STATE OF NEW YORK
PUBLIC SERVICE COMMISSION
CASE 16-W-0130

IN THE MATTER OF A PROCEEDING ON MOTION
OF THE COMMISSION AS TO THE RATES, CHARGES,
RULES AND REGULATIONS OF

SUEZ WATER NEW YORK INC.

FOR WATER SERVICE

CASE NO. 16-W-0130

EXHIBITS OF DANIEL P. DUTHIE

On behalf of
The Municipal Consortium

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Q. Please state your name and business address.

A. My named is Daniel P. Duthie

Q. By whom and in what capacity are you employed?

A. I am self-employed attorney and consultant.

Q. Please summarize your credentials.

A. I have maintained a legal practice before this Commission since graduating from Fordham Law School, Evening Division, in 1976. I am also a licensed professional engineer in New York with a Bachelor's Degree in Civil Engineering and a Master's Degree in Environmental Engineering from Manhattan College. I also have a Master's Degree in Business Administration (Finance Major) from Baruch College of the City University of New York. In the early 1990s I was General Manager and General Counsel to two small water utilities on Long Island, Swan Lake and Sunhill. My Curriculum Vitae is attached as Exhibit____(DPD-1).

Q. Have you previously testified before the Commission?

A. Yes. I testified on behalf of the City of Albany in connection with a $5 million street light billing dispute. I also testified on behalf of Northrup

Grumman in a case that sought approval of a new electric and steam utility, in direct competition with LILCO, on the Company's Bethpage site on Long Island.

Q. What is the purpose of your testimony?

A. My testimony addresses the following issues:

1. Suez Water New York Inc.'s ("Suez" or "Company") Capital Expenditure Program ("CAPEX") including SIC projects.
2. The persistent Non-Revenue Water issue that has plagued this Company.
3. Main Replacement
4. Ratemaking treatment for the Haverstraw Desalination development expenditures.

CAPEX

Q. Since there were three CAPEX programs presented in response to discovery requests, which program are you addressing?

A. I am addressing the CAPEX plan presented in response to MC-10, Attachment B. So there is no confusion with the CAPEX plan presented in response to Pre-filing Attachment A to IR Staff-61 (79 pages) and Staff-75, Attachment A (94 pages), I have attached the CAPEX list (103 pages) to my testimony as Exhibit ___ (DPD-2).

Q. What is your overall impression of the Company's CAPEX program?

A. My first impression is that it lacks necessary detail and supporting documentation. For example, there are many projects that have no supporting cost estimates. Virtually all projects have no benefit/cost analyses. There is also no sense of prioritization within or across project categories.

Q. Have you modified the Compsny's CAPEX plan?

A. Yes. I started with the ‘‘Compliance’’ projects. These are projects required by, for example, the Department of Health. Since there is a regulatory requirement, these projects are given the highest priority. Nonetheless, there may be more than one strategy to achieve the required compliance. There is no indication that the selected project to achieve compliance is optimal from the ratepayers' or even the Company's perspective. I have accepted the Company characterization as ‘‘Compliance’’ but reserve the right to make further adjustments and recommendations when the compliance documentation is received and reviewed. This is a one year rate case. Accordingly, all SIC projects are rejected for rate treatment at this time.

Going beyond ''Compliance'' projects there are four broad categories of water system sustainability: system maintenance, conservation, non-revenue water and new sources of supply projects. I have based my CAPEX recommendations on the following:

New sources of supply are given the lowest priority since the Company has more than adequate current supply sources. With Average Day Demand at approximately 29 MGD and system capacity at 34.5 MGD, the Company is well positioned from a supply side perspective for the foreseeable future.

In fact, it is my recommendation that no new supply source expenditures be reflected in rates, with the exception of new supply planning and modeling.

Since the Company has realized that conservation or demand side projects produce the least cost strategy, those projects would be prioritized right after ''Compliance'' projects with non-revenue water projects standing in third place. Of equal importance to Compliance projects are projects necessary for the continued operation of the system, e.g., main extensions, new customer hook-ups, main replacement, etc. I said Conservation projects would be prioritized because the Company has not proposed a single capital conservation project.

Q. Have you created an exhibit that quantifies the impact of your recommendations on the CAPEX program?

A. Yes. Exhibit ___ (DPD-3) shows the recommended CAPEX program that I think should be considered by the Company. I note that I have not been able to reconcile the CAPEX work papers as presented in Attachment B to MC-10 with the Exhibit that accompanies Ms. Paula McEvoy's testimony. One problem is that Ms. McEvoy's exhibit is presented in terms of the Bridge Period (October 2015 through January 2017) and the Rate Year (February 2017 through January 2018) while the information in MC-10 is based on calendar years.

Q. What projects have you eliminated from the MC-10 CAPEX Plan?

A. I have eliminated two water supply projects calling for new test and production wells that total approximately $12 million. These projects can be found on pages 6 & 7 of Attachment B to MC-10.

Q. Have you made any other changes to the CAPEX Plan?

A. Yes. I have accelerated the purchase of leak detection equipment from 2018 to 2016. Non-Revenue Water should be a significant priority and that acceleration attempts to signal that goal.

Q. Do you agree with the Company accounting policy to capitalize previously expensed repairs as described by Ms. McEvoy at pages 4 and 5 of her pre-filed direct testimony?

A. No, I do not. While technically a repair that is capitalized instead of being expensed can reduce the revenue requirement in the rate year, overall the revenue requirement is higher due to the return component associated with capitalized projects.

Q. Do you have any other concerns or observations About the CAPEX plan?

A. Yes. During my review of the CAPEX Plan, I noted the variability in the level of Overheads to Company Time. For example, page 3 of the CAPEX Plan shows $823,888 payment to Watchtower, with Company time of

$456 but overheads of $99,278. Likewise, on page 8, Indian Kill Dam Outlet project, the Company Time is shown at $10,000 and the overheads at $52,245. As a result, I removed all overheads from the 2017 expenditures on Exhibit ___ (DPD-3) until the Company explains and justifies the extraordinary level and variability of the overheads.

NON-REVENUE WATER

Q. What is the primary issue with non-revenue water ("NRW")?

A. The Company's NRW has been historically well over the 18% reporting threshold. In fact, for the last five years the average has been over 21%. Indeed, NRW for the historic test year exceeded 24%. The Company is just not sufficiently serious about NRW as evidenced by the fact it was not going to purchase, presumably additional, leak detection equipment until 2018.

Q. What do you recommend for NRW?

A. I recommend an NRW goal of 15% as set forth in the Halcrow report that was filed in Case 13-W-0303. I further recommend that the Company's allowed return on equity be reduced by 50 basis points starting in 2018 if it has not achieved the reporting threshold of 18% for calendar year 2017 and an additional 50 basis points for each 1% over the reporting threshold. So if 2017 NRW is 20% then the Company would experience a 100 basis point (2 x 50) reduction of the equity return which would be credited to the ratepayers.

Starting in 2019, the NRW goal would be reduced to 17% with the same basis point reductions for failure to achieve. In 2020 the NRW goal would be 16% and then in 2021 it would be 15% with the same basis point return reductions for the failure to achieve. This financial incentive should help management focus on this persistent problem of NRW.

MAIN REPLACEMENT

Q. Is the Company's goal of increasing main replacement to 0.7% a year acceptable?

A. No, it is not. The goal should be a minimum of 1% a year as it is for its sister company Suez Water Westchester. Faster main replacement will also mitigate NRW.

HAVERSTRAW DESALINATION PROJECT COSTS

Q. Do you agree with the ratemaking treatment that the Company seeks for the $54.5 million in pre-construction development costs?

A. No. The propriety of recovering any of those undocumented and unexplained costs from ratepayers for a failed project that was not needed, is an issue that is now before the New York Supreme Court in <u>County of Rockland v. Public Service Commission of the State of New York</u>, et. al., Index No. 03496-16.

Accordingly, the Commission should take no action on this part of the rate request until a final judicial determination is reached. In the alternative, if the Commission awards any recovery for desalination expenditures from ratepayers, then that amount should be made temporary and subject to refund to protect the ratepayers from paying for costs that may be judicially determined to be inappropriate. The mechanism proposed by the Company over compensates it because it seeks to recover by amortization the full $54.5 million even though the Company has received an $18.53 million tax benefit. Accordingly, the amortization should be based on $35.97 million ($54.5 x 66%) if the Commission allows full recovery of the

$54.5 million or a proportionally lesser amount if full recovery is not allowed.

Q. Does that conclude your testimony?

A. Yes.