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March 27, 2007

VIA E-MAIL & HAND DELIVERY

The Honorable Richard J. Collier
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

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 Mr. Collier:

Attached is a proposed Amended Supplemental Protective order in blackline form. This draft attempts to address each of the stated concerns described by counsel for the Consumer Advocate & Protection Division ("CAPD") at Friday's hearing:

1. Paragraph 11 -- The changes make it clear that the SPO does not alter the doctrines of sovereign immunity or qualified immunity. The CAPD's claims that the CAPD is barred by State law from entering into non-disclosure statements is unfounded: "[t]he consumer advocate division may enter into agreements regarding the nondisclosure of trade secrets or other confidential commercial information obtained by the division." Tenn Code. Ann. 65-4-118 (d) (2006).
2. Paragraph 12 -- The word "oppose" has been replaced with language that clarifies that parties have a duty to meaningfully respond to subpoenas, requests and orders seeking Highly Confidential Information and, for the avoidance of confusion and doubt, this language provides specific requirements for such responses.
3. Paragraph 8 -- Changes have been made so the Attorney General, like the TRA Directors, is not required to execute a Non-disclosure Statement ("NDS"). Per your request, TRA staff have been omitted from the list of persons exempt from the NDS requirement.

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

MARCH 1, 2007

IN RE:

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

SUPPLEMENTAL PROTECTIVE ORDER

Pursuant to the Tennessee Rules of Civil Procedure, to ensure that documents or information produced by Tennessee American Water Company (“Tennessee American” or “Producing Party”) during the discovery process in this docket related to or dealing with an Initial Public Offering (“IPO”), including such documents filed with the Securities and Exchange Commission, and other filings with federal and state agencies, which are deemed to be highly sensitive proprietary and commercial information or trade secrets that the public release of which could result in harm to the Producing Party, including but not limited to information that is required by state or federal laws or regulations to be kept confidential¹ (hereafter collectively and individually referred to as “Highly Confidential Information”) is adequately protected, and to ensure that such protection is afforded only to material so entitled, the Hearing Officer, as appointed by the Tennessee Regulatory Authority (“TRA”), hereby orders that information

¹ Expressly including, but not limited to, public disclosure of information by the Producing Party that may result in any publicity that may contribute to conditioning the public mind or arousing public interest in any offer or offering (as those terms are defined by federal law) by the Producing Party in violation of Section 5(e) of the Securities Act of 1933.

designated by the producing party as Highly Confidential Information shall receive all of the protections that apply to “Confidential Information” as set forth in the protective order entered on January 19, 2007 (“Protective Order”), as well as the following additional protections set forth in this Supplemental Protective Order, as follows:

1. Should a party believe that information has been improperly designated as Highly Confidential Information; the party may petition the TRA Hearing Officer to remove the designation, explaining in the petition the basis for the party’s belief. Any such petition and any responses thereto shall be filed under seal and shall remain under seal until the dispute has been resolved and the Hearing Officer has ordered that they be unsealed in whole or part. Any such petition must be filed not later than twenty (20) days prior to the Hearing on the Merits, or within five (5) days of receipt of the information designated Highly Confidential Information, whichever is later. Any Reply from the Producing Party seeking to protect the status of its Highly Confidential Information must be received not later than ten (10) days prior to the Hearing on the Merits or within four (4) days of service on the Producing Party of any petition to contest such designation, whichever is later. Any such petition may request that the information be treated as Highly Confidential Information or not Highly Confidential. In the event the designation of Highly Confidential Information is removed for certain information by a valid order, but the document is deemed to be a confidential document, such information shall be considered designated as Confidential Information and shall be entitled to all the protections of Confidential Information under the Protective Order unless and until such Confidential Information designation has been or is also ordered removed pursuant to Paragraph 11 of the Protective Order.

2. Notwithstanding the terms of paragraphs 10 and 11 of the Protective Order, the

Hearing Officer shall only remove the designation of Highly Confidential Information if the Hearing Officer expressly finds that there is a reasonable basis for the information in question not to be considered Highly Confidential Information as set forth in this order. All parties shall continue to treat all information designated “Highly Confidential Information” in accordance with the terms of this Supplemental Protective Order, pending resolution of any dispute as to the status of such information by the Hearing Officer unless the disclosure of such information is otherwise permitted by this order.

3. Persons granted access to Highly Confidential Information in accordance with the terms of this Supplemental Protective Order agree that that they will safeguard all information and documents designated as “Highly Confidential.”

4. Persons granted access to Highly Confidential Information in accordance with the terms of this Supplemental Protective Order understand that unauthorized disclosure of information or documents labeled or otherwise designated “Highly Confidential” may result in securities law violations and may result in sanctions, damages, injunctive relief or other relief in state and/or federal court.

5. The Protective Order and Supplemental Protective Order (collectively the “Protective Orders”) entered in this case shall not:

- (a) Operate as an admission for any purpose that any documents or information produced as Highly Confidential Information pursuant to the Protective Orders are admissible or inadmissible in the trial or other hearing in these or any other proceedings;
- (b) Prejudice in any way the right of the Producing Party, at any time, on notice given in accordance with any applicable rules and regulations of the

TRA, to seek appropriate relief in the exercise of discretion by the TRA or a court of competent jurisdiction for violations related to Highly Confidential Information of any provision of the Protective Orders including, without limitation, injunctive², declaratory relief, sanctions, and penalties.

6. In the event that any of the parties seek to use Highly Confidential Information in the course of one or more hearings, or as part of the record of this proceeding, the party seeking to so use Highly Confidential Information shall provide the Hearing Officer and all parties written notice of such request (“Request”) not less than 3 days before the earlier of: (i) the first requested use of such Highly Confidential Information; or (ii) the final status conference before the Hearing on the Merits. However, if the Highly Confidential Information is first received by a party later than eight (8) days prior to the final status conference, notice of the Request may be served within five (5) days after receipt but not less than two (2) days before the date of the requested use of such information unless otherwise ordered by the Hearing Officer. The Request shall set forth the specific Highly Confidential Information that the requesting party wishes to use and when the requesting party requests to use such information. If, after considering a Request to use Highly Confidential Information and considering the response, if any, of the Producing Party, the Hearing Officer permits the use of such Highly Confidential Information in any Hearing, or to be placed on the record: (i) the TRA or the Hearing Officer shall cause the

² Parties in this proceeding have requested information that TAWC contends may bear upon TAWC’s approved request for approval of a change in control to be effected through the public offering of the common stock of American Water Works (“AWW”) through an initial public offering (“IPO”). TAWC represents that certain Highly Confidential Information consists of information and/or documents that, if publicly disclosed in advance of the effective date of a registration statement for the IPO may (1) delay the Securities and Exchange Commission’s declaration of effectiveness of the registration statement for the IPO to cure an alleged violation of the anti-gun jumping provisions of the U.S. securities laws; and/or (2) subject AWW to liability with respect to such disclosures.

portion of the record containing Highly Confidential Information to be placed under seal and; (ii) the TRA or the Hearing Officer shall clear the hearing room of all persons who are not subject to this Protective Order during any period of time when the Highly Confidential Information may be discussed during or used in a hearing.

7. Highly Confidential Information (including any quotes, excerpts or references to Highly Confidential Information) which is filed or placed on the record of these proceedings shall be filed under seal and shall remain with the TRA under seal until after the conclusion of the proceeding. If such Highly Confidential Information is provided to courts for the purposes of appeal(s) from these proceedings, such information shall be provided and shall continue to remain under seal to the maximum extent permitted by law.

8. With respect to all Highly Confidential Information:

- (a) Highly Confidential Information shall only be used for this proceeding. After this proceeding has concluded, each party or individual that has received access to Highly Confidential Information other than the Producing Party and the TRA shall within 10 days either: (i) destroy or return all such Highly Confidential Information; and (ii) certify in writing that such party or individual has returned or destroyed all Highly Confidential Information in its possession.
- (b) Absent an order of the TRA or other court of competent jurisdiction, only those identified herein who require access to such Highly Confidential Information for this proceeding and have fully executed a copy of the Nondisclosure Statement for Highly Confidential Information (“Nondisclosure Statement”), attached hereto, may receive access to

Highly Confidential Information. A copy of the executed Nondisclosure Statement shall be provided to the Producing Party prior to being granted access to the Highly Confidential Information. Notwithstanding the foregoing, [the Attorney General & Reporter of the State of Tennessee \(“Attorney General”\)](#), TRA directors, the Hearing Officer and members of the [immediate personal TRA](#) staff of ~~the~~[each individual](#) TRA [Director](#) shall not be required to execute the Nondisclosure Statement.

- (c) Absent an order of the TRA or other court of competent jurisdiction OR prior written consent from the producing party, no person other than counsel of record for the parties, expert witnesses, [the Attorney General](#), the Hearing Officer, TRA Directors and members of the staff of the TRA may receive access to Highly Confidential Information until at least 2 business days after the Producing Party has been given written notice that said person is to be provided with access to Highly Confidential Information. Such notice shall include the person’s full name, address, employer and the category of authorized person. Notwithstanding the foregoing, TRA directors, the Hearing Officer and members of the staff of the TRA shall not be required to provide written notice to the Producing Party.
- (d) If the Producing Party objects to a person, other than a counsel of record for a party, expert witness(es), the Hearing Officer, [the Attorney General](#), TRA Directors and members of the staff of the TRA, receiving access to Highly Confidential Information, Producing Party may, within 2 business

days of receiving notice that an individual is to receive access to Highly Confidential Information, file a written objection with the Hearing Officer setting forth the basis for the objection. Until any such objection is resolved by the Hearing Officer, the individual in question shall not be provided access to Highly Confidential Information.¶

(e) If the Attorney General first determines in writing that: (i) probable cause exists that Highly Confidential Information constitutes evidence of a felony; and (ii) complying with the notice and/or Nondisclosure Statement provisions set forth in sub-paragraphs (a), (b), (c) and (d) of paragraph 8 of the Supplemental Protective Order would materially undermine the investigation or prosecution of such crime; the Attorney General or his chief deputy may provide access to Highly Confidential Information to state or federal law enforcement officers and prosecutors (including those within the Office of the Attorney General) without complying with such provisions and such disclosure shall not constitute an unauthorized disclosure of Highly Confidential Information, but all other provisions of the Supplemental Protective Order shall apply. Notwithstanding the foregoing, this sub-section shall in no way alter or decrease the protections provided by the Protective Order.

(f) ~~(e) No~~ Except as specifically provided in this Supplemental Protective Order, no other disclosure of Highly Confidential Information shall be made to any person or entity except with the express written consent of the

Producing Party or upon further order of the TRA or of any Court of competent jurisdiction, including those which may review these matters.

9. If any party or non-party subject to the Supplemental Protective Order inadvertently fails to designate testimony as Highly Confidential Information prior to such testimony being provided, this failure shall not constitute a waiver of the Highly Confidential Information designation, provided the party or non-party who has provided the testimony shall notify the Hearing Officer and all parties in writing within five (5) days of discovery of such inadvertent failure to designate the testimony as Highly Confidential Information. Upon receiving such notice, all those subject to the Supplemental Protective Order, including the Hearing Officer, shall immediately cause the subject testimony to be treated as Highly Confidential Information and each party shall notify any employees, consultants or other individuals who are affiliated with such party and who received or heard such testimony. The Hearing Officer shall thereafter make a written determination whether a reasonable basis exists for the Producing Party to so designate such information as Highly Confidential and, if no such reasonable basis exists, shall so find in writing and shall remove the Highly Confidential designation. An inadvertent failure to designate testimony in advance as Highly Confidential Information, shall not, in any way, affect the TRA's determination as to whether the testimony is entitled to Highly Confidential Information status. No recipient of information that the Producing Party has inadvertently failed to designate as Highly Confidential Information shall have any liability, so long as the recipient treats such information as Highly Confidential Information upon receiving notice of such designation by the TRA or Producing Party.

10. For the avoidance of doubt, the language of the Protective Order and Supplemental Protective Order should be interpreted together such that Highly Confidential

Information receives the maximum protection possible permitted under the law and no less protection than Confidential Information.¶

11. For the avoidance of doubt, nothing in this Supplemental Protective Order shall be construed to alter the doctrines of sovereign immunity or qualified immunity.

12. ~~11.~~ Highly Confidential Information is subject to this Supplemental Protective Order, which is entered pursuant to the Tennessee Rules of Civil Procedure. See e.g., Ballard v. Herzke, 924 S.W. 2d 652 (Tenn. 1996); Arnold v. City of Chattanooga, 19 S.W. 3d 779 (Tenn. Ct. App. 1999). Accordingly, paragraphs 22-28 of the Protective Order do not apply to Highly Confidential Information. If a party, other than the Producing Party, receives a request or subpoena seeking the disclosure or production of Highly Confidential Information, such party ~~shall give prompt written notice to the TRA Hearing Officer and the Producing Party within not more than five (5) days of receiving such a request, subpoena or order and shall: (i) oppose the production or disclosure of Highly Confidential Information and; and (ii) shall not disclose or produce such information unless and until subsequently ordered to do so by a court of competent jurisdiction.:~~¶

(i) ~~shall give prompt written notice to the TRA Hearing Officer and the Producing Party within not more than five (5) days of receiving such a request, subpoena or order;~~¶

(ii) shall timely respond in writing to the party or authority propounding such request, subpoena or order (and shall serve a copy of such response on the Producing Party) setting forth in such response: (a) that such information has been designated as “Highly Confidential Information” and has been placed under seal by this Supplemental Protective Order entered pursuant to the Tennessee Rules of

Civil Procedure; (b) that~~and shall: (i) oppose the~~ production or disclosure of such
Highly Confidential Information is expressly prohibited by the Supplemental
Protective Order; and (c) the information in the caption of this case and the date
of this Supplemental Protective Order, and;¶

(iii) ~~and; and (ii)~~ shall not disclose or produce such information unless and until
subsequently ordered to do so by a court of competent jurisdiction.¶

Hearing Officer

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

IN RE:

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

NONDISCLOSURE STATEMENT FOR HIGHLY CONFIDENTIAL INFORMATION

I have reviewed the Supplemental Protective Order entered in the above-captioned matter and agree to abide and be bound by its terms. I understand that prior to receiving access to designated as Highly Confidential Information, I must make a written request to the Producing Party and submit this Nondisclosure Statement prior to being granted access to such information. I understand that unauthorized disclosure of any documents labeled and/or designated as "HIGHLY CONFIDENTIAL INFORMATION" will be a violation of the Order.

DATE

NAME

STATE OF _____
COUNTY OF _____

Personally appeared before me, _____, a Notary Public,
_____ with whom I am personally acquired, who acknowledged that he
executed the within instrument for the purposes therein contained.

WITNESS my hand, as office, this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires:

Document comparison done by DeltaView on Sunday, March 25, 2007 9:19:57 PM

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Document 2	interwovenSite://BBSLIBRARY/BBS/6417102/2
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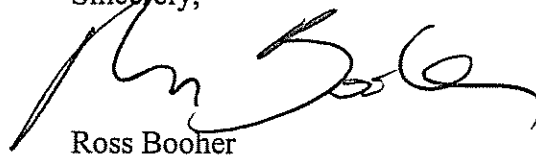
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Moved cell	
Split/Merged cell	
Padding cell	

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Deletions	6
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Moved to	4
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Format changed	0
Total changes	36

4. Paragraph 8 -- At the hearing, the CAPD raised the concern that in the hypothetical event that Highly Confidential Information evidenced the commission of a serious crime, under the current SPO the Attorney General would be inhibited from quickly and secretly disclosing such information to investigators or prosecutors due to the procedures provided for in the SPO. Sub-paragraph 8(e) addresses this unlikely hypothetical.

This draft was provided to the CAPD yesterday at about Noon. Thus far TAWC has not received any counter-proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ross Booher', with a stylized, cursive script.

Ross Booher

RIB/cw
Enclosures

cc: Michael A. McMahon, Esq. (*w/o enclosure*)
Frederick L. Hitchcock, Esq. (*w/o enclosure*)
Vance Broemel, Esq. (*w/o enclosure*)
David Higney, Esq. (*w/o enclosure*)
Richard Collier, Esq. (*w/o enclosure*)