

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

**UNITED WATER NEW YORK INC.**

FOR WATER SERVICE

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P.S.C. Case No. 09-W-0731

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REBUTTAL TESTIMONY OF MICHAEL J. POINTING

United Water New York Inc.  
360 West Nyack Road  
West Nyack, NY 10994

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09-W-0731

1 Q. Are you the same Michael J. Pointing who previously filed direct testimony in this  
2 docket?

3 A. Yes.

4 Q. What is the purpose of your rebuttal testimony?

5 A. The purpose of my rebuttal testimony is to respond to the testimony of the  
6 following New York State Department of Public Service (“Staff”) witnesses:  
7 Gregory R. Luthringer, Jane Wang and Albert Rosenblatt identified as the  
8 Accounting Panel (“Staff Accounting Panel”) and Staff Witness Valerica Oreifej.  
9 Specifically, I will address the Staff Accounting Panel’s proposed adjustments  
10 relating to:

- 11 • The Company’s proposed Normalization of labor expense.
- 12 • The elimination of incentive pay from payroll expenses.
- 13 • The adjustment to pay increases for non-union employees.
- 14 • Elimination of certain new hires that are needed for Non Revenue Water  
15 (“NRW”) management and compliance with the requirements of the New  
16 York State Sanitary Code and Article II of the Rockland County Sanitary  
17 Code.
- 18 • Proposed Productivity and Austerity adjustments.
- 19 • Elimination of the expense of the R & I Alliance.

20 I will also address the pre filed testimony of Staff Witness Valerica Oreifej relating  
21 to:

- 22 • The reduction of sludge disposal costs.
- 23 • Proposed production cost reconciliation method.

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- 1 • The continuation of milestones and penalties for the Long Term Water  
2 Supply, Short Term Water Supply and hydrant maintenance.
- 3 • The recommendation that the surcharge for the Company's expenditures  
4 for the Haverstraw Water Supply Project not be implemented until the start  
5 of construction.

6 In addition, I will also discuss the testimony of Rockland County Witness Dr.  
7 Daniel M. Miller relating to among other things long term water supply, his  
8 demand predictions, short term water supply, permitted water releases from Lake  
9 DeForest Reservoir, and his suggestion concerning water resource sustainability.

10  
11 UWNY Payroll Expenses

12 Q. Please briefly describe the Staff Accounting Panel's proposed elimination of the  
13 Company's Normalized labor expenses.

14 A. The Staff Accounting Panel decreased payroll expenses by \$66,238, thus  
15 eliminating the Company's proposed normalization of labor expense. The Staff  
16 Accounting Panel asserts that specific positions became vacant at the end of the  
17 historic test year period and the Company was not able to fill these positions  
18 immediately. As a result, Staff eliminates labor normalization utilized by the  
19 Company.

20 Q. Do you agree with the Staff Accounting Panel's reasons for removing the labor  
21 normalization adjustment?

22 A. No, I do not. The Staff Accounting Panel states that the level of vacant positions  
23 in the historic year should be used as a proxy for the level of vacant positions in

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1 the rate year. The Staff Accounting Panel does not reflect the Company's  
2 response to Staff-98 JW-45 (Rebuttal Exhibit MJP-1), wherein the Company  
3 demonstrated that six of eight vacant positions had already been filled.  
4 Consideration must be given to the level of staffing the Company requires and  
5 will have in place in the rate year when new rates are effective.

6 Q. What other factors need to be considered?

7 A. The Company is committed to filling all open positions for the rate year. It is  
8 acknowledged by the Staff Accounting Panel that the Company has had a full  
9 complement of staff in the past. It is not a tenable position for the Company to  
10 operate for any extended period of time without the appropriate level of staffing  
11 since it must still meet all water quality, environmental, health and safety  
12 requirements. It is also not appropriate for the Staff Accounting Panel to expect  
13 immediate filling of positions. Even though the normal recruiting process will  
14 have some delays due to the nature of the process, it does not mean the  
15 Company will not have its full complement of staff in the rate year and beyond.

16 Q. Please describe the Staff Accounting Panel's elimination of expenses relative to  
17 incentive pay.

18 A. The Staff Accounting Panel's testimony concludes that the elimination of  
19 incentive pay is warranted since the incentive plans should be self-supporting.  
20 However, Staff also acknowledges that the Company has provided qualitative  
21 benefits, but that no quantified savings or productivity gains have been included  
22 in the rate year forecast.

23 Q. Are you in agreement with the Staff Accounting Panel's position?

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1 A. No. It is unreasonable to recognize that there are qualitative benefits and then  
2 expect that they can be translated into direct quantitative savings. Not every  
3 benefit derived yields a dollar savings, and it is incorrect to conclude that if no  
4 savings are achieved there is no benefit to the action.

5 Q. The Staff Accounting Panel cites that no productivity gains as a result of  
6 incentive pay were included in the rate year forecast. Do you agree with this  
7 statement?

8 A. Not entirely. While I agree that no specific productivity gains were forecast, I do  
9 not agree that incentive pay programs did not result in productivity gains. Staff in  
10 this case is recommending a global productivity adjustment through a reduction  
11 in labor expense. Staff is seeking to further reduce expense with the  
12 implementation of an austerity adjustment and the application of a 20% austerity  
13 adjustment to the level of capital investment forecast by the Company. The  
14 austerity and productivity adjustments are applied by Staff to an already reduced  
15 Company forecast of capital and expense embedded both in the Company's test  
16 year and in its initial filing. At a minimum, the Company's prior productivity and  
17 austerity efforts must be recognized.

18 Q. Are there other considerations regarding incentive compensation that you would  
19 like to discuss?

20 A. Yes. The total compensation package for all employees is based on salary and  
21 pay at risk. The annual compensation for UWNY personnel has incentive pay  
22 built in and that incentive pay represents a method to pay for performance,  
23 attract qualified new staff and retain existing qualified staff. The incentive award

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1 is the portion of an individual's pay that is at risk, and therefore, an individual's  
2 pay can vary from one year to the next based on his or her performance. Thus,  
3 incentive pay is an important tool in the Company's continual workforce efficiency  
4 initiative whose achieved savings are embedded in the current reduced expense  
5 levels provided in the Company's filing. Without the efficiencies gained, the  
6 normalized expense levels of the Company would have been greater. Also, by  
7 providing a total compensation package including pay at risk, the pay at risk is  
8 not consolidated into base pay for benefit calculations. Therefore, this non-  
9 consolidated pay at risk does not increase fringe benefits, which reduced the  
10 Company's overall revenue requirement.

11 Q. How do the customers benefit from the Company's incentive pay program?

12 A. The Company's proposed revenue requirement reflects significant cost  
13 reductions from which the customers have already benefited in the form of lower  
14 rates, and that they will continue to benefit from in the form of a reduced revenue  
15 requirement on a going forward basis. These cost reductions, which have been  
16 and will continue to be passed through to customers, were a part of the incentive  
17 program that the Staff Accounting Panel recommends be disallowed. As can be  
18 seen from the Company's service as measured by customer complaints, the  
19 Company's service levels are excellent. Through this incentive plan, the  
20 compensation of several members of the senior management team is tied to the  
21 achievement of measurable customer benefits. My direct testimony, on pages 16  
22 through 19, describes the Company's efforts to control cost. The Company's  
23 compliance with water quality and service standards is also exemplary, additional

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1 services are provided to customers with extended times and our response times  
2 surpass Company standards. In addition, the management team in UWNY has  
3 made gains in efficiency through process review and performance management.  
4 Despite these best efforts, the Company has not been able to achieve its  
5 currently allowed rate of return. It is reasonable to reflect these benefits and  
6 allow the Company to recover \$304,653 of incentive pay, since it is directly tied  
7 to customer benefits.

8 Q. Please describe the Staff Accounting Panel's reduction to payroll expense for  
9 non-union employees.

10 A. The Company included an estimated salary increase for its non-union employees  
11 of 3%. As demonstrated in the Company's response to Staff-119 JW-58  
12 (Rebuttal Exhibit MJ-1), the results of surveys performed by eight companies  
13 that are relied upon for compensation information yielded increase levels that  
14 were comparable to the Company's forecasted increase. Since that time, the  
15 Company has reevaluated the salary increase amount and reduced it to an  
16 average 2.5%, which is the amount that has been approved by United Water's  
17 Compensation Committee to take effect on April 1, 2010. This will have an  
18 impact on the bridge period and rate year.

19 Q. The Staff Accounting Panel reduced the increase to the amount of inflation. Why  
20 is the Company proposing a salary increase above the inflation rate?

21 A. As I testified earlier, the overall increases are the result of compensation surveys,  
22 which are ultimately approved by the Compensation Committee. The amount of  
23 the increase is a composite of a general inflationary increase and another

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1 component that recognizes a progression through a salary range to acknowledge  
2 broadening experience, skills and knowledge that makes individuals more  
3 effective in their positions. The Company will generally recruit junior staff on the  
4 low end of a salary range and as the individual develops, the individual will be  
5 provided with recognition of their increasing knowledge and effectiveness  
6 through salary progression and adjustment. The salary progression process is  
7 generally awarded at the same time as the annual increase. This salary  
8 structure is a major component of United Water's recruitment and retention policy  
9 and enables the Company to compete successfully for high caliber employees on  
10 a similar basis with other utilities and employers in the area.

11  
12 New Hires

13 Q. How did the Staff Accounting Panel adjust the Company's request for new hires  
14 to comply with among other things the requirements of New York State Sanitary  
15 Code 10 NYCRR subpart 5-4.2 and Article II of the Rockland County Sanitary  
16 Code?

17 A. The Staff Accounting Panel made an adjustment of \$530,677, representing the  
18 removal of the following requested new hires:

- 19 • Distribution Technician
- 20 • Relief Operator
- 21 • 4 - IA license holders
- 22 • 4 - IIA license holders



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1 Q. Do you agree with the Staff Accounting Panel's justification for removing the  
2 Distribution Technician?

3 A. No I do not. The Staff Accounting Panel testifies that the Company has not  
4 provided sufficient justification regarding the need for an additional employee.  
5 This is simply not true. In addition to the Company's original testimony, the  
6 Company's response to Staff-138 MCP-4 and Staff-139 MCP-5 (Rebuttal Exhibit  
7 MJP-1) provides significant detail regarding the need for this position. The  
8 Company provided an overview of the current duties of a Distribution Technician  
9 as a means to identify the type of tasks completed by that position. In addition,  
10 the Underground Infrastructure Replacement program ("UIRP") and the  
11 additional work that has resulted to support such a program demonstrate the  
12 need for this position. The UIRP provides an associated benefit of reducing  
13 NRW. While it is not the Company's primary strategy for reducing NRW, it does  
14 provide a small benefit in this area. Recently, NRW has increased to a level of  
15 22% from a previous level of approximately 18%. With so much activity related  
16 to the UIRP, hydrant maintenance, valve maintenance, flushing and customer  
17 shutdowns, the Company needs to add a Distribution Technician to provide  
18 additional resources for the reduction of NRW. Finding leaks in our system  
19 covering over 1,000 miles of mains is a priority and systematically conducting  
20 leak survey work in conjunction with new technology will allow the Company to  
21 reduce and sustain NRW at an acceptable level. Therefore, the Staff Accounting  
22 Panel's elimination of this position and its related costs should be rejected by the  
23 Commission.

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1 Q. What was the Staff Accounting Panel's justification for not allowing the Relief  
2 Operator position?

3 A. The Staff Accounting Panel testifies that the Company simply decided that it  
4 needs an additional backup Relief Operator. Staff also assert that the cost of the  
5 new position is not incremental because the more expensive overtime incurred  
6 by existing employees should be reduced by the new position.

7 Q. Do you agree with the Staff Accounting Panel's rationale?

8 A. Not if all aspects are considered. If the objective of requesting a Relief Operator  
9 was only to provide additional coverage for just Letchworth and Lake Deforest  
10 treatment plants the incremental cost might be partially offset by savings  
11 obtained by avoiding very expensive time & one half or double time overtime.  
12 However, the Relief Operator was requested not only to relieve Letchworth and  
13 Lake Deforest but mainly to provide coverage for the Ramapo facility in the very  
14 likely event Ramapo becomes a IA surface water facility. Currently, the  
15 Company has two Maintenance Field Operators that have IIA licenses who  
16 provide the necessary relief for Letchworth and Lake Deforest to cover the  
17 Thursday shift change period, holidays, vacations and sickness. This flexible  
18 working practice provides a double benefit as these operators complete  
19 maintenance work and plant operations. Moreover, the coverage they provide  
20 for plant operations has a significant impact in reducing expensive overtime. To  
21 maintain the benefits of these Relief Operators, the Company needs an  
22 additional Relief Operator to cover the approximately 15-20 vacation days, 11  
23 holidays, 2 floating days and 7 sick days of the existing employees and to

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1 provide additional operational flexibility. Clearly, as has been indicated  
2 previously, the Maintenance Field Operator position is both maintenance and  
3 plant operations. In addition to providing the relief for treatment plant operators,  
4 they would also complete scheduled maintenance work that is currently  
5 completed on a breakdown basis. Overall this would improve the serviceability  
6 and reliability of our assets.

7 Q. Was overtime included in the operating expense for the Ramapo facility should it  
8 be determined to be a IA facility?

9 A. No, it was not. The original estimate had the IA Ramapo facility coming on line in  
10 2011 outside the rate year. However, should a multi-year settlement be agreed  
11 among the parties and the Relief Operator position disallowed, there will be a  
12 significant overtime expense that will need to be reflected in the Company's  
13 revenue requirement. Based on a rough calculation utilizing 4 operators and  
14 approximately 35 days of coverage for each employee, I estimate the additional  
15 overtime to be approximately \$75,000, exclusive of any double time overtime that  
16 might be necessary.

17 Q. Are you recommending that the Commission allow the additional Relief  
18 Operator?

19 A. Yes. Based on the reasons I previously stated, this position is essential for the  
20 control of very expensive overtime. As a result, the Staff Accounting Panel's  
21 adjustment should be rejected by the Commission.

22 Q. What rationale does the Staff Accounting Panel provide for disallowing 4 IA  
23 license operators?

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1 A. Essentially, Staff asserts that it is acceptable for the Company's key personnel to  
2 be on standby and tied to their homes for 26 weeks of every year. The Staff  
3 Accounting Panel further alleges that if the 4 IA license operators are needed the  
4 Company should eliminate some of its other existing employee positions to pay  
5 for these new positions. This Staff proposal would require laying-off individuals  
6 that are currently essential for the provision of service. The Staff Accounting  
7 Panel provided no justification for disallowing these important positions. Instead,  
8 the Staff Accounting Panel simply alleges that the cost and the training  
9 requirements are unreasonable and unnecessary.

10 Q. Does the Company have to comply with the requirements of 10 NYCRR sub-part  
11 5-4.2 and Article II of the Rockland County Sanitary Code?

12 A. Yes, we do. The Company has been in compliance with the both the state and  
13 local requirements. However, the Company has previously trained and licensed  
14 7 IA license holders. Currently the Company has 4 IA license holders and one  
15 more is about to move to another position outside UWNY. This will leave the  
16 Company with 3 IA license holders, with no immediate prospects for organically  
17 increasing this number since none of our current staff have either the required 10  
18 years of experience, or the interest in being a IA license holder. Our existing IA  
19 license holders have indicated that the standby requirement is a very significant  
20 burden on their private lives and is an important retention issue. Currently, the  
21 Company has had to utilize management level employees doing double duty as  
22 New Business Managers and Production Managers to provide adequate 1A  
23 license holder coverage. This situation is not sustainable in the long term.

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1 Q. Has the Company provided its union with a job description for 1A license  
2 holders?

3 A. Yes. The Company provided its union with a job description for 1A license holder  
4 for consideration as a new position but the union has not provided a response. It  
5 is our understanding that only one union member has the required 10 years of  
6 experience and that individual is not interested in obtaining a IA license. We do  
7 not anticipate immediate relief based on providing the job description to the  
8 union.

9 Q. What is the impact on the Company's current 1A license holders if the Ramapo  
10 facility, as expected, becomes UWNY's third 1A facility?

11 A. This would have a very negative impact as it would be very likely that our current  
12 IA license holders will be on permanent standby, which is not acceptable from an  
13 operational or license holder retention perspective.

14 Q. Are you suggesting that for UWNY to continue to be in compliance with the  
15 regulations the Commission should allow the 4 IA license holder positions  
16 requested?

17 A. Yes, I am. These positions and the related labor expense should be allowed.

18 Q. What rationale does the Staff Accounting Panel provide for eliminating the 4 IIA  
19 licensed operator positions needed to meet the requirements of 10 NYCRR sub-  
20 part 5-4.2 and Article II of the Rockland County Sanitary code?

21 A. The Staff Accounting Panel provides two reasons, the first being that the  
22 operators are not needed in the rate year and the second is that the Company

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1 has not eliminated other positions or reduced overtime to offset these new  
2 positions.

3 Q. Are the incremental IIA licensed operators needed in the rate year?

4 A. No. Based on updated information, the study for Ramapo will be complete by  
5 May 2010. Further Microscopic Particle Analysis may potentially be required  
6 thereafter. The Company currently estimates that a determination for Ramapo  
7 being under the direct influence of surface water will be made in the 4<sup>th</sup> Quarter  
8 of 2010. As a general rule, any consent order will likely provide the Company 18  
9 months to permit, construct and commission any necessary treatment.  
10 ,Therefore, the facility is estimated to be online by the middle of 2012. ,This  
11 moves the need for the operators to the middle of 2011, or just at the end of the  
12 first rate year. Although the Staff Accounting Panel's point about timing has some  
13 merit, notwithstanding this, if a multi-year settlement is agreed the need for the  
14 operators should be included in the second rate year.

15 Q. Do you agree with the Staff Accounting Panel's second point?

16 A. No, I do not. Staff provided no justification for the elimination of these positions  
17 and is silent regarding the fact that the Company has to meet strict state and  
18 county local rules and regulations. The Staff Accounting Panel has  
19 acknowledged that the rules and regulations exist, but is ignoring the  
20 requirements imposed on the Company by these rules and regulations.

21 Q. Can you please state briefly why the Company cannot cover the Ramapo facility  
22 using existing employees with IIA licenses?

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1 A. Currently, UWNY has 15 employees with IIA licenses, 4 of these employees work  
2 at Lake Deforest Treatment Plant, 4 work at Letchworth Treatment Plant, 3 work  
3 at surface water facilities in Orange County and are needed to cover Orange  
4 County 7 days a week, 2 are Relief Operators that provide coverage for Lake  
5 Deforest and Letchworth, as I testified earlier in addressing the Company's  
6 request for an additional Relief Operator, and the remaining two license holders  
7 are Transmission/Distribution Supervisors. The supervisors are management  
8 and are essential in their current roles. Clearly, if the Ramapo facility is  
9 determined to be under the influence of surface water, it will be running when all  
10 other surface water facilities are running, therefore, moving Company staff from  
11 other facilities that also require licensed operators only creates other gaps in  
12 coverage and does not alter the need for additional IIA licensed operators.

13 Q. Why don't you use the Relief Operators or the T&D Supervisors to cover the  
14 Ramapo facility?

15 A. The Relief Operators job title is Maintenance Field Operator, and an important  
16 part of their role is to undertake both maintenance work and treatment plant  
17 operations covering both Lake Deforest and Letchworth, as well as to reduce  
18 expensive overtime. Moving these individuals to Ramapo would leave the  
19 Company with no staff to maintain and operate the 65 wells and booster stations  
20 in the field operations area. Such a move would also result in the Company  
21 incurring additional expensive overtime and create a need to recruit and hire two  
22 additional Maintenance Field Operators at the same cost. As I mentioned  
23 previously, the current flexible way of working allows for efficient use of the time

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1 of these employees, removes difficult job role demarcations and provides a very  
2 effective way to reduce operating cost. However, these same operators cannot  
3 be everywhere and the limits on their time and availability must be recognized.

4 Q. Please explain further why the two T&D Supervisors are not appropriate licensed  
5 operator coverage for the Ramapo facility.

6 A. It does not make any business sense to utilize and effectively demote our two  
7 T&D Supervisors so that they can operate the Ramapo facility. Their role as  
8 supervisors for a large number of personnel is a key role that must be performed  
9 by knowledgeable individuals. The fact that the two current very talented and  
10 knowledgeable T&D Supervisors have sufficient experience and skill and still  
11 hold licenses does not justify reducing their role to IIA operators. Moreover, as  
12 T&D Supervisors, they are properly compensated at a higher level than IIA  
13 operators. Not only would such a move be an inefficient use of the skill set of  
14 two very talented T&D Supervisors it could result in a loss of these employees.  
15 Even if the current T&D Supervisors agreed to such a change in duties, the  
16 Company would have to recruit two new T&D Supervisors, train them and then  
17 compensate these individuals to the same level. Presumably, the new T&D  
18 Supervisors would be required to supervise the "old" T&D Supervisors, which is  
19 not a tenable situation. The net result of any such change would be a negative  
20 impact on efficient management and increased cost to the Company.

21 Q. Are there Collective Bargaining Agreement ("CBA") considerations involved in  
22 having management employees cover the Ramapo facility?



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1 A. Yes. Prior to the change in Article II of the Rockland County Sanitary Code in  
2 2006, Lake Deforest Treatment plant was operated with IIA licensed operators  
3 for full compliance with the State Sanitary Code. In addition UWNY had an IA  
4 license operator as the Person in Responsible Charge providing coverage and in  
5 compliance with the requirements of the State Sanitary Code for IB and IA  
6 facilities. Our CBACBA recognized that the IA license holder was management  
7 and the plant operations or IIA was under the CBA. UWNY works under the  
8 same provisions it did back in 2006, the difference is the change to the Sanitary  
9 Code. The Ramapo facility operators would fall under the terms of the CBA and  
10 if management undertakes union work, the union is very likely to file an unfair  
11 labor practice complaint against the Company. Also, the CBA requires any new  
12 position to be offered to the current union employees. Failure to comply with this  
13 provision is also likely to result in an unfair labor practice or National Labor Board  
14 complaint.

15 Q. Are the requested new IIA operators for the Ramapo facility essential for UWNY  
16 to be compliant with the requirements of New York State Health Department  
17 Regulations 10 NYCRR subpart 5-4.2 and Article II of Rockland County Sanitary  
18 Code?

19 A. Yes. If a multi-year settlement is agreed between the parties, an adjustment of  
20 \$320,525 should be made to the Company's labor expense.

21 Q. Do you have any comments on Dr. Miller's testimony as it relates to the  
22 requirements of 10 NYCRR sub-part 5-4.2 and Article II of the Rockland County  
23 Sanitary Code.

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1 A. Yes, I will be brief. Among other things Dr. Miller asserts that UWN Y is double  
2 manning and further asserts that automation of facilities provides an opportunity  
3 to de-man some facilities. Generally, I would refer Dr. Miller to my rebuttal of the  
4 Staff Accounting Panel on new employees, which provides the Company's  
5 position relative to the constraints of both the Rockland County Sanitary code  
6 and the "CBA", regarding these new employees. I do want to point to the fact that  
7 this CBA was in place prior to Rockland County making the recent changes to  
8 the Sanitary Code and as explained in both my direct testimony and here in  
9 rebuttal, UWN Y has to comply with both. While Dr. Miller is correct that  
10 automation provides an opportunity for de-manning of some facilities, we cannot  
11 dismiss the fact that the Code requires IIA operators in the central SCADA  
12 function and currently they are IIB. I do want to clarify that the modifications and  
13 interpretations made by Rockland County Department of Health to the Rockland  
14 County Sanitary Code are much more stringent and go above and beyond the  
15 requirements of the New York State Sanitary Code. In my professional opinion, I  
16 do not believe these additional requirements are providing any value to the  
17 customers of UWN Y.

18 Productivity and Austerity adjustment

19 Q. Do you think Staff's proposed Productivity and Austerity adjustments are  
20 justified?

21 A. No, I do not. In response to Staff Information Requests Staff-30 GRL 10, Staff-67  
22 JW 30, Staff-83 VZO 14, Staff-153 GRL 31 and Staff-180 GRL 47 (Rebuttal  
23 Exhibit MJP-1), the Company has provided extensive responses identifying all

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1 the measures the Company has already undertaken to provide savings and  
2 manage costs. Not only is the Staff Accounting Panel proposing a Productivity  
3 and Austerity adjustment, they have also recommended a production cost  
4 adjustment, removal of normalized labor cost, removal of incentive pay,  
5 adjustments to non-bargaining unit salaries and reductions to overtime. Applying  
6 productivity and austerity adjustments on top of adjustments already made is  
7 excessive and fails to consider the benefit of all previous measures taken to  
8 reduce expenses prior to seeking rate relief in this proceeding.

9 Q. What productivity improvements has the Company already made?

10 A. As explained in my pre-filed direct testimony the Company has made significant  
11 progress with productivity. Crew sizes have been reduced which means that  
12 additional work can be completed by our staff reducing contractor expenses. In  
13 addition, the Company carefully monitors non-productive time by planning and  
14 scheduling work to reduce driving time, wait time and start/finish times. Materials  
15 are ordered and scheduled to be available at the end of each day, or on the job  
16 to ensure limited down time. With productivity so high and non-productive time  
17 extremely low it is difficult to see how additional productivity savings can be  
18 made without it compromising service to customers or compliance with  
19 regulations. I have previously described the construction staff productivity gains.  
20 In the area of meter reading we have installed Radio Frequency meter reading  
21 with only limited need for manual reads. Meter changing is managed with the  
22 same degree of scrutiny as all other work, the work is scheduled and planned to  
23 reduce down time and increase the productive time each and every day. All other

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1 staff are either water production operators or customer service representatives  
2 and these two functions are focused on the quality of service. The application of  
3 a productivity adjustment to a company the size of UWNY where productivity  
4 gains have already been made is unwarranted and without regard for the impact  
5 to the Company or its provision of quality service to its customers.

6 Q. What has the Company done to be austere in these economic times?

7 A. The Company has removed all discretionary spend, limited training to that  
8 required for licensing, reduced pay raises from the historic averages, limited  
9 overtime to emergency overtime only, and frozen new hires to only those  
10 required for compliance. In addition the Company has taken the significant step  
11 of eliminating the eligibility of post retirement health care benefits for all staff and  
12 pensions for all newly hired management staff. In May of 2009 the Company  
13 took a significant step to remove the eligibility of all post retirement health care  
14 benefits for all new management hires and as part of the January 2010 Collective  
15 Bargaining Agreement between the Company and 'The International Brotherhood  
16 of Electrical Workers Local 363', the eligibility for post retirement health care  
17 benefits was removed for all new bargaining unit employees. Furthermore, on  
18 January 1, 2010 the Company removed the eligibility of pensions for all newly  
19 hired management staff. These are additional austerity and cost reduction  
20 measures taken over and above those already presented by the Company.  
21 Making further adjustments for austerity are arbitrary in nature and cannot be  
22 associated with any justification.

23

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R & I Alliance

1  
2 Q. Do you agree with the Accounting Panel's recommendation to remove the R&  
3 Alliance fees from the Company's allowable expenses?

4 A. No I do not. The Staff Accounting Panel testifies that this expense should be  
5 eliminated because there are no quantified savings or benefits to customers.  
6 Research and development projects typically require investment over a period of  
7 time before benefits are realized. The benefits to be gained are not solely  
8 financial. R&D projects are designed to provide other customer service benefits  
9 such as improved water quality and improved operation reliability. A few specific  
10 examples of ongoing projects that will likely provide near-term benefits are as  
11 follows:

12 1. Integrated Water Resource Management Project ("IWRMP"). This project,  
13 described in Company Witness Weland's testimony, pages 10-11, and in my  
14 direct testimony, pages 28-29, will provide direct customer benefits by  
15 enabling more efficient use of the water supplies (i.e., improved energy  
16 management), as well as improved water resource conservation  
17 management. This project is being partially funded through the R&I Alliance  
18 (approximately \$200K) and therefore, the capital for this project has already  
19 been reduced by this amount.

20 2. Membrane technology for volatile organic compound (VOC) removal. The  
21 Company is currently pilot testing a membrane technology for the removal of  
22 VOC's at the Company's Spring Valley Well No. 17. This technology has  
23 been utilized by the Company already at various wells (Willow Tree, New

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1 Hempstead) for removal of entrained air, which significantly reduced the  
2 capital investment required for these projects as compared to a conventional  
3 air removal process (approximately \$4.0 million in savings). If the technology  
4 is effective at removal of VOCs (or other volatile contaminants) this could be  
5 applied in the future to cost effectively remove contaminants and maintain the  
6 Company supply capacity.

7 3. Filter Media Pilot Testing. United Water is currently conducting a Filtralite  
8 pilot at the Haworth Water Treatment Plant in New Jersey. Preliminary pilot  
9 test results indicate that this alternative filter media provides various benefits,  
10 including improved water quality, longer filter runs (energy savings from less  
11 frequent backwash operations), and higher filtration rates (potentially  
12 providing a cost effective increase to peak treatment capacity). This  
13 technology could potentially provide benefits at the Company's filtration plants  
14 (Lake DeForest, Letchworth).

15 4. ASR Investigations. In 2010 through 2012, United Water Idaho will be testing  
16 innovative methods to better manage Aquifer Storage and Recovery (ASR)  
17 projects through the R&I Alliance. As the Company is currently evaluating the  
18 feasibility of ASR at one of its well fields (Viola), the results of this work may  
19 prove useful. The intent of the project is to determine whether conditioning of  
20 recharge water can be used to prevent certain natural compounds in the  
21 aquifer from leaching into water. The Company will be providing bore-hole  
22 rock samples for this project to determine whether such methods could be  
23 useful.

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1 5. Fixed Network Automatic Meter Reading (AMR). For the last several years  
2 United Water Idaho has been participating in a global study to look at the  
3 feasibility of fixed network AMR. This technology has some unique  
4 advantages in that it allows rapid collection of customer meter data as well as  
5 other data such as soundings from leak detection devices. While UWNY has  
6 no plans currently to adopt this technology it may in the future and such  
7 studies will be valuable to evaluate cost-effectiveness.

8 6. Treatment of Endocrine Disruptors and Pharmaceutically Active Compounds.  
9 Beginning in 2010, United Water New Jersey will be testing to what degree  
10 dissolved air flotation and filtration can treat these compounds under an R&I  
11 Alliance project. UWNJ has a pilot process at its Haworth WTP that will be  
12 used. The Company has very similar technology at its Lake DeForest WTP  
13 and the results of the research will be applicable. This is a collaborative  
14 project with the Water Research Foundation, the New Jersey Institute of  
15 Technology and United Water.

16 Q. The Staff Panel has testified that no information was provided on how the R&I  
17 membership fees are determined and spent. Can you provide some background  
18 on this issue?

19 A. Yes. Each member organization contributes an equal fee to the R&I Alliance,  
20 €2.0M annually. Each year there are meetings of research committees to  
21 discuss various research ideas. There are eight Committees formed around the  
22 topics of: Asset Management, Emerging Sanitary Threats, Biosolids Handling,  
23 Energy and Sustainability, Storm Water Management, Water Demand

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1 Management, Water Resources, and Mineralization of Water. Early each year  
2 research ideas are collected from throughout the United Water business units  
3 and these are submitted to R&I Alliance. Members of each participating  
4 Company review these ideas within the above committees and choose those that  
5 have the most merit for the entire group. These ideas then become proposals  
6 which the member companies vote on in the fall of each year. Successful  
7 projects are then released to begin research early in the following year. This  
8 cycle is repeated each year. United Water has members on each of the  
9 committees that try to have projects approved of interest to our business units as  
10 well as our global partners.

11 Q. Do you recommend that the Commission approve recovery of expenses related to  
12 the R&I Alliance?

13 A. Based on the customer benefits provided outlined above, both now and in the  
14 future, I recommend that the Commission approve the recovery of \$258,626 for  
15 UWNYS's expense related to the R&I Alliance.

16 Sludge Disposal Cost

17 Q. Are you contesting Staff's proposed downward adjustment of \$134,549 in sludge  
18 disposal cost?

19 A. Yes, I am. The adjustment made by Staff Witness Oreifej identified at page 8,  
20 line 16 of her pre-filed testimony arrives at the adjustment through averaging  
21 sludge removal costs for the period 2007 through 2009 and does not take into  
22 account increasing cost, changing water quality and increased transportation  
23 expense. As indicated in Company response to STAFF-78 (Rebuttal Exhibit



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1 MJP-1), residuals (sludge) treatment/disposal strategies have changed over time  
2 resulting in yearly disposal cost variances. As a result, simply using the average  
3 of historic costs to generate future costs is inappropriate. The appropriate  
4 method is to utilize the projected residuals generation amounts based on current  
5 plant production and treatment methods, and the current disposal unit cost to  
6 determine the residuals disposal costs. Residuals generation at the Lake  
7 DeForest WTP and Letchworth WTP is a function of the plant production (i.e.,  
8 amount of water treated), the amount of turbidity (solids) that the process  
9 removes, and the amount of chemicals (i.e., primary coagulant, polymer) utilized  
10 in the treatment process. Using average values for each of these contributing  
11 factors, the annual residuals quantity is calculated to be approximately 500,000  
12 lbs. Currently, residuals generated at the WTP (Letchworth sludge is transported  
13 to Lake DeForest sludge lagoons) are collected in sludge lagoons, and the  
14 residuals are removed and disposed of directly from the lagoons. The lagoons  
15 allow for settling (i.e., thickening) of the residuals. Only the thickened solids are  
16 removed for disposal. The concentrated volume of the residuals from the lagoons  
17 is approximately 3.057 million gallons/year. The current unit disposal cost, which  
18 includes dredging of the lagoons, hauling to the disposal site, and disposal fees,  
19 is \$0.20/gallon. At this unit cost, the disposal cost for the residuals is  
20 approximately \$611,400/year. Based on the actual residuals generation and  
21 treatment/disposal processes at the Lake DeForest WTP, the Company  
22 recommends that the Commission approve \$611,400/year for residuals disposal

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1 expense, rather than a lower amount based on historic data that does not  
2 accurately reflect current conditions.

3  
4 Proposed Production Cost Reconciliation Method

5 Q. What changes to the revenue reconciliation mechanism are being proposed by  
6 Staff?

7 A. Ms. Oreifej is proposing to include a new component for sludge removal and a  
8 modification to the existing reconciliation which only recognizes 90% of the  
9 difference between actual and targeted costs.

10 Q. Do you agree with these modifications?

11 A. I agree with the inclusion of the sludge disposal in the production reconciliation,  
12 but not with the recovery of only 90% of reconciled amounts for power, chemicals  
13 and sludge removal.

14 Q. What is the basis for Staff's proposal?

15 A. Ms. Oreifej cites a similar proposal made in the New York Water Service Case  
16 09-W-2237. However, there are differences between the two companies that  
17 aren't recognized or considered in Staff's proposal to impose the same method  
18 on UWNY.

19 Q. Can you please explain further the relevant differences between the two  
20 companies?

21 A. The issue is that New York Water Service uses all ground water as its source of  
22 supply and ground water has inherently reliable water quality with very little  
23 variation. UWNY differs greatly from New York Water Service in that UWNY uses

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1 a combination of ground and surface water, with 5 surface water treatment plants  
2 in total. Surface water is inherently different than ground water with a great range  
3 of variable water quality that can have a huge impact on cost. It is much more  
4 difficult to predict treatment cost associated with surface water, as quality can be  
5 impacted by turbidity, organics in the form of algae, pH and chlorine demand. Not  
6 only do these parameters impact chemical and sludge cost, but due to decreased  
7 filter run times they can have an impact on power. As the production cost targets  
8 are established for a normal production year and do not take into account  
9 variable water quality or resource limitations, the Company will be penalized if  
10 the annual production is above the normal production target since the Company  
11 will incur 100% of the additional cost and will only be permitted to recover 90% of  
12 the difference. The Company will see no additional revenue as all the revenue  
13 collected above the target is held for the customers. Implementing Staff's  
14 proposal could penalize the Company on two fronts, i.e., from variable water  
15 quality, and production above the normal year target. In addition, the proposed  
16 methodology compromises the need to consider resource management. The  
17 Company's water resources are not completely sustainable; therefore decisions  
18 may be made that consider the availability of water resources rather than an  
19 optimized approach that may be taken in other systems where abundant water  
20 resources are available. As an example, UWNY has different costs of treatment  
21 for the addition of chemicals and electricity for pumping at each of its water  
22 treatment facilities. These include 5 surface water treatment plants,  
23 approximately 65 wells and booster stations. These resources have to be used

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1 based on the availability of water. Lake Deforest has an annual average use of  
2 10 MGD, Letchworth 1 MGD with a maximum of 45 MG per month and Ramapo  
3 is limited by the availability of water in the river. Therefore, decisions may be  
4 made to protect and sustain water resources rather than using the least cost  
5 resources. While the Staff Accounting Panel's proposed method may reflect a  
6 theoretical attempt to encourage savings and efficiencies by the Company, the  
7 variability of water resources inherent in the composition of the UWNY system  
8 makes the goal of reducing cost in this area extremely difficult and possibly  
9 unachievable. This proposal by the Staff penalizes the Company if savings  
10 cannot be achieved as a result of the variable nature of the Company's water  
11 systems and should not be considered by the Commission.

12  
13 Based on the clear differences between New York Water Service water  
14 resources and UWNY resources, as is done today, 100% of production cost  
15 above the targets should be reconciled as part of the revenue reconciliation  
16 mechanism.

17 Hydrant Maintenance, Long-Term, Short -Term Supply Milestones and  
18 Performance Payments

19 Q. Would you please briefly describe Staff Witness Oreifej's position as it relates to  
20 supply milestones, performance payments and hydrant maintenance?

21 A. Ms. Oreifej has testified that the peak volume commitments, the long-term water  
22 supply project milestone commitments, the average day water volume  
23 commitments as set forth on Exhibit 11 of the Joint Proposal in Case 06-W-0131,

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1 the hydrant inspection and maintenance commitment along with the terms and  
2 conditions related to performance payments remain in effect beyond the term of  
3 the Joint Proposal in the Company's last rate case. Ms. Oreifej on page 14 of  
4 her testimony describe these commitments and penalties, but fails to point out  
5 that the long-term water supply surcharge and the 'best efforts' of each signatory  
6 to the Joint Proposal were also part of the agreement. Failing to maintain and  
7 enlist the support of the parties to the Joint Proposal, while also failing to provide  
8 the Company with the financial means to assist in meeting its agreed to  
9 commitments through a surcharge for the long-term water supply project, would  
10 be an unbalanced approach resulting in the Company having all of the risk and  
11 no assistance of any kind. This would be unacceptable to the Company and  
12 would cause the Company to seek a modification that removes the penalties and  
13 commitments relating to supply and construction milestones.

14  
15 Haverstraw Water Supply Project

16 Q. Can you please describe briefly Ms. Oreifej's testimony relating to the  
17 Haverstraw Water Supply Project?

18 A. Staff Witness Oreifej provides background for the New York State Public Service  
19 Commission's ("Commission") authorization in Case 06-W-0131 of a surcharge  
20 associated with various short and medium term capital projects to increase the  
21 Company's water supply. This recovery mechanism is commonly referred to as  
22 the New Water Supply Source ("NWSS") surcharge. Additionally, on page 15 of  
23 her testimony Ms. Oreifej goes on to describe the Company's required filing that,

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1 among other things, provided an explanation of the long term supply project the  
2 Company had selected, and an explanation of why that specific project was  
3 selected in lieu of alternative projects. Ms. Oreifej notes that the Company  
4 submitted in July 2009 a request to recover via the NWSS surcharge the pre-tax  
5 return associated with the costs incurred to that date for the long term water  
6 supply project. She also correctly testifies that the Company's request was  
7 withdrawn by the Company at the request of Staff. Finally, Staff Witness Oreifej  
8 concludes that recovery of the costs associated with the Haverstraw Water  
9 Supply Project should not be immediately recovered via the NWSS.

10 Q. What rationale did Ms. Oreifej provide for her testimony regarding the Haverstraw  
11 Water Supply Project?

12 A. Staff's witness claims on page 17 of her testimony that:

13  
14 "... at this time it is only certain that the pilot plant will be placed in-service  
15 shortly...." And "Because at this time there is much uncertainty as to when  
16 the full-scale plant will be placed in-service, I recommend that the company  
17 continue to accrue allowance for funds used during construction (AFUDC)  
18 on the costs related to this project and when the construction of the full-  
19 scale plant/facility begins the Company be authorized to file a surcharge to  
20 recover the pre-tax return on costs associated with the project."  
21

22 Q. Do you agree with this approach?

23 A. No, I do not for two reasons. First, the recommendation is contrary to the intent  
24 and spirit of the Joint Proposal ("JP") signed by all parties and subsequently  
25 approved by the Commission in Case 06-W-0131, the Company's last rate case,  
26 where the need for a long term water supply project was established and

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1 appropriate surcharge mechanisms were created to facilitate development of  
2 supply. Second, the reasons stated by Ms. Oreifej for not allowing the start of a  
3 surcharge at this point are inconsistent with recent precedent and directly  
4 contradict Staff's rationale for supporting a surcharge, one authorized by the  
5 Commission in Case 04-W-1221, for a major capital project in United Water New  
6 York's sister company, United Water New Rochelle.

7 Q. Please elaborate on how the current recommendation is in conflict with the intent  
8 and spirit of the JP that identified the need for a long term water supply project  
9 such as the Haverstraw Water Supply Project.

10 A. It was determined in Case 06-W-0131 that it was in customers' best interest and  
11 in the public interest for the Company to accelerate the development of new  
12 sources of supply. To that end, targets, or milestones were developed that  
13 detailed the level of supply additions that were required. Additionally,  
14 recognizing that there was a large cost involved by the Company in seeking to  
15 achieve these milestones, the NWSS recovery mechanism was created to allow  
16 for immediate cost recovery after the projects were completed. By allowing the  
17 Company to seek and obtain via the NWSS current recovery, the possibility of  
18 overburdening the utility financially was avoided. Utilization of the NWSS also  
19 avoided burdening customers with the rate shock necessitated by large rate  
20 increases in the Company's next rate case.

21 Q. Please describe why you believe that the current recommendation is inconsistent  
22 with the spirit of the JP agreed to by the parties and confirmed by the  
23 Commission?

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1 A. As I previously testified, there was a clear, agreed upon need for new supply and  
2 the JP instituted incentive and penalty mechanisms to facilitate meeting the  
3 supply targets. The NWSS mechanism was clearly designed to be utilized for all  
4 supply projects, i.e., short term, medium term and long term. Further, the parties  
5 in the language in the JP clearly anticipated that the NWSS would be applicable  
6 for recovery of the long term project costs as the JP stated that the Company's  
7 filing in January 2007 include "...the rationale for including cost recovery in the  
8 NWSS...", (JP Section XI, paragraph 3).

9 Q. Why do you believe that the NWSS was designed and intended to be utilized for  
10 the Company's long term water supply project?

11 A. The short and medium term projects undertaken or anticipated to be undertaken  
12 by the Company are of short construction duration and therefore can be placed in  
13 service within months after the start of construction, typically do not require  
14 additional personnel to operate and do not typically have additional property  
15 taxes. This was supported by the detailed list of projects provided in the JP. A  
16 review of the formula for the NWSS tariff statement also shows that there was an  
17 intent to include longer duration projects, as it states that "[w]hen costs are  
18 included in the Surcharge, AFUDC will no longer be accrued." There are also  
19 provisions for payroll expense associated with new positions needed to operate  
20 the facility and another for property taxes. Like the recovery mechanism in  
21 United Water New Rochelle for the Delaware Interconnection Project ("DIP"), a  
22 major project that spans years before completion will continue to accrue AFUDC  
23 until placed in service. Since one of the goals of the DIP recovery mechanism



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1 was to reduce the accumulation of AFUDC over years, the design assumes that  
2 when a surcharge becomes effective the AFUDC will cease to accrue on that  
3 portion of the investment even though the project is not actually in service. Since  
4 the short and medium term projects do not involve these types of expenses, that  
5 is to say, they do not involve multiple surcharge filings prior to being placed in  
6 service, are not new facilities that require personnel and are not new structures  
7 that would incur new property taxes, the NWSS must have by a process of  
8 elimination also been intended to be used by the Company to recover the costs  
9 of the long term water supply project.

10 Q. Is there any additional language or information in the JP to support your claim?

11 A. Yes. The JP stated that after the Company's anticipated filing of its selection of  
12 its long term supply project, the Commission may institute a proceeding, which  
13 would establish an appropriate cost recovery mechanism. It further stated that  
14 subject to the outcome of that proceeding, the Company may be authorized to  
15 amend the NWSS surcharge to include costs incurred for the long-term major  
16 supply project as the project is being developed. (Emphasis added)

17 Q. Did the Commission institute a proceeding after the Company made its required  
18 filing?

19 A. No, and it was not required to do so as the language only indicated that the  
20 Commission "may" institute a proceeding.

21 Q. As you previously noted, Staff witness Oreifej states that the Company filed a  
22 request for a surcharge for its long term project in July 2009 and was requested

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1 by Staff to withdraw that filing. Can you please explain why the Company made  
2 the July 2009 filing?

3 A. Yes. The Company had been incurring costs since 2007 for the long term water  
4 supply project during its selection process, preliminary design, permitting  
5 investigation and legal process. As project development moved forward the  
6 Company began to incur significantly more costs over time. At the time the  
7 Company filed, these costs had grown to a point where they were substantial. In  
8 addition, at that point in time the Company could identify additional significant  
9 costs, such as the pilot plant, that were about to be incurred as the project moved  
10 forward. The Company was aware that the Commission had elected to take no  
11 action and had not instituted a proceeding on the Company's filing of its long  
12 term project. The Company was also cognizant of the fact that the JP provided  
13 that the Parties agreed to use their best efforts to expedite the first phase of the  
14 proceeding, i.e., which would establish an appropriate cost recovery mechanism.  
15 (Emphasis added). Therefore, since no Commission proceeding was  
16 established, no action had been taken on the Company's January 2007 filing  
17 where the Company provided the rationale for utilizing the NWSS for cost  
18 recovery of its long term project, and the costs were mounting, the Company  
19 believed it was appropriate to request its first surcharge for this project under the  
20 NWSS in accordance with the JP.

21 Q. Turning to your second reason for disagreeing with Ms. Oreijef's  
22 recommendation that any surcharge not start until construction, please explain

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1 how it is in conflict with prior Commission precedent involving major capital  
2 additions and surcharge mechanisms.

3 A. In 2004, in Case 04-W-1221, an affiliate company of United Water New York,  
4 United Water New Rochelle, was authorized to implement a surcharge for the  
5 DIP project that was planned and would take years to complete before being put  
6 in service. As Staff Witness Alch testified in that case:

7  
8 “The DIP surcharge proposal is not revolutionary, as the recovery of  
9 AFUDC either as a surcharge or by directly putting some work into rate  
10 base, has been utilized as a cost recovery mechanism for large, ongoing  
11 projects in New York on several occasions. The use of a surcharge  
12 provides several advantages namely: it accommodates an imprecise in-  
13 service schedule; beginning cost recovery immediately mitigates further  
14 AFUDC charges; it reduces the rate shock of a large program by beginning  
15 a more gradual project cost phase-in; and finally it provides the company  
16 with an immediate cost recovery mechanism.”

17  
18 In that case Staff provided the following in their Statement in Support of the JP  
19 and that support is repeated, in part, in the Commission Order:

20  
21  
22 “The DIP provisions in the Joint Proposal comport with the Settlement  
23 Guidelines as there is a clear record basis for the need for a source of  
24 water supply that complies with the SDWA and SWTR, there is a need for  
25 a mechanism to prevent undue financial harm to the Company as a result  
26 of the DIP expenses. The proposal, if adopted by the Commission, would  
27 protect customers’ economic interests by saving customers the expense of  
28 AFUDC to the extent possible (approximately \$10 million in savings  
29 (Gennari, P. 9), and accommodates an uncertain construction schedule...  
30 Furthermore, the provisions comply with past Commission directives...”

31  
32  
33 Q. Was the structure of the DIP surcharge mechanism similar to that of the NWSS?

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1 A. Yes, the two are virtually identical since each mechanism was designed to  
2 accomplish the same purpose as accurately described by Staff in Case 04-W-  
3 1221.

4 Q. Are the DIP and the Haverstraw Water Supply Project similar?

5 A. While having a slightly different purpose, i.e., pump station versus a water  
6 treatment facility, both projects are large cost projects carrying with them a  
7 potential for rate shock upon completion without some immediate recovery  
8 mechanism. In addition, both are projects that will take years for construction to  
9 be completed and both involve imprecise or uncertain construction schedules. In  
10 both instances the surcharge has the potential to save customers significant  
11 amounts in the accumulation of AFUDC added to the project while not financially  
12 burdening the Company while it is fulfilling its obligation during the long period of  
13 construction.

14 Q. Please summarize why Staff Witness Oreifej's testimony to wait until construction  
15 before allowing the Company to utilize the NWSS should be rejected by the  
16 Commission.

17 A. First, Staff's recommendation is inconsistent with the underlying rationale of the  
18 prior JP, which was to facilitate the ability of the Company to accelerate the  
19 development of water supply. Second, the stated rationale that uncertainty exists  
20 as to when the plant will be placed in service, combined with a recommendation  
21 for the continued accumulation of AFUDC until the construction commences on  
22 the full scale plant, is contrary to prior precedent involving a similar surcharge  
23 supported by Staff and implemented in Case 04-W-1221. Finally, the Haverstraw

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1 Water Supply Project is currently estimated to cost approximately \$140 million  
2 when completed. If AFUDC were to continue to accrue until the start of  
3 construction, as proposed by Staff, the Company will have expended almost \$40  
4 million and the AFUDC component would add \$6.2 million to the project at that  
5 point that would be included in all future revenue requirement calculations for the  
6 life of the project. Customers should not have to bear the unnecessary burden of  
7 the additional cost, or the potential for rate shock when the project goes into  
8 service, particularly not when an appropriate surcharge mechanism exists that  
9 was intended to address these harms and has previously been approved by the  
10 Commission as a means to mitigate such impacts.

11 Q. What impact or savings would result from starting a surcharge when rates  
12 become effective versus waiting until the start of construction as Ms. Oreijef has  
13 proposed?

14 A. Considering the lead time and the construction schedule, this project is  
15 anticipated to be in service by December 31, 2015 with a start-construction  
16 milestone of May 31, 2013. Assuming, for ease of calculation, a January 2013  
17 start date and the estimated \$140 million cost of the project there would be  
18 overall savings in accumulated AFUDC of \$23.5 million if a surcharge were to be  
19 implemented with the setting of new base rates in this proceeding versus a  
20 savings in accumulated AFUDC of \$17.3 million if a surcharge were to be  
21 implemented when construction commences. This is significant and should be  
22 considered in relation to the overall customer cost upon completion of the facility  
23 which could easily approach \$270 to \$300 per customer per year. The

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1 equivalent of a phase-in through incremental surcharges will lessen the rate  
2 shock that would otherwise exist.

3 Q. Is there a financial impact to the Company if the implementation of a surcharge  
4 were to be delayed?

5 A. Yes. The Company has already spent almost \$16 million to this point and  
6 anticipates that another \$24 million will be spent before construction commences  
7 on the full-scale facility. While for accounting purposes the Company will accrue  
8 AFUDC on this project, this doesn't provide any cash flow to the Company. It is  
9 not reasonable to expect the Company to expend this much cash over this period  
10 of time without any revenue stream to help support the project while the  
11 Company is being required to develop this new supply and is subject to financial  
12 penalties for failure to meet prescribed milestones.

13

14 Long-Term Supply Project - Rockland County View

15 Q. Does UWNYS share the County's view, as described by Dr. Miller's testimony on  
16 lines 3-5 of page 19, that "...the most important objective of the County and, in  
17 my view, of the water supply provisions of the Joint Proposal – that is, having an  
18 adequate water supply, in place and in service by the time its needed"?

19 A. Yes. In 2006 the signatories to the Joint Proposal agreed "that it is in the  
20 customers' best interest and in the public interest for the Company to accelerate  
21 its development of new sources of supply." (Joint Proposal, Article XI (1)) UWNYS  
22 shares the County's conclusion that accelerated development of additional  
23 sources of supply continues to be critical to the health and welfare of the

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1 residents of Rockland County. Furthermore, UWNY has met all the volume  
2 commitments of the Joint Proposal to date, and as discussed in this rebuttal, has  
3 plans in place to meet the volume commitments contained in the Joint Proposal.

4 Q. As part of his testimony regarding Total Peak Supply Increase Commitments  
5 included in the 2006 Joint Proposal, Dr. Miller states on lines 17-19 of page 14  
6 that "UWNY has not presented evidence that they can fulfill these commitments  
7 without completion of the Long Term Major Water Supply project which is  
8 required by the Joint Proposal to be in-service by December 31, 2015." Do you  
9 agree with this statement?

10 A. As UWNY indicated as part of the 2006 Rate Case, and the Parties to the Joint  
11 Proposal agreed, a major water supply project must be pursued on an expedited  
12 basis to meet the long-term potable water and fire suppression needs of  
13 Rockland County.

14 As I noted in my responses to interrogatories Staff-132 VZO 21, Rock-01, Rock-  
15 02, Rock-03, Rock-04, Rock-05, Rock-06, Rock-07 and Rock-15 (Rebuttal  
16 Exhibit MJP-1) and Staff-169 LYG 6 (Rebuttal Exhibit AAW-1), and as I will later  
17 address, there are a number of projects that UWNY has identified and pursued  
18 to bridge the water need gap from now until the Long Term Major Water Supply  
19 project goes into service. It is important to note, however, that the accumulation  
20 and implementation of those short term water supply projects does not obviate  
21 the need to expedite the implementation of the Long Term Major Water Supply  
22 Project.

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1 Q. On lines 4 – 20 of page 18 Dr. Miller provides his interpretation of events  
2 occurring over 30 years prior to the 2006 Joint Proposal that led to the  
3 development of a long term major water supply project. Do you agree with his  
4 interpretation of the events that have led to UWNY's pursuit of the Long Term  
5 Major Water Supply project?

6 A. No. Dr. Miller misinterprets the history of events that led to the Long Term Major  
7 Water Supply project. In 1979 UWNY's predecessor sought approval of a New  
8 York State Department of Environmental Conservation ("NYSDEC") permit for a  
9 long term major water supply project, Ambrey Pond that would be triggered at a  
10 later date when the water supply needs of Rockland County necessitated the  
11 project. It is important to note that Ambrey Pond was opposed by many  
12 individuals and entities, including, ironically, the County of Rockland. The matter  
13 came to a conclusion when the NYSDEC's conditional approval was ultimately  
14 upheld by the Supreme Court of New York, Appellate Division, Third  
15 Department, in 1988.

16 UWNY does not consider the development of a major water supply project, such  
17 as Ambrey Pond or the Haverstraw Water Supply Project, or the financial impact  
18 such a project may have on its customers, a minor undertaking. UWNY was  
19 able to forestall the implementation of a major water supply project until 2006  
20 through the development of cost effective, albeit smaller, projects. Dr. Miller's  
21 implication that UWNY should have pursued the Ambrey Pond Project simply  
22 because that project had been under consideration for over thirty years is  
23 flawed. If Dr. Miller's logic was followed, the customers of UWNY would be



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1 denied the benefit of thirty years of technological advancements that make the  
2 Haverstraw Water Supply Project a more financially and environmentally  
3 prudent project.

4 Q. Dr. Miller provides several suggestions for revising the Long Term Major Water  
5 Supply project milestones and performance payments on line 8 of page 19  
6 through line 17 of page 20 of his testimony. Do you agree with these  
7 suggestions?

8 A. No. Like the County of Rockland, UWNY could also generate a “wish list” of  
9 proposed changes to the Supply Commitments and Performance Payments  
10 provisions in the 2006 Joint Proposal that would favor its position. We believe,  
11 however, that our mutual goal of “having an adequate water supply, in place” by  
12 2015 and beyond is best served by maintaining the existing heavily negotiated  
13 and Commission approved terms of the 2006 Joint Proposal.

14 Q. Please explain further.

15 A. On line 8 of page 19 of his testimony Dr. Miller indicates that he believes that  
16 “the provisions of the Joint Proposal should be rigorously enforced,” and UWNY  
17 agrees. We believe that the Supply Commitments and Performance Payments  
18 provisions in the 2006 Joint Proposal consisted of four essential and interrelated  
19 elements:

20 1. UWNY agreed to aggressively pursue the Supply Commitments and risk financial  
21 penalties unless the commitments that are not met were “caused by events  
22 outside of the Company’s control.” (Article XIII (2))

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1 2. The Parties would use their “best efforts to assist the Company in meeting its  
2 volume, construction milestone and hydrant maintenance schedule  
3 commitments on time.” (Article XIII (1))

4 3. The Parties agreed that a surcharge mechanism “is generally in the best interest  
5 of customers because it prevents the accumulation of AFUDC during the long  
6 construction period associated with expensive, major projects.” ((Article XI (3))

7 4. There was an implied covenant of good faith and fair dealing.

8 UWN Y is confident, and believes that the record is clear, that it has met its  
9 obligations under the Supply Commitments and Performance Payments  
10 provisions in the 2006 Joint Proposal. Nevertheless, as I noted previously, the  
11 surcharge mechanism to fund the long term water supply project has not been  
12 implemented. While UWN Y has proceeded in good faith, not all Parties to the  
13 2006 Joint Proposal have met their corresponding obligation to use their best  
14 efforts to assist the Company, and, as a result, the implied covenant of good  
15 faith and fair dealings has been compromised.

16 Q. On lines 9-11 of page 20 of his testimony Dr. Miller states that “the Commission  
17 should require UWN Y to file a plan to get the Long Term Major Supply Source  
18 project back on schedule, with milestones subject to the Joint Proposal’s  
19 performance payment provisions.” Do you agree with this statement?

20 A. UWN Y agrees that a plan should be developed to ensure to the greatest degree  
21 possible that the milestone commitments can be met. Unfortunately, Dr. Miller  
22 characterizes the County and the other Parties to the Joint Proposal, as passive

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1 spectators to UWNY's efforts and fails to recognize the "best efforts" obligations  
2 that the Parties committed to when they entered into the 2006 Joint Proposal.  
3 This best efforts commitment was a key reason why United Water agreed to the  
4 very aggressive milestones in the JP—United Water would be relying on the  
5 Parties to the Joint Proposal to actively work with it, as partners, in  
6 accomplishing the milestones. United Water recently reiterated this expectation  
7 in a letter to the Parties to the 2006 Joint Proposal dated February 17, 2010,  
8 attached as Rebuttal Exhibit MJP-2, UWNY requested "the initiation of regular  
9 monthly meetings to be attended by principals of the Parties to discuss  
10 measures to further the Parties' mutual goals of ensuring that the commitments  
11 and milestones included in Exhibit 11 to the Joint Proposal are achieved." As  
12 part of these meetings, UWNY believes that a Plan of Work should be jointly  
13 created by the Parties that establishes plans, actions, and desired outcomes for  
14 each Party for each year. UWNY requests a commitment from each Party's  
15 principal to personally attend each monthly meeting, and to actively participate  
16 in the creation of the Plan of Work and to monitor not only the Company's but  
17 also that Parties' progress in furtherance of the Project.

18 To that end, UWNY believes that the Joint Proposal provides a framework for a  
19 partnership to "having an adequate water supply, in place" by 2015.

20 Q. On Page 15, lines 6-10 of his testimony Dr. Miller seems to call into question the  
21 validity of UWNY achieving the September 2008 Joint Proposal, Exhibit 11,  
22 milestone by stating "[i]f UWNY's "Haverstraw Water Supply Project Draft  
23 Environmental Impact Statement" (DEIS) satisfies the September 30, 2008

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1 commitment, even though it was not accepted as such by the lead agency for  
2 environmental review, then the first three milestone commitments were  
3 completed on time.” Did UWN Y achieve the September 2008 milestone?

4 A. Yes. The September 2008 Joint Proposal, Exhibit 11, milestone requires UWN Y  
5 to “Submit DEIS [ ].” That is exactly what UWN Y did – and on time. There is no  
6 requirement in the milestone that it be “accepted” or approved by any entity by  
7 the milestone date.

8 Q. Do you agree with Dr. Miller’s characterization on lines 6-10 of page 16 of his  
9 testimony regarding the Long Term Major Water Supply project’s DEIS that  
10 “...the requirement for a NYSDEC Water Allocation Permit is conspicuously  
11 absent from this draft document...”?

12 A. No. Although the list of anticipated permits and approvals provided in the Draft  
13 Environmental Impact Statement filed with the New York State Public Service  
14 Commission on September 26, 2008 did not list the NYSDEC Water Supply  
15 Permit, the NYSDEC Water Supply Permit (a synonym for a Water Allocation  
16 Permit) was, in fact, included in the September 26, 2008 filing, a copy of which  
17 was provided to Dr. Miller at the time.

18 Q. In discussing the Long Term Major Water Supply project’s Pilot studies, on lines  
19 9-10 of page 16 of his testimony, Dr. Miller states “[t]hey have not yet begun,  
20 and are projected to take longer than originally predicted.” Do you agree with  
21 Dr. Miller’s assessment?

22 A. Through the documents sent and presentation made to the Parties to the 2006  
23 Joint Proposal, UWN Y has demonstrated the extraordinary efforts it made to

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1 begin and complete Pilot testing within the timeline contemplated by the 2006  
2 Joint Proposal. Unfortunately, events beyond the Company's control have  
3 delayed the Pilot Study.

4 Q. What activities will occur while the Pilot Study is ongoing?

5 A. As I discussed in the response to STAFF-131 VZO-20 (Exhibit MJP-1), the Pilot  
6 Study is planned to be operational in the First Quarter of 2010. The Company  
7 anticipates that the Pilot Study will operate for a minimum of 12 months and  
8 maximum of 18 months. Data useful for advancing the project design, however,  
9 will be available as soon as one month after the Pilot Study is operational.

10 Specifically, the first six- to nine-months of Pilot Study operation will provide the  
11 data necessary to advance the project design, and the remaining Pilot Study  
12 operations will be used to optimize the water treatment process. So, contrary to  
13 Dr. Miller's assertion, the advancement of the project design will not be on hold  
14 until the completion of the Pilot Study.

15 Q. Do you agree with Dr. Miller's conclusion on page 16, line 21 of his testimony  
16 through page 17, line 2 that retaining an engineering services firm in November  
17 2009 unnecessarily delayed completion of the Draft Environmental Impact  
18 Statement and subsequent issuance of the environmental permits?

19 A. No. The preparation of the Draft Environmental Impact Statement ("DEIS") was  
20 a significant undertaking that utilized internal resources as well as the services  
21 of professional planners, architects, and engineering firms. The final product  
22 was submitted on September 26, 2008, and is a comprehensive discussion and  
23 analysis that stretches over twenty-three chapters and fills a three-inch binder

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1 excluding appendices. On July 1, 2009, the NYSDEC issued the Final Scoping  
2 Document ("Scope") for the submitted environmental impact statement ("EIS").  
3 Once the Scope for a revised draft EIS was issued, the UWNY Haverstraw  
4 Water Supply Project ("HWSP") team began to revise the draft EIS to meet the  
5 Scope. During that same month, July 2009, UWNY initiated a procurement  
6 process to retain an engineering firm to design and engineer the HWSP to  
7 revise specific areas of the DEIS which arose from the scoping process. This  
8 procurement process culminated in the selection of an engineering firm in  
9 November 2009.

10 Dr. Miller's testimony incorrectly concludes that work ceased on the Project until  
11 an engineering services firm was selected. In fact, the same internal resources  
12 and consultants that prepared the DEIS continued to work on its revisions until  
13 and since an engineering services firm was retained.

14 Q. Do you agree with Dr. Miller's statement on lines 13-14 of page 20 of his  
15 testimony that "the Commission should require UWNY to develop a Long Term  
16 Major Water Supply Source fall back plan."?

17 A. I am unsure what Dr. Miller has in mind with his reference to a fall back plan.  
18 The DEIS filed in September 2008 evaluates several alternative water supply  
19 projects to the Haverstraw Water Supply Project. The State Environmental  
20 Quality Review Act ("SEQRA") requires the SEQRA lead agency to choose  
21 among alternatives provided the alternatives meet the need, goals and benefits  
22 of the proposed Project and the objectives and capabilities of the project  
23 sponsor. UWNY does not understand Dr. Miller's testimony to be suggesting a

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1 fall back plan at this time that would be the equivalent of a full-scale design of  
2 various alternatives. Such an approach would be unprecedented to United  
3 Water's knowledge and would have an excessive and unjustifiable negative  
4 financial impact on customers.

5 Q. Dr. Miller indicates on lines 16-19 of page 15 of his testimony that "I believe  
6 failure to accomplish these two milestone commitments will have a 'domino  
7 effect' with respect to all subsequent milestone commitments, ultimately  
8 threatening the accomplishment of the 2015 in-service date." Do you agree with  
9 this statement?

10 A. No. There does not need to be a "domino effect" in this regard. The  
11 implementation of the Long Term Major Water Supply project is being done  
12 through the following tasks which are being concurrently delivered: 1) the Pilot  
13 Study; 2) revising the draft environmental impact statement; 4) advancing the  
14 permitting process; and 4) advancing the design and engineering of the of the  
15 Project.

16 This approach of implementing the Project through multiple concurrent tasks will  
17 allow UWN Y to manage delays associated with certain milestones while not  
18 affecting other milestones or the eventual in-service date. While this approach is  
19 the most prudent way to implement the Project, it is important to remember that  
20 there will always be externalities that are beyond the Company's ability to  
21 control or predict with certainty.

22

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Source of Supply

1  
2 Q. Do you agree with Dr. Miller's discussion on line 15, page 6 of his testimony  
3 regarding the evolution of the current forecasts of annual average and peak  
4 demand?

5 A. Generally I agree but I would like to provide some clarification. The current  
6 average and peak supply commitments established in the 2006 Rate Case  
7 (Case 06-W-0131) and contained in Exhibit 8 of the Joint Proposal, reflected the  
8 need for supply based on the demand projections at that time. In re-visiting the  
9 demand forecasts and noting that lower than typical demands in 2009 have  
10 caused somewhat lower forecasts of most probable average and peak  
11 demands, Dr. Miller shows that current supply commitment values are still within  
12 typical confidence intervals for water supply planning.

13 Q. On lines 14-15 of page 10 Dr. Miller indicates that no water supply projects with  
14 anticipated In-service dates beyond December 31, 2009 are provided.  
15 Furthermore, on lines 3-5 of page 11, Dr. Miller indicates that "...no specific list  
16 of projects to meet the average supply increase commitments of 2010, 2011 and  
17 2012 or beyond, and no specific schedule for such projects" is provided. Can  
18 you briefly discuss these statements?

19 A. In Company Witness Weland's testimony, Exhibit AAW-1 (subsequently revised  
20 as part of the Company response to STAFF-169 contained in Rebuttal Exhibit  
21 AAW-1, the Company did present water supply projects that have anticipated In-  
22 service dates beyond December 31, 2009: Pascack 65 Deaeration, Maple  
23 Avenue Booster Station. In addition, in its response to STAFF-132 (Rebuttal



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1 Exhibit MJP-1) and supplemental data provided at the request of Staff Witness  
2 Oreifej, the Company provided lists of additional water supply projects to be  
3 implemented beyond the Rate Year. However, more specific information  
4 regarding projects that the Company is considering to meet the short- and  
5 medium-term supply commitments has been developed, as follows:

6  
7 Projects Planned for 2010

8 ***Nanuet 13 and 14:*** An air-stripping treatment system was added to these wells  
9 in 2002. During 2001 the unimproved wells were only used to meet peak  
10 demands at a maximum 3-day average capacity of about 460 gpm. The system  
11 well annual average capacity of 15 mgd agreed to with RCDOH was the amount  
12 pumped in 2001. This amount included an insignificant amount from these wells  
13 (about 10 gpm) as they were mostly not operated during that year. The wells  
14 are capable of providing approximately 350 gpm average and 694 gpm peak.  
15 The gain in average supply is therefore about 340 gpm (i.e., 350 gpm minus 10  
16 gpm) or about 0.50 mgd. The gain in peak supply is about 230 gpm (i.e., 694  
17 gpm minus 460 gpm) or 0.33 mgd. The improvement being made in 2010 to  
18 make reliable use of this water possible is the construction of the Maple Avenue  
19 Booster at the Spring Valley Well field. This booster will allow the transfer of  
20 water between pressure district 10 (PD10) and pressure district 20 (PD20). As  
21 the Lake DeForest WTP, the largest single source of supply for UWNY, is  
22 located in PD10, it is often necessary to transfer water out of PD10 into other  
23 districts. The Maple Ave Booster, which will be constructed at the Spring Valley

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1 Well Field site in 2010, will further improve the capacity to transfer water out of  
2 PD10 into PD20. As PD20 is at a high hydraulic gradient, water can flow into  
3 other districts as well. The above capacity numbers are considered preliminary  
4 at this time. The anticipated cost for this station is \$2.2M.

5 In January of 2007 the Company requested to add the peaking capacity from  
6 Nanuet 13/14. However, as no improvements were being planned at that well at  
7 that time it was not accepted by the Commission for credit towards the  
8 milestone commitments. Subsequent to this rejection the Company analyzed  
9 the hydraulics of PD10 and determined that adding the Maple Ave booster  
10 would allow the usage of Nanuet 13 and 14 during both annual and peak  
11 demand periods. This is not the sole purpose of this station as it will also be  
12 used to improve operational redundancy and may also be used to justify other  
13 supply additions in PD10.

14  
15 ***Eckerson 82:*** The Company constructed an air stripping basin at this well site  
16 and is in the process of obtaining a revised water supply permit from the  
17 NYSDEC. The existing permit is for 200 gpm and the Company is requesting  
18 325 gpm. In 2001 this well supplied an annual amount of 176 gpm and peak  
19 supply of 250 gpm. If the requested permit is obtained from the NYSDEC the  
20 gain would be about 150 gpm (0.2 mgd) for annual capacity and 75 gpm (0.1  
21 mgd) for peaking capacity. This well is located in PD50, which is the newest  
22 pressure district in which the Summit Park tank was recently constructed. The  
23 full capacity of this well can be used within this district. Additional supply can be

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1 obtained by booster pump inputs from an adjacent pressure district. The cost of  
2 this project was approximately \$1.6M.

3  
4 ***Pascack 65 Deaeration:*** At elevated pumping rates, water pumped from this  
5 well contains excessive air causing a milky appearance at the customers' taps.  
6 Currently the well pumping capacity must be limited below its design capacity to  
7 prevent this condition. This is a common condition at other Company wells, and  
8 it can be easily remedied by installation of membrane treatment equipment  
9 (similar to the facilities constructed for the Willow Tree and New Hempstead  
10 wells). The anticipated gain in peak supply is about 270 gpm, or 0.39 mgd. The  
11 cost of this project is approximately \$1.9M.

12  
13 ***Nottingham 55:*** This well is currently limited by hydraulic capacity of piping.  
14 The Company is working on increasing the size of the piping and the well pump  
15 to increase capacity. In addition to increasing hydraulic capacity, the increase in  
16 pipe diameter will also increase the chlorine contact time, which is needed at  
17 this well. The well is capable of producing an annual amount of 500 gpm and  
18 provided about 170 gpm in 2001. Therefore the anticipated gain in annual  
19 capacity is 330 gpm or 0.48 mgd. The peaking capacity of the well will be about  
20 600 gpm. As the peak usage in 2001 was about 410 gpm the increase is about  
21 190 gpm (0.27 mgd). The anticipated cost of this project is about \$500K. The  
22 total cumulative annual water supply commitments in 2010 are 0.4 mgd (0.1  
23 mgd for 2009 and 0.3 mgd for 2010). In 2009 the Company gained 0.13 mgd of

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1 annual supply capacity from the Garnerville 46 project. The total planned  
2 increase for the above four projects is about 1.2 mgd for annual capacity and  
3 1.1 mgd for peak capacity, which will be sufficient to meet average supply  
4 commitments through 2013 and peak commitments through 2015. It is  
5 important to note that these are preliminary capacity improvements and that  
6 additional work needs to be done to confirm them.

7  
8 Other Projects

9 To ensure that the Company does not have difficulty meeting commitments  
10 either due to any unforeseen problems with the above projects or for projects up  
11 to 2015, there are several other projects that are being worked on a few of  
12 which are briefly described below:

13  
14 **Montvale Booster:** Currently, UWNY serves a small area of UWNJ. This  
15 occurred many years ago because pressure was insufficient in UWNJ and  
16 sufficient in UWNY. In 2011 UWNJ plans to install a booster station to begin  
17 serving these residents in Montvale from their own system. Connections with  
18 UWNY are planned to remain but only for emergency use. This small system  
19 uses about 0.15 mgd annually and about 0.25 mgd peak. Once this project is  
20 completed, UWNY will no longer serve Montvale Pressure District 95 customers,  
21 and UWNY will effectively recoup this supply. Although no improvement is  
22 required in the UWNY system to effect this change, an improvement is required  
23 in the adjacent UWNJ system (at no cost to the customers of UWNY).

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**Other Wells:** There are two other wells (Norge 64 and Lakeshore 73) that may also benefit from the Maple Avenue Booster, as mentioned above. The quantification of increased capacities are still being developed.

**Potake Phase II:** UWN Y continues to work on this project and expects to provide a permit to NYSDEC in 2010. The potential increase is not clear yet.

Q. Dr. Miller expresses concern that the accomplishment of water supply projects does not seem to be a priority for the Company as such projects are not part of any employee's personal objectives on page 11 lines 5-9 of his testimony. Do you agree with his statement?

A. No. It appears as though the Company's response to ROCK-31 that Dr. Miller appears to be relying upon did not fully address the question of Short-term incentive goals. Let me clarify that in 2009 one of the engineers working at United Water Management and Service (UWM&S), had as one of his goals to meet the annual average supply requirement. His specific goal was: *"Prepare technical submittal for Short Term Water Supply filing to meet 2009 deadline to add required average day supply capacity according to joint proposal requirements. Submit by end of year."* This goal was 20% of the employee's personal goals. There were other employees with similar goals but only one was responsible for the submittal and therefore his goal is provided. Finally, regardless of individuals' specific goals, I want to be clear that the Company is

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1 absolutely committed to meeting supply objectives. This has been demonstrated  
2 from 2007-2009 and will continue to be demonstrated as we move forward with  
3 this important water supply program.

4 Q. Do you agree with Dr. Miller's statement on lines 18-21 of page 10 that  
5 expresses concern that the Company's supply strategy appears to be at odds  
6 with the terms of Exhibit 11, which provide that theoretical increases of  
7 increases based on a change in operation without physical change are not  
8 counted toward satisfaction of the supply increase commitment?

9 A. I do not agree. Certain transmission system infrastructure improvements would  
10 be required to make use of additional capacity from certain wells. The physical  
11 changes are to the transmission and distribution system to reduce the pressure  
12 which will allow for more water to be pumped from the said wells, this is a  
13 function of hydraulic constraints that the Company is removing to supply more  
14 water. I believe that this meets the spirit and intent of Exhibit 11 along with the  
15 clarification I've provided that details the Company's projects and plans for  
16 additional supply.

17 Q. On lines 5-16 on Page 12, Dr. Miller expresses concerns that supply additions  
18 already made and presumably to be made will "stand-up" during periods of very  
19 dry weather. Do you share Dr. Miller's concern?

20 A. Reliability of water sources is always a concern of mine. So to this degree I  
21 share Dr. Miller's concern. Dr. Miller's concern is likely based on past  
22 experiences in Rockland when various problems were experienced with certain  
23 wells. In 2005, for example, air in the distribution system from wells caused

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1 great concern over adequacy of supply from system wells. This problem has  
2 been corrected by adding air removal systems to numerous wells. There are  
3 several other actions, I will explain that the Company is taking to address Dr.  
4 Miller's concerns, which the Company shares:

5  
6 **Hydrogeologist** – In 2008 the Company added an experienced hydrogeologist,  
7 to its staff to help manage the operation of its 60 wells. One of his  
8 responsibilities is to implement a program to manage the production from wells  
9 to prevent wells with susceptible drawdown risks from being over-pumped. First  
10 the wells have been categorized into three types. Type 1 wells can be pumped  
11 year-round; Type 3 wells are mostly for peak usage and Type 2 wells are  
12 somewhat susceptible to drawdown risks and therefore need to be closely  
13 monitored. To help implement this program the Company has been working  
14 with our partners at SuezE to develop a project designed to facilitate the  
15 management of the wells. This project is known as the Integrated Water  
16 Resource Management Project (IWRMP), and has been described in both 'my  
17 direct testimony and Company witness Weland's testimony, as well as Staff  
18 Accounting Panel rebuttal testimony. A prototype has been developed and is  
19 expected to be tested at UWNY in the summer of 2010. This collaborative effort  
20 is being performed under the SuezE global research program, R+I Alliance.

21  
22 The Company is currently investigating the feasibility of an Aquifer Storage and  
23 Recovery program at this site. A workplan will be submitted shortly to NYSDEC,

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1 NYSDOH (w/cc to RCDOH). The intent of this project is to use excess water  
2 from the general system (i.e., when it is plentiful) to recharge this aquifer.  
3 Excess water can come from sources such as the Ramapo Valley Well Field  
4 (RVWF) where the supply is often not pumped to its maximum during period  
5 when supply is available or from flood skimming at Lake DeForest, discussed  
6 further below.

7  
8 UWNJ has been studying the possibility of increasing the withdrawal of water  
9 from Lake DeForest beyond the current 10 mgd nominal limit during periods of  
10 excess water availability (i.e., during periods of reservoir spillage). In 2010 the  
11 Company will be meeting with NYSDEC and RCDOH to discuss this possibility.  
12 Furthermore the Company plans to establish a workgroup consisting of  
13 regulators from both New York and New Jersey to discuss the merits/concerns  
14 of such a proposal.

15 Q. Do you agree with Dr. Miller's statement on lines 12-14 of page 13 of his  
16 testimony that "...the Commission should require UWNJ to identify those  
17 projects it will pursue to meet both the peak and average day supply  
18 commitments set out in the Joint Proposal for 2010 and beyond"?

19 A. No. The Company has provided its plans in adequate detail in interrogatories  
20 available to all parties and within the Company's testimony.

21 Q. Would you like to clarify Dr. Miller's statement in lines 7-11 of page 22 that  
22 indicates than "...on average 27 MGD, 19.25 MGD more than required, flow to  
23 New Jersey for use by UWNJ."



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1 A. Yes. First, Lake DeForest is the upstream reservoir in the Hackensack River.  
2 The two downstream reservoirs are Lake Tappan and Oradell Reservoir. Like  
3 any typical reservoir, it was designed to provide a safe yield of supply during the  
4 worse drought of record. Such a drought condition is a relatively rare event but  
5 is an appropriate design standard to ensure that severe water restrictions will be  
6 similarly rare. Like any typical reservoir, Lake DeForest often spills (i.e., storage  
7 exceeds the maximum volume of 5.6 BG) because rainfall/runoff conditions  
8 occur more frequently than drought-of-record conditions. Therefore it is not  
9 unexpected that downstream river conditions (i.e., those below the village of  
10 Nyack at the West Nyack USGS gauging station) would reflect this. In other  
11 words it is not at all unexpected that downstream flow would be more than the  
12 minimum release from DeForest (i.e., 27 mgd as a mean value from 1965 to  
13 2008 at the West Nyack gauge, which includes the minimum release  
14 requirements of 7.75 mgd resulting in 19.25 mgd in addition to the minimum  
15 release). A portion of the 19.25 mgd is due to natural spillage and a portion is  
16 due to the additional releases that UWNJ may make to UWNJ according the  
17 existing NYSDEC permit conditions. There are really only two ways to make  
18 use of the portion of water that spills from Lake DeForest:

- 19 • The first is to increase the volume of Lake DeForest by raising the dam and/or  
20 dredging the reservoir. This water supply alternative has been discussed in the  
21 DEIS for the Hudson River Project and has been studied over the years.  
22 Unfortunately, these actions are not cost-effective and more importantly would

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1 not have a significant positive impact on safe yield which is more a function of  
2 watershed runoff during droughts than it is volume of storage.

- 3 • Another more novel way of making use in Rockland of spilled water is a spill  
4 skimming concept that was originally put forth by UWNJ. The concept is to allow  
5 additional water to be taken during periods of spillage and to potentially use this  
6 water to rest system wells and/or for aquifer recharge. In the water resources  
7 industry this is referred to as conjunctive use. As indicated previously, Lake  
8 DeForest is not the only supply that can be used for this purpose. The RVWF  
9 often has more water available that is used to rest system wells and could also  
10 be used to recharge aquifers, if ASR is found to be feasible. In 2010 UWNJ  
11 intends to establish a work group with participants from regulators in both New  
12 York and New Jersey to discuss a Deforest overflow usage. Dr. Miller  
13 recognizes the potential benefit of such improvements in his response to  
14 Interrogatory UWNJ-23 with regard to reliability of wells and possibly to allow for  
15 further supply from existing wells (i.e., should conjunctive use be successful).

16 Q. On line 21 of page 24 through line 2 of page 25 Dr. Miller states "In 2009,  
17 Rockland County became aware of a 1997 modification to the NJDEP permit for  
18 the Oradell reservoir that requires a continuous 8.34 MGD release from Oradell  
19 regardless of climatic conditions." Do you agree with this statement?

20 A. The Company does not know if the County of Rockland was aware of the  
21 modification of United Water New Jersey's permit 5111 by the New Jersey  
22 Department of Environmental Protection (NJDEP) in 1997. More importantly,  
23 however, the NYSDEC was aware of the 1997 permit modification. In fact, in a

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1 letter to the NJDEP, a NYSDEC official stated, “[i]n short, the Bureau of Water  
2 Permits at DEC supports the conclusions and recommendations contained in  
3 your Staff Report on the proposal to modify your Water Allocation Permit No.  
4 5111” (Rebuttal Exhibit MJP-3).

5 NYSDEC WSA 2189, as modified by the NYSDEC in 1982 in its 6th Modifying  
6 Decision, continues to protect the rights of the Company’s Rockland County  
7 customers. However, to keep the NYSDEC fully apprised, the Company will  
8 discuss the topics raised in Dr. Miller’s testimony with the NYSDEC. The  
9 Company will, of course, be glad to meet with the County of Rockland on the  
10 issues raised by Dr. Miller following the Company’s discussions with the  
11 NYSDEC.

12 Q. Do you agree with Dr. Miller’s statement in Lines 5-7 of page 25 that “With this  
13 change, it is uncertain whether WSA 2189 remains protective of even the  
14 minimum 10 MGD allocation of the safe yield”?

15 A. No, I do not agree. The safe yield of Lake DeForest is independent of what  
16 UWNJ does at Oradell Reservoir. In other words, the safe yield of Lake  
17 DeForest is controlled by the minimum release (i.e., 9.75 mgd including water  
18 used by the Village of Nyack) and 10 mgd taken by UWNJ. Releases from  
19 Oradell Reservoir would not have a negative effect on this long established  
20 allocation

21 Q. Dr. Miller state on lines 12-14 of page 25 that “[0]ne obstacle to UWNJ using  
22 more than 10 MGD for Rockland County on an annual average basis is an

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1 intercompany agreement between UWNY and its sister company in New  
2 Jersey...” Do you agree with this statement?

3 A. No, I do not agree that this intercompany agreement limits the ability of UWNY  
4 to use more than 10 mgd annually. The purpose of this agreement is to allocate  
5 costs associated with maintaining the Lake DeForest dam. The agreement uses  
6 the safe yield as a basis for allocation. If UWNY took more than 10 mgd (i.e.,  
7 during non-drought years via a spill skimming arrangement, for example), this  
8 would require a change to cost allocation formula to reflect the fact that UWNY  
9 took more than the 10 MGD annual average. The intercompany agreement  
10 reads as follows:

11  
12 “Spring Valley’s Allocated Average Annual Diversion (“AAAD”) –  
13 Spring Valley’s Allocated Average Annual Diversion is 10 MGD the  
14 amount reserved to Spring Valley in accordance with the State of  
15 New York, Department of Environmental Conservation, Sixth  
16 Modifying Decision, November 1, 1982, Application No. 2189. In  
17 the event that Spring Valley draws more than 10 MGD on an  
18 average annual basis, Hackensack and Spring Valley agree that  
19 this agreement will be revised to reflect Spring Valley’s actual  
20 AAAD. Specifically Hackensack’s annual payment will be reduced  
21 to reflect the actual AAAD.  
22

23 Q. Dr. Miller’ also states at line 21 of page 26 and lines 1-2 of page 27 that “...it is  
24 financially unattractive for UWNY to use more than 10 MGD for Rockland  
25 County on an annual basis because that would further increase UWNY’s  
26 proportion of the annual operating cost for the Lake DeForest Reservoir.” Do  
27 you disagree with his statement?

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1 A. Yes, I disagree with the statement. While the proceeds from UWNJ may not be  
2 at the specified 56% as determined by the safe yield allocation formula, it does  
3 not follow that it is financially unattractive for UWNJ to take more than 10 MGD.  
4 This rate proceeding allows UWNJ to present all prudent expenditures for  
5 recovery. If it was determined that UWNJ could take more water and this  
6 changed the amount of money UWNJ would pay to UWNJ, the Company would  
7 have to present this to the PSC for appropriate recovery. These potential costs  
8 have not been included in the Company's current costs.

9 However, I recommend that a provision be added to the Company's proposed  
10 Revenue Reconciliation, Production Cost and Property Tax Tariff Statement as  
11 a reconciling item that would accommodate any change in cost associated with  
12 a change in allocation in accordance with the allocation formula. Company  
13 Witness Jersey has included this item in the proposed tariff included with her  
14 Rebuttal testimony.

15 Q. Do you agree with Dr. Miller's statement on lines 13-15 of page 27 that "Using  
16 those numbers, UWNJ and Village of Nyack ratepayers currently use only about  
17 31 percent of the total actual average yield from the Lake DeForest Reservoir"?

18 A. No. Dr. Miller is trying to make the point here that Rockland residents should  
19 not pay 56% of the cost to maintain these facilities (i.e., the ratio of safe yield  
20 allocated to UWNJ) but rather should pay a smaller amount based on actual  
21 flows in the Hackensack River. I do not agree with this because, as indicated  
22 above, the agreement is based on safe yield and does not increase the payment  
23 from UWNJ based on whether water spills from DeForest or not.

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1 Q. At page 28, lines 1-4 Dr. Miller states that "...the final condition of the NYSDOH  
2 approval was to limit the annual average taking of water from Lake DeForest  
3 Reservoir to 10 MGD, thereby completely disallowing Rockland County the  
4 beneficial use of any water exceeding the safe yield allocation." Do you agree  
5 that this condition exists?

6 A. Yes. NYSDOH did impose this limitation and it is UWNY's intent to request that  
7 this it be relieved within the context of a spill skimming proposal.

8 Q. Do you agree with Dr. Miller's statement in lines 5-10 of page 30 that, "UWNY  
9 should be required to consult with Rockland County and get prior approval from  
10 the Commission whenever it determines to release more than the 9.75 MGD  
11 required flow and to make additional release that would solely benefit UWNJ  
12 and its customers?

13 A. No. The sixth modification of NYSDEC WSA 2189 provides the reservoir rules  
14 by which these releases may be made. UWNY carefully considers its own  
15 supply situation prior to making a decision regarding such requested releases  
16 from UWNJ. It is the Company's belief that the process of deciding on these  
17 releases has been working well and any releases that have been made (after  
18 the sixth modifying decision was established) have not put the customers of  
19 UWNY at any risk of insufficient water supply. The NYSDEC has been  
20 providing appropriate oversight on these releases and it is therefore the  
21 Company's opinion that no further regulatory oversight is needed.

22 Q. Does this conclude your rebuttal testimony?

23 A. Yes.