on the Hudson River, growing public opposition, and new cost analysis relating to the Project contained in the ECONorthwest study.

IV. Letters from Assemblymember Annie Rabbitt dated October 4, 2012 and November 1, 2012: The letters request that the Commission conduct a re-examination of the need for the plant, because of poor financial analysis of alternatives to the plant, new reassessments of water supply needs, excess releases of water to New Jersey customers, potential aquifer water resources, impact from increased energy usage and substantial public opposition.

V. Letter from Nina Lowry, Member of Congress, dated April 15, 2013: The letter states that recent studies provide significant new information that was not available when the Commission made its determination on the need for a long-term new water supply in Rockland County and this information may indicate that the County's real usage needs were overestimated. The new information includes the U.S. Geological 2011 Survey that the County's ground water is not depleting at the rate assumed in 2006, studies showing that the desalination plant is not the lowest cost option, and information on unnecessary Lake DeForest Reservoir usage increases. Other concerns relate to disruption to the Haverstraw ecosystem because construction on the desalination plant and new Tappan Zee Bridge will occur simultaneously and likelihood that Rockland County's Comprehensive Plan will yield significant savings in water usage. Given the high level of local concern, the letter states that it is important that elected officials and residents are confident that the Commission thoroughly reviewed all pertinent

information concerning the County's water supply needs before UWNY proceeds with its Haverstraw Project. The letter requests that the Commission hold public hearings to consider the new information.

Municipal Resolutions

I. Legislature of the County of Rockland Resolution 486 dated October 16, 2012: Requests reopening Case 06-W-1031.

II. Legislature of the County of Rockland Resolution 487 dated October 16, 2012: Requests that DEC conduct an issues conference and adjudicatory hearing.

III. Village of Chestnut Ridge Resolution dated April 3, 2012: Requests Commission reconsideration of its ruling requiring additional water sources.

IV. Village of Chestnut Ridge Resolution dated May 17, 2013; Town of Stony Point Resolution dated May 17, 2013; and Village of Montebello Resolution dated May 15, 2013: The Resolutions identify disputed issues, including conclusions in the ECONorthwest Study conducted for the Rockland Water Coalition that UWNY provided an inadequate cost analysis in its DEIS; a U.S. Geological Survey indicating replenishment of groundwater; and, the need for evaluation of potential water use reductions from a comprehensive conservation program.

V. Town of Orangetown Resolution dated May 31, 2013, and Village of Piermont Resolution dated June 4, 2013: Request that DEC conducts an issues conference and adjudicatory hearing.

APPENDIX B
SUMMARY OF UNITED WATER NEW YORK LETTER

UWNY states that, as recently as May 1, 2013, it planned to achieve its May 31, 2013 construction milestone and its December 31, 2015 in-service date for the Haverstraw Project. The Company reports that it expended maximum effort and resources to assist the Department of Environmental Conservation (DEC) in its review prior to issuance of a Final Environmental Impact Statement (FEIS) for the Project. It notes that DEC issuance of a FEIS is necessary before any other state and local agency is authorized to issue permits and authorizations for the Haverstraw Project. UWNY asserts that, although certain elected officials, municipalities and interest groups have requested DEC to conduct a hearing on the permit, including the convening of an issues conference, there are no environmental or other issues that require an issues conference or adjudicatory hearing before the DEC; and, UWNY is not aware of any reason preventing DEC from issuing the FEIS.

UWNY asserts that, as recently as March 12, 2013, Dr. Daniel Miller of RCDOH confirmed the need for the Project during a public presentation to the Rockland County Water Quality Committee, stating that water demand requires placing a long-term water supply project in service by December 31, 2015. UWNY states that a water-supply crisis in the County would have wide-ranging and profound negative impacts on quality of life and overall economic, safety and social stability of the County. For example, it states that, without adequate water supply, a forced moratorium on economic development would likely occur and impede the County's recovery from the economic downturn.

UWNY states that it expended significant pre-construction development costs for the Haverstraw Project and that further delay may result in development costs exceeding actual construction expenses. The Company explains that, under the 2010 Rate Order, it can only recover a new water supply source surcharge at the time significant construction begins, which it cannot initiate until DEC issues the FEIS. UWNY states that, absent an understanding of the reasons for DEC's inaction with respect to preparing the FEIS and issuing permits, the Company both is prejudiced in making a determination whether investment of additional funds to develop the Project is a prudent expenditure of ratepayer money or in the best interest of its shareholders and would be unable to begin construction on

the Project by the Commission-ordered May 31, 2013 milestone date.

UWNY makes several requests in its letter. First, it seeks authority to immediately petition for Commission approval of a new water supply source surcharge to recover the pre-construction costs spent on the Project's development. Second, it seeks clarification from the Commission on its determination that the Company engage in the Haverstraw Project's development; at this point, it maintains, a Commission decision relating to the continuation of the Project is clearly in the customers' best interest. UWNY clarifies that it is not asserting that the Project is not needed, because analyses indicate that the Project is crucial to avert a serious water supply crisis in the County and it is the most environmentally and cost-effective option. Third, the Company requests the Commission's acknowledgement that construction of the Project will not begin by the May 31, 2013 milestone deadline because of circumstances beyond the Company's control and that UWNY bears no responsibility or liability for missing the milestone.¹⁷

¹⁷ UWNY requests a meeting with Staff to discuss these matters, determine the cause of the DEC delay, and solicit Staff's assistance with facilitating DEC completion of the FEIS (2010 Rate Order, Joint Proposal, X.2).