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April 9, 2007

VIA HAND-DELIVERY

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

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 to Compel the City of Chattanooga to Provide Complete Discovery Responses.

Please return three copies of each Rebuttal, 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,

 by permission
MUT

R. Dale Grimes

RDG/ms
Enclosures

Chairman Sara Kyle

April 9, 2007

Page 2

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*)
Frederick L. Hitchcock, Esq. (*w/enclosure*)
Vance Broemel, Esq. (*w/enclosure*)
Henry Walker, Esq. (*w/enclosure*)
David Higney, Esq. (*w/enclosure*)
Mr. John Watson (*w/enclosure*)
Mr. Michael A. Miller (*w/enclosure*)

**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 TO PERMIT IT TO)	Docket No. 06-00290
EARN A FAIR AND ADEQUATE RATE)	
OF RETURN ON ITS PROPERTY USED)	
AND USEFUL IN FURNISHING WATER)	
SERVICE TO ITS CUSTOMERS)	

**TENNESSEE AMERICAN WATER COMPANY'S MOTION TO COMPEL
THE CITY OF CHATTANOOGA TO PROVIDE COMPLETE DISCOVERY
RESPONSES**

Tennessee American Water Company ("TAWC") served its discovery requests (the "Requests") upon the City of Chattanooga ("City") on March 14, 2007. The City responded to TAWC's requests on March 30, 2007 (the "Responses"). After a review of the City's Responses, TAWC believes that a number of the City's Responses are insufficient. Accordingly, pursuant to the Tennessee Regulatory Authority ("TRA") Rules and Rule 37.01 of the Tennessee Rules of Civil Procedure, TAWC respectfully moves the Hearing Officer to enter an order compelling production of all information responsive to the TAWC Requests identified herein.

Discovery Standards

Rule 37.01(2) of the Tennessee Rules of Civil Procedure provides that, when a party fails to fully answer interrogatories or fails to fully respond to requests for production of documents, the discovering party may move for an order compelling an answer and inspection in accordance with the request. Tenn. R. Civ. P. 37.01(2) (2007). Discovery under the Tennessee Rules of Civil Procedure "is allowed in an effort to do away with trial by ambush," and should be "allowed liberally in order to achieve its desired effect." *Conger v. Gowder*, 2001 Tenn. App.

LEXIS 205, at *14 (Tenn. Ct. App. March 29, 2001). TAWC has propounded reasonable requests for relevant information and documents which are reasonably calculated to lead to the discovery of admissible information. The City's partial and incomplete responses to some of TAWC's requests deprive TAWC of information necessary to prepare for the Hearing in this case.

The City's Inappropriate General Objections

General Objections 8, 9, and 10 are based on the position that the following information is "totally irrelevant to these proceedings and cannot reasonably be expected to lead to the discovery of admissible evidence": the rates, costs or charges of municipal services or municipally-owned utilities owned and/or operated by the City or any of its boards or agencies; tax rates or expenditures of the City or any other local government; and fees charged or received by the City or any of its boards or agencies. The City is incorrect that information on these topics is not relevant to this rate proceeding. First, a number of these items are directly related to the expenses that TAWC must pay to the City in conducting its business – expenses which are a part of TAWC's rate base. Second, some of the City's witnesses have submitted testimony regarding the reasonableness of the rate increase requested by TAWC and the reasonableness of some of TAWC's expenses (*e.g.*, the TAWC call center as compared to the City 311 Call Center). (*See, e.g.*, Direct Testimony of Mayor Ron Littlefield; Direct Testimony of Mark Keil.) Because the City has injected these issues into this rate case, the City cannot now claim that the information identified in the City's General Objections 8, 9, and 10 is not relevant, and TAWC's Requests for which these objections have been asserted can be reasonably expected to lead to the discovery of admissible evidence.

The City's Inadequate Responses to TAWC's Requests

The City's responses to the following discovery requests are deficient: 17(a)-(d); 23(b) and (c); and 28 and 4(i). In accordance with TRA Rule 1220-1-2-.11(9), TAWC's Requests are attached to this motion as Exhibit A, and the City's Responses are attached as Exhibit B.

1. TAWC Request No. 17 (a) – (d)

In Request No. 17 (a) – (d), TAWC requested information and documents relevant to the rates charged by the City of Chattanooga Electric Power Board ("EPB"). (*See* TAWC Requests, pp. 11-12.) The City responded by stating that "the City Council does not regulate electric rates" and by providing the City's Comprehensive Annual Financial Reports ("CAFR") for 1999 to 2006 and the EPB Annual Reports for 2005 and 2006. (*See* City Responses, pp. 16-17.)

The City CAFRs and the two EPB Annual Reports do not appear to contain the information required to adequately respond to Request No. 17(a). Because TAWC is required to pay for electricity and because the City has made the reasonableness of TAWC's requested rate increase an issue in this case, the information requested in 17(a) is directly relevant to this case. The City should be compelled to provide a table setting forth the information regarding EPB rate increases as requested in 17(a). The City should also be compelled to provide the documents requested in 17(b) for the same reasons set forth above. The City should also be compelled to provide the Annual Reports or financial statements for the EPB for fiscal years 2001, 2002, 2003, and 2004 as requested in 17(c) and the budget items requested in 17(d) if such items are not included in the EPB Annual Reports or financial statements.

The City's objection that the City Council does not regulate electric rates does not justify the failure to fully respond to Request No. 17. As is stated in the City's CAFR for 2006, "The financial statements of EPB (the Electric Power Board) are included in the accompanying

financial statements as part of the primary government because it is not legally separate from the City. The City affirms all board member appointments and approves all disbursements of EPB funds.” (2006 CAFR, p. 19 (Excerpt attached as Exhibit C).) In fact, the EPB describes itself as “[a] non-profit agency of the City of Chattanooga” on its own website. (EPB, “About Our Company, available at <http://www01.epb.net/index.php?page=about> (Attached as Exhibit D).)

2. TAWC Request No. 23(b) and (c)

In Request No. 23(b) and (c), TAWC requested information regarding the average hourly rate for each service representative at the City’s 311 Call Center and the salaries of any Call Center management employees. (*See* TAWC Requests, pp. 15-16.) The City responded by stating that the average hourly rate for each service representative is a figure that is not maintained by the City but which may be deduced from records produced, including the accounting records produced in response to TAWC Request No. 23(a). (*See* City Responses, pp. 20-21.) In response to the request regarding management salaries, the City referred TAWC to the records produced in response to TAWC Request No. 23(a) (*See Id.*)

The City’s assertion that TAWC can deduce this information from the accounting records, alone or in conjunction with other documents produced or testimony filed by the City, is incorrect. The information requested cannot be computed from the accounting records alone or in conjunction with the testimony of Mark Keil. Mr. Keil’s testimony does not specify the number of Call Center employees in 2005 or 2006. The accounting records produced by the City contain figures for appropriations and expenditures for labor, but do not specify the number of employees to which these figures apply. Consequently, the information requested by TAWC cannot be deduced from the documents provided by the City. Nor do these records contain information that would allow TAWC to determine the salaries of Call Center management

employees. Such information is relevant to this rate case because Mr. Keil's testimony addresses the costs associated with and the quality of the City's 311 Call Center, and Harold Smith's direct testimony addresses TAWC's management costs. Consequently, this request, which seeks information on components of the costs of the 311 Call Center, including the Call Center's management costs, can be reasonably expected to lead to the discovery of admissible information.

3. TAWC Request Nos. 4(i) and 28

In Request Nos. 4(i) and 28, TAWC requested information regarding the terms of the retention or engagement of any testifying expert witness and a copy of the engagement letter, contract, and any other correspondence between the City and Raftelis Financial Consultants, Inc. ("Raftelis"), the firm for which Mr. Harold Smith, a testifying expert witness for the City, is employed as Vice President. (*See* TAWC Requests, pp. 5, 18.) The City responded by producing a redacted version of the City's engagement letter with Raftelis. The City asserted that the redactions are necessary to prevent the disclosure of attorney work product. (*See* City Responses, p. 6, 23.)

The City should be compelled to produce an unredacted copy of the engagement letter prepared by Raftelis and to fully respond to the TAWC interrogatory requesting the identification of the terms of the engagement of each expert. Under Tennessee Rule of Civil Procedure 26.02(4)(A)(i), TAWC is entitled to request information as to the "facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion." Tenn. R. Civ. P. 26.02(4)(A)(i) (2007). The information that has been redacted appears to be a statement of the cost categories about which Raftelis agreed to provide analysis. This information is a component of the grounds for the opinions offered by Mr. Smith, a Vice



President of Raftelis and a testifying expert in this case. Consequently, this information is not protected by the work product privilege, and TAWC is entitled to receive an unredacted copy of the engagement letter. *See Hammock v. Sumner County*, 1997 WL 749461, at *2 (Tenn. Ct. App. Dec. 5, 1997) (stating that reports prepared by testifying experts in anticipation of trial are not covered by the work product doctrine) (attached as Exhibit E).

The information that has been redacted is likely to be relevant to an examination of the thoroughness of Mr. Smith's analysis and the independence of his analysis and opinions from those of counsel for the City. Further, the redacted information is directly relevant to TAWC's preparation for the cross-examination of Mr. Smith because Mr. Smith's pre-filed direct testimony describes the scope of Raftelis' analysis – the very information redacted from the Raftelis engagement letter. (*See Direct Testimony of Harold Smith*, 3-4.) Consequently, TAWC's request can be reasonably expected to lead to the discovery of admissible information, and the City should be compelled to produce an unredacted copy of the Raftelis engagement letter.

Conclusion

For the reasons stated herein, the City of Chattanooga has failed to adequately respond to TAWC's discovery request Nos. 17, 23(b) and (c), and 28 and 4(i). Pursuant to Tennessee Rule of Civil Procedure 37, TAWC respectfully requests that the Hearing Officer compel the City of Chattanooga to provide the information and produce the documents necessary for a complete response to these requests as soon as possible and or grant other relief provided for by Rule 37 which the Hearing Officer deems appropriate.

Respectfully submitted,

 by permission


R. Dale Grimes (#6223)

J. Davidson French (#15442)

Ross I. Booher (#019304)

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Nashville, TN 37238-3001

(615) 742-6200

Counsel for Petitioner

Tennessee American Water Company

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

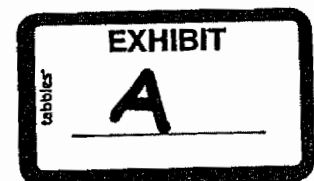
IN RE:

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

**TENNESSEE AMERICAN WATER COMPANY'S DISCOVERY REQUESTS TO CITY
OF CHATTANOOGA**

Petitioner Tennessee American Water Company ("Petitioner" or "TAWC") serves these Discovery Requests on the City of Chattanooga (the "City"), and asks that the City provide responses to each request separately, fully, and in writing. The City is also called upon to produce all documents and evidence requested herein. Furthermore, the City is called upon to fulfill its duty to supplement its answers as far in advance of the beginning of any hearing as is reasonably possible if it is learned that any response is in any material respect incomplete, incorrect or has changed.

In these discovery requests, the terms "document" or "documents" or "documentation" refers to all written, reported, recorded or graphic matter (including all drafts, originals and nonconforming copies that contain deletions, insertions, handwritten notes or comments, and the like) however produced or reproduced to any tangible or intangible, permanent or temporary record and, without limitation, shall include the following: all letters, correspondence, records of conferences or meetings, memoranda, notes, printed electronic mail ("e-mail"), telegrams, telephone logs, teletypes, telexes, banking records, notices of wire transfer of funds, canceled



checks, books of account, budgets, financial records, contracts, agreements, invoices, speeches, transcripts, depositions, press releases, affidavits, communications with government bodies, interoffice communications, working papers, newspaper or magazine articles, computer data, tax returns, vouchers, papers similar to any of the foregoing, and any other writings of every kind and description (whether or not actually used) and any other records from which information can be obtained and translated into reasonably usable form, including without limitation, e-mail, voice recordings, video and audio recordings, photographs, films, tapes and other data compilations.

DISCOVERY REQUEST NO. 1:

State each fact that you rely on to support your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 06-00290 should not be approved by the Tennessee Regulatory Authority ("TRA").

RESPONSE:

DISCOVERY REQUEST NO. 2:

Identify all persons known to you, your attorney, or other agent who have knowledge, information or possess any document(s) or claim to have knowledge, information or possess any document(s) which support your answer to Interrogatory number one (1) above.

RESPONSE:

DISCOVERY REQUEST NO. 3:

Identify each document, photograph, or any other article or thing whatsoever, which you rely on to corroborate any part of your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 06-00290 should not be approved, whether as to the issues of credibility or any other issue, or which is adverse to these same contention(s), position(s) or belief(s).

RESPONSE:

DISCOVERY REQUEST NO. 4:

With respect to each person you expect to call as a witness, including any expert witness, regarding this matter, state or provide:

- a. the witness's full name and work address;

RESPONSE:

- b. each subject matter about which such witness is expected to testify;

RESPONSE:

- c. the substance of the facts and opinions to which any expert is expected to testify;

RESPONSE:

d. a summary of the grounds or basis of each opinion to which any such expert witness is expected to testify;

RESPONSE:

e. whether or not the expert has prepared a report, letter or memorandum of his findings, conclusions, or opinions;

RESPONSE:

f. the witness's complete background information, including current employer, educational, professional and employment history, and qualifications within the field in which the witness is expected to testify, and identify all publications written or presentations made in whole or in part by the witness;

RESPONSE:

g. an identification of any matter in which the expert has testified (through deposition or otherwise) by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;

RESPONSE:

h. the identity of any person with whom the witness consulted or otherwise communicated in connection with his expected testimony;

RESPONSE:

i. the terms of the retention or engagement of each expert including but not limited to the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony, and opinions as well as the compensation to be paid for the testimony and opinions;

RESPONSE:

j. the identity of all documents or things shown to, delivered to, received from, relied upon, or prepared by any expert witness, which are related to the witness' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that expert for review in connection with testimony and opinions; and

RESPONSE:

k. the identity of any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert.

RESPONSE:

DISCOVERY REQUEST NO. 5:

Provide any and all documents identified or specified in your answers or responses to the discovery requests served upon you in this matter.

RESPONSE:

DISCOVERY REQUEST NO. 6:

Provide any and all documents and things relied upon, referenced, created or reviewed by any City witness in providing testimony in this matter.

RESPONSE:

DISCOVERY REQUEST NO. 7:

Provide any and all expert reports which have been obtained from any expert.

RESPONSE:

DISCOVERY REQUEST NO. 8:

Provide each document, photograph, or any other article or thing whatsoever, upon which you rely in support of your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 06-00290 should not be approved.

RESPONSE:

DISCOVERY REQUEST NO. 9:

Provide in electronic media (Word, Excel, or other Microsoft Office compatible format) and in hard copy all workpapers and other documents, generated by or relied upon by all City witnesses.

RESPONSE:

DISCOVERY REQUEST NO. 10:

Please produce a copy of all trade articles, journals, treatises and publications of any kind in any way utilized or relied upon by any of City's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in the captioned matter.

RESPONSE:

DISCOVERY REQUEST NO. 11:

Please produce a copy of all articles, journals, books or speeches written by or co-written by any of City's expert witnesses, whether published or not.

RESPONSE:

DISCOVERY REQUEST NO. 12:

Please produce any and all documentation, items, reports, data, communications, and evidence of any kind that City intends to offer as evidence at the hearing or to refer to in any way at the hearing.

RESPONSE:

DISCOVERY REQUEST NO. 13:

Please produce copies of any and all documents referred to or relied upon in responding to these discovery requests.

RESPONSE:

DISCOVERY REQUEST NO. 14:

Please identify each person who provided information or participated in the preparation of the responses to each of these discovery requests, and for each such person specify the responses to which he or she provided information or participated in preparing, and describe the information provided or the participation in preparation.

RESPONSE:

DISCOVERY REQUEST NO. 15:

Given that increases in the wastewater disposal rates charged by the Waste Water Division of the Public Works Department of the City of Chattanooga ("Waste Water Division") for sewer or waste water services are passed to TAWC as a customer of that system, and those increases must be recovered in the rates of TAWC as approved by the TRA, please provide:

- a. The percentage of rate increases each year issued by the City of Chattanooga Waste Water Division for sewer or waste water services from 1996 through 2006. Please provide this information in a table format that indicates the date of each increase, the overall percentage increase, the percentage increase to each class of customers (i.e. residential, commercial, industrial, etc.) and the specific increase to TAWC if different than the percentage increase for its customer classification.

RESPONSE:

- b. Any studies, reports, correspondence, Waste Water Division Minutes, City Council or Committee Minutes, resolutions or ordinances, or other documents of any kind addressing such rate increases, including any documents addressing the basis for the increase in sewer rates, and the allocations of such increases between the various customer classifications or specific customers.

RESPONSE:

- c. A description of the process and basis the City uses to determine whether to increase sewer or wastewater rates and the amount of any such increase.

RESPONSE:

- d. The Chattanooga Waste Water Division annual reports or financial statements for fiscal years 2001-2006.

RESPONSE:

- e. The Chattanooga Waste Water Division Utility Plant Balances for the fiscal years 2001-2006 and provide the Capital Budgets each year for the same periods for the City sewer or wastewater operations.

RESPONSE:

- f. A list of any deferred capital improvements or projects for the years 2001-2006.

RESPONSE:

DISCOVERY REQUEST NO. 16:

Given that increases in street opening and other construction permit fees imposed by the City of Chattanooga have been identified as one of the drivers for the increased cost of new services, please provide:

- a. A schedule showing all street opening and other construction permits applicable to TAWC for each year from 2001-2006. Please provide this information in a table format that indicates each fee type, the fee cost, the date of any change in the fee amount, and the percentage increase from year to year.

RESPONSE:

- b. Any studies, reports, correspondence, City Council Minutes, committee minutes, and resolutions or other documents of any kind addressing the fee increases, including any documents addressing the basis for the increase in the permit fees identified in the table provided in response to the previous sub-part of this question.

RESPONSE:

- c. Identify all other utilities that are required to pay the street opening and construction permits and any utilities that are exempt or that pay reduced amounts.

RESPONSE:

- d. Identify any utilities that have contested or refused to pay the street opening and construction permit fees, and identify what enforcement action, if any, the City has taken to collect the fees, and produce all documents referring or relating thereto.

RESPONSE:

DISCOVERY REQUEST NO. 17:

Given that increases in the rates charged by the City of Chattanooga Electric Power Board ("EPB") for electric service are passed to TAWC as a customer of that system, and those increases must be recovered in the rates of TAWC as approved by the TRA, please provide:

- a. The percentage of rate increases each year issued by the City of Chattanooga EPB for electric service from 1996 through 2006. Please provide this information in a table format that indicates the date of each increase, the overall percentage increase, the percentage increase to each class of customers (i.e. residential, commercial, industrial, etc.) and the specific increase to TAWC if different than the percentage increase for its customer classification.

RESPONSE:

- b. Any studies, reports, correspondence, EPB Minutes, City Council or Committee Minutes, ordinances, resolutions, or other documents of any kind addressing such rate increases, including any documents addressing the basis for the increase in electric rates, and the allocations of such increases between the various customer classifications or specific customers.

RESPONSE:

- c. The City of Chattanooga EPB annual reports or financial statements for fiscal years 2001-2006.

RESPONSE:

- d. The City of Chattanooga EPB Utility Plant Balances for the fiscal years 2001-2006 and provide the Capital Budgets for each year for the same periods.

RESPONSE:

DISCOVERY REQUEST NO. 18

Given that increases in tax rates and assessments from the City of Chattanooga are passed to TAWC as a tax payer in the City, and those increases must be recovered in the rates of TAWC as approved by the TRA, please provide:

- a. The percentage of tax increases each year by the City of Chattanooga from 1996-2006. Please provide this information in a table format that indicates the type of tax, the tax rate, the valuation method, percentage used for valuation (if applicable), the date of any change in tax rate or valuation percentage (if applicable), and the percentage increase from year to year.

RESPONSE:

- b. Any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind addressing the tax increases, including any documents addressing the basis for the increase in the tax or valuation percentages identified in the table provided in response to the previous request.

RESPONSE:

- c. Any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind containing discussion of any adjustments to the various tax rates as a result of the savings the City has experienced from the elimination of the public fire hydrant fees in TAWC's tariffs.

RESPONSE:

DISCOVERY REQUEST NO. 19:

Please provide any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind reflecting discussions or requests to TAWC to make capital improvements between 2001-2006. This discovery request would apply but is not limited to capital improvements for such items as fire protection, downtown renovations, service problems, economic development, or street improvements.

RESPONSE:

DISCOVERY REQUEST NO. 20:

Please provide any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind in which the City or any representative of the City has discussed the level of service provided by TAWC between 2001-2006.

RESPONSE:

DISCOVERY REQUEST NO. 21:

Please provide the hours of operations and the days of the week which the City of Chattanooga 311 Call Center referenced in the testimony of Mark Keil is open.

RESPONSE:

DISCOVERY REQUEST NO. 22:

Is the City of Chattanooga 311 Call Center Open on Holidays?

RESPONSE:

DISCOVERY REQUEST NO. 23:

Please provide the following information for the City of Chattanooga 311 Call Center for the years 2005 and 2006:

- a. A detailed break down of costs (i.e. labor, benefits, building costs or rent, utility expenses, telephone expense, information technology (IT costs), contractor services, office supplies, etc.)

RESPONSE:

- b. The average hourly rate for each service representative.

RESPONSE:

- c. The salaries of any management employees.

RESPONSE:

- d. How much of Mr. Keil's salary, benefits and expenses are allocated to the 311 Call Center?

RESPONSE:

- e. The total number of customer contacts received each year.

RESPONSE:

- f. The average cost per customer contact.

RESPONSE:

- g. Copies of all customer satisfaction surveys referenced in Mr. Keil's testimony for both years.

RESPONSE:

- h. Key performance indicators and results used to measure performance.

RESPONSE:

- i. Describe all services provided by 311 call centers.

RESPONSE:

DISCOVERY REQUEST NO. 24:

Do the 311 Call Center employees address service or billing problems or simply pass those to the service provider (i.e. Waste Water Division, EPB, etc.)?

RESPONSE:

DISCOVERY REQUEST NO. 25:

Do the 311 Call Center employees produce the bills or perform meter reading edits and billing edits for the various City Departments for which it provides services (i.e. Waste Water Division, EPB, etc.)?

RESPONSE:

DISCOVERY REQUEST NO. 26:

Do the 311 Call Center employees handle bill collection efforts for the various City Departments for which it provides services?

RESPONSE:

DISCOVERY REQUEST NO. 27:

Do the 311 Call Center employees close (i.e., enter the results of the field work) service orders for the various City Departments for which it provides services?

RESPONSE:

DISCOVERY REQUEST NO. 28:

Please provide the engagement letter, contract and any other correspondence between the City of Chattanooga and Raftelis Financial Consultants, Inc. for any engagement with the City of Chattanooga during the last five years, and identify the total costs and/or fees incurred or paid by the City of Chattanooga to Raftelis Financial Consultants, Inc.

RESPONSE:

DISCOVERY REQUEST NO. 29:

Please provide a schedule showing all franchise fee revenue received by the City from Comcast or its predecessors for each year from 2001-2006. Please provide an estimate of the expected increase in revenue resulting from Ordinance No. 11940 or any other ordinances passed in the past year granting a franchise to Comcast and; the expected percentage increase on Comcast customer bills and; any City Council or Committee minutes, studies, correspondence, memoranda, ordinance, resolutions, or other documents which refer or relate in any way to such increase in franchise fees.

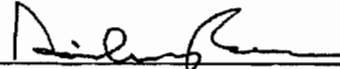
RESPONSE:

DISCOVERY REQUEST NO. 30:

Please provide copies of the deposition or hearing testimony identified in response to any of these requests.

RESPONSE:

Respectfully submitted,



R. Dale Grimes (#6223)

J. Davidson French (#15442)

BASS, BERRY & SIMS PLC

315 Deaderick Street, Suite 2700

Nashville, TN 37238-3001

(615) 742-6200

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 14th day of March, 2007, upon the following:

<input type="checkbox"/> Hand	Michael A. McMahan
<input type="checkbox"/> Mail	Special Counsel
<input type="checkbox"/> Facsimile	City of Chattanooga (Hamilton County)
<input checked="" type="checkbox"/> Overnight	Office of the City Attorney
<input checked="" type="checkbox"/> Email	Suite 400
	801 Broad Street
	Chattanooga, TN 37402
<input checked="" type="checkbox"/> Hand	Timothy C. Phillips, Esq.
<input type="checkbox"/> Mail	Vance L. Broemel, Esq.
<input type="checkbox"/> Facsimile	Office of the Attorney General
<input type="checkbox"/> Overnight	Consumer Advocate and Protection Division
<input checked="" type="checkbox"/> Email	2nd Floor
	425 5th Avenue North
	Nashville, TN 37243-0491
<input checked="" type="checkbox"/> Hand	Henry M. Walker, Esq.
<input type="checkbox"/> Mail	Boult, Cummings, Conners & Berry, PLC
<input type="checkbox"/> Facsimile	Suite 700
<input type="checkbox"/> Overnight	1600 Division Street
<input checked="" type="checkbox"/> Email	P.O. Box 340025
	Nashville, TN 37203
<input type="checkbox"/> Hand	David C. Higney, Esq.
<input type="checkbox"/> Mail	Grant, Konvalinka & Harrison, P.C.
<input type="checkbox"/> Facsimile	633 Chestnut Street, 9 th Floor
<input checked="" type="checkbox"/> Overnight	Chattanooga, TN 37450
<input checked="" type="checkbox"/> Email	
<input type="checkbox"/> Hand	Frederick L. Hitchcock, Esq.
<input type="checkbox"/> Mail	Chambliss, Bahner & Stophel, P.C.
<input type="checkbox"/> Facsimile	1000 Tallan Building
<input checked="" type="checkbox"/> Overnight	Two Union Square
<input checked="" type="checkbox"/> Email	Chattanooga, TN 37402



BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

TENNESSEE AMERICAN WATER COMPANY, :
PETITION TO CHANGE AND INCREASE : DOCKET NO. 06-00290
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 SERVICES TO ITS :
CUSTOMERS. :

CITY OF CHATTANOOGA'S DISCOVERY RESPONSES TO TAWC

City of Chattanooga ("City") responds to the Tennessee American Water Company's ("TAWC") discovery requests as follows:

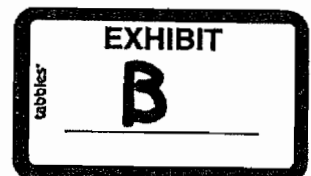
GENERAL OBJECTIONS

(1) Chattanooga objects to all requests that seek information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege or restriction on disclosure.

(2) Chattanooga objects to the definitions and instructions accompanying requests to the extent definitions and instructions contradict, are inconsistent with, or impose any obligations beyond those required by the Tennessee Rules of Civil Procedure or the rules, regulations, and orders of the Tennessee Regulatory Authority.

(3) Chattanooga objects to the definitions of the words "document" or "documents" or "documentation" that accompany the requests, because such definitions are overbroad and unduly burdensome.

(4) Chattanooga is providing its objections herein without waiver of, or prejudice to, its right at any later time to raise objections to: (a) the competence, relevance, materiality, privilege,



or admissibility of the response, or the subject matter thereof; and (b) the use of any response or subject matter thereof, in any subsequent proceedings.

(5) Chattanooga objects to each request to the extent that it is unreasonably cumulative or duplicative or seeks information obtainable from some other source that is more convenient, less burdensome or less expensive.

(6) Chattanooga objects to each request to the extent it is premature such that it seeks information concerning matters about which discovery is ongoing and/or seeks information to be provided by expert witnesses.

(7) Chattanooga's specific objections to each request shall be in addition to the General Objections set forth in this section. These General Objections form a part of each discovery response, and they are set forth here to avoid the duplication and repetition of restating them for each discovery response. The absence of a reference to a General Objection in response to a particular request does not constitute a waiver of any General Objection with respect to that discovery request. All responses are made subject to and without waiver of Chattanooga's general and specific objections.

(8) Chattanooga objects to TAWC's discovery requests that seek information concerning rates, costs or charges or municipal services or municipally-owned utilities owned and/or operated by the City of Chattanooga or any of its boards or agencies, as such discovery seeks information that is totally irrelevant to these proceedings and cannot reasonably be expected to lead to the discovery of admissible evidence.

(9) Chattanooga objects to TAWC's discovery requests that seek information concerning tax rates or expenditures of the City of Chattanooga or any other local government, as such discovery seeks information that is totally irrelevant to these proceedings and cannot reasonably be expected to lead to the discovery of admissible evidence.

(10) Chattanooga objects to TAWC's discovery requests that seek information concerning fees charged or received by the City of Chattanooga or any of its boards or agencies, as such discovery seeks information that is totally irrelevant to these proceedings and cannot reasonably be expected to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 1:

State each fact that you rely on to support your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 06-00290 should not be approved by the Tennessee Regulatory Authority ("TRA").

RESPONSE:

See General Objections 1 through 7. Without waiving these objections, the City of Chattanooga relies upon the pre-filed testimony and exhibits it has filed on this case and upon the pre-filed testimony and exhibits filed by the Chattanooga Manufacturer's Association and the Consumer Advocate.

DISCOVERY REQUEST NO. 2:

Identify all persons known to you, your attorney, or other agent who have knowledge, information or possess any document(s) or claim to have knowledge, information or possess any document(s) which support your answer to Interrogatory number one (1) above.

RESPONSE:

See General Objections 1 through 7. Without waiving these objections, the City of Chattanooga relies upon the pre-filed testimony and exhibits it has filed on this case and upon the pre-filed testimony and exhibits filed by the Chattanooga Manufacturer's Association and the Consumer Advocate.

DISCOVERY REQUEST NO. 3:

Identify each document, photograph, or any other article or thing whatsoever, which you rely on to corroborate any part of your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 0600290 should not be approved, whether as to the issues of credibility or any other issue, or which is adverse to these same contention(s), position(s) or belief(s).

RESPONSE:

See General Objections 1 through 7. Without waiving these objections, the City of Chattanooga relies upon the pre-filed testimony and exhibits it has filed on this case and upon the pre-filed testimony and exhibits filed by the Chattanooga Manufacturer's Association and the Consumer Advocate.

DISCOVERY REQUEST NO. 4:

With respect to each person you expect to call as a witness, including any expert witness, regarding this matter, state or provide:

- a. the witness's full name and work address;

RESPONSE:

See the pre-filed testimonies of:

1. Mayor Ron Littlefield, City of Chattanooga, City Hall, East 11th Street, Chattanooga, TN 37402;
2. David Bennett, Maintenance Supervisor, City of Chattanooga, Department of Parks and Recreation, Watkins Street, Chattanooga, TN 37402;
3. Mark Keil, Chief Information Officer, City of Chattanooga, City Hall, East 11th Street, Chattanooga, TN 37402;
4. Harold J. Smith, Vice President of Raftelis Financial Consultants, Inc. (RFC), 511 East Blvd., Charlotte, NC 28203 ;

5. Joachim Volz, Financial Coordinator, Waste Resources Division, City of Chattanooga's Department of Public Works, Moccasin Bend Wastewater Treatment Plant, Moccasin Bend Road, Chattanooga, TN 37402; and
 6. The pre-filed testimonies filed on behalf of the Chattanooga Manufacturer's Association and the Consumer Advocate.
- b. each subject matter about which such witness is expected to testify;

RESPONSE:

See Response to No. 4(a).

- c. the *substance* of the facts and opinions to which any expert is expected to testify;

RESPONSE:

See Response to No. 4(a).

- d. a summary of the grounds or basis of each opinion to *which* any such expert witness is expected to testify;

RESPONSE:

See Response to No. 4(a).

- e. whether or not the expert has prepared a report, letter or memorandum of his findings, conclusions, or opinions;

RESPONSE:

Only pre-filed testimonies as submitted.

- f. the witness's complete background information, including current employer, educational, professional and employment history, and qualifications within the field in which the witness is expected to testify, and identify all publications written or presentations made in whole or in part by the witness;

RESPONSE:

See pre-filed testimony and resume of Harold J. Smith being produced herewith.

g. an identification of any matter in *which* the expert has testified (through deposition or otherwise) by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;

RESPONSE:

See pre-filed testimony and resume of Harold J. Smith being produced.

h. the identity of any person with whom the witness consulted or otherwise communicated in connection with his expected testimony;

RESPONSE:

Leta Hals, William Stannard, Patrick Smyth, and George Raftelis of Raftelis Financial Consultants, Inc. and the City of Chattanooga legal team.

i. the terms of the retention or engagement of each expert including but not limited to the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony, and opinions as well as the compensation to be paid for the testimony and opinions;

RESPONSE:

See General Objections 1, 4, and 6. Without waiving these objections, see Bates Nos. 1-11. This document has been redacted to prevent disclosure of attorney work product.

j. the identity of all documents or things shown to, delivered to, received from, relied upon, or prepared by any expert witness, which are related to the witness' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that expert for review in connection with testimony and opinions; and

RESPONSE:

See General Objections 1 through 7. Without waiving these objections, the witness was provided a variety of documents produced by TAWC in the discovery of this case. The witnesses

may have also been provided documents from the 2003 TAWC rate case. No log has been maintained as to what documents were shared with this witness. Specific documents relied upon are identified in Harold J. Smith's testimony.

k. the identity of any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert.

RESPONSE:

See General Objections 1, 2, 4, and 6. Without waiving these objections, see exhibits submitted in Harold J. Smith's testimony.

DISCOVERY REQUEST NO. 5:

Provide any and all documents identified or specified in your answers or responses to the discovery requests served upon you in this matter.

RESPONSE:

See General Objections 1 through 10. Without waiving these objections, documents specific to other discovery requests are being produced as identified therein.

DISCOVERY REQUEST NO. 6:

Provide any and all documents and things relied upon, referenced, created or reviewed by any City witness in providing testimony in this matter. Without waiving these objections, documents specific to other discovery requests are being produced as identified therein.

RESPONSE:

See General Objections 1 through 10. Without waiving these objections, documents specific to other discovery requests are being produced as identified therein.

DISCOVERY REQUEST NO. 7:

Provide any and all expert reports which have been obtained from any expert.

RESPONSE:

See General Objections 1, 2, 5, and 6. Without waiving these objections, see Response to Discovery Request No. 4.

DISCOVERY REQUEST NO. 8:

Provide each document, photograph, or any other article or thing whatsoever, upon which you rely in support of your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in IRA Docket No. 06-00290 should not be approved.

RESPONSE:

See General Objections 1 through 10. Without waiving these objections, see discovery responses to other requests herein, particularly, Discovery Request No. 4.

DISCOVERY REQUEST NO. 9:

Provide in electronic media (Word, Excel, or other Microsoft Office compatible format) and in hard copy all workpapers and other documents, generated by or relied upon by all City witnesses.

RESPONSE:

See General Objections 1 through 10. Without waiving these objections, documents specific to other discovery requests are being produced as identified therein. The documents are being produced in PDF to accommodate Bates Stamping. The documents with a ".lis" extension can be opened in wordpad with the wordwrap function turned off. Although produced in PDF, some documents may be available in Word if specifically requested.

DISCOVERY REQUEST NO. 10:

Please produce a copy of all trade articles, journals, treatises and publications of any kind in any way utilized or relied upon by any of City's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in the captioned matter.

RESPONSE:

See General Objections 1, 2, and 6. Without waiving these objections, a list of such articles and presentations are being produced.

DISCOVERY REQUEST NO. 11:

Please produce a copy of all articles, journals, books or speeches written by or co-written by any of City's expert witnesses, whether published or not.

RESPONSE:

See General Objections 2 and 6.

PRESENTATIONS OF HAROLD J. SMITH

"Financing Water Infrastructure Projects" Rhode Island Water Works Association meeting 2007.

"Sustainability – How can we make sure we have sufficient and affordable water supplies for the future?" New England Water Works Association training session 2006.

"Building Consensus Around the Internal/Outsource Decision" American Water Works Association Annual Conference 2001.

DISCOVERY REQUEST NO. 12:

Please produce any and all documentation, items, reports, data, communications, and evidence of any kind that City intends to offer as evidence at the hearing or to refer to in any way at the hearing.

RESPONSE:

See General Objections 1 through 10. Without waiving these objections, the City of Chattanooga is producing a variety of documents in respect to specific discovery requests herein.

DISCOVERY REQUEST NO. 13:

Please produce copies of any and all documents referred to or relied upon in responding to these discovery requests.

RESPONSE:

See General Objections 1 through 10. Without waiving these objections, the City of Chattanooga is producing a variety of documents in respect to specific discovery requests herein.

DISCOVERY REQUEST NO. 14:

Please identify each person who provided information or participated in the preparation of the responses to each of these discovery requests, and for each such person specify the responses to which he or she provided information or participated in preparing, and describe the information provided or the participation in preparation.

RESPONSE:

1. William C. Payne, City Engineer, provided information relating to Request Nos. 16 and 19;
2. Joachim Volz provided information relating to Request No. 15;
3. Mark Keil provided information relating to Request Nos. 21 through 27;
4. Carol O'Neal, Clerk to City Council, provided information relating to ordinances, resolutions, and minutes of the City Council;
5. Priscilla Simmons, Accounting Supervisor, provided documents relating to costs of 311 and Sanitary Sewer System;
6. Carol Poll, Administrative Secretary, Sanitary Sewer System, provided documents relating to charges and increases;
7. Gary Hilbert, Director, Land Development Office, provided documents responsive to Request No. 16;
8. Some documents are provided by the City Attorney's Office from information it maintains; and
9. Some documents have been obtained by counsel from the Electric Power Board.

DISCOVERY REQUEST NO. 15:

Given that increases in the wastewater disposal rates charged by the Waste Water Division of the Public Works Department of the City of Chattanooga ("Waste Water Division") for sewer or waste water services are passed to TAWC as a customer of that system, and those increases must be recovered in the rates of TAWC as approved by the TRA, please provide:

a. The percentage of rate increases each year issued by the City of Chattanooga Waste Water Division for sewer or waste water services from 1996 through 2006. Please provide this information in a table format that indicates the date of each increase, the overall percentage increase, the percentage increase to each class of customers (i.e. residential, commercial, industrial, etc.) and the specific increase to TAWC if different than the percentage increase for its customer classification.

RESPONSE:

See General Objections 2, 4, 8, and 10. Without waiving these objections, the City of Chattanooga produces a summary spreadsheet and supporting documents, Bates Nos. 1 through 463.

b. Any studies, reports, correspondence, Waste Water Division Minutes, City Council or Committee Minutes, resolutions or ordinances, or other documents of any kind addressing such rate increases, including any documents addressing the basis for the increase in sewer rates, and the allocations of such increases between the various customer classifications or specific customers.

RESPONSE:

See General Objections 2, 4, 8, and 10. Without waiving these objections, the City of Chattanooga produces documents of the Waste Water Regulatory Board and the Wastewater Division of the Department of Public Works Bates Nos. 1 through 463, as well as, City Council minutes and ordinances.

c. A description of the process and basis the City uses to determine whether to increase sewer or wastewater rates and the amount of any such increase.

RESPONSE:

See General Objections 2, 4, 8, and 10. Without waiving these objections, the staff of the Waste Resources Division regularly monitors the revenues and expenses, the need for capital improvements, repair and replacement, general operating expenses, and determines from time to time that it is necessary to raise rates. The proposed rates are discussed with the Wastewater Regulations Board and then with the Chattanooga City Council which in its legislative discretion determines what rate increases should be adopted. Informally the representative of the Waste Resources Division discuss the need for rate increases with CMA, regional users, and other interested persons or groups prior to the rates being adopted.

d. The Chattanooga Waste Water Division annual reports or financial statements for fiscal years 2001-2006.

RESPONSE:

See General Objections 2, 4, 8, and 10. Without waiving these objections, the City of Chattanooga produces a variety of documents in respect to specific discovery requests herein. Also see Budget Fiscal Years 2001 through 2006 and Comprehensive Annual Financial Reports (CAFR) for these years produced. Additionally, the accounting records for the Interceptor Sewer Division for Fiscal Years 2001 through 2006 are being produced.

e. The Chattanooga Waste Water Division Utility Plant Balances for the fiscal years 2001-2006 and provide the Capital Budgets each year for the same periods for the City sewer or wastewater operations.

RESPONSE:

See General Objections 2, 4, 8, and 10. No account named, "Utility Plant Balances" exists nor to counsel's understanding of the phrase does this concept exist in the City of Chattanooga's accounting records.

- f. A list of any deferred capital improvements or projects for the years 2001-2006.

RESPONSE:

See General Objections 2, 4, 8, and 10. The City does not maintain a list of deferred capital improvements.

DISCOVERY REQUEST NO. 16:

Given that increases in street opening and other construction permit fees imposed by the City of Chattanooga have been identified as one of the drivers for the increased cost of new services, please provide:

- a. A schedule showing all street opening and other construction permits applicable to TAWC for each year from 2001-2006. Please provide this information in a table format that indicates each fee type, the fee cost, the date of any change in the fee amount, and the percentage increase from year to year.

RESPONSE:

See General Objections 1 and 8. Without waiving these objections, see the following:

Street Cut Permits issued to TAWC for the calendar years 2001-2006 as shown below:

Date Range	Number of Permits	Permit Fees
1/1/01-12/31/01	1097	\$23,829.05
1/1/02-12/31/02	670	\$182,506.00
1/1/03-12/31/03	609	\$152,115.00
1/1/04-12/31/04	604	\$157,004.00
1/1/05-12/31/05	638	\$163,484.00
1/1/06-4/30/06	316	\$83,973.00
5/1/06-8/31/06	*	*
9/1/06-9/30/06	21	\$5,460.00
10/1/06-10/31/06	184	\$46,550.00
11/1/06-11/30/06	59	\$14,336.00
12/1/06-12/31/06	42	\$10,720.00

*Due to the conversion from one computerized permitting system to another and software performance, we do not have accurate records for this period. Because of this, two checks from TAWC totaling \$67,190.00 have not been processed.

b. Any studies, reports, correspondence, City Council Minutes, committee minutes, and resolutions or other documents of any kind addressing the fee increases, including any documents addressing the basis for the increase in the permit fees identified in the table provided in response to the previous sub-part of this question.

RESPONSE:

See General Objections 1 and 8. Without waiving these objections see the following response:

Effective August 1, 1991, the Street Cut-in Permit fees were as follows:

1. Utility cut in street pavement or boring perpendicular to center line: \$15.00
2. Driveway or curb cut: \$10.00
3. Five cents (\$0.05) per linear foot for cut in ROW parallel to centerline with a minimum fee of \$5.00.

On September 11, 2001, Budget Ordinance No. 11175 changed the fees to:

1. Utility cut in street pavement or boring perpendicular to centerline: \$300.00
2. Driveway or curb cut: \$100.00
3. One Dollar (\$1.00) per lineal foot for cuts in ROW parallel to centerline with a minimum fee of \$300.00.

On October 21, 2002, Ordinance No. 11333 changed the fees as follows:

1. Permit fee of \$250.00 for transverse cuts in pavement.
2. Permit fee of \$1.00 per foot for longitudinal cuts in pavement (\$250.00 minimum).
3. Permit fee of \$50.00 for cuts in the sidewalk.

c. Identify all other utilities that are required to pay the street opening and construction permits and any utilities that are exempt or that pay reduced amounts.

RESPONSE:

See General Objections 1 and 8. Without waiving these objections, see the following response:

The Land Development Office invoices, on a monthly basis, the following utilities:

1. Tennessee American Water Co.
2. Chattanooga Gas Company
3. BellSouth
4. Comcast
5. Hixson Utility District
6. Electric Power Board of Chattanooga

No utilities are exempt from paying permit fees, and no utilities pay reduced fees. For circumstances where fees are waived, refer to Ordinance No. 11333.

d. Identify any utilities that have contested or refused to pay the street opening and construction permit fees, and identify what enforcement action, if any, the City has taken to collect the fees, and produce all documents referring or relating thereto.

RESPONSE:

To the best of our knowledge and belief, no utility has refused to pay the required fee. During the period from 5/1/06 to 8/31/06, fees were not paid by TAWC because of the change in the permitting system and the inability to reconcile invoices and payments.

DISCOVERY REQUEST NO. 17:

Given that increases in the rates charged by the City of Chattanooga Electric Power Board ("EPB") for electric service are passed to TAWC as a customer of that system, and those increases just be recovered in the rates of TAWC as approved by the IRA, please provide:

a. The percentage of rate increases each year issued by the City of Chattanooga EPB for electrical service from 1996 through 2006. Please provide this information in a table format that indicates the date of each increase, the overall percentage increase, the percentage increase to each class of customers (i.e. residential, commercial, industrial, etc.) and the specific increase to TAWC if different than the percentage increase for its customer classification.

RESPONSE:

See General Objections 6, 9, 10. The City Council does not regulate electric rates. Copies of the City's CAFRs for 1999 through 2006 are being produced on CD, which provide information relating to EPB, but a hard copy is available for inspection in the offices of the City Attorney.

Unlike TAWC, which pays nothing for the water that it removes from the Tennessee River and then sells, Electric Power Board of Chattanooga ("EPB") paid 82% of its total revenue to TVA for the purchase of the power that it sells to its customers. The 2006 EPB Annual Report summarizes the revenues and costs for EPB for that fiscal year as follows:

The Electric System sales were \$39.6 million greater than budget. However, this increase in sales is offset by \$37.6 million greater than budgeted operating costs, due mainly to \$36.6 million higher than plan for purchased power. Sales and purchased power expense were higher due to two factors: First, TVA raised their rates on October 1, 2005 and again on April 1, 2006. Both of these rate increases were passed through to the customer. However, in neither instance did EPB raise its rates to the customer. In fact, the last EPB rate increase was in July 1997. The second factor increasing sales and purchased power expense was the higher KWh sales to customers due to warmer than expected weather in the EPB service area. Degree days were 4.4% greater than budget and KWh sales to customers were 2.6% greater than budget in FY 2006.

2006 Annual Report, page 15.

Copies of the annual reports for EPB for the fiscal years ending June 30, 2005 and June 30, 2006 are provided in electronic format.

b. Any studies, reports, correspondence, EPB Minutes, City Council or Committee Minutes, ordinances, resolutions, or other documents of any kind addressing such rate increases, including any documents addressing the basis for the increase in electric rates, and the allocations of such increases between the various customer classifications or specific customers.

RESPONSE:

See (a).

c. The City of Chattanooga EPB annual reports or financial statements for fiscal years 2001-2006.

RESPONSE:

See (a).

d. The City of Chattanooga EPB Utility Plant Balances for the fiscal years 2001-2006 and provide the Capital Budgets for each year for the same periods.

RESPONSE:

See (a).

DISCOVERY REQUEST NO. 18:

Given that increases in tax rates and assessments from the City of Chattanooga are passed to TAWC as a tax payer in the City, and those increases must be recovered in the rates of TAWC as approved by the TRA, please provide:

a. The percentage of tax increases each year by the City of Chattanooga from 1996-2006. Please provide this information in a table format that indicates the type of tax, the tax rate, the valuation method, percentage used for valuation (if applicable), the date of any change in tax rate or valuation percentage (if applicable), and the percentage increase from year to year.

RESPONSE:

See General Objections 2 and 9. Without waiving these objections, see tax rate adopted by the City each year referenced in the annual budget ordinances which are being produced. The City does not value the real or personal property for taxation but instead relies upon assessments by the Hamilton County Tax Assessor's Office, business tax returns filed or other returns by taxpayers. A table reflecting the tax rate and budgeted property tax revenues follows:

FY	Tax Rate	Budgeted Property Taxes*
96-97	2.70	67, 442, 071
97-98	2.31	62, 207, 932
98-99	2.31	64, 037, 216
99-00	2.31	65, 553, 784
00-01	2.31	66, 601, 312
01-02	2.516	83, 637, 449
02-03	2.516	85, 940, 162
03-04	2.516	88, 229, 048
04-05	2.516	88, 758, 674
05-06	2.202	89, 594, 407
06-07	2.202	90, 505, 309

*The property tax appraisals are established by the Assessor of Property for Hamilton County or by the Tennessee Regulatory Authority for certain utilities. The major change in appraisal for Fiscal Year 97-98 and Fiscal Year 01-02 appears to be the result of a periodic re-appraisal by the Assessor of Hamilton County.

b. Any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind addressing the tax increases, including any documents addressing the basis for the increase in the tax or valuation percentages identified in the table provided in response to the previous request.

RESPONSE:

See General Objections 2, 3, and 9. Without waiving these objections, the City of Chattanooga is producing the minutes of the City Council relating to tax increases.

c. Any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind containing discussion of any adjustments to the various tax rates as a result of the savings the City has experienced from the elimination of the public fire hydrant fees in TAWCs tariffs.

RESPONSE:

See General Objections 2, 3, and 9. Counsel has been unable to date to locate any documents which may be in response to this request. Further inquiries will be made, and this request may be supplemented.

DISCOVERY REQUEST NO. 19:

Please provide any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind reflecting discussions or requests to TAWC to make capital improvements between 2001-2006. *This* discovery request would apply but is not limited to capital improvements for such items as fire protection, downtown renovations, service problems, economic development, or street improvements.

RESPONSE:

See General Objections 2 and 3. Without waiving these objections, the City of Chattanooga is producing the document "Major Construction Project 2001-2006". The City's practice is to notify all utilities of such major construction projects and to project the dates of construction so that the utilities may make their own plans for any necessary relocations.

DISCOVERY REQUEST NO. 20:

Please provide any studies, reports, correspondence, City Council Minutes, committee minutes, ordinances, resolutions, or other documents of any kind in *which* the City or any representative of the City has discussed the level of service provided by TAWC between 2001-2006.

RESPONSE:

See General Objections 2 and 3. Counsel has not located any documents which may be responsive to this request.

DISCOVERY REQUEST NO. 21:

Please provide the hours of operations and the days of the week which the City of Chattanooga 311 Call Center referenced in *the* testimony of Mark Keil is open.

RESPONSE:

Monday through Friday, 7:30 a.m. to 5:00 p.m.

DISCOVERY REQUEST NO. 22:

Is the City of Chattanooga 311 Call Center Open on Holidays?

RESPONSE:

No.

DISCOVERY REQUEST NO. 23:

Please provide the following information for the City of Chattanooga 311 Call Center for the years 2005 and 2006:

a. A detailed break down of costs (i.e. labor, benefits, building costs or rent, utility expenses, telephone expense, information technology (IT costs), contractor services, office supplies, etc.)

RESPONSE:

The accounting records for the 311 call center are being produced. No accounting is made for building costs or rent.

b. The average hourly rate for each service representative.

RESPONSE:

This information is not separately maintained but may be deduced from records produced.

- c. The salaries of any management employees.

RESPONSE:

See Response to 23(a).

- d. How much of Mr. Keil's salary, benefits and expenses are allocated to the 311 Call Center?

RESPONSE:

None.

- e. The total number of customer contacts received each year.

RESPONSE:

See Mark Keil's pre-filed testimony.

- f. The average cost per customer contact.

RESPONSE:

This figure is not maintained but may be estimated from the pre-filed testimony and accounting records produced.

- g. Copies of all customer satisfaction surveys referenced in Mr. Keil's testimony for both years.

RESPONSE:

The City of Chattanooga is producing the results of the Summer 2005 Telephone Survey. An analysis of a recent survey is underway but no report has been received.

- h. Key performance indicators and results used to measure performance.

RESPONSE:

See attached June 10, 2005, survey.

- i. Describe all services provided by 311 call centers.

RESPONSE:

See pre-filed testimony of Mark Keil.

DISCOVERY REQUEST NO. 24:

Do the 311 Call Center employees address service or billing problems or simply pass those to the service provider (i.e. Waste Water Division, EPB, etc.)?

RESPONSE:

They address service issues; address property tax questions, city court cost and fees, and financial questions about other City services. Some calls are forwarded to direct service providers such as the Waste Resources Division.

DISCOVERY REQUEST NO. 25:

Do the 311 Call Center employees produce the bills or perform meter reading edits and billing edits for the various City Departments for which it provides services (i.e. Waste Water Division, EPB, etc.)?

RESPONSE:

No.

DISCOVERY REQUEST NO. 26:

Do the 311 Call Center employees handle bill collection efforts for the various City Departments for which it provides services?

RESPONSE:

Not presently but the hardware and software are designed to handle this function.

DISCOVERY REQUEST NO. 27:

Do the 311 Call Center employees close (i.e., enter the results of the field work) service orders for the various City Departments for which it provides services?

RESPONSE:

All service requests are tracked and the results of the field work are maintained within the system; however, the people actually doing the field work enter the completion data. There is seamless electronic connection between intake and completion.

DISCOVERY REQUEST NO. 28:

Please provide the engagement letter, contract and any other correspondence between the City of Chattanooga and Raftelis Financial Consultants, Inc. for any engagement with the City of Chattanooga during the last five years, and identify the total costs and/or fees incurred or paid by the City of Chattanooga to Raftelis Financial Consultants, Inc.

RESPONSE:

See General Objections 1, 2, and 6. Without waiving these objections, a redacted copy of the engagement letter with Raftelis is being produced. The expenses paid to date are \$33,580.00.

DISCOVERY REQUEST NO. 29:

Please provide a schedule showing all franchise fee revenue received by the City from Comcast or its predecessors for each year from 2001-2006. Please provide an estimate of the expected increase in revenue resulting from Ordinance No. 11940 or any other ordinances passed in the past year granting a franchise to Comcast and; the expected percentage increase on Comcast customer bills and; any City Council or Committee minutes, studies, correspondence, memoranda, ordinance, resolutions, or other documents which refer or relate in any way to such increase in franchise fees.

RESPONSE:

See General Objections 2 and 4. Without waiving these objections, the Comcast franchise fee is based upon the five (5%) percent of gross revenues. The estimated annual franchise fee is contained within the annual budgets being produced. It is unknown how much the franchise fee will increase as a result of the latest franchise ordinance.

DISCOVERY REQUEST NO. 30:


Please provide copies of the deposition or hearing testimony identified in response to any of these requests.

RESPONSE:

See General Objections 1 and 2. Without waiving these objections, the City of Chattanooga will rely upon pre-filed testimonies which have been filed by the City and other parties herein.

Respectfully submitted,

CITY OF CHATTANOOGA, TENNESSEE
RANDALL L. NELSON, CITY ATTORNEY

BY: 

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Special Counsel
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Chattanooga, TN 37402
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CHAMBLISS, BAHNER & STOPHEL, P.C.

BY: 

Harold L. North, BPR #007022 *with permission*
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1000 Tallan Building
Two Union Square
Chattanooga, TN 37402
(423) 756-3000

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served a true and correct copy of the foregoing pleading by electronic mail and by depositing same in the United States mail, postage prepaid, and addressed to the following:

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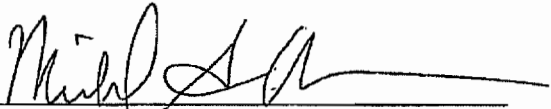
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This the 30th day of March, 2007.


Michael McMahan

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

TENNESSEE AMERICAN WATER COMPANY, :
PETITION TO CHANGE AND INCREASE : DOCKET NO. 06-00290
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 SERVICES TO ITS :
CUSTOMERS. :

AFFIDAVIT OF MAYOR RON LITTLEFIELD

STATE OF TENNESSEE

COUNTY OF HAMILTON

I, RON LITTLEFIELD, Mayor for the City of Chattanooga, Tennessee, do hereby certify that the foregoing responses to the Discovery Requests to the City of Chattanooga were prepared under my general supervision and are true and accurate to the best of my knowledge and information.

DATED this ____ day of March, 2007.

RON LITTLEFIELD

Sworn to and subscribed before me this ____ day of March, 2007.

NOTARY PUBLIC

My Commission Expires:

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

TENNESSEE AMERICAN WATER COMPANY, :
PETITION TO CHANGE AND INCREASE : DOCKET NO. 06-00290
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 SERVICES TO ITS :
CUSTOMERS. :

AFFIDAVIT OF L. DAN JOHNSON

STATE OF TENNESSEE

COUNTY OF HAMILTON

I, L. DAN JOHNSON, Chief of Staff for Mayor Ron Littlefield, City of Chattanooga, Tennessee, do hereby certify that the foregoing responses to the Discovery Requests to the City of Chattanooga were prepared under my general supervision and are true and accurate to the best of my knowledge and information.

DATED this ____ day of March, 2007.

L. DAN JOHNSON

Sworn to and subscribed before me this ____ day of March, 2007.

NOTARY PUBLIC

My Commission Expires:

CAFR 2006

CITY OF CHATTANOOGA, TENNESSEE

COMPREHENSIVE ANNUAL FINANCIAL REPORT
FOR THE YEAR ENDED JUNE 30, 2006



ABOUT THE COVER:

The City of Chattanooga was founded in 1815 on the banks of the Tennessee River as a ferry landing and warehouse site.

The river continues as an integral part of the economic and cultural development of the city into the 21st Century.

CITY OF CHATTANOOGA, TENNESSEE

**COMPREHENSIVE ANNUAL
FINANCIAL REPORT
FOR THE FISCAL YEAR ENDED
JUNE 30, 2006**

**DEPARTMENT OF FINANCE AND ADMINISTRATION
DAISY W. MADISON, ADMINISTRATOR**

CITY OF CHATTANOOGA, TENNESSEE
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2006

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The City of Chattanooga, Tennessee (the City) was incorporated under the Private Acts of 1869. Through June 11, 1990, the City operated under the Commission form of government, consisting of an elected Mayor and four elected Commissioners, each of whom served as the head of a city department. Pursuant to an Agreed Order dated January 18, 1990, issued by the United States District Court for the Eastern District of Tennessee, Southern Division, the Board of Commissioners of the City and the offices of Mayor and Commissioner were abolished as of June 11, 1990.

The Agreed Order provided that the City Charter be amended to create the office of Mayor, with all executive and administrative authority formerly vested in the Board of Commissioners. Further, the City Council was created with all legislative and quasi-judicial authority formerly vested in the Board of Commissioners. Under the provisions of the Agreed Order, the Mayor is elected at-large and is not a member of the City Council, while the City Council is composed of nine members, with each member elected from one of nine districts within the geographic boundaries of the City.

The financial statements of the City have been prepared in accordance with generally accepted accounting principles in the United States of America ("GAAP") as applied to governmental units. The Governmental Accounting Standards Board ("GASB") is the standard-setting body for governmental accounting and financial reporting. Pronouncements of the Financial Accounting Standards Board ("FASB") issued after November 30, 1989, are not applied in the preparation of the financial statements of enterprise funds in accordance with an election made by the City under GASB Statement No. 20. The GASB periodically updates its codification of the existing Governmental Accounting and Financial Reporting Standards, which, along with subsequent GASB pronouncements (Statements and Interpretations), constitutes GAAP for governmental units. The more significant of these accounting policies are described below.

(A) Reporting Entity

In evaluating the City as a reporting entity, management has addressed all potential component units (traditionally separate reporting entities) for which the City may be financially accountable and, as such, should be included within the City's financial statements. The City (the primary government) is financially accountable if it appoints a voting majority of the organization's governing board and (1) it is able to impose its will on the organization or (2) there is a potential for the organization to provide specific financial benefit or to impose specific financial burden on the City. Additionally, the primary government is required to consider other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

The financial statements are formatted to allow the user to clearly distinguish between the primary government and its component units. The primary government includes separately administered organizations that are not legally separate from the City, as discussed below. Blended component units, although legally separate entities, are in substance part of the government's operations and data from these units are combined with data of the primary government. The City has no blended component units at June 30, 2006. Discretely presented component units are reported in a separate column in the basic financial statements to emphasize that they are legally separate from the City. Each discretely presented component unit has a June 30 year-end.

The financial statements of EPB (the Electric Power Board) are included in the accompanying financial statements as part of the primary government because it is not legally separate from the City. The City affirms all board member appointments and approves all disbursements of EPB funds. EPB's operations are reported as an enterprise fund.

Discretely Presented Component Units

Chattanooga Metropolitan Airport Authority - The City appoints all board members and is secondarily responsible for retirement of the revenue bonds recorded as a liability of the Airport Authority. The Airport Authority is presented as a proprietary fund type.

Chattanooga Area Regional Transit Authority (CARTA) - The City appoints ten members of the twelve-member board. Although CARTA has the authority to issue its own debt, the board members serve at the City's discretion and the City finances the majority of CARTA's operating deficits. CARTA is presented as a proprietary fund type.

Chattanooga Downtown Redevelopment Corporation - The City's Mayor, City Council Chairperson, and Chief Finance Officer are permanent members of the Board, and the City appoints the remaining board members. The Corporation has the authority to issue its own debt, but the City has agreed to finance any operating deficits of the Corporation. The Corporation is presented as a proprietary fund type.

Complete financial statements of the component units can be obtained from:

Chattanooga Metropolitan
Airport Authority
P.O. Box 22444
Chattanooga, TN 37422

CARTA
1617 Wilcox Boulevard
Chattanooga, TN 37406

Chattanooga Downtown Redevelopment Corporation
427 City Hall Annex
Chattanooga, TN 37402



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EXHIBIT

tabbies

D

Energy Savings Tip

your home has single-pane windows, consider replacing them with double-pane windows with high-performance glass (low-e or spectrally selective) to reduce heat gain.



[About Our Company](#) [Our Mission](#) [EPB History](#) [Annual Reports](#) [Board of Directors](#)

About Our Company

A non-profit agency of the City of Chattanooga, EPB was established in 1935 for the sole purpose of providing electric power to the people of the greater Chattanooga area. Today, EPB is still one of the largest publicly-owned providers of electric power in the country, serving more than 163,000 residents in a 600 square-mile area that includes greater Chattanooga, as well as parts of surrounding counties (small parts of Bledsoe, Bradley, Marion, Rhea, and Sequatchie) and areas of North Georgia (portions of Catoosa, Dade, and Walker). EPB Electric sales revenue was \$361 million in 2004. In addition, EPB Electric Power has one of the highest customer satisfaction ratings in the industry.



EPB is headed by a five member [Board of Directors](#).



Today, EPB is both an electric utility and a communications company which consists of nine divisions. Harold DePriest is President and Chief Executive Officer and Ron Fugatt is Executive Vice President. The executive staff includes: Greg Eaves, Senior Vice President, Finance and Chief Financial Officer; David Wade, Senior Vice President, Electric System; Diana Bullock, Vice President, Economic Development and Government Relations; Marcellus Scott, Vice President, Human Resources; Steve Clark, Vice President, Strategic Systems; Kathy Harriman, Senior Vice President, Telecom; Kathy Burns, Vice President, Customer Relations; Danna Bailey Cannon, Vice President, Marketing and Communications and Aldous McCrory, Vice President, Legal Services.

EPB's mission - to enhance the quality of life in our community - is a mission taken seriously. EPB has committed to the City to invest \$1 million for the 21st Century Waterfront Development over a five year period. In addition, EPB committed \$125,000 a year for four years to support the




Chamber's economic development efforts. And EPB helps the community with more than 5,000 volunteer hours each year in over 150 charitable organizations. EPB and its employees are currently one of the largest contributors to the United Way organization. Last year alone, through the leadership of our newly developed Minority- & Women-Owned Business Development Department, EPB put nearly \$2 million back into the local economy.

EPB launched their Telecom division in April of 2000 to provide local businesses with a high quality, reliable, local solution at an affordable price. In just five years, EPB Telecom has grown to serve 2300 customers, with just over 14,000 lines in service. Telecom revenue increased from \$8.8 million in 2003 to \$10.6 million in 2004. In addition to the acquisition of new customers, Telecom's growth is also due in large part to the continued expansion of existing clients who have added an average of 1-2 lines, including data services. EPB Telecom has over 100 miles of fiber in the greater Chattanooga area.

EPB Telecom is the second largest local business phone provider with the second highest brand awareness (behind only BellSouth) according to a Brand Awareness Survey conducted in April 2004. Also, EPB Telecom enjoys high customer satisfaction ratings.

In November 2003, EPB Telecom launched a new all-fiber Internet solution for local businesses. This new product gives businesses affordable access to up to 500 Mbps of bandwidth - a capacity 300 times faster than a standard DSL, cable or T1 connection. This new product gives Chattanooga internet bandwidth capacity and service that meets or exceeds cities such as Atlanta, Chicago, and Los Angeles.

 **CALL 423-648-1EPB(1372) FOR CUSTOMER SERVICE**

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H

Hammock v. Sumner CountyTenn.App.,1997.Only
the Westlaw citation is currently available.

SEE COURT OF APPEALS RULES 11 AND 12

Court of Appeals of Tennessee.

Jerry HAMMOCK and wife Ruby Hammock, et al.,

Plaintiffs/Appellants,

v.

SUMNER COUNTY, Tennessee,

Defendant/Appellee.

No. 01A01-9710-CV-00600.

Dec. 5, 1997.

APPEAL FROM THE SUMNER COUNTY
CIRCUIT COURT, AT LEBANON, TENNESSEE,
THE HONORABLE THOMAS GOODALL, JR.,
JUDGE.

For the Plaintiffs/Appellants: B. Keith Williams,
Taylor, Taylor, Lannom & Williams, Lebanon,
Tennessee.

For the Defendant/Appellee: John Knox Walkup,
Attorney General and Reporter, Wendell C. Dawson,
Assistant Attorney General.

OPINION

WILLIAM C. KOCH, JR., Judge.

*1 This interlocutory appeal involves the right of a party to discover the appraisal report of a testifying expert in a condemnation case. The Circuit Court for Sumner County denied the property owners' request for the appraisal report in order to prepare to depose the appraiser on the grounds that the report is "privileged, as work product [sic]" but granted the property owners permission to apply for an interlocutory appeal pursuant to Tenn.R.App.P. 9. We concur that an interlocutory appeal will prevent needless, expensive, and protracted litigation in this case. Because the application and the response thereto fully set forth the parties' positions and the material facts, we dispense with further briefing and oral argument and proceed to the merits in order to save the parties additional time and expense.^{FNI} We vacate the trial court's order and remand the case with instructions to enter an order compelling the

production of the testifying appraiser's reports.

FNI. Pursuant to Tenn.R.App.P. 2, we suspend the application of Tenn.R.App.P. 9(c), 24-26, & 29. We also find oral argument to be unnecessary pursuant to Tenn.R.App.P. 35(c).

I.

This appeal involves twelve inverse condemnation cases filed in the Circuit Court for Sumner County arising out of the construction of State Highway 52 in Portland. The property owners in each of these cases assert that the State of Tennessee acquired interests in their property by misrepresenting the effect of the highway construction on their remaining property. Each of these lawsuits requests damages for the diminution of the value of the property owners' remaining property.

During discovery, the property owners served interrogatories on Sumner County, the only remaining defendant after the State of Tennessee was dismissed as a party, requesting among other information the names of the expert appraisers the county expected to call as expert witnesses and copies of any written appraisal report prepared by the expert for each affected piece of property. Not surprisingly, the county submitted interrogatories to the property owners requesting essentially the same information.

Sumner County responded to the property owners' interrogatories by stating that it intended to call Lewis C. Garber as an expert appraiser at trial. It also provided additional information concerning Mr. Garber's appraisals including (1) the date of each appraisal, (2) the appraised value of each piece of property, (3) the "total amount that would constitute fair compensation for the land taken as indicated by the appraisal," and (4) information concerning the comparables on which the appraisals were based. However, the county objected to producing Mr. Garber's appraisal reports on the ground that doing so was contrary to Tenn.R.Civ.P. 26.02(4). Apparently,

the property owners have not yet responded to the county's interrogatories.

The property owners then requested the trial court to compel the county to produce Mr. Garber's appraisal reports in order to assist them in preparing to take Mr. Garber's deposition. The county resisted the motion, and the trial court entered an order on October 17, 1997 concluding that the requested reports were "not discoverable, and that the information requested is privileged, as work product [sic]" The trial court entered another order on October 17, 1997, granting the property owners' application for permission to pursue an interlocutory appeal on the ground that it had "been unable to locate any precedent on the issue of whether an experts [sic] report is discoverable when the non-moving party has stated in their [sic] Answers to Interrogatories that the expert intends to testify 'about his appraisal report.' "

II.

*2 Issues surrounding the proper scope of discovery in condemnation cases are not new to this court. Thirty years ago, in our last en banc decision, we interpreted the discovery statutes existing at the time to permit property owners to depose the State's expert appraisers but not to require the State to produce copies of the expert appraiser's report. *See State ex rel. Pack v. West Tennessee Distrib. Co.*, 58 Tenn. App. 306, 314-15, 430 S.W.2d 355, 359 (1968). The scope of discovery expanded significantly after the Tennessee Supreme Court adopted the Tennessee Rules of Civil Procedure in 1970. *See Vythoulkas v. Vanderbilt Univ. Hosp.*, 693 S.W.2d 350, 355 (Tenn.Ct.App.1985). Thereafter, in the only reported case dealing with the discovery of appraisal reports, this court held that a property owner was entitled to discover the State's appraiser's worksheets concerning the value of the property owner's property. *See State ex rel. Dep't of Transp. v. Harvey*, 680 S.W.2d 792, 794 (Tenn.Ct.App.1984). Without even mentioning *State ex rel. Pack v. West Tenn. Distrib. Co.*, the court stated that "[w]e find no case or statute which makes privileged the papers of the state expert appraiser and we will create no such privilege here." *See State ex rel. Dep't of Transp. v. Harvey*, 680 S.W.2d at 794.

The discovery rules have been further liberalized since we decided the *State ex rel. Dep't of Transp. v. Harvey* case. Now, *Tenn.R.Civ.P. 26.02(4)(A)(ii)* permits parties to depose other parties' testifying

experts as a matter of right, and *Tenn.R.Civ.P. 26.02(3)* permits the discovery of relevant documents upon a showing that the party seeking discovery has a substantial need for the requested materials and will be unable to obtain their equivalent without undue hardship. The property owners in this case have satisfied these requirements. They desire to focus their deposition examination of the county's testifying appraiser, and they have no other means of acquiring his report.

The attorney work product doctrine should be narrowly construed to avoid impeding the liberal discovery process envisioned by the present procedural rules. *See Allendale Mut. Ins. Co. v. Bull Data Sys., Inc.*, 152 F.R.D. 132, 135 (N.D.Ill.1993). Persons asserting the work product doctrine as a basis for preventing the discovery of otherwise relevant evidence have the burden of demonstrating the applicability of the doctrine. *See Resolution Trust Corp. v. Dabney*, 73 F.3d 262, 266 (10th Cir.1995). Since reports prepared by experts in anticipation of trial are not covered by the work product doctrine, *see Hartford Fire Ins. Co. v. Pure Air on the Lake Ltd. Partnership*, 154 F.R.D. 202, 206 n. 6 (N.D.Ind.1993); *Taylor v. AndersonTully Co.*, 151 F.R.D. 295, 296 n. 1 (W.D.Tenn.1993); *Pearl Brewing Co. v. Jos. Schlitz Brewing Co.*, 415 F.Supp. 1122, 1137 (S.D.Tex.1976), we find that the county did not establish its work product doctrine claim and, therefore, that the trial court erred by overruling the property owners' motion to compel.

III.

*3 We vacate the order denying the motion to compel and remand the case to the trial court with directions to enter an order compelling the county to provide the property owners with the copies of Mr. Garber's appraisal reports requested in paragraph 19(c) of their interrogatories. We tax the costs of this appeal to Sumner County.

HENRY F. TODD, Presiding Judge, Middle Section,
BEN H. CANTRELL, Judge.
Tenn.App., 1997.
Hammock v. Sumner County
Not Reported in S.W.2d, 1997 WL 749461
(Tenn.Ct.App.)

END OF DOCUMENT

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 9th day of April, 2007, upon the following:

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<input checked="" type="checkbox"/> Email	Suite 400
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	Chattanooga, TN 37402
<input type="checkbox"/> Hand	Timothy C. Phillips, Esq.
<input type="checkbox"/> Mail	Vance L. Broemel, Esq.
<input type="checkbox"/> Facsimile	Office of the Attorney General
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<input type="checkbox"/> Hand	Frederick L. Hitchcock, Esq.
<input type="checkbox"/> Mail	Chambliss, Bahner & Stophel, P.C.
<input type="checkbox"/> Facsimile	1000 Tallan Building
<input checked="" type="checkbox"/> Overnight	Two Union Square
<input checked="" type="checkbox"/> Email	Chattanooga, TN 37402