

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 21, 2006

IN RE:

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

)
)
)
)
)
)
)

**DOCKET NO.
06-00290**

**ORDER SUSPENDING TARIFFS, GRANTING PETITION TO INTERVENE
AND SETTING A STATUS CONFERENCE**

This matter came before Chairman Sara Kyle, Director Pat Miller and Director Ron Jones, of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 4, 2006 for consideration of the *Petition* filed by Tennessee American Water Company on November 22, 2006. During that Conference, the panel voted unanimously to proceed to convene a contested case proceeding and to appoint General Counsel or his designee as Hearing Officer for the purpose of preparing this matter for hearing, including handling preliminary matters and establishing a procedural schedule to completion.

BACKGROUND

On November 22, 2006, Tennessee American Water Company (“TAWC” or the “Company”) filed its *Petition* in which the Company seeks approval by the Authority of proposed increased rates, alleging that “[t]he Company’s existing rates and charges will not provide, and cannot be made to provide, sufficient revenues to cover all the costs incurred in

providing adequate quality water service including its cost of capital.”¹ In the *Petition*, TAWC requests that the Authority set a hearing and determine, after the presentation of evidence, that the rates proposed by TAWC are just and reasonable. Along with the *Petition*, TAWC filed several tariffs containing the effective dates of December 22, 2006.

During the Authority Conference held on December 4, 2006, the panel directed the Hearing Officer to set this matter for hearing by the second week in April, 2007 and to provide monthly status reports to the panel during Authority Conferences. On December 12, 2006, the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”) filed a Petition to Intervene.

PETITION TO INTERVENE

Criteria for Permitting Intervention

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

Under TRA Rule 1220-1-2-.06, any party opposing a motion in a contested case must file and serve a response to the motion within seven days of service of the motion.

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

On December 12, 2006, the Consumer Advocate filed its Petition to Intervene. The Consumer Advocate seeks intervention, stating that it is authorized to intervene in proceedings to represent the interests of Tennessee consumers pursuant to Tenn. Code Ann. § 65-4-118. The Petition to Intervene alleges that the increase in rates requested by TAWC “. . . may be too high and may not be just and reasonable under the circumstances.”² The Consumer Advocate states that it can protect the public interest in this regard only by participating in this proceeding. No party or person has filed an objection to or opposed the Consumer Advocate’s intervention request.

The Hearing Officer finds that the legal rights and interests of Tennessee consumers may be determined in this proceeding and that the Consumer Advocate’s petition is timely and its intervention will not impair the orderly and prompt conduct of these proceedings. For these reasons and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a), the Hearing Officer grants the Consumer Advocate’s Petition to Intervene.

SUSPENSION OF TARIFFS

A number of the tariffs filed with TAWC’s *Petition* on November 22, 2006 are marked with an effective date of December 22, 2006. Tenn. Code Ann. § 65-5-103 permits the Authority to suspend any increase, change, or alteration initially for a period of three months from the proposed effective date of the increase, change, or alteration. Because the hearing and determination of TAWC’s proposed increase, change or alteration in tariffs cannot be completed by the proposed effective dates of the tariffs, the Hearing Officer hereby suspends the effectiveness of the tariffs filed with the *Petition* for a period of three months from the proposed effective dates or until **March 22, 2007**.

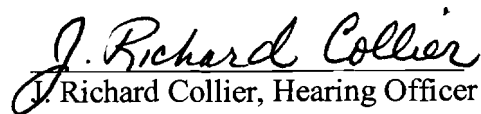
² *Petition to Intervene* at 2 (December 12, 2006).

STATUS CONFERENCE

Inasmuch as the Authority has instructed the Hearing Officer to set this matter for hearing in April, 2007, the Hearing Officer hereby sets a Status Conference for **Monday, January 8, 2007** to establish a procedural schedule and discuss other preliminary matters. A separate Notice will issue setting forth specific matters for consideration during the Status Conference. The Status Conference will commence following the conclusion of the Authority Conference being held at 1:00 p.m. on that date.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division, Office of the Attorney General, is hereby granted leave to intervene and receive copies of any notices, orders or other documents herein.
2. The *Petition* and the effective dates of the tariffs filed with the *Petition* by Tennessee American Water Company are hereby suspended through **March 22, 2007**.
3. A Status Conference will be held following the Authority Conference scheduled at **1:00 p.m. on Monday, January 8, 2007**.


J. Richard Collier, Hearing Officer