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March 21, 2014

Hon. Kathleen H. Burgess  
Secretary to the Commission  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223

Re: Case 13-W-0295 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of UWNY for Water Service

Dear Secretary Burgess:

This letter is written on behalf of the Municipal Consortium in support of Staff's Motion to Exclude, filed on March 18, 2014.

United Water New York ("UWNY") is represented in this case by a major international law firm, a major regional law firm and a senior attorney, all with considerable experience in practice before this Commission and other regulatory bodies in which United Water operates. By attempting to introduce two new exhibits in its Reply Brief, UWNY has effectively sand bagged the parties leaving them no opportunity to respond. These proposed late filed exhibits have no place in the record in this case, particularly given the controversial nature of the issue they address – M&S Co charges.

UWNY had plenty of time to consider whether it wished to use this material in its rebuttal case, but chose not to. It could have introduced these documents at the hearings, but chose not to. UWNY could have even tried to put them in through its Initial Brief. While also

inappropriate, it would at least give the parties a chance to respond in their Reply Briefs. The record is now closed and should not be reopened because UWNY now wants a second bite at the apple. If this was an inexperienced lay intervener, that would be another matter.

Even more out-of-line is UWNY's request for a waiver to allow termination of service for non-access. Staff's recommendation that the waiver request should be decided on its own merits outside of this case is appropriate and supported by the MC.

Staff's Motion to Exclude should be granted for the reasons expressed therein.

Very truly yours,

*Daniel P. Duthie*

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DPD:bsb  
cc: ALJ Rafael Epstein  
ALJ David Van Ort  
Parties