

The Legislature of Rockland County



HARRIET D. CORNELL

Legislator – District 10

Chair – Environmental Committee

Chair – Rockland Water Task Force

Chair – Special Committee on Transit

Economic Development Committee

Budget & Finance Committee

Comments by Legislator Harriet Cornell

Chair, Rockland Task Force on Water Resources Management

New York Public Service Commission Case 16-W-0130

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations
of Suez Water New York Inc. for Water Service

June 17, 2016

VIA ELECTRONIC FILING SYSTEM

Hon. Kathleen M. Burgess

Secretary to the Commission

New York State Public Service Commission

Agency Building 3

Albany, New York 12223-1350

Re: Reference Case 16-W-0130 – Suez Water New York Proposed Water Rate Increase

RESPONSE TO NOTICE OF PUBLIC STATEMENT HEARINGS ON PROPOSED WATER RATE INCREASE

Dear Secretary Burgess:

On May 24, 2016, the Public Service Commission (Commission or PSC) released a *Notice of Public Statement Hearings on Proposed Water Rate Increase* (Notice) in reference case 16-W-0130 (Rate Case) in which the Commission sought public comments on a rate proposal that was filed by Suez Water New York Inc. (Suez or SWNY).

I am Harriet Cornell, Chair of the Rockland Task Force on Water Resources Management and a Rockland County Legislator. I am a Party to this Case. From 2005-2013 I served as Chairwoman of the Legislature and submitted formal comments, all containing the contention that a combination of actions to ensure a long-term sustainable water supply would preclude the necessity of a single project which carries with it a number of undesirable and costly results.

On behalf of the Task Force, I respectfully submit comments in response to the Commission's Notice. The comments in this document will address, inter alia, the proposed conservation measures, increase in rates to customers, mechanism of recovery of costs associated with the abandoned desalination proposal and SWNY's collaboration with the Rockland County Task Force on Water Resources

Management. I presented some of these comments orally on June 16, 2016 at a Hearing presided over by The Hon. Michelle L. Phillips, Administrative Law Judge.

The Rockland Task Force on Water Resources Management (TF)

The Rockland Task Force on Water Resources Management (TF) was created by Resolution #296 of 2014 of the Rockland County Legislature and signed into law by the County Executive on June 19, 2014. It was a response to years of ferment in the community as a result of the Haverstraw Water Project, the desalination plant, which was an energy-intensive, very costly plan to create a greater water supply using the Hudson River water across from Indian Point.

The TF mission is to develop a County Water Plan that ensures a safe, long-term water supply for Rockland County that incorporates sustainability, demand-side principles and conservation. It shall assemble, examine, and investigate relevant data, further County goals regarding protection of floodplains, woodlands, and wetlands, increasing groundwater supply, reducing storm water runoff, and preventing flood damages to residents and businesses. The Task Force shall also develop education and outreach programs, seek funding opportunities, and report its findings, conclusions, and recommendations to the Legislative and Executive branches of County government.

The membership of the Task Force is diverse, with representatives from the public and private sectors, large and small water users, local governments, and environmental advocates. United Water is a named member in the legislation but withdrew last year as I will explain later.

Rockland Ratepayers Should Not Pay for United Water NY (now Suez) Pilot Project

As a Legislator and the Chair of the Legislature for nine years from 2005-2013, I must start by addressing the proposal by Suez that its customers pay for the now-abandoned pilot project for the desalination plant in Haverstraw. This has really raised the ire of Rockland residents. It is true that the PSC in 2006 ordered UWNY to develop an additional water supply, although it never stipulated that the supply should be one major project. There is a prescribed process to be followed, set by NYS Department of Environmental Conservation where a company submits a Draft Environmental Impact Statement, open to public comment, with the opportunity for the public to request and be granted an Issues Conference to resolve conflicts in testimony. Such a conference was requested because there were so many conflicting issues, but never granted. In fact, in 2012, I attended a meeting in Albany arranged by Assemblywoman Jaffee with Governor Cuomo's Secretary Larry Schwartz. At that meeting, then-PSC Chair Garry Brown said that the PSC would not be involved until the DEC finished its process.

The DEC never finished its process, never granted an Issues Conference and never, to my knowledge, rendered a Final Environmental Impact Statement approving the Project. The DEC seemed to fade from the picture.

However, the company continued to spend money on the pilot project. Thankfully, the PSC under Chair Zibelman stepped forward and set two hearings on Need for the Haverstraw Desalination Project on October 1 and 2, 2013. On December 18, 2015, the New York Public Service Commission (PSC) ordered SWNY to abandon the proposed desalination plant and pursue alternatives.

It is Unfair for Ratepayers to bear the burden of a business risk taken by United Water.

Suez supplies approximately 90% of Rockland's potable water, and in its rate filing Suez seeks approval of a new rate structure and increase in its annual revenues of approximately \$11.6 million, an increase of 13.7% over projected revenues at existing rates, for the rate year ending January 31, 2018. This will result in potentially significant water rate hikes to Suez customers in the Rockland service area; and that is the reason why we are all gathered here today. Comparison of typical single-family charges shows that Rockland County is among the highest in the region. Westchester County, also served by Suez, has lower charges.

Suez now seeks to recoup \$54.5 million spent on planning costs for the failed desalination proposal over 20 years, which, if approved by PSC, will amount to \$110 million with interest, making up roughly half of the proposed rate increase. **And this does not even include the System Improvement Charge (SIC) for other projects' costs, which will result in an additional increase of up to 15.6% after this rate year.** Needless to say, I strongly urge PSC to disallow Suez from charging ratepayers the \$54.5 million it spent on planning costs that ran more than twice over budget, costs like engineering and legal fees it spent on the failed desalination plant. Furthermore, **I strongly disagree that Suez be allowed to make a profit by tacking 20 years' worth of interest on to the \$54.5 million it is seeking for the failed desalination plant.**

It is unfair to Rockland rate payers to have to cover such a costly mistake, and it sends the wrong message to the management of a corporation that it can sink huge costs to failed ventures and still make profit regardless. The PSC needs to send a message that there is accountability. Not all risk can be shifted to the customers who are punished when corporate plans falter. I will file written testimony with Secretary Burgess tomorrow.

Task Force Working in Collaboration: Suez Must Return

I would like to give you a picture of what has been transpiring recently, thanks to collaborative efforts spearheaded by the Task Force, with the great assistance of a wide range of organizations and individuals in Rockland and the Hudson Valley. We have also enjoyed the confidence displayed by the PSC and Chair Audrey Zibelman, who on several occasions has indicated her belief that Rockland can develop a plan of water conservation that will prove to be a model in the State of New York and beyond. Consequently, the first priority of the TF—but far from the only one—is to develop a **comprehensive** conservation plan for the county of Rockland. However, it is essential that in this process, Suez work collaboratively with the County Task Force on Water Resources Management to develop a truly comprehensive program for water savings in the County, one that maximizes the full potential of conservation that can be achieved as a result of actions taken by the utility, municipalities and the community in partnership.

A Conservation-Oriented Rate Structure

One of the range of conservation measures that a utility can undertake is conservation oriented rate structure. Water conservation rates are an important component in a water conservation plan, and it is aimed to discourage waste of water. However, the conservation rates currently proposed by Suez lack justification and we are concerned that they may result in unfair cost increases for smaller users or for smaller users in larger households. Another concern is that the proposed water rates for multi-family ratepayers and for commercial and industrial users would actually result in decreases from current summer rates, when they should be focused on reducing peak summer water use.

Creation of conservation rate structure is certainly a step in the right direction, but on recommendation from the Task Force, and because of the opaque justification by Suez, the County is consulting with experts as to whether this is the most effective and appropriate structure, whether the inclining blocks are placed at the most optimal levels among different classes of water users, and what implications there may be for overall affordability of water in Rockland, a county that pays among the highest rates for water even before this rate increase is approved. Following submissions of direct testimony, we will have more details from the expert and I intend to file those findings with the PSC in July.

Achievements and ongoing work of the Task Force that contribute to water resource management efforts in Rockland County:

1. Vickers Report as Baseline for Conservation Planning:

In March 2015, the Task Force contracted with water analysis expert, Amy Vickers, as a consultant to analyze the water use data for customers of United Water, known as a demand analysis and systems analysis. Ms. Vickers is a nationally recognized water conservation and efficiency expert, engineer, and author of the award-winning *Handbook of Water Use and Conservation: Homes, Landscapes, Businesses, Industries, Farms*. In addition to writing the national water efficiency standards for plumbing fixtures adopted under the U.S. Energy Policy Act of 1992, she has also authored or co-authored several state and municipal laws to reduce water waste. She brought to the project her state of the art water data analysis methodologies that she developed for the American Water Works Association and that she used in other studies including the City of Dallas, Texas.

The Vickers Report revealed important information about opportunities for water savings through conservation and leak reduction.

The Amy Vickers' analysis and report assessed United Water customer and system water use data. The detailed analysis looked at current and historical United Water production and customer use data, the company's reports and filings with the Public Service Commission, and an in-depth analysis of the 2012-2014 data including customer meter and billing data. The report identified high indoor or outdoor data use, compared data to benchmarks for water efficiency, and provided an analysis of residential, non-residential (commercial, industrial, public / institutional), and system/ utility use including infrastructure leakage and water losses. The purpose of the water use data analysis is to produce analytical findings to influence a future water conservation program strategy.

The TF submitted the Vickers Report to the PSC to aid the agency's decision on the question of "Need" for the desalination project proposed by Suez, which ballooned more than twice over budget in pre-construction "soft" expenses alone. Rockland residents, businesses, elected officials and advocacy groups banded together and questioned the wisdom of the tremendous cost and impact to the environment. In December 2015, the PSC recognized that there is great opportunity for economical water savings from conservation and leak reduction and ordered abandonment of the desalination plan after a 10-year struggle.

It is important to know that Amy Vickers was recommended to the Task Force for the task of studying United Water's system and customer water use by David Stanton, President of Regulated Water for United Water and the Interim General Manager of UWNYS at that time, following the departure of General Manager Michael Pointing. Mr. Stanton was a member of the TF, representing his company. This recommendation was met with unanimous approval by the Task Force. This is significant because after the Vickers Report was presented publicly, recommending that United Water take certain steps to speed up its repair and replacement of water mains and pipes and undertake certain conservation methods, the company sought to discredit the expert. Fortunately, Ms. Vickers'

reputation is such that she is considered the gold standard by water professionals around the country and indeed the world. In addition, United Water withdrew from the Task Force and subsequently changed its name to SUEZ Water New York.

Suez was displeased, to put it mildly, when the Vickers Report used the term “*sluggish pace*” to describe the exceedingly slow main replacement rate that put the Suez system on a 704-year schedule in 2014, on top of being more than a decade behind the state’s recommended timetable for surveying leaks in system mains. Despite the New York Department of Environmental Conservation’s recommended maximum 3-year schedule for water system leak surveys, in 2014 UWNY sounded only 7% of its mains for leaks, putting it on a 14-year schedule that likely contributed further to the utility’s backlog of needed leak repairs.

Suez has been failing to meet an adequate main replacement rate with the current rate of only 0.24%, and Suez now proposes to raise it to only 0.74%. To achieve the necessary rate of 1% replacement, Suez must significantly accelerate these schedules to get back on track.

With such inadequate maintenance, it is no wonder that in 2015, Suez **non-revenue water loss levels** peaked at 25%, which is significantly above the state reporting level of 18% that triggers a water utility to develop a plan of action to reduce non-revenue water. Suez own consultants reported that a 15% non-revenue water level was achievable. This would result in over 2.5 MGD of additional “supply.”

- **Vickers’ Recommendations**, based on peer utilities in other jurisdictions and her review of Suez system data: Suez should aim to reduce NRW to 10%; and the PSC should adopt this as the new standard to replace the antiquated 18% reporting standard, which continues to enable leakage and losses.

It is clear that the Vickers Report, has led to some changes by Suez, and that is a good thing, but Rockland already pays among the highest water rates in the country. The PSC must ensure that Suez is operating as cost-effectively as possible to manage rates. That includes ensuring that Suez prioritizes conservation and reduce system inefficiencies before proposing costly new supply projects. The PSC must take advantage of this opportunity to develop a successful model of sustainable water conservation and supply for New York State.

2. Assistance to Suez Conservation Planning:

Last Fall, at the request of PSC Chair Audrey Zibelman, in anticipation of the upcoming rate requests to be submitted by Suez NY, the TF was asked to give assistance to Suez as they developed a plan of conservation for the company. Chair Zibelman assigned her Deputy Judy Lee to convene small meetings in Rockland, which commenced in November 2015 and concluded at the end of February 2016. In addition, two representatives of TF Patricie Drake, Coordinator and Marguerite Turrin, Chair of the Conservation Committee were asked to volunteer additional time to attend meetings and teleconferences with Suez –and to offer advice. Black & Veatch is a very reputable and impressive firm, and we enjoyed working with Andrew Chastain-Howley and David Sayers as well as Don Distanto of Suez.

Task Force members and I conscientiously fulfilled Chair Zibelman’s request in order to help Suez develop a progressive plan of conservation. We knew that Chair Zibelman is hoping for Rockland to be a model for the rest of the state. Clearly the time given by the one staff member of the TF together with the work of Dr. Turrin, a scientist with Lamont Doherty Earth Observatory, meant time not spent on other conservation efforts being developed by the Task Force, many of which require grant applications.

- **Suez' conservation plan does not go far enough.** After reviewing Suez' conservation proposal filed in the rate case, and examining the company's planning approach, we urge Suez and PSC to revisit the fundamental expectations and address current concerns.

Our main concern is that Suez' conservation plan does not go far enough. The proposal is the result of limited analysis. Suez admits that *no* cost-benefit analysis was conducted for possible water savings beyond a minimum suggested 1MGD. Suez apparently interpreted the PSC's minimum required savings of 1MGD, as articulated in its December 2015 Order in Case 13-W-0303, as the total scope for Suez' conservation plan and specifically tasked B&V with developing a plan only to meet this minimal target.

Water conservation should be maximized because it is not only environmentally sustainable, but also more cost effective, costing far less per MGD saved than alternatives like incremental supply or a major long term supply facility like the failed desalination plant. Nevertheless, Suez did not conduct any cost-benefit analysis beyond 1MGD to evaluate feasibility of what more could be achieved economically. There is ample indication from various experts and from recent trends in other jurisdictions that more ambitious goals could be achieved in a very cost-effective manner.

Amy Vickers, who directly analyzed Suez' own customer data, and other experts, agree that more can be achieved through conservation, which is the most affordable measure on cost-per-mgd basis. According to Amy Vickers' preliminary estimate, **1.9 MGD to 3.6 MGD** of potential water demand reductions from customer-oriented conservation measures exists within the Suez system.

The Vickers' Report entitled "*Water Losses and Customer Water Use in the United Water New York System*" was submitted by the Task Force in Case #13-W-0303 in July 2015. I am submitting that Report on June 17, 2016 for filing as relevant and necessary for Case # 16-W-0130.

I shall also submit:

- Report done for the County of Rockland by Dr. Stuart Braman, an adjunct associate research scientist at Lamont-Doherty Earth Observatory at Columbia University,
- Report by Al Appleton, former Commissioner of the New York City Department of Environmental Protection, in which capacity he served as the Director of the New York City Water and Sewer System,
- The findings of Columbia University Sustainable Development Workshops that specifically focused on conservation in Rockland.
- A copy of Dr. Braman's prior testimony to the PSC in Case #13-W-0303 dated November 7, 2013 and January 5, 2014.

In his testimony, Dr. Braman made several specific recommendations as to a range of conservation actions that Suez can undertake that can result in significant water savings. He further indicated that United Water's "*conservation program was modest in design and goals*" compared to programs analyzed for Rockland by Columbia Sustainable Development Workshops.

Today, we are encouraged to see that Suez has stepped up to employ at least some of the recommendations, but we are again frustrated that Suez has not evaluated potential gains from more ambitious kinds of programs. There are **gaps in the water conservation program** such as lack of proper incentives for certain high use residential and commercial customers to reduce water use, and failure to include cutting edge concepts such as distributed water sources like greywater reuse and rainwater harvesting, or development of a trade ally network.

Suez again demonstrates that it has invested its analytic resources to defend no further action on demand management beyond modest goals, rather than assessing what might actually be accomplished. The proposed expensive “**cookie cutter**” approach to incentivizing water conservation by its customers is not customized to the unique demographics of Rockland County. As Dr. Braman indicated, the Columbia study estimated that up to **3.15 MGD might be achieved in Rockland from recommended cost effective conservation programs**. These findings are similar to the recent Vickers findings of 1.9 to 3.6 MGD estimated through conservation.

In addition, less than ¾ (0.68 MGD) out of the low target of 1MGD of water savings, is actually going to be achieved through Suez’ direct action – the rest is the passive result of a trend in demand reduction, *not* of Suez’s proactive doing. Suez should not be allowed to improperly take credit for background conservation that will result from existing national, state and local programs as part of the already low 1MGD goal.

Please note that The Task Force is not sitting back and waiting for conservation to happen around us. On the contrary, the efforts are ongoing and I’m pleased to announce that the:

3. Task Force Conservation Plan is now funded:

It is well-known that conservation of water is the least expensive method to achieve goals.

Accordingly, the TF continues to work and aims to reach beyond minimal targets. The TF water conservation efforts will soon get a big boost, having secured a \$250,000 award in the 2016 New York State Budget. This award will allow the TF to continue with our efforts to significantly reduce water use in Rockland, ensuring that water demand does not exceed supply. The TF will use the money to prepare a Comprehensive Conservation Implementation Plan. At the same time, it will enable us to educate our residents, business owners and municipalities about our water- how precious it truly is and how important it is that we act as good stewards to protect it. Rockland will be a model for the state. I will submit for filing the Proposal upon which the State of New York awarded the funding.

There are a number of other ongoing efforts and achievements of the TF. Among them are:

4. WaterSense partnership:

An important recommendation that came from the Conservation Committee, Chaired by Margie Turrin, Lamont Doherty scientist and educator, was for both the TF and the County of Rockland to become promotional members of the US EPA WaterSense program. The program promotes products and partnerships that help people, businesses, or municipalities save water using the best conservation practices. WaterSense developed product labels, model plumbing efficiency standards, partnerships with professional certifying organizations - all to promote water efficiency and conservation culture.

As a promotional member of WaterSense, the TF through volunteer Conservation Committee members devoted significant time and concerted effort to WaterSense **outreach to all of the towns and majority of the villages**, sending letters about WaterSense and following up in person by meeting with town boards and making presentations to many of them. Several municipalities have already signed on or agreed to sign on.

5. WaterSense Efficient Model Building Code Locally and Statewide & Ordinances:

The Conservation Committee also worked together with Orangetown town attorney and in consultation with engineering professionals and Health Department representatives who server on the Task Force, and drafted **WaterSense model language for building codes** that will soon be sent out to town and villages as the next step to promote efficiency standards.

The Committee is also reviewing model **lawn watering ordinances** that could reduce demand in peak summer months and that will require significant buy-in from the community.

The TF also recently submitted its comments to **NYS Division of Codes and Standards** on proposed new building and plumbing standards. The TF partnered with the DOH, Suez and others to request that WaterSense plumbing efficiency standards be adopted in the State Uniform Code. The State requested further study and we now await reconsideration in August.

6. WaterSense County Procurement law:

Recently, on TF recommendation, Rockland took a significant step by amending the County’s procurement law to require the purchase and installation of water-efficient plumbing fixtures in County facilities. The proposal passed in the Legislature and was approved by the County Executive. Going forward, when feasible, the county will purchase and install plumbing fixtures with WaterSense labels, which use 20 percent less water and perform as well as or better than conventional models, according to the US EPA.

7. Education & Outreach:

The TF is keenly aware of the importance of education and outreach and has engaged in multiple initiatives:

8. Unity in the Community as test run for A.C.T. WaterWise

The TF recently collaborated with Rockland County’s Department of Environmental Resources to offer an exciting program for students of the North Rockland School District during their spring vacation this May. The Haverstraw Community Center was looking for worthwhile things for children to do, so the TF dove in and taught children about their water and local waterways. This was the first run of Stormwater Segment of the TF’s water curriculum entitled “ACT WaterWise”, where A.C.T. stands for children who act as “*Ambassadors of Conservation Today*” so that we can protect our water resources for tomorrow. It turned out to be not only a test run, but a **fun test**—because the children loved the program! We continue to develop other segments of the curriculum.

9. WaterWise Landscaping Workshop

This spring, the TF put together a free workshop taught by a licensed landscape architect. The workshop taught about water-wise landscaping options and techniques that help save water (and save money), and abate drainage and pollution problems.

10. Stevens Institute of Technology Green Infrastructure project funded by Soil and Water Conservation District:

Through the work of our Groundwater & Stormwater Committee, our volunteer members launched a pilot Green Infrastructure project - a collaborative with the SIT, where, a group of senior Civil Engineering students worked with the **Task Force GI Workgroup** to develop a study of potential implementation of GI throughout Rockland County to augment groundwater

recharge. The students completed the study as their Capstone Design Project in May and received an award for best environmental senior design project in 2016. The Four (4) engineering students worked with the TF for 2 semesters and presented their findings at TF meetings. At the end, the students submitted a detailed report with notes, calculations, recommendations and site-specific conceptual design for a representative site at Rockland Community College. The TF GI Workgroup members began conversations with science department professors at RCC who expressed interest in engaging RCC students in water conservation ideas, and to that end would like to see a rain garden (which is part of the design) installed, maintained, and studied by RCC students on campus grounds.

11. Creation of Audit Tool through Pilot Program on County Buildings:

Through the work of the Conservation Committee, the County partnered with Suez on an Audit Pilot program of County Buildings to assess fixture efficiencies and potential opportunities for water savings. The County is finalizing our part of the work within the facilities management department who spent considerable time to refine the tool. The TF looks forward to the next step, which is to utilize the audit tool in other municipalities, businesses or institutions that would benefit by assessing their water efficiency and identifying water and money savings through tailored conservation measures.

12. TF Drought Model and Planning:

The TF Drought and Flood Committee, Chaired by Andy Steward, Orangetown Supervisor, had put together a collaboration between the TF, DOH and Suez and created a "drought model" to show what might happen if Rockland were hit by the equivalent of *drought of record* (1960s), the worst ever to hit the county. The model considered simulated worst case scenarios if no mitigation measures were taken during such drought. The information gleaned from the modeled scenarios will now assist our future strategies and the development of comprehensive drought management plan for the County. The presentation of findings of the drought model is also posted on the TF **website** along with a video that helps in understanding some of the more technical parts.

13. GIS Application on TF Website: (County -> Dept. of Planning -> TF -> Resources)

Last summer, a dedicated TF volunteer collaborated with the county GIS department and produced a Task Force GIS Application that is available for use of the TF committees as well as for public use. The link to this GIS application is on our **website**.

<http://rocklandgov.com/departments/planning/task-force-on-water-resources-management/>

The application does not require any knowledge of GIS - it allows the user to turn layers on and off with a click of a button. It can be a useful tool because it compiles an array of information layers such as soil information, watershed delineations, protected County streams and public and private wells at a larger scale, among other things. We encourage the public to visit our website and make use of the application.

14. Determination: Did I mention that the TF has only one dedicated staff member, Patricie Drake, and a host of dedicated volunteers?

Very truly yours,

Harriet Cornell

Chair, Rockland Task Force on Water Resources Management