

**BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

In the Matter of 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

**RESPONSE TESTIMONY
of
HARRIET D. CORNELL
on behalf of the
ROCKLAND COUNTY TASK FORCE
ON WATER RESOURCES MANAGEMENT**

September 23, 2016

Harriet D. Cornell, Chair
Rockland County Task Force
on Water Resources Management
11 New Hempstead Road
New City, NY 10956

1 **Q. Please state your name, occupation and business address.**

2 **A.** My name is Harriet D. Cornell. I am a Rockland County Legislator. My business
3 address is 11 New Hempstead Road, New City, NY 10956.

4 **Q. On whose behalf are you submitting this testimony?**

5 **A.** I am submitting this testimony before the New York State Public Service
6 Commission (“PSC”) as Chair of the Rockland Task Force on Water Resources
7 Management (“Rockland County Water Task Force” or “Task Force”) and as an elected
8 Rockland County Legislator.

9 **Q. Please describe your experience and educational background with public sector**
10 **issues relevant to water conservation and policy.**

11 **A.** I have been an elected Rockland County Legislator for over 32 years, first elected in
12 1983 and re-elected every four years since. As a public official I am in close touch with
13 the issues and concerns of people of all ages, all races, religions and ethnicities, and all
14 income levels. As Chair of the Legislature for nine years, I initiated the development of
15 Rockland Tomorrow: Rockland County Comprehensive Plan. I also initiated a study of
16 the growing elderly population in Rockland, entitled Aging in Place. As Chair of the
17 Rockland County Water Task Force, signed into law on June 19, 2014, I have been
18 deeply involved in issues of water conservation, water quality, protection of wetlands,
19 woodlands, floodplains and other aspects of the Task Force mission. I have a B.A. from
20 Swarthmore College and an M.P.A. from N.Y.U. Wagner Graduate School of Public
21 Policy. From 2005-2013 I served as Chairwoman of the Legislature. During those years
22 and years following, I have presented at public hearings and submitted formal comments
23 to NYS DEC, NYS DOS, NYS Assembly Committee on the Environment, PSC, and

1 most recently filed testimony in PSC proceedings with SWNY, all containing the
2 contention that a combination of actions to ensure a long-term sustainable water supply
3 would preclude the necessity of a single project which carries with it a number of
4 undesirable and costly results that negatively impact Rockland residents and businesses,
5 and the environment. All of these considerations are important in forging long-term
6 natural resource management plans and policy. As a policy maker, I would like to speak
7 to these matters and make recommendations that are consistent with the State of New
8 York policies, which stress the need for sustainable planning and conservation as a
9 priority.

10 Furthermore, I have led the Rockland County Water Task Force (“Task Force”) in our
11 response to calls from the PSC (see PSC Orders in Case 13-W-0303 in 2014 and 2015) to
12 work with Suez Water New York (“SWNY”, “the Company”) prior to this rate filing to
13 develop an aggressive conservation plan that would be a model for New York State. I
14 have worked with the Task Force and its committees to identify and maximize
15 conservation opportunities through government and community action, and succeeded in
16 securing State funds to develop a Conservation Implementation Plan for Rockland
17 County in the amount of \$250,000. I continue to work with the Task Force, the
18 Legislature, the County Executive, and community and regional partners to solidify and
19 deploy conservation strategies in Rockland County and fulfill the commitments
20 responsive to PSC’s requests.

21 **Q. What is the purpose of your direct testimony?**

22 **A.** The purpose of my response testimony is to highlight a few key issues with the
23 SWNY conservation plan as contained in the JP, to stress again there are proposals for

1 specific improvements and to urge the PSC to carefully consider the financial benefits of
2 conservation to rate payers over time and to consider the environmental benefits of sound
3 water policy planning process. I strongly urge improvement on the Joint Proposal (“JP”)
4 executed by the Company and the Department of Public Service Staff (“DPS Staff” or
5 “Staff”), and ask the PSC not to postpone by years some of the measures that would
6 improve the JP.

7 **Q. How is your response testimony organized?**

8 A. I first address an issue of the SWNY plan failing to fulfill the purpose of the PSC
9 Order of November 2014, which required SWNY to find how much can be achieved
10 through conservation. I further speak to the low conservation goals that were set by
11 SWNY without supporting analysis, and I explain that such process and baseless
12 conclusions are against public interest.

13 Second, I address the Non-Revenue Water (“NRW”) issues. Lastly, I point out a serious
14 issue with conservation rates.

15 **Q. Do you agree with the SWNY’s assertion in its testimony that the program design
16 is consistent with prior Commission Orders?**

17 A. No, I disagree. In its testimony on page 31, SWNY states that its program design is
18 consistent with prior Commission orders and sites a December 2015 Order (Case 13-W-
19 0303, “Need Case”) that was speaking to the overall conservative approach to adequate
20 water supply planning, not to the appropriate planning approach for maximizing
21 conservation by finding how much can be done and then scaling it to cost and need. The
22 relevant order was issued in November 2014 in the Need Case, and required SWNY to
23 perform an analysis that was not presented in SWNY’s response in the June 2015 Report.

1 **Q. What is the significance of the November 2014 Order and how does it relate to**
2 **the stated Conservation goal of 1 MGD?**

3 A. I am concerned about the most fundamental element of the conservation planning
4 process--the setting of the low conservation goal of 1 MGD. The task, as given by the
5 PSC in its November 2014 Order in case 13-W-0303 was clear: find how much
6 conservation can be achieved, through what best practices and how much it will cost. So
7 articulated by the PSC, the planning approach would seek to rely on actual data analysis
8 to estimate potential savings and then to scale them to feasibility.

9 SWNY was ordered to report back within 6 months with the analysis and detailed
10 answers. SWNY did not come back with those answers in its response, which was the
11 June 2015 Report on Feasibility, and which addressed conservation in the most marginal
12 manner. In fact, there is no analysis, no data, no feasibility basis whatsoever to conclude
13 that 1 MGD is all that can be, or should be done through conservation. The assertion that
14 SWNY fulfilled its task under the November 2014 Order can only be made by SWNY
15 and anyone else who has not read that report. The report is entirely devoid of basis for the
16 conclusions that were carried forward from there, as if they were established and well
17 supported facts.

18 I ask how these conclusions were made and I posit that neither the TF, the public, nor the
19 PSC were given the answer. I challenge anyone that reads my testimony to cite the data
20 analysis performed in that report that provides basis for how much conservation savings
21 can be achieved, what practices would achieve specific savings and how much each of
22 them would cost per MGD in comparison to additional water-supply projects. The June
23 2015 Report has been repeatedly cited as the source of the 1 MGD goal in satisfaction of

1 the November 2014 PSC Order. It is not an opinion but fact, that the report presents no
2 such analysis and the 1 MGD thus comes out of thin air and has no rational basis.

3 **Q. Do you think that the low conservation goal and the process by which it was set is**
4 **in public interest and in keeping with public policy of the State?**

5 A. In my experience as an elected official and a policy maker, I understand the profound
6 trust and responsibility that is granted to those that assure proper working and
7 management of matters of public interest, such as sustainable and safe water resource
8 management. The only manner in which public trust and confidence can be retained and
9 reassured, is through process that is transparent, has rational basis, and is accountable.
10 The process taken in developing conservation goals fails that test – it is not in public
11 interest to pitch a low-ball conservation target and accept it with complete lack of basis. It
12 has been accepted by the State of New York, the PSC and acknowledged by Suez that
13 maximizing conservation is the most cost-effective and sustainable measure to protect
14 our precious natural resources and to avoid future costly infrastructure projects: Rockland
15 ratepayers already pay some of the highest rates in the State. Therefore, I strongly object
16 that SWNY’s conservation plan design is in keeping with public interest or public policy
17 of Rockland County and this State.

18 **Q. Do you think that the record supports the conclusion of 1 MGD conservation**
19 **target to represent the best effort to maximize conservation?**

20 A. I am not an attorney, but to the best of my understanding, I do not think that SWNY
21 has proven and would be able to prove for purposes of litigation that they have sufficient
22 basis for setting the minimal conservation goal. I have recounted how the goal was in
23 complete absence of analysis. In my initial testimony and my prior filed comments, I also

1 noted that SWNY admitted in an interrogatory response to Sierra Club in express terms
2 that no cost-benefit analysis was conducted past the 1 MGD to ascertain how much more
3 conservation water savings could be achieved. The Staff had previously argued that they
4 do not think SWNY set that as a cap, but that is exactly what SWNY has admittedly done.
5 At the time B&V were hired, they were not given a task of finding how much
6 conservation can be achieved, but were tasked with developing a program for 1 MGD as
7 supposedly derived in the June 2015 Report. Needless to say, the ball was rolling with the
8 low unsubstantiated goal prior to the PSC December 2015 Order which SWNY cites in its
9 testimony as an example of its compliance. Again, the relevant Order is November 2014,
10 because it was in response to that Order that SWNY was ordered to ascertain aggressive
11 conservation goals.

12 Neither B&V nor SWNY conducted the requisite analysis or provided a proof of such
13 analysis in the record in order to show the basis for the appropriate conservation goals
14 and benchmarks. As can be seen in other filings, other experts analyzed the conservation
15 potential and concluded that much more can be done cost effectively for conservation in
16 Rockland. Some of those experts are Amy Vickers, whose report was filed with the PSC
17 in the Need Case, and who had access to raw water consumption data directly sent to her
18 by SWNY. The Aqueous expert, Jonathan Kleinman, performed cost-benefit analysis
19 and submitted detailed reports and testimony in this rate case, concluding that his
20 suggested improvements to the conservation program in the JP could yield as much as 4
21 MGD of conservation savings. I could continue on with Columbia University
22 Sustainability Workshop Study and others to cite other examples of experts that agree
23 that much more can be achieved, some of them have filed with the PSC in this case or in

1 previous proceedings related to this one. However, the main concern for the PSC should
2 be the fact that even when prompted, SWNY was unable in an interrogatory to produce
3 any evidence of having conducted a conservation feasibility study beyond the
4 “mysterious” scope of 1 MGD to discover how much conservation may be achieved if
5 conservation potential were maximized. It is worth noting that almost one-third of 1MGD
6 savings will occur as a result of the trend in demand reduction and not of the Company’s
7 efforts.

8 Therefore, I can only imagine that the outcome of litigation would have to find that
9 SWNY did not give any rational support for its position on this account. Of course it does
10 not help that SWNY’s experts who prepared the Conservation plan, B&V, have not
11 offered testimony to explain whether in its work B&V came across evidence of greater
12 conservation potential than was capped within its scope of contract (which, again,
13 commenced prior to the PSC December 2015 Order).

14 **Q. What are your concerns with the measures in the JP to address excessive levels of**
15 **NRW in the SWNY system?**

16 A. In my Direct Testimony submitted on September 14, 2016, I concurred with
17 recommendations by Jonathan Kleinman of Aiqueous to improve the Joint Proposal for
18 decreasing non-revenue water. Real water losses are a serious problem with system
19 efficiency and are contrary to the public interest. In a community where need for
20 conservation is being emphasized, and where municipalities are to consider ordinances
21 that permanently restrict outdoor watering schedules, it is problematic to have a water
22 distribution system with a high percentage of water loss.

1 Certainly water loss is an economic issue, and real water loss occurring from sluggish
2 repair and replacement schedules is also a quality of life issue and a potential threat to
3 health.

4 **Q. What are your other concerns with the efficiency and integrity of the SWNY**
5 **water system and public health and awareness issues?**

6 Let me call attention to an ongoing Brown water problem in the communities of
7 Haverstraw and Stony Point. Residents complain of brown water which they have been
8 experiencing over a long period of time; photos of dark brown water coming out of
9 kitchen faucets are disgusting. Residents who came to the Legislature on May 11, 2016
10 for an informational panel on Trihalomethane (which had been found in the drinking
11 water resulting in a violation to SWNY issued by NY State Department of Health) raised
12 the brown water problem. Since Suez officials were panel participants, I thought
13 attention and remedial action would follow. But it appears the problem has gone from
14 bad to worse. Since then, there has been further indignation and anger in the communities
15 of North Rockland with regard to the brown water and inadequate communication by
16 Suez with the affected public regarding a public health issue.

17 Water was recently turned off for a wide number of North Rockland families. According
18 to residents, there was no advance notification and calls to Suez were not answered on
19 that weekend. There was no recorded message for residents. Written comments on
20 Facebook deplore the fact that SUEZ has no direct notification system, unlike recorded
21 telephone alerts that come from other sources. On September 17, a local online news
22 service posted a news article stating that “a boil-water advisory has been issued for
23 portions of Stony Point and Haverstraw after the Suez D Distribution Network said it lost

1 pressure after an overnight water-main repair Saturday.” This was followed in small type
2 by the following: “For a rundown of addresses covered by the alert, check this
3 announcement on the Suez website by clicking **here**.” It was then followed by
4 instructions on how to boil the water before using or to use bottled water certified for sale
5 by the NYS Department of Health. The article printed further instructions from DOH to
6 use only boiled or bottled water for drinking, brushing teeth, making ice, washing dishes,
7 and food preparation until further notice. Then there was a description of the possible
8 illnesses caused by bacteria and the specific risks to infants, elderly and some
9 compromised immune systems. One has to wonder how people who don’t go online for
10 news would have received that boil-water information which impacts public health.

11 It is my understanding that brown water occurs when corrosion builds up on the inside of
12 old iron pipes, dramatically narrowing the 4” pipes. When a waterline breaks or is
13 opened for firemanic use, the force of high pressure water passing through the narrowed
14 corroded pipes causes the brown water. The efficiency of the water delivery system is
15 dependent on aggressive, ongoing leak detection and attention to repairs and replacement
16 of pipes and mains. Public health requires no less.

17 **Q. What are the recommendations to improve the persistent water main breaks and**
18 **leaks that cause problems such as that with repeated impaired quality or shut-offs?**

19 This information is to highlight the importance of the recommendations fully described in
20 the Aiqueous Report and enumerated in my Direct Testimony of September 14, 2016
21 with the request that the Public Service Commission adopt them:

- 22 • Require water main replacement at an accelerated rate of 1.5 % per year (15
23 Miles) for the next five years before going to the 1% rate.

1 • Require Suez to hire an NRW contractor, expressly to identify leaks using DMA
2 data, temporary acoustic monitoring networks and manual acoustic detection techniques.
3 Aiqueous recommends allocating \$1.5 million for this effort during the first two years of
4 AMI implementation. Based upon results elsewhere, this should result in additional real
5 water loss reduction of 1MGD (beyond the proposed 1 MGD of real water loss
6 savings.)

7 • Fill the proposed NRW Manager position with a mid to senior level staff person
8 who would be effective managing outside contractors, developing reports to key
9 stakeholders, and representing NRW concerns and program performance within the
10 SWNY organization.

11 • Require SWNY to submit quarterly reports to PSC and adopt performance
12 incentive for driving NRW below 15% and a penalty should NRW remain above 18%.

13 • Cost effectiveness Analysis: revise analysis of proposed real water loss program.

14 **Q. What are some of your concerns with the JP proposed conservation-oriented rate**
15 **structure?**

16 A. Some of my primary concerns are:

17 • Customer Classification Issues. This is a particularly disconcerting problem which
18 was pointed out by SWNY’s own contractor, Black & Veatch (“B&V”) in its
19 report that was filed as an exhibit in this case by the PSC Staff. B&V as well as
20 Amawalk Consulting (“Amawalk”) noted evidence of customer misclassification,
21 an issue that may have distorting impact on both the allocation of cost of service
22 and the rate design if it is truly to be conservation-oriented. If conservation rates
23 are put into effect, based upon incorrect classifications of customers, there will

1 not only be a backlash by those adversely affected; there could well be a setback
2 to public perception of water conservation in general.

3 SWNY is in error when stating in its testimony on page 31 that no parties
4 challenged the cost of service study. Amawalk submitted testimony to specifically
5 indicate the issues with customer misclassification that have implications for the
6 accuracy of such a study and its results. It is even more disconcerting that the DPS
7 Staff appears to agree that a classification study may be needed, but both SWNY
8 and DPS Staff chose to postpone the necessary study for 3 years, in effect letting
9 potentially inequitable rates to stand for years before corrected. This is
10 unacceptable and requires PSC's immediate attention.

- 11 • Reasonableness of the inclining-block structure and its ability to achieve desired
12 conservation. I am particularly concerned with classes of customers that display
13 seasonality, but nevertheless will have lower peak summer rates as compared to
14 the current structure. Summer discretionary use is of high priority in Rockland
15 and must be addressed in the Conservation Plan as well as the rates. The rates as
16 proposed fail to encourage change of behavior towards water savings – on the
17 contrary, they are likely to result in greater water use with what will appear
18 cheaper rates as compared to previous summers. I implore that PSC recognize this
19 serious error and correct it, lest Rockland County deal with high seasonal
20 consumption issues for at least the next 4 summers to come before a new rate case
21 comes about.
- 22 • Alternative Rate Structures – the PSC in previous Orders suggested that SWNY
23 must study alternative rate structures and compare their estimated effectiveness

1 and impact on customers. SWNY failed to do such analysis or consider alternative
2 structures, including possible hybrid structures that may address some of the
3 seasonality issues and other complexities in MFR and CII customer classes. The
4 proposed inclining-block rate structure is unlikely to have any possible effect for
5 large residential buildings that are not sub-metered and offer any creative
6 solutions to address particularities of CII class. It appears as if the JP is “throwing
7 up its hands” as if nothing can be done for that sector except to conduct customer-
8 by-customer audits, with no indication of connecting the results with specific
9 possible actions to realize those potential savings. I urge the PSC to review the
10 recommendations both of Amawalk Consulting and Aiqueous, which address the
11 inadequacies of the rate structure and conservation plan.

12 I further call attention to my Direct Testimony, submitted on September 14 which details
13 a number of significant recommended improvements to the JP with regard to
14 conservation rates, affordability and increased water savings, which I won't repeat in this
15 Response. SWNY's conservation plan does not go far enough and has not evaluated
16 potential gains from more ambitious programs. Less than 3/4 (0.68 MGD) out of the low
17 target of 1 MGD of water savings is going to be achieved through SWNY's direct
18 actions: the rest is the passive result of a trend in demand reduction, not of SWNY's
19 actions.

20 **Q. Does this conclude your testimony?**

21 A. Yes.

22