

**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

**MOTION TO SET ASIDE THE PROCEDURAL SCHEDULE AND EXTEND THE
DATE OF THE FINAL HEARING ON THE MERITS OR IN THE ALTERNATE
GRANT LEAVE TO SEEK EMERGENCY RELIEF FROM THE HEARING PANEL**

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"), comes before the Tennessee Regulatory ("TRA") and moves the Hearing Officer to set aside the procedural schedule and to extend the date of hearing on the merits in this matter pursuant to Tenn. Code Ann. § 65-5-103 (a). In the alternate, the Consumer Advocate requests leave to seek emergency relief of the same nature from the Hearing Panel assigned to this docket. The Consumer Advocate respectfully requests the Hearing Officer to expedite a determination for this motion in the event this request is denied so that the Consumer Advocate could be heard by the Hearing Panel at the earliest date possible. As grounds, the Consumer Advocate would show as follows;

1. On May 12, 2008, the Consumer Advocate filed 181 discovery requests. Simultaneously, the Consumer Advocate filed its *Motion to Ask Additional Discovery Questions* and

its *Memorandum in Support of the Motion to Ask Additional Discovery Questions* as required by TRA Rule 1220-1-2-.11. No ruling has been issued by the Hearing Officer as of this date.

2. On May 28, 2008, TAWC responded to only 53 of 181 discovery requests of the Consumer Advocate. TAWC further reserved the right to object to the outstanding responses.¹

3. On June 2, 2008, the Consumer Advocate filed a *Motion to Compel*. Among the discovery requests it seeks to compel are all outstanding discovery responses, the number of which exceeds 100.

4. Assuming TAWC does not file additional and specific objections to the outstanding discovery responses, if the Hearing Officer grants the Consumer Advocate's *Motion to Ask Additional Discovery Questions* and/or its *Motion to Compel*, under the current procedural schedule, the Consumer Advocate has insufficient time to receive the data, perform analysis, form opinions and file direct testimony.

5. Assuming TAWC does not file specific objections to the outstanding discovery requests, TAWC would provide the information by June 9, 2008. The deadline for the Consumer Advocate's direct testimony is June 23, 2008. This leaves ten working days in which the Consumer Advocate has to receive the data, perform analysis, form opinions and file direct testimony. Further, this amount of time does not take into account the possibility that TAWC's responses to the outstanding discovery requests may be inadequate or incomplete and require an additional motion to compel.

6. Given the circumstances, the Consumer Advocate's ability to prepare pre-filed direct testimony and participate in this case is compromised. There is simply not enough time under the

¹TAWC claims the 53 with subparts equals 80 requests.

current procedural schedule for the Consumer Advocate to receive the specific data requested, perform analysis, form opinions and file direct testimony by June 23, 2008.

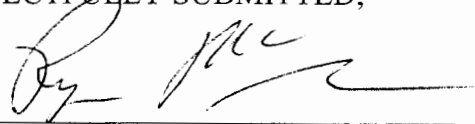
7. The Consumer Advocate will require four weeks to perform analysis, form opinions and file direct testimony from the date it receives full and complete responses to all discovery requests filed.

8. If in the event the *Motion to Ask Additional Discovery Questions* and/or the *Motion to Compel* are not granted in full, the Consumer Advocate will need sufficient time to depose company witnesses and subpoena documents and information.

9. The current procedural schedule should be set aside, the outstanding discovery disputes resolved and a new schedule should be entered permitting the Consumer Advocate four weeks from the date it receives full and complete responses from TAWC for all outstanding discovery requests to file its pre-filed direct testimony.

10. The TRA has up to nine months to make a final decision in a rate case. Tenn. Code Ann. § 65-5-103 (a). To the extent this motion moves the date of the final date of the hearing beyond six months from the date the petition was filed, the Hearing Officer or the Hearing Panel should exercise the authority to extend this rate case beyond six months for the time necessary to accommodate this request.

RESPECTFULLY SUBMITTED,



RYAN L. McGEHEE
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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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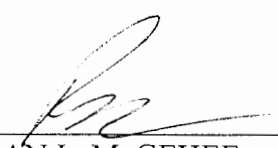
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This the 2 day of Jan, 2008.



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