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CHARLES D. LAVINE
Assemblyman 13th District

CHAIR
Election Law Committee

July 8, 2018

Via Email

Hon. John B. Rhodes
Chair, Public Service Commission

Re: New York American Water
16-W-0259, 17-W-0300

Dear Chair Rhodes:

Dated June 29, 2018, the exacting PSC "Staff Report Into Causes of New York American Water's Property Tax Expense Error, and Reasons for Untimely Reporting to the Department of Public Service and the Commission" establishes that the reason for the PSC's approval of NYAW's rate increase was based on knowingly false information/data presented to the PSC by NYAW.

Findings include, but are not limited to the following, with page references: "NYAW's employees didn't seem to care . . . seemed indifferent . . . displayed arrogance and unwarranted certitude (15), knew of material errors and failed to disclose that information in rate proceedings before the Commission (21), chose not to disclose the information (22), erroneous tax filings were a known material fact and that fact was purposely withheld from the records in the rate proceeding (23), this was not a truthful candid response . . . This response was, at best, a misleading statement. These erroneous filings greatly inflated historical expenses (27)."

While the Report indicates that NYAW senior management has since been cooperative and forthcoming and has implemented some safeguards and that six employees most directly involved have been discharged, I note the last sentences of the report (39):

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"If such behavior is not properly and swiftly addressed, it may encourage other utilities to act in a similar fashion. Honesty, candor, and integrity are essential to the Commission's regulatory process. Therefore, while the rate effects of the error will be reversed and remedied, Staff recommends the Commission consider further enforcement actions, including requiring the Company to hire an independent monitor and reviewing whether certain costs associated with the Company's failures should be paid for by shareholders rather than ratepayers."

I urge the commission to adopt the investigation's findings and recommendations in full.

When substantial corporate profits can be fraudulently increased based on false data submissions, there is an obvious motivation for wrongdoing. The PSC should impose a substantial sanction on NYAW, a penalty that must be paid solely from corporate profits.

The ratepayers must be made whole and NYAW must be forced to retain an independent monitor ready, willing and able to meet with the ratepayers.

I am copying New York State Attorney General Barbara D. Underwood. The Staff Report's findings are so troubling that the Office of the Attorney General should be made aware of the report and should consider commencing an investigation.

Thank you for your consideration respecting this matter.

Sincerely,



Charles Lavine
Member of Assembly

Cc: Hon. Barbara D. Underwood