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March 15, 2007

**VIA HAND-DELIVERY**

Chairman Sara Kyle  
c/o Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

filed electronically in docket office on 03/16/07

***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; Docket No. 06-00290***

Dear Chairman Kyle:

Enclosed please find an original and sixteen (16) copies of Tennessee American Water Company's Motion for Reconsideration of Order Granting Motions to Compel Discovery Relating to Initial Public Offering Information and Materials or, in the Alternative, for Interlocutory Review by the Tennessee Regulatory Authority.

Please return three copies of the Discovery Requests, which I would appreciate your stamping as "filed," and returning to me by way of our courier.

Should you have any questions concerning any of the enclosed, please do not hesitate to contact me.

With kindest regards, I remain

Yours very truly,



R. Dale Grimes

RDG/ms  
Enclosures

Chairman Sara Kyle

March 15, 2007

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cc: Hon. Pat Miller (*w/o enclosure*)  
Hon. Ron Jones (*w/o enclosure*)  
Hon. Eddie Roberson (*w/o enclosure*)  
Ms. Darlene Standley, Chief of Utilities Division (*w/o enclosure*)  
Richard Collier, Esq. (*w/o enclosure*)  
Mr. Jerry Kettles, Chief of Economic Analysis & Policy Division (*w/o enclosure*)  
Ms. Pat Murphy (*w/o enclosure*)  
Michael A. McMahon, Esq. (*w/enclosure*)  
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Vance Broemel, Esq. (*w/enclosure*)  
Henry Walker, Esq. (*w/enclosure*)  
David Higney, Esq. (*w/enclosure*)  
Mr. John Watson (*w/o enclosure*)  
Mr. Michael A. Miller (*w/o enclosure*)

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

<b>PETITION OF TENNESSEE AMERICAN</b>	)	
<b>WATER COMPANY TO CHANGE AND</b>	)	
<b>INCREASE CERTAIN RATES AND</b>	)	
<b>CHARGES SO AS TO PERMIT IT TO</b>	)	<b>Docket No. 06-00290</b>
<b>EARN A FAIR AND ADEQUATE RATE</b>	)	
<b>OF RETURN ON ITS PROPERTY USED</b>	)	
<b>AND USEFUL IN FURNISHING WATER</b>	)	
<b>SERVICE TO ITS CUSTOMERS</b>	)	

**TENNESSEE AMERICAN WATER COMPANY'S MOTION FOR  
RECONSIDERATION OF ORDER GRANTING MOTIONS TO COMPEL DISCOVERY  
RELATING TO INITIAL PUBLIC OFFERING INFORMATION AND MATERIALS  
OR, IN THE ALTERNATIVE, FOR INTERLOCUTORY REVIEW BY THE  
TENNESSEE REGULATORY AUTHORITY**

By Order dated March 1, 2007 (the "IPO Order"),<sup>1</sup> the Hearing Officer addressed the scope of discoverable information in this rate case. According to the IPO Order, "discovery of information and documentation related to whether and to what extent the anticipated" an Initial Public Offering ("IPO") of Tennessee American Water Company's ("TAWC") parent company "may impact or affect the Company's rates, policies, service, operations, financing, and other matters affecting the public interest" is relevant and reasonable to the present rate case and may be reasonably calculated to lead to the discovery of admissible evidence. (IPO Order, p. 11.) TAWC was afforded seven calendar days to produce this material. Simultaneously with the entry of the IPO Order, the Hearing Officer also entered a supplemental protective order ("SPO") to govern the production of highly confidential information pursuant to the IPO Order. (IPO Order, p. 11-12.) In view of all the circumstances, TAWC prepared to comply with both these orders and filed the highly confidential information with the TRA by the required deadline. It

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<sup>1</sup> A copy of this Order is attached hereto as Exhibit A.

did not provide access to the Highly Confidential Information to the intervening parties because none had signed the prerequisite nondisclosure statement. By the time counsel for one of the parties, the CMA, executed the nondisclosure statement, the Consumer Advocate and Protection Division of the Attorney General of the State of Tennessee ("CAPD") filed a motion to reconsider the SPO (the "CAPD Motion to Reconsider").<sup>2</sup> TAWC did not intend to challenge the IPO Order at this time, but the actions of the CAPD, copied by the City of Chattanooga ("City"), requires otherwise. Therefore, conditioned upon a decision on the CAPD Motion to Reconsider that results in rescinding or altering the SPO, TAWC now respectfully requests the Hearing Officer to reconsider and reverse the IPO Order.

In support of this Motion, TAWC renews its contention previously made in the February 9, 2007 Status Conference that the information relating to the IPO is irrelevant to this rate case and that compelling discovery of IPO-related information imposes an undue burden on the TAWC. (*See* Status Conference Transcript, pp. 39-50.) This proceeding is a rate case, not a change of control review. The change of control has already been approved by the Tennessee Regulatory Authority. Furthermore, the IPO and the related transactions will not affect Chattanooga ratepayers or the quality of service in any way. Consequently, documents related to the anticipated IPO are not relevant to this case. This point is underscored by the complete

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<sup>2</sup> Tennessee American has provided access to the Highly Confidential Information to the CMA's counsel who executed the Nondisclosure Statement on the condition that he has agreed to return the material if the protections of the SPO are compromised. Tennessee American has not served copies of the Highly Confidential Information on the City. While one of its counsel has since signed a Nondisclosure Statement, his co-counsel has asserted that signing the Statement is not required, and their client has joined in the CAPD Motion to Reconsider. Confusingly, the City's counsel that finally executed the Affidavit has stated he is unavailable for multiple days and that the co-counsel who has not signed the Affidavit and who denies that the SPO requires him to do so in order to receive Highly Confidential Information will be handling this matter for the City over the next several days. The IPO Order cannot reasonably be interpreted to require Tennessee American to provide access to Highly Confidential Information under circumstances where a party has called into question its understanding of, or willingness to comply with, the SPO.

absence of any relevant information relating to the IPO contained in the documentation TAWC has already produced in this case since the entry of the IPO Order.

Furthermore, the continuing threat to TAWC's legal and business interests posed by the production and possible release of the IPO-related information counsels in favor of a reconsideration of the IPO Order. This is especially true in light of the CAPD's recent motion for reconsideration of the SPO. The positions, arguments, and interpretations advanced in CAPD's Motion to Reconsider reveal a fundamental lack of appreciation by the CAPD of the sensitivity of the Highly Confidential Information the IPO Order requires TAWC to produce. The CAPD's Motion to Reconsider evidences that the CAPD has a strong preference for making discovery it obtains in this rate case, including Highly Confidential Information related to the IPO, available for public inspection. (*See* CAPD's Motion for Reconsideration, p. 6 ("the Tennessee Attorney General's Office should have the ability to consider the possibility that Tennessee courts would be willing to look behind the supplemental protective order to determine whether a document designated as 'highly confidential' has been designated appropriately")). The CAPD has even refused to accept a delivery that it thought might contain highly confidential documents so that it will not come under the provisions of the SPO. Thus, if TAWC is forced to produce the IPO-related documents, it will be required to do so under the very real threat that the extremely sensitive information contained in those documents will be disclosed to the public.

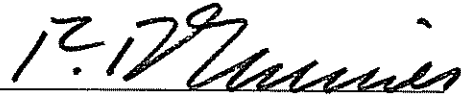
Any relevance this material may arguably have to the present rate case is more than outweighed by this serious, unfair and unreasonable risk of public disclosure, especially because that disclosure could subject TAWC to liability for violating federal law prohibiting the release of such information. This risk, by itself, is an undue burden on TAWC. Consequently, TAWC

requests this Hearing Officer to reconsider the portion of his Order mandating the production of IPO-related information.

**Conclusion**

For all of the foregoing reasons, in the event the SPO is altered or rescinded, TAWC respectfully requests the Hearing Officer to reconsider and withdraw the portion of the IPO Order requiring TAWC to produce IPO-related information. TAWC is available for oral argument of this motion, and should the Hearing Officer deny this motion, TAWC requests immediate interlocutory appeal to the Tennessee Regulatory Authority.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Grimes", is written over a horizontal line.

R. Dale Grimes (#6223)  
J. Davidson French (#15442)  
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*Counsel for Petitioner  
Tennessee American Water Company*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via the method(s) indicated, on this the 15 day of March, 2007, upon the following:

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<input type="checkbox"/> Facsimile	City of Chattanooga (Hamilton County)
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