BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of a Proceeding on Motion
of the Commission as to the Rates,
Charges, Rules and Regulations of **Case 16-W-0130**

Suez Water New York Inc.

For Water Service

REPLY BRIEF
OF
ROBERT TOMPKINS, CPA, MPA
AS AN INDIVIDUAL

November 17, 2016

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I. Introduction/Background

This Reply Brief addresses several comments raised in the Briefs of the New York Department of Public Services (PSD) and Municipal Consortium (MC), including these topics:

Non-Levelized, levelized rates and Tompkins Rate Proposals.
Haverstraw Water Supply Project (HWSP) carrying costs.
PSD audit of HWSP costs.
Qualified New York Manufacturer Credit (QNYMC).

II. Rate Plan and Term

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b. Non-Levelized, Levelized, and Tompkins Rate Plans

Regarding use of QNYM (or QNYMC) I propose to use in leveling the rate increases the New York Department of Public Services (PSD) argues, “ratepayers would benefit from the more gradual pace of the increases” of the rates, and “the loss of interest on QNYM balance outweighs the $284,712 interest associated with the JP proposed levelization.”

The first year use of QNYM can be used to reduce first year rate shock and the gradual pace of the increases can be a result. The balance could be used to reduce the HWSP costs and associated carrying costs. The loss of interest on the QNYM balance is gained back from the reduced carrying costs (interest) of the HWSP recovery amount amortized over fifteen (15) years.

MC maintains increasing rates is unacceptable, however the positive effects on encouraging Conservation is being ignored, given many Parties ascertain the proposed Conservation plan is lacking important elements.

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The PSC, according to the DPS, has a “long-standing practice to afford the costs of abandoned projects rate base treatment, with a return equal to a utility’s authorized rate of return.” The Appeals Court Case cited (Con Edison order) determined “allowing full recovery was not an abuse of the Commission’s authority under the Public Service Law (PSL).”

I argue the Company is granted “full recovery” when the PSC orders a surcharge to include allowable HWSP costs, plus the JP weighted average long-term debt interest rate over the amortized period of fifteen (15) years (2.78%, and not include an addition for Federal Taxes given the interest revenue should offset related debt interest expense).

Doing so meets a reasonable standard of “full recovery.” The Company will recover the proposed $54 million, or whatever is finally ordered, plus its carrying costs. The Company is not harmed as it financially breaks even on the HWSP project. It does not suffer a financial loss due to this project being abandoned. The Company does not risk going out of business using weighted long-term debt interest rate as carrying cost. Doing so does not adversely affect the financial integrity of the Company or harm the shareholders.

This case does deserve a tailor made regulatory treatment, given the public and ratepayers actions in opposition to the project over a very long time period, their expectations of the PSC to protect their interests, the relatively small number of ratepayers bearing the costs, that it is unfair and unjust to the ratepayers who must pay millions of dollars more, in excess of a full recovery as defined by DPS by using the proposed ROE; as well as other factors.

The decision as to the proper interest rate for carrying costs should explicitly be publicly addressed during a Public Service Commission meeting. The issue goes to the heart of fairness to the Company and to the ratepayers of Rockland County. Blindly following precedents tilts the balancing of the public interest in favor of the interests of the Company, as well as limits the regulatory role of the PSC as granted by the State Constitution and Public Service Law.

d. Audit and Plant Costs

DPS argues that since it reviewed approvals of invoices and expenses in the prior Case 13-W-0246, that covered the time period before April 1, 2013, it is fine to assume nothing has changed after that, through December 31, 2015 as covered in this Case 16-W-0130. Based on this assumption Staff did not review approvals on about $15 million of costs. This is an incorrect assumption and conclusion as my testimony refers to. Tr. 563-564.

The system of approving proposed payments can change over time due to many factors including turnover of employees, technical computer and software issues, dishonesty of employees, neglect, and error. The proposed costs in addition to Case 13-W-0246 should include its own separate audit program, including proper approvals.

MC argues there are invoices that cannot be properly audited because there is no description of the services provided or the work performed. I agree. I disagree with the implications of the DPS position, simply stating the project name "UWNY HUDSON RIVER DESALINATION" on the invoice should be sufficient to deem it an allowable cost. People make mistakes. Without confirming proper approvals took place and the cost was actually paid (which the DPS did not do) one cannot conclude it is an allowable cost.

The $15 million of HWSP costs, or whatever that amount is, should be disallowed, and not included in the rates, pending review of approval documentation and confirmation of actual payment for each cost. Tr. 565.

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DPS argues NOT applying the $8.5 million credit "would result in an across the board increase that would not differentiate between avoidable and unavoidable consumption." (Brief p. 31) This can be addressed and corrected within the Revenue Allocation and Rate Design.

It appears there will be a structural annual increase of about $3 million for the following three-year rate term, 2021-2024. The surcharge will remain the same however there will not be a QNYMC to offset that increase. Is there a compelling reason why the effect of higher rates due to the surcharge be delayed three years? There has not been a study of that or a study of the factors of success of the proposed Conservation program when rates reflect the true cost of water. Applying the QNYMC artificially lowers the true cost of water. The HWSP recovery is being treated in this JP as a productive asset thus should be included in determining the true cost of water.

Weighted against the necessity of an effective Conservation program I submit it is in the best interests to apply QNYMC against HWSP costs after use in levelizing rates that first year. Increasing the rates closer to the cost of water can result in increasing the probability of success of a Conservation program.

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For the reasons discussed in my Brief and this Reply Brief please reject the JP as not being in the ratepayers interest and unfairly favors the Company interest in regards to HWSP Carrying Costs.

Respectfully submitted,
/s/ Robert Tompkins, CPA, MPA

November 17, 2016