



December 20, 2011

John Felsen, Manager  
Monroe County Department of Public Health  
Division of Environmental Health  
P.O. Box 92832  
111 Westfall Road  
Rochester, NY 14692-8932

RE: City of Rochester LT2 Rule Bilateral Compliance Agreement

Dear Mr. Felsen:

The City of Rochester respectfully requests your approval to amend the August 18, 2011, Bilateral Compliance Agreement (BCA) regarding compliance with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). The August 18, 2011, BCA requires the City of Rochester to bring its three (3) uncovered finished-water reservoirs into compliance with the LT2 rule by December 31, 2014. We have currently completed the first leg of our BCA agreement to install a synthetic liner on Highland Reservoir at a cost of over \$4 million. We are currently on schedule to complete the second leg of our LT2 compliance program to install a synthetic liner and floating cover on Rush Reservoir by December 31, 2012, at a cost of over \$11 million.

The third and final leg of our compliance plan involves installing ultraviolet disinfection (UV) reactors at Cobbs Hill Reservoir and Highland Reservoir. The total expected cost of this third leg is approximately \$15 million. We are specifically requesting an alteration of the milestone dates for both the Cobbs Hill Reservoir UV project and the Highland Reservoir UV project. We request approval to modify our BCA completion date for the Cobbs Hill Reservoir and the Highland Reservoir UV projects from December 31, 2014, to December 31, 2024.

We are making this request for the following reasons:

1. Like many other cities in New York, Rochester is experiencing financial hardship. The current economic recession has contributed to the city's difficult finances and the loss in population has also put pressure on the city's finances. Its population has dropped precipitously by 15% since 1990, while water consumption has decreased by 40% during the same period. We have lost commercial, industrial and residential customers. This results in fewer ratepayers paying an ever increasing share of the costs to make capital improvements to the water system. While the population decreased by 10% since 2000, the water rates have increased 44%. We have sought alternative funding sources such as congressional earmarks, EPA appropriations, and NYSDWSRF funding, but we have been unable to secure outside funding to lessen the financial hardship for the Cobbs Hill and Highland UV improvements. Due to the capital investment needs of the water system, we are carrying a very high debt load with a total principal and debt load payment of approximately \$5.5 million due in 2014. This debt load includes the \$15 million we have already spent on LT2ESWTR compliance projects. It does not include the \$15 million we expect to spend as part of the Cobb Hill and Highland UV project.



2. The City's resources are limited and barely adequate to cover all the "typical" capital investments required to keep an old water system like Rochester's running properly. Without question, the City's highest priority is to upgrade its conduits and distribution mains. Failure to make this investment will jeopardize future system reliability, which may have serious public health implications. Over the next four years, the City has budgeted over \$20 million for cleaning and lining mains, conduit replacement, and water main replacement. Other funded priorities for the city include: 1) equipment replacement at the Filtration Plant (approaching 20 years old), 2) system security, 3) SCADA upgrades, and 4) conduit and distribution vault rehabilitation. Another \$15 million is budgeted for these efforts. The City believes these projects will produce measurable, documented public health benefits. The same cannot be said for the LT2 rule's UV requirement, since not one case of cryptosporidiosis has ever been linked to Rochester's drinking water. We feel our limited financial resources are better spent on making improvements to the transmission and distribution systems that would reduce the number of water main breaks and the associated interruption of service. This would also reduce the potential to incur contamination resulting from the breaks.
3. US EPA Administrator Lisa Jackson recently announced a review of the LT2 rule. Ms. Jackson was prompted to review the LT2 rule because of requests from New York City, US Senator Charles Schumer, and others to reevaluate the effectiveness of the regulation in light of new data that brings into question the assumptions upon which the LT2 rule was promulgated.

Amending our BCA milestone compliance dates will afford the City of Rochester the ability to continue to fund projects with the greatest measurable benefit to our system. Furthermore, by deferring the compliance dates for the UV improvements, we would be able to benefit from potential improvements to the regulations that may result from USEPA's review that is currently ongoing. Most of all, the City of Rochester would be afforded the ability to lessen the already heavy financial burden to its ratepayers by deferring approximately \$15 million in capital expense to a date when the debt load will not be as onerous. The average annual water debt between 2011 and 2024 is \$3.81 million while the 2025 debt drops to \$0.44 million.

Based on local public health records, the City does not believe Cryptosporidium is a problem in its water supply. Source-water testing dating back to the 1980s has never recovered Cryptosporidium oocysts. The source water is also filtered. If an extension to our BCA is granted, the City will begin monthly testing for Cryptosporidium at both Highland and Cobbs Hill Reservoirs. If test results show Cryptosporidium is present, the City will reassess the situation with the Monroe County Department of Public Health and develop plans to address the needed improvements at Cobbs Hill and Highland Reservoirs.

We would appreciate an expeditious response to this request. We are about to commence design of the Cobbs Hill and Highland UV projects and an early indication of your response would allow us the leeway to minimize some of the early design costs that would be foregone if our milestone changes are approved.

Respectfully,

  
Robert L. Morrison  
Director

CC: Paul Holahan