

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 15, 2007

IN RE:

**PETITION OF TENNESSEE AMERICAN WATER
COMPANY TO CHANGE AND INCREASE CERTAIN
RATES AND CHARGES SO AS TO PERMIT IT TO
EARN A FAIR AND ADEQUATE RATE OF RETURN
ON ITS PROPERTY USED AND USEFUL IN FURNISHING
WATER SERVICE TO ITS CUSTOMERS**

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**DOCKET NO.
06-00290**

ORDER RESOLVING, IN PART, OBJECTIONS TO DISCOVERY REQUESTS

This docket came before the Hearing Officer during a Status Conference held on February 9, 2007 at which time the Hearing Officer heard arguments on objections filed by Tennessee American Water Company ("TAWC" or "Company") to the first round of discovery requests issued by the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), the City of Chattanooga ("Chattanooga"), and Chattanooga Manufacturers Association ("CMA"). Additionally, the Hearing Officer heard arguments on Motions to Compel filed by the Consumer Advocate, Chattanooga, and CMA.

BACKGROUND

On November 22, 2006, Tennessee American Water Company filed its *Petition* in which the Company seeks approval by the Authority of proposed increased rates, alleging that "[t]he Company's existing rates and charges will not provide, and cannot be made to provide, sufficient revenues to cover all the costs incurred in providing adequate quality water service including its

cost of capital.”¹ In the *Petition*, TAWC requests that the Authority set a hearing and determine, after the presentation of evidence, that the rates proposed by TAWC are just and reasonable. During an Authority Conference held on December 4, 2006, the panel assigned to this docket appointed General Counsel as Hearing Officer for the purposes of preparing this matter for hearing, including establishing a procedural schedule that supports an April hearing date.

On December 21, 2007, the Hearing Officer issued *Order Suspending Tariffs, Granting Petition to Intervene and Setting a Status Conference*. On January 8, 2007, a Status Conference was held to establish a procedural schedule, discuss the scope of discovery and issue a protective order. On January 17, 2007, the Hearing Officer issued an *Order Granting Petitions to Intervene, Permitting Additional Discovery Requests and Establishing a Procedural Schedule*. A Protective Order was issued on January 19, 2007.

The Consumer Advocate, Chattanooga and CMA sought and were granted intervention in this docket. Pursuant to the procedural schedule, the parties commenced discovery. The Consumer Advocate and Chattanooga submitted discovery requests to the Company on January 22, 2007. CMA submitted its requests on January 23, 2007.

In accordance with the procedural schedule, the Hearing Officer issued a *Notice of Status Conference* on February 6, 2007, setting a Status Conference on February 9, 2007 to resolve potential discovery disputes. On February 6, 2007, the Company filed objections to certain discovery requests of the Consumer Advocate’s and Chattanooga’s discovery and data requests. On February 8, 2007, the Company filed its responses and objections to CMA’s discovery and data requests. The Consumer Advocate, Chattanooga and CMA filed motions to compel responses to discovery on February 8, 2007.

¹ *Petition* at 2 (November 22, 2006).

FEBRUARY 9, 2007 STATUS CONFERENCE

The Hearing Officer convened the Status Conference on February 9, 2007. The following party representatives were in attendance:

Tennessee American Water Company – R. Dale Grimes, Esq. and Ross I. Booher, Esq., Bass, Berry & Sims, PLC, 315 Deaderick Street, Suite 2700, Nashville, TN 37238-3001.

Consumer Advocate – Vance Broemel, Esq., Consumer Advocate and Protection Division of the Office of the Attorney General, Office of the Attorney General, 425 5th Ave. N, John Sevier Building, P.O. Box 20207, Nashville, TN 37243;

City of Chattanooga – Michael A. McMahan, Esq., Office of the City Attorney, 801 Broad Street, Suite 400, Chattanooga, TN 37402; Frederick L. Hitchcock, Esq., 1000 Tallan Building, Two Union Square, Chattanooga, TN 37402; and

Chattanooga Manufacturers Association – Henry Walker, Esq., Boulton, Cummings, Conners & Berry, PLC, 1600 Division Street, Suite 700, Nashville, Tennessee 37203; David C. Higney, Esq., Grant, Konvalinka & Harrison, P.C., Ninth Floor, Republic Centre, 633 Chestnut Street, Chattanooga, Tennessee 37450-0900.

After introductory remarks, the Hearing Officer recessed the conference for a period of time to allow the parties to informally discuss and attempt to resolve the discovery issues raised in the objections and motions to compel. Upon the Status Conference being reconvened, the Company informed the Hearing Officer that many of the discovery disputes had been resolved. Each of the parties advised the Hearing Officer of the specific discovery requests to which it had reached agreement with the Company.

During the February 9, 2007 Status Conference, the Consumer Advocate stated that it had reached an agreement with the Company concerning the **Consumer Advocate Part II Discovery Requests Nos. 15, 16, 17, 34, 36, 37 and Consumer Advocate Part III Discovery Request No. 1**. Chattanooga stated that it resolved **Discovery Requests Nos. 1, 2, 4, 11, 13, 14, 15, 16, 18, 19, 20, 24, 30, 32, and 38** with the Company. Finally, CMA stated that it resolved its **Discovery Requests Nos. 4, 5, 7, 12, 14, 21, 22, and 24** with the Company.

Following the announcement of the agreements relating to the above referenced discovery requests, the Company stated that it wanted the opportunity to review the transcript of the Status Conference to ascertain the accuracy and completeness of the representations of the parties regarding the resolution of the objections and motions to compel. The Hearing Officer ruled that the additional discovery responses would be provided by the Company on February 14, 2007 in keeping with the procedural schedule. The Hearing Officer also directed the Intervenor to review the discovery provided by the Company and notify the Hearing Officer no later than Friday, February 16, 2007 in the event the Intervenor is of the opinion that the responses provided on February 14, 2007 do not comply with the agreements reached regarding the discovery requests.²

The Hearing Officer took under advisement the discovery requests, objections and motions to compel pertaining to the Initial Public Offering ("IPO"). A separate order will issue regarding those discovery issues.

IT IS THEREFORE ORDERED THAT:

1. The Company shall provide the necessary responses and/or additional information as agreed for the **Consumer Advocate Part II Discovery Requests Nos. 15, 16, 17, 34, 36, 37 and Consumer Advocate Part III Discovery Requests No. 1.**

2. The Company shall provide the necessary responses and/or additional information as agreed for the **City of Chattanooga Discovery Requests Nos. 1, 2, 4, 11, 13, 14, 15, 16, 18, 19, 20, 24, 30, 32, and 38.**

² On February 12, 2007, after reviewing the transcript, counsel for TAWC submitted a letter which sets forth the Company's position regarding the scope of the discovery responses to be provided pursuant to the agreement of the parties during the Status Conference. Counsel for Chattanooga responded in a letter dated February 13, 2007 that while it did not agree with the statements in the Company's letter, Chattanooga would review the production on February 14 and respond as directed at the February 9, 2007 Status Conference.

3. The Company shall provide the necessary responses and/or additional information as agreed for **Chattanooga Manufacturers Association Discovery Requests Nos. 4, 5, 7, 12, 14, 21, 22, and 24.**

4. The Supplemental Responses of the Company shall be filed no later than **4:30 p.m. on Wednesday, February 14, 2007.** A copy of the responses shall be filed with the Tennessee Regulatory Authority, Office of the Chairman, with copies served on all counsel of record.

5. The Consumer Advocate, Chattanooga and CMA shall review the responses of the Company and notify the Hearing Officer no later than **4:30 p.m. on Friday, February 16, 2007** whether, in their opinion, the information and documentation provided complies with the agreements relating to their discovery requests.


J. Richard Collier, Hearing Officer