

ULSTER COUNTY EXECUTIVE

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January 9, 2024

The Honorable Rory Christian, Chair
New York State Public Service Commission
3 Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

RE: Matter No. 20-W-0477 and Rate case No. 22-W-0357

Dear Chair Christian:

We write to you today out of concern for the 430 households who continue to receive unreliable water service from Hudson Valley Water Company ("HVWC"), and we request that the Public Service Commission use its authority under Public Service Law 89-h (5) to authorize the transfer of the Hudson Valley Water Company to another operating entity. As we write, customers at system No. 5 in Boiceville are without drinking water service for the 25th day, and spent their holidays carting water from a tanker truck. Across the five community water systems in Ulster County operated by HVWC, customers have been plagued by service interruptions, poor communication with customers, and the company's failure to follow its own Commission-approved Standard Operating Procedures and Emergency Plan. HVWC's poor record of service establishes a clear justification under Public Service Law for a new operator where there is a vital benefit to the public interest.¹

The company's response to the failure of the Arsenic Removal System at No. 5 Boiceville on December 16, 2023, showed a disregard for its Department of Public Service-approved Emergency Plan. Under that plan, the company is to provide a tanker of potable water if the system fails and is not operational for more than one day. Despite repeated orders from the Ulster County Department of Health (UCDOH) to provide potable water in any form, with the first order on December 18, the operator and company failed to do so until Saturday, December 23. Customer communication was poor from the start of the service interruption through the eventual delivery of potable water.

¹ <https://codes.findlaw.com/ny/public-service-law/pbs-sect-89-h/>

Customers repeatedly tried and failed to obtain information on the reasons for the “Do Not Drink” notice and on the expected delivery of potable water. Customers were not notified of the tanker’s arrival until after its delivery on December 23, contrary to the full measures of notice outlined in the company’s Emergency Plan. The prolonged uncertainty experienced by customers about access to potable water was exceptionally stressful on a major holiday weekend.

The failure of the Arsenic Removal System could have been entirely avoided had HVWC followed its Standard Operating Procedures to monitor the Arsenic Removal System for No. 5. Months before the system failure, UCDOH communicated to the operator that the media for the Arsenic Removal System should be replaced, but the Department’s guidance was ignored. Due to the delayed attention given to this important matter, residential customers will have been without potable running water for nearly an entire month.

HVWC operates five systems throughout Ulster County, including in Mount Marion, High Falls, Pine Lane - Hurley, West Hurley and Boiceville. As the Department of Public Service is well aware, HVWC has historically elected not to invest in infrastructure and appropriate maintenance of these water systems. While the company and operators are currently struggling to address the Boiceville system, No. 2 High Falls experienced a service outage on December 20 and 21, and No. 4 West Hurley is pumping at less than 35 percent and again requires leak identification and repair. As these systems continue to age and experience more breakdowns, service interruptions, and adverse impacts on water quality, the need for adequate investment has grown more urgent. Beyond the state of the system itself, customers have for many years complained about the substandard quality of HVWC’s customer service as well as unreasonable rates. All of the issues were substantiated by the Department of Public Service in an investigation into the water company in 2019-2020 and persist to this day, despite an Order by the Commission Chair directing HVWC to implement corrective actions recommended by the Department.² UCDOH and elected officials from local to state levels have fielded complaints from HVWC water customers over many years, and have repeatedly tried to intervene to ensure appropriate measures are taken to provide adequate service and quality water to these residents. It is beyond time for a solution that will ensure a safe and reliable water supply for these residential customers.

We request that the Commission use its authority under Public Service Law 89-h (5) and apply the policy guidance established in Case 93-W-0962³ to facilitate the transfer of ownership of HVWC systems to a new single owner and operator that can provide reliable service to customers at just and reasonable rates. The policy guidance established in the above-referenced case is intended to mitigate the unique challenges facing small water systems like those currently owned by HVWC by

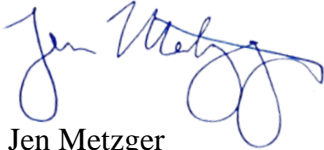
² **October 2, 2020 John B. Rhodes, Chair - One Commissioner Order Requiring Compliance Plan Case 20-W-0477**

³**8, 1994 Guidance August Documents/ Policy Statements**
<https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=93-W-0962&CaseSearch=Search>

providing financial incentives for their acquisition and operation by a single entity with the resources to make the necessary capital investments and manage the system efficiently. Such cause has been deemed pertinent by the Commission in previous cases, such as Case 19-W-0726 (regarding Suez Water and Heritage Hills) and Case 14-W-0148 (regarding Lucas Estates and New York American Water Company).

Hudson Valley Water Company has clearly proven its inability to provide a safe, reliable water supply at just and reasonable rates, with a poor track record over many years, and it is incumbent on the Commission to facilitate a lasting solution that protects the health, safety, and well-being of the 430 households in our County that depend on these community water systems.

Sincerely,



Jen Metzger
Ulster County Executive



Dr. Carol Smith
Commissioner, Ulster County Department of Health



Senator Michelle Hinchey, 41st District



Assembly Member Sarahana Shrestha, 103rd District



Fred Costello
Town Supervisor, Saugerties



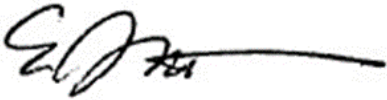
Mike Boms
Town Supervisor, Hurley



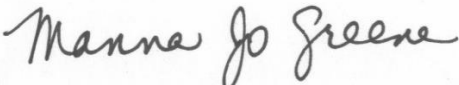
Jeanne Walsh
Town Supervisor, Rosendale



Jim Sofranko
Town Supervisor, Olive



Eric Stewart
Ulster County Legislator District 18



Manna Jo Greene
Ulster County Legislator District 19



Kathy Nolan
Ulster County Legislator District 22



Jeff Collins
Ulster County Legislator Elect District 23

CC:
Public Utility Law Project
Jeffrey Fuller, Owner Hudson Valley Water Company