

The Legislature of Rockland County



HARRIET D. CORNELL

Legislator – District 10

Chair – Environmental Committee
Chair – Special Committee on Transit

Economic Development Committee
Budget & Finance Committee

August 4, 2015

Audrey Zibelman
Chairwoman, New York State Public Service Commission
Agency Building 3
Albany, New York 12223-1350

Re: **PSC Order, November 17, 2014**

Dear Chairwoman Zibelman:

I write to express my concerns with regard to recent developments affecting future collaboration between Rockland Task Force on Water Resources Management and United Water New York. On July 27, I wrote to David Stanton to reaffirm the importance of moving forward together with United Water on the many projects that are in the pipeline, developed by the Task Force over the past several months. Mr. Stanton's letter of response dated July 31 cannot go without a reply to address the unfortunate statements and the apparent willingness of United Water to violate both the spirit and the letter of the Order of the Public Service Commission, dated November 17, 2014.

The Rockland County Legislature and the Public Service Commission Have Made United Water an Integral Part of the Efforts to Determine a Water Conservation Plan.

The Task Force was created by county government, passed unanimously by the Rockland County Legislature and signed into law the following day, June 19, 2014 by the County Executive. Categories of participants are identified; United Water is *specifically* named as a member. Membership was purposefully made to ensure a diversity of interests. A copy of the Resolution is attached. Many members are volunteers who give up nights and weekends to ensure successful outcomes, starting with the directives of the Public Service Commission. The members have worked collaboratively and constructively for months.

I am dismayed and disappointed that United Water now takes the position that because there are “letters, press releases and reports in the name of the Task Force that United Water may not agree with in part or whole,” this gives reason for United Water to withdraw from the Task Force.

We understand that there is a big difference between decision-making in the private sector and that of a Task Force which invites the public to participate. The Task Force leadership and membership have worked respectfully with United Water, have voiced and demonstrated appreciation for UW staff support and promises to assist the forward momentum of the Task Force. Any suggestion, explicit or implied, that paints a different picture is patently false.

Furthermore and specifically of importance to you are the words that were used in the PSC Order:

UWNY shall study what conservation opportunities exist, in collaboration with the Task Force, with the goal of identifying measures that may reduce demand by 2 million gallons per day (mgd) and shall file a report with the Secretary within six months of the issuance of this order identifying the feasibility, cost and estimated demand reductions associated with each identified measure.

These words are important and have clear meaning; they are wise words, brilliantly written because the PSC under your leadership recognized that United Water had a credibility problem. The Order, therefore, linked the company as a partner and stakeholder with a government-community Task Force. As earlier noted, United Water is specifically named as a Task Force member.

The Commission directed United Water to work collaboratively with the Task Force to develop a plan for water conservation. Only the first phase of study has taken place. ***Phase 1: Water Data Analysis to Support a Water Conservation Study*** provided the basis for Phase 2, which then builds on the analysis to develop the plan of conservation. With half of the work required by the PSC still to do, as a matter of law or PSC Order, United Water cannot now walk away as the Stanton letter suggests. The goal of an independent analysis required that the study be divided into two parts to enable a quick start while adhering to the County’s procurement policy, allowing hiring of a consultant if the cost was below a certain amount. The second phase may require a formal RFP process to hire a consultant. Despite challenges in the contracting process, the Task Force submitted an Interim Report by May 18 as required by the PSC November 2014 Order and filed the Vickers Report on July 22, 2015.

This analysis done by Amy Vickers represents the only independent view of United Water’s actions, to my knowledge. It also validates the goals of the Task Force and the intent and requirements of the PSC Order. Ms. Vickers’ reputation is impeccable, so much so that David Stanton on behalf of United Water sought to hire Ms. Vickers as a company consultant. It is obvious that the independent study analyzing United Water’s data has touched a nerve and caused consternation at United Water. Its first reaction was to attack the expertise of the analyst—the very person UW tried to hire; its second reaction is to walk away from the Task Force with phrases like “*glad to consider any request;*” “*welcome the opportunity to review the plans the Task Force develops to promote conservation to determine if there are synergistic opportunities available with the work being independently undertaken by United Water;*” and--

with reference to the surfacewater/groundwater model of the Ramapo River--“*results will be shared with stakeholders.*”

While I appreciate many of the offers made by Mr. Stanton in his letter, “sharing with” is not the same as “collaborating.” It is also not the same as *including* stakeholders in the analysis and decision-making process, much of which requires an understanding of the underlying assumptions being made. United Water is a business and clearly needs to make business decisions. But it has another role: that of participant on a legally-constituted Water Task Force with directives from the PSC. It is not acceptable that United Water unilaterally decides to shrug off its County legal obligations. Nor does the PSC Order have a built-in option for UW to unilaterally withdraw from the ordered collaboration—in this case due to displeasure with results of an independent consultant's assessment of UW's system.

United Water may not lament the limitations it has as a private entity in implementing a successful conservation plan, and with the next breath unceremoniously opt out of a partnership forged by the Public Service Commission that was intended to help overcome these cited limitations. I trust the PSC will not accept that the company can unilaterally decide that it does not want to comply with a duly issued PSC order.

The County of Rockland and the New York State Public Service Commission decided that United Water will be a part of the solution for the water needs of Rockland County. United Water is required to fulfill its role on the Water Task Force and furthermore to contribute technical expertise, information and data in a timely manner, and financial resources in order for the Task Force to accomplish its public mission. The parties that are working together on the water issues are diverse and, importantly, that requires sometime contradicting world views to come together to reach consensus. At this point, we ask that the PSC make clear, as will the Task Force, that United Water is expected to meet its obligations through active participation.

The Public Service Commission must, at this critical juncture, unequivocally reaffirm its Order and reinforce the ongoing process so that the Task Force and United Water can continue to produce the results they were required to do, together.

Thank you for your consideration and your leadership.

Very truly yours,

A handwritten signature in black ink that reads "Harriet Cornell". The signature is written in a cursive style with a long horizontal flourish at the end.

Harriet Cornell
Chairwoman, Rockland Task Force on Water Resources Management

cc: Peter McGowan, Senior Policy Advisor
Bruce Alch, Chief, Office of Electric, Gas & Water
Hon. Edwin J. Day, Rockland County Executive
Hon. Alden H. Wolfe, Chairman, Rockland County Legislature
Patricie Drake, Task Force Coordinator