

**IN 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** )  
**EARN A FAIR AND ADEQUATE RATE** )  
**OF RETURN ON ITS PROPERTY USED** )  
**AND USEFUL IN FURNISHING WATER** )  
**SERVICE TO ITS CUSTOMERS** )  
 )

**DOCKET NO. 08-00039**

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**RESPONSES AND OBJECTIONS OF THE CONSUMER ADVOCATE AND  
PROTECTION DIVISION TO THE FIRST DISCOVERY REQUEST OF TENNESSEE  
AMERICAN WATER COMPANY**

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Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to the scheduling order entered in this docket, hereby submits its responses and objections to the first discovery request of Tennessee American Water Company ("TAWC" or "Company").

**GENERAL OBJECTIONS**

1. The Consumer Advocate objects to the definitions and instructions contained in the company's interrogatories to the extent that the definitions and instructions attempt to impose on the Consumer Advocate a burden or obligation greater than that required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

2. The Consumer Advocate objects to the interrogatories to the extent they call for information and the production of documents which are protected from disclosure by the attorney-

client privilege, the attorney work product doctrine or any other applicable privilege or protection. The Consumer Advocate objects to the data requests to the extent that the Company is attempting to impose on the Consumer Advocate obligations with regard to identification of privileged documents beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

3. The Consumer Advocate objects to the Company's interrogatories to the extent they seek information relating to matters not at issue in this litigation or to the extent they are not reasonably calculated to lead to the discovery of admissible evidence. By providing information in response to these requests, the Consumer Advocate does not concede that such information is relevant, material or admissible in evidence. The Consumer Advocate reserves all rights to object to the use of such information as evidence.

4. The Consumer Advocate objects to the Company's interrogatories to the extent that the Company is attempting to impose on the Consumer Advocate obligations to supplement its responses beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

5. The Consumer Advocate objects to the Company's interrogatories to the extent that the Company is attempting to require the Consumer Advocate to provide information and produce documents beyond those in its possession, custody or control as that phrase is used in the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

6. The Consumer Advocate objects to the Company's data requests to the extent they seek information and documents that are readily available through public sources or are in the Company's own possession, custody or control. It is unduly burdensome and oppressive to require

the Consumer Advocate to respond or produce documents that are equally available to the Company.

7. The Consumer Advocate objects to the production of any document prepared by it subsequent to the filing of this litigation or contested case.

8. The Consumer Advocate's objections and responses to these requests are based on information now known to it. The Consumer Advocate reserves the right to amend, modify or supplement its objections and responses if it learns of new information.

9. The Consumer Advocate's responses to these requests are made without waiving or intending to waive the right to object to the use of any information provided in response to any subsequent proceeding or trial of this or any other action. The Consumer Advocate's responses to these requests are also not a waiver of any of the foregoing objections or any objections it has made or may make with respect to any similar, related, or future data request, and the Consumer Advocate specifically reserves the right to interpose any objection to further requests notwithstanding any response or lack of objection made in this response.

10. The Consumer Advocate will supplement its responses in accordance with the requirements of state law.

11. The Consumer Advocate expressly incorporates these general objections into its responses set forth below.

Subject to and without waiving any objections stated above the Consumer Advocate responds to the specific request as follows:

**DISCOVERY REQUEST NO. 1:**

Identify each material fact and every document 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. 08-00039 should not be approved by the Tennessee Regulatory Authority ("TRA").

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing. The material facts and documents relied upon by the Consumer Advocate to support its contentions, positions, beliefs, and requests for relief in this matter will be supplied or referenced at the time the Consumer Advocate's witness(es) submits pre-filed direct testimony.

**DISCOVERY REQUEST NO. 2:**

Identify all persons known to you, your attorney, or other agent(s) 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 Discovery Request No. 1 above.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation is ongoing. At this time the Consumer Advocate identifies the Company personnel and witnesses who filed direct testimony in this matter, as well as the Company's customers, as persons known to the Consumer Advocate who may have knowledge, information, or documents which support the Consumer Advocate's answer to Discovery Request No. 1 above.

**DISCOVERY REQUEST NO. 3:**

Produce each document, photograph, or any other article or thing whatsoever, which refers

or relates to 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. 08-00039 should not be approved, whether as to the issues of credibility or any other issue.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass'n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing. Any documents, photographs or other articles or things referred to or relied upon by the Consumer Advocate's witness(es) will be supplied or referenced at the time the witness(es) submit pre-filed direct testimony.

**DISCOVERY REQUEST NO. 4:**

Identify any person you intend to call as a fact or expert witness (including, but not limited to, the persons referred to in paragraph 4 of your "Joint Objection of the Intervenor's To Discovery Question Limits for the Initial Round of Discovery," in which you refer to "two outside consultants hired by the Consumer Advocate to respond to the Company's revenue and depreciation witnesses"), the subject matter of the witness' testimony, the substance of the facts and opinions to be expressed and the basis and reasons therefor, the data, documents, materials or other information shown to, relied upon, created by or considered by the witness as part of this case and/or as a basis in forming his or her opinions, any exhibits to be used as a summary of or support for each such opinion, the

qualifications of the witness, including a full resume, a list of all publications authored by the witness, the compensation to be paid for the study and testimony, and a listing of any other cases in which the witness has testified at trial or by deposition.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass'n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). The Consumer Advocate objects further to the disclosure of fact witnesses to be called at trial because Tennessee law does not require disclosure of such witnesses. *Strickland v. Strickland*, 618 S.W.2d 496 (Tenn. Ct. App. 1981), *Pistole v. Hayes*, No. M2002-00470-COA-R3-CV, 2004 WL 1123528 (Tenn. Ct. App. Jan. 12, 2004). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing. The Consumer Advocate has not identified the witnesses that it intends to call at trial; however, the expert witnesses the Consumer Advocate may call at trial include, but are not confined to, the following: Charles W. King, Michael J. Majoros, Frank Impagliazzo and/or Glynn Stoffel. Information regarding the credentials, subject matter, and compensation of these potential witnesses is attached.

**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 or relied on or referred to in responding thereto.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. Subject to and without waiving these objections, the Consumer Advocate responds as follows: See attached documents.

**DISCOVERY REQUEST NO. 6:**

Provide any and all engagement letters and all expert reports and work papers (including drafts) which have been obtained from, created by or provided to any expert or witness.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. Subject to and without waiving these objections, the Consumer Advocate responds as follows: See attached Agreement Between Snavelly King Majoros O'Conner & Bedell, Inc. and the Office of the Attorney General of Tennessee. The Consumer Advocate further responds that it has provided or made available the petition and pre-filed testimony and exhibits of the Company's witnesses filed in this matter, as well as the Company's responses to the TRA staff's data requests filed in this matter, to: Charles W. King, Michael J. Majoros, Frank Impagliazzo and/or Glynn Stoffel.

**DISCOVERY REQUEST NO. 7:**

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 CAPD witnesses.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce

information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass'n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing. The workpapers and documents relied upon or referenced by the CAPD witness(es) will be supplied or referenced at the time the witness(es) submit pre-filed direct testimony.

**DISCOVERY REQUEST NO. 8:**

Please produce a copy of all trade articles, journals, treatises, speeches and publications of any kind in any way utilized or relied upon by any of the CAPD's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in the captioned matter as well as all articles, journals, speeches, or books written or co-written by any CAPD witness

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing. The trade articles, journals, treatises, speeches and publications relied upon or referenced by the CAPD witness(es) will be supplied or referenced at the time the witness(es) submits pre-filed direct testimony.

**DISCOVERY REQUEST NO. 9:**

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



**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass'n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing; accordingly, it has not identified the documents that it intends to introduce into evidence or use as exhibits at trial. The Consumer Advocate, however, reserves the right to introduce into evidence or use at trial any document, item, report, data, communication, evidence, or information produced by any party or any witness in this proceeding or any other proceeding, including, but not confined to, TRA Docket Nos. 06-00305, 06-00290, 06-00154, 06-00119, 04-00288, 04-00088, 03-00388, 03-00452, and 03-00118.

**DISCOVERY REQUEST NO. 10:**

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 for which he or she provided information or participated in preparing, and describe the information provided or the participation in preparation.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. Subject to and without waiving these objections, the Consumer Advocate responds as follows:

Robert T. (Terry) Buckner - Nos. 1-13.

Charles W. King - No. 4.

Ryan L. McGehee - Nos. 1-13.

Joe Shirley - Nos. 1-13.

**DISCOVERY REQUEST NO. 11:**

The Joint Objection of the Intervenors to Discovery Question Limits for the Initial Round of Discovery, which was filed in this docket, states: “the Company has filed a depreciation study in this docket, the conclusions of which will likely be contested.” Specifically identify each conclusion or aspect of the depreciation study the CAPD intends to contest, if any, and the CAPD’s grounds and/or bases therefor, including any facts and/or documents the CAPD contends support those grounds.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass’n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate’s investigation of this matter is ongoing. The grounds, bases, facts and/or documents relied upon or referenced by the CAPD witness(es) on this issue will be supplied or referenced at the time the witness(es) submits pre-filed direct testimony.

**DISCOVERY REQUEST NO. 12:**

The Joint Objection of the Intervenors to Discovery Question Limits for the Initial Round of Discovery, which was filed in this docket, states: “TAWC has also filed an independent cost

assessment report (“I.C.A.R.”) in relation to management fees, the conclusions of which will likely be contested.” Specifically identify each conclusion or aspect of the I.C.A.R. the CAPD intends to contest, if any, and the CAPD’s grounds and/or bases therefor, including any facts and/or documents the CAPD contends support those grounds.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass’n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate’s investigation of this matter is ongoing. The grounds, bases, facts and/or documents relied upon or referenced by the CAPD witness(es) on this issue will be supplied or referenced at the time the witness(es) submits pre-filed direct testimony.

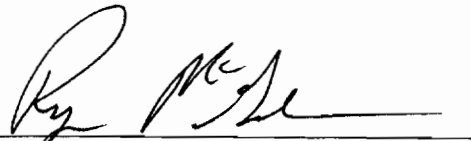
**DISCOVERY REQUEST NO. 13:**

The Joint Objection of the Intervenors to Discovery Question Limits for the Initial Round of Discovery, which was filed in this docket, states: “the Company has proposed a significant adjustment to its weatherization figures which calls for \$1.3 million in new rates.” Specifically identify each conclusion or aspect of the weatherization figures the CAPD intends to contest, if any, and the CAPD’s grounds and/or bases therefor, including any facts and/or documents the CAPD contends support those grounds.

**RESPONSE:**

The Consumer Advocate asserts the General Objections described above. The Consumer Advocate objects further to the extent the Company is asking the Consumer Advocate to produce information protected from disclosure by the attorney work product doctrine and/or the attorney-client privilege. *State ex. rel. Flowers v. Tennessee Trucking Ass'n Self Ins. Group*, 209 S.W.3d 602, 616-618 (Tenn. Ct. App. 2006); Tenn. R. Civ. P. 26.02(3). Subject to and without waiving these objections, the Consumer Advocate responds as follows: The Consumer Advocate's investigation of this matter is ongoing. The grounds, bases, facts and/or documents relied upon or referenced by the CAPD witness(es) on this issue will be supplied or referenced at the time the witness(es) submits pre-filed direct testimony.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Ryan L. McGehee", written over a horizontal line.

RYAN L. McGEHEE  
Assistant Attorney General  
Office of the Attorney General and Reporter  
Consumer Advocate and Protection Division  
P.O. Box 20207  
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Dated: May 28, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing is being served via U.S. Mail and/or electronic mail upon:

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This the 28 day of MAY, 2008.

  
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RYAN L. McGEHEE  
Assistant Attorney General

#120145