

**BASS, BERRY & SIMS PLC**  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

DALE GRIMES  
TEL: (615) 742-6244  
FAX: (615) 742-2744  
dgrimes@bassberry.com

315 DEADERICK STREET, SUITE 2700  
NASHVILLE, TN 37238-3001  
(615) 742-6200

www.bassberry.com

OTHER OFFICES

KNOXVILLE  
MEMPHIS

June 2, 2008

**VIA HAND-DELIVERY**

Chairman Eddie Roberson, PhD  
c/o Ms. Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

filed electronically in docket office on 06/02/08

***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***

Dear Chairman Roberson:

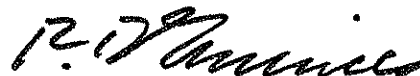
Enclosed please find an original and sixteen (16) copies of Tennessee American Water Company's Motion to Compel the Chattanooga Manufacturers Association to Provide Complete Discovery Responses and to Exclude the Use of All Information Withheld Without Good Cause.

Please return three copies of this, 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

Very truly yours,



R. Dale Grimes

RDG/smb  
Enclosures

Chairman Eddie Roberson, PhD

June 2, 2008

Page 2

cc: Hon. Ron Jones (*w/o enclosure*)  
Hon. Sara Kyle (*w/o enclosure*)  
Hon. Tre Hargett (*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*)  
Timothy C. Phillips, Esq. (*w/enclosure*)  
David C. Higney, Esq. (*w/enclosure*)  
Henry M. Walker, Esq. (*w/enclosure*)  
Michael A. McMahan, Esq. (*w/enclosure*)  
Frederick L. Hitchcock, Esq., (*w/enclosure*)  
Mr. John Watson (*w/o enclosure*)  
Mr. Michael A. Miller (*w/o enclosure*)

6814099.1

**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 )  
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**

**TENNESSEE AMERICAN WATER COMPANY'S MOTION TO COMPEL THE  
CHATTANOOGA MANUFACTURERS ASSOCIATION TO PROVIDE COMPLETE  
DISCOVERY RESPONSES AND TO EXCLUDE THE USE OF ALL INFORMATION  
WITHHELD WITHOUT GOOD CAUSE**

Tennessee American Water Company ("TAWC") served its discovery requests (the "Requests") (attached as Exhibit A) upon the Chattanooga Manufacturers Association ("CMA") on May 12, 2008. The CMA responded to TAWC's Requests on May 28, 2008 (the "Responses") (attached as Exhibit B). After a review of the CMA's Responses, it is clear that nearly all of the CMA's Responses are either insufficient or entirely non-responsive. Accordingly, pursuant to the Tennessee Regulatory Authority 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's Discovery Requests and barring the CMA from using any information or documents withheld from TAWC without good cause.

**I. Legal Standard of Discovery**

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. As set forth below, the CMA has failed to fully and properly respond to TAWC's Discovery Requests, and TAWC now seeks an order compelling complete answers and the production of all responsive documents or granting any other relief under Rule 37 of the Tennessee Rules of Civil Procedure this Hearing Officer deems appropriate.

As a legal matter, Rule 26 of the Tennessee Rules of Civil Procedure is broad in scope, and allows parties "to obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved . . . including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter." Tenn. R. Civ. P. 26.02(1). Thus, discovery under the Tennessee Rules of Civil Procedure "is allowed in an effort to do away with trial by ambush," and should be allowed "to achieve its desired effect." *Conger v. Gowder*, 2001 Tenn. App. LEXIS 205, \*14 (Tenn. Ct. App. Mar. 29, 2001).

Here, TAWC has propounded a limited number (13) of reasonable requests for relevant information and documents, which are reasonably calculated to lead to discovery of relevant information, and is entitled to receive adequate responses to those requests. As a party to this litigation, the CMA has a duty to respond to each Request to the maximum extent possible even when valid objections have been asserted. The CMA's failure to answer a single request by TAWC is therefore contrary to the "desired effect" sought by the Tennessee Rules of Civil Procedure and undermines the purpose of this Hearing Officer's Procedural Order in this matter.

**II. The CMA's General And Specific Objections Should Be Denied And The CMA Should Be Compelled To Produce All Responsive, Non-Privileged Information In The CMA's Custody Or Control.**

**A. The CMA Fails To Recognize A Distinction Between Its Discovery Obligations Under The Procedural Order And Its Pre-Filed Testimony Obligations.**

Most critically, the CMA has responded in a manner that directly undermines the most fundamental principles of discovery. Incredibly, the CMA's Response does not contain *a single*, substantive response to *any* request posed by TAWC. The CMA did not provide or identify a single document, nor even attempt to offer limited responses to show a good-faith effort while maintaining its objections. Consequently, the CMA's Response is not simply incomplete, it is entirely absent of any substantive value.

Instead, the CMA gives unspecific, non-committal responses that it will provide or supply the requested material without any indication when that material will be provided, what that material will consist of, the identity of any individuals requested, and why the materials are not immediately being provided in response to TAWC's request. *See* CMA Responses to Requests No. 1, 2, 6, 7, 8; *see also* CMA Responses to Requests No. 11, 12, 13 (providing similarly vague responses that it "intends to timely provide testimony of any witnesses it intends to call, and will supply work papers, if any, relied upon by such witnesses relative to their testimony"); CMA Response to Request No. 4 ("CMA will timely respond as appropriate through the filing of direct testimony of CMA's witnesses, if any.").

Similarly, the CMA asserts a General Objection to producing "any document prepared by it subsequent to the filing of this litigation or contested case" is inappropriate. CMA Responses, General Objection No. 7. The fact that a document came into existence after the filing of this matter is no defense to its production and the CMA should be compelled to produce all such presently existing, responsive, non-privileged documents at this time.

Pursuant to its discovery obligations under the Procedural Order, the CMA has a duty to produce everything *already in existence* and answer the questions posed by TAWC. For instance, if the CMA is aware of a basis upon which it opposed TAWC's petition, it must state that basis or state that it has yet to identify any basis to oppose. If the CMA is aware of a non-privileged, responsive document at this time, the CMA must produce such document if it is in the CMA's custody or control. The CMA may not refuse to respond to TAWC's discovery simply because it is possible that additional evidence may be discovered later. Of course, if the CMA later discovers any new responsive information or material, it has a duty to timely supplement its responses.

Moreover, the CMA had a duty to respond to TAWC's discovery now. It is wrongful for CMA to attempt to withhold information or documentation until its June 30, 2008, pre-hearing testimony is due. To hold otherwise would undermine the fundamental purpose of discovery, which is to avoid surprises and provide the parties with adequate time to prepare their case. *See Conger*, 2001 Tenn. App. LEXIS 205, at \*14. This is why there is a duty on all parties to litigation to supplement their discovery responses as new material or information *comes into knowledge or existence*.

The CMA's effort to entirely defer all discovery obligations by merging everything into its pre-filed testimony submission is improper and should fail. As a practical matter, if no responses were due from Intervenor until June 30, 2008, it would render the Procedural Order's discovery deadline meaningless. Moreover, the universe of responsive information in discovery is necessarily larger than that likely to be submitted by the CMA in the pre-filed testimony of its witnesses. That is the very essence and purpose of discovery. The CMA's failure to distinguish its obligations pursuant to discovery requests versus its obligations to file pre-hearing testimony

in no way diminishes these obligations. The CMA should be required to produce non-privileged information and material in its possession that is responsive to TAWC's Requests.

**B. The CMA's General Objection No. 3 Should Be Denied And The CMA Should Produce All Information Otherwise Withheld On That Basis.**

In General Objection No. 3, the CMA contends that TAWC's interrogatories "seek information relating to matters not at issue in this litigation" or are not reasonably calculated to lead to admissible evidence. Both assertions are incorrect. TAWC narrowly tailored its requests to focus on the issues central to this proceeding. For instance, TAWC's Requests Nos. 1-3, and 11-13 are specifically focused on positions taken by the CMA in its motions filed to date in this proceedings. Requests Nos. 4, and 6 through 9, deal exclusively with matters and materials that will be potentially utilized in the upcoming hearing. Requests Nos. 5 and 10 seek the identity and roles of individuals actively participating in contesting TAWC's rate increase. Accordingly, to the extent any information or material was withheld from any response on this basis, the CMA should be compelled to immediately produce that information or material.

**C. The CMA's Response to Request No. 9 In Incomplete.**

The CMA claims that Request No. 9 is duplicative of Request No. 3. This assertion is incorrect, however, because Request No. 3 addresses the "contention(s), positions(s), or belief(s)" of CMA in this matter whereas Request No. 9 specifically requests materials "that the CMA intends to offer as evidence at the hearing or to refer to in any way at the hearing." Accordingly, TAWC requests that the CMA be compelled to supply a complete response to Request No. 9.

**D. The CMA Cannot Refuse To Produce All Responsive, Non-Privileged Information By Asserting Privilege To A More Limited Universe Of Privileged Information.**

The CMA also refuses to answer TAWC Discovery Requests on the basis that the requests seek attorney-client privileged information or attorney work-product. CMA's Response to Requests Nos. 4 & 10. For instance, the CMA refuses to provide any response to the TAWC's Request No. 10 to identify individuals "who provided information or participated in the preparation of the responses to each of these discovery requests." CMA Response to Request No. 10. There is no privileged basis to withhold this information. But even if some privileged information could be construed as responsive to this request, there certainly exists *non-privileged* responsive information and material that is responsive to Requests Nos. 4 and 10. Unless the CMA can contend in good faith that it has *nothing* responsive to these Requests that is non-privileged, all such non-privileged material should be produced.

**Conclusion**

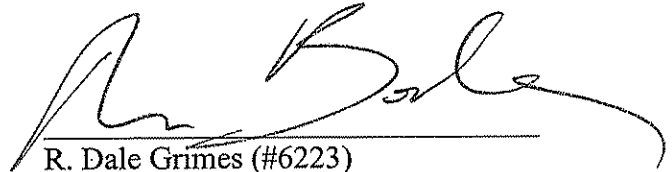
Notwithstanding the clear mandate of Rule 26 of the Tennessee Rules of Civil Procedure and its obligations as a party to this matter, the CMA has produced nothing but evasive and non-responsive answers. As a result, TAWC does not simply lack some of the information requested, it lacks *all* of the requested information. Without any of the information requested, TAWC will be materially prejudiced in its preparation for the hearing of this rate case. The CMA's dilatory tactics undermine TAWC's right to receive discovery responses on the schedule established by this Hearing Officer.

Consequently, without an order compelling the CMA to provide TAWC with any substantive responses to its discovery request, TAWC is materially impaired in its preparation for this rate case. For all of the foregoing reasons, TAWC respectfully requests this Hearing Officer to enter an order compelling immediate production of information responsive to



TAWC's Discovery Requests and barring the CMA from using, for any purpose in this proceeding, any information or documents withheld without good cause. TAWC also requests any additional relief under Rule 37 of the Tennessee Rules of Civil Procedure this Hearing Officer deems appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Dale Grimes', is written over a horizontal line.

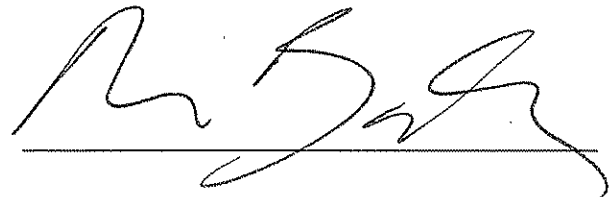
R. Dale Grimes (#6223)  
Ross I. Booher (#019304)  
BASS, BERRY & SIMS PLC  
315 Deaderick Street, Suite 2700  
Nashville, TN 37238-3001  
(615) 742-6200

*Attorneys 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 2nd day of June, 2008, 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	Stephen Butler
<input type="checkbox"/> Overnight	Office of the Attorney General
<input checked="" type="checkbox"/> Email	Consumer Advocate and Protection Division
	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, Connors & 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 <sup>th</sup> 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



**BASS, BERRY & SIMS PLC**

A PROFESSIONAL LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

R. DALE GRIMES  
TEL: (615) 742-6244  
FAX: (615) 742-2744  
dgrimes@bassberry.com

AMSOUTH CENTER  
315 DEADERICK STREET, SUITE 2700  
NASHVILLE, TN 37238-3001  
(615) 742-6200

www.bassberry.com

**RECEIVED**

2008 MAY 12 PM 2:04

IR OFFICES

KNOXVILLE  
MEMPHIS

TLR.A. DOCKET ROOM

May 12, 2008

**VIA HAND-DELIVERY**

Chairman Eddie Roberson, PhD  
c/o Ms. Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

***Re: Petition Of Tennessee American Water Company To Change And Increase Certain Rates And Charges So As To Permit It To Earn A Fair And Adequate Rate Of Return On Its Property Used And Useful In Furnishing Water Service To Its Customers  
Docket No. 08-00039***

Dear Chairman Roberson:

Enclosed please find an original and sixteen (16) copies of Tennessee American Water Company's Discovery Requests to Chattanooga Manufacturers Association.

Please return three copies of the Discovery Requests, 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,

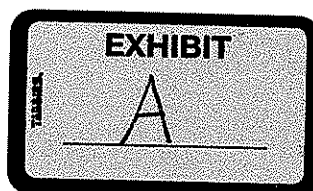
*R. Dale Grimes*

R. Dale Grimes

by permission

*[Handwritten signature]*

RDG/ms  
Enclosures



Chairman Eddie Roberson, PhD  
May 12, 2008  
Page 2

cc: Hon. Ron Jones (*w/o enclosure*)  
Hon. Sara Kyle (*w/o enclosure*)  
Hon. Tre Hargett (*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*)  
Timothy C. Phillips, Esq. (*w/enclosure*)  
David C. Higney, Esq. (*w/enclosure*)  
Henry M. Walker, Esq. (*w/enclosure*)  
Michael A. McMahan, Esq. (*w/enclosure*)  
Frederick L. Hitchcock, Esq., (*w/enclosure*)  
Mr. John Watson (*w/o enclosure*)  
Mr. Michael A. Miller (*w/o enclosure*)

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

**IN RE:**

<b>PETITION OF TENNESSEE AMERICAN</b>	)	
<b>WATER COMPANY TO CHANGE AND</b>	)	
<b>INCREASE CERTAIN RATES AND</b>	)	
<b>CHARGES SO AS TO PERMIT IT TO</b>	)	<b>Docket No. 08-00039</b>
<b>EARN A FAIR AND ADEQUATE RATE</b>	)	
<b>OF RETURN ON ITS PROPERTY USED</b>	)	
<b>AND USEFUL IN FURNISHING WATER</b>	)	
<b>SERVICE TO ITS CUSTOMERS</b>	)	

**TENNESSEE AMERICAN WATER COMPANY'S DISCOVERY REQUESTS TO  
CHATTANOOGA MANUFACTURERS ASSOCIATION**

Petitioner Tennessee American Water Company ("Petitioner" or "TAWC") serves these Discovery Requests on the Chattanooga Manufacturers Association ("CMA"), and asks that CMA provide responses to each request separately, fully, and in writing. CMA is also called upon to produce all documents and evidence requested herein. Furthermore, CMA 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, data compilations and any other electronically stored information.

As used herein, the term "identify" in reference to any individual requires you to provide that individual's name, occupation, current and last known residential and business addresses, and current or last known residential and business telephone numbers. In reference to any other place, thing, concept, fact, or occurrence, the term "identify" requires you to provide all significant information concerning the subject matter of the interrogatory or request, in clear and unambiguous terms, to the fullest extent reasonably calculated to convey the requested information.

**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:**

**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:**

**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:**

**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 Intervenors To Discovery Question Limits for the Initial Round of Discovery," in which you state, "Chattanooga and the CMA have also retained consultants who will likely offer testimony on issues materially affecting the amount and application of the Company's proposed rate increase, such as issues concerning the I.C.A.R. and rate design"), 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:**

**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:**

**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:**



**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 CMA witnesses.

**RESPONSE:**

**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 CMA'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 CMA witness.

**RESPONSE:**

**DISCOVERY REQUEST NO. 9:**

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

**RESPONSE:**

**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:**

**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 CMA intends to contest, if any, and the CMA’s grounds and/or bases therefor, including any facts and/or documents the CMA contends support those grounds.

**RESPONSE:**

**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 CMA

intends to contest, if any, and the CMA's grounds and/or bases therefor, including any facts and/or documents the CMA contends support those grounds.

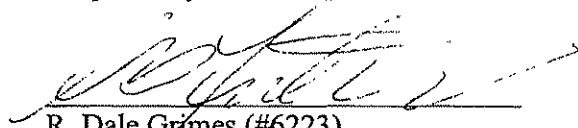
**RESPONSE:**

**DISCOVERY REQUEST NO. 13:**

The Joint Objection of the Intervenor 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 CMA intends to contest, if any, and the CMA's grounds and/or bases therefor, including any facts and/or documents the CMA contends support those grounds.

**RESPONSE:**

Respectfully submitted,



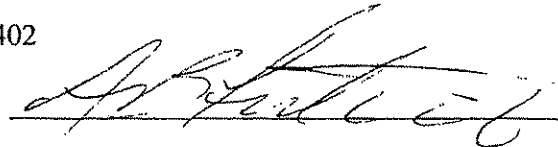
R. Dale Grimes (#6223)  
Ross I. Booher (#019304)  
BASS, BERRY & SIMS PLC  
315 Deaderick Street, Suite 2700  
Nashville, TN 37238-3001  
(615) 742-6200

*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 12<sup>th</sup> day of May, 2008, upon the following:

<input checked="" type="checkbox"/> Hand-Delivery	Timothy C. Phillips, Esq.
<input type="checkbox"/> U.S. Mail	Consumer Advocate and Protection Division
<input type="checkbox"/> Facsimile	Office of Attorney General
<input type="checkbox"/> Overnight	2nd Floor
<input checked="" type="checkbox"/> Email	425 5th Avenue North
	Nashville, TN 37243-0491
<input type="checkbox"/> Hand-Delivery	David C. Higney, Esq.
<input type="checkbox"/> U.S. Mail	Counsel for Chattanooga Manufacturers Association
<input type="checkbox"/> Facsimile	Grant, Konvalinka & Harrison, P.C.
<input checked="" type="checkbox"/> Overnight	633 Chestnut Street, 9th Floor
<input checked="" type="checkbox"/> Email	Chattanooga, TN 37450
<input checked="" type="checkbox"/> Hand-Delivery	Henry M. Walker, Esq.
<input type="checkbox"/> U.S. Mail	Counsel for Chattanooga Manufacturers Association
<input type="checkbox"/> Facsimile	Boult, Cummings, Conners & Berry, PLC
<input type="checkbox"/> Overnight	Suite 700
<input checked="" type="checkbox"/> Email	1600 Division Street
	Nashville, TN 37203
<input type="checkbox"/> Hand-Delivery	Michael A. McMahan, Esq.
<input type="checkbox"/> U.S. 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 type="checkbox"/> Hand-Delivery	Frederick L. Hitchcock, Esq.
<input type="checkbox"/> U.S. Mail	Harold L. North, Jr., Esq.
<input type="checkbox"/> Facsimile	Counsel for City of Chattanooga
<input checked="" type="checkbox"/> Overnight	Chambliss, Bahner & Stophel, P.C.
<input checked="" type="checkbox"/> Email	1000 Tallan Building
	Two Union Square
	Chattanooga, TN 37402



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

*IN RE:*

*PETITION OF TENNESSEE-  
AMERICAN WATER COMPANY TO  
CHANGE AND INCREASE CERTAIN  
RATES AND CHARGES...*

)  
)  
) Docket No. 08-00039  
)  
)  
)  
)  
)  
)  
)

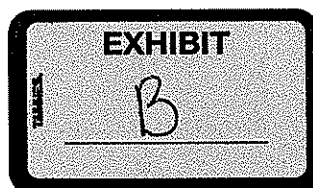
**CHATTANOOGA MANUFACTURERS ASSOCIATION'S  
RESPONSES TO TENNESSEE AMERICAN WATER COMPANY'S  
FIRST SET OF DISCOVERY REQUESTS**

The Chattanooga Manufacturers Association ("CMA"), by and through its attorneys, submits the following objections to the Discovery Requests from Tennessee American Water Company (the "Company") propounded upon CMA. CMA has set forth in Part I its objections generally applicable to the Company's requests, and specific additional objections to Company discovery requests in Part II.

**PART I: GENERAL OBJECTIONS**

1. CMA objects to the definitions and instructions contained in the discovery requests for production to the extent that the definitions and instructions attempt to impose on CMA 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. CMA objects to the discovery requests 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. CMA objects to the Company's discovery requests to the extent that the Company is attempting to impose on



CMA 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. CMA objects to the Company's discovery requests to the extent that they seek information 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, CMA does not concede that such information is relevant, material or admissible in evidence. CMA reserves all rights to object to the use of such information as evidence.

4. CMA objects to the Company's discovery requests to the extent that the Company is attempting to impose on CMA 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. CMA objects to the Company's discovery requests to the extent that the Company is attempting to require CMA 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. CMA objects to the Company's discovery requests to the extent that they seek information and documents that are readily available through public source or are in the Company's own possession, custody or control. It is unduly burdensome and oppressive to require CMA to respond or produce documents that are equally or more available to the Company.

7. CMA objects to the production of any documents prepared by it subsequent to the filing of this litigation or contested case.

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

9. CMA also supports, adopts, and incorporates herein the relevant objections made by the Consumer Advocate Division and the City of Chattanooga.

**PART II**  
**ADDITIONAL OBJECTIONS AND RESPONSES TO**  
**SPECIFIC DISCOVERY REQUESTS**

Subject to and without waiving the foregoing General Objections, CMA responds 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:**

**Objection.** To the extent CMA is aware of any such facts at this time, all such facts relied upon by CMA in this proceeding are, or will be, set forth in the testimony and exhibits of the parties.



**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:**

**Objection.** This question is overbroad and unduly burdensome in that it could conceivably cover dozens, if not hundreds, of employees of CMA and its member companies that may present as witnesses in this case. Those with knowledge, information, or documents supporting CMA's answer to Discovery Request One include the witnesses, if any, for CMA who will file testimony in this case, in addition to any other party's witnesses who have filed testimony or will file testimony.

**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:**

**Objection.** At this time, the documents upon which CMA intends to rely are those which have been filed in this case or which have been provided by TAWC in response to discovery requests from the parties and the Staff.

**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 Intervenors To Discovery Question Limits for the Initial Round of Discovery," in which you state, "Chattanooga and the CMA have also retained consultants who will likely offer testimony on issues materially affecting the amount and application of the Company's proposed rate increase, such as issues concerning the I.C.A.R. and rate design"), 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:**

**Objection.** CMA objects to Discovery Request No. 4 on the grounds that the request is overbroad, unduly burdensome, vague, ambiguous and duplicative and that, at least in part, it is not reasonably calculated to lead to the discovery of admissible evidence. Additionally, CMA objects to Discovery Request No. 4 to the extent that it so blatantly encroaches upon the attorney-client privilege and/or seeks the mental impressions and conclusions of CMA attorneys, which are privileged and will not be provided, the General Objection must be reiterated here. CMA further objects on the grounds that CMA will timely respond as appropriate through the filing of the direct testimony of CMA's witnesses, if any.

**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:**

**Objection.** At this time, the documents upon which CMA intends to rely are those which have been filed in this case or which have been provided by TAWC in response to discovery requests from the parties and the Staff.

**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:**

**Objection.** We will provide reports from CMA's testifying experts, if any. CMA will also provide any and all documents or correspondence, if any exist, concerning the employment of Mr. Gorman by it in this case should Mr. Gorman be offered as a testifying expert.

**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 CMA witnesses.

**RESPONSE:**

**Objection.** CMA will provide the non-duplicative workpapers, if any, relied upon by CMA's witnesses, if any, and objects to the extent that this Request may be interpreted to require additional information. Such information would be burdensome and irrelevant.

**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 CMA'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 CMA witness.

**RESPONSE:**

**Objection.** CMA objects on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence, and that the request is overly broad and unduly burdensome, vague and ambiguous and seeking documents in the public domain.

Subject to and without waving these objections, CMA will list any such publications specifically consulted by CMA's testifying expert witnesses in this case, if any, and CMA will provide a list of all publications written or co-written by such witnesses, if any.

**DISCOVERY REQUEST NO. 9:**

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

**RESPONSE:**

**Objection.** This response is duplicative of Request 3.



**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:**

**Objection.** CMA objects to the extent that this Request again refers to privileged, attorney-client information and privileged attorney work product.

**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 CMA intends to contest, if any, and the CMA’s grounds and/or bases therefor, including any facts and/or documents the CMA contends support those grounds.

**RESPONSE:**

**Objection.** CMA intends to timely provide testimony of any witnesses it intends to call, and will supply work papers, if any, relied upon by such witnesses relative to their 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 CMA intends to contest, if any, and the CMA's grounds and/or bases therefor (sic), including any facts and/or documents the CMA contends support those grounds.

**RESPONSE:**

**Objection.** CMA intends to timely provide testimony of any witnesses it intends to call, and will supply work papers, if any, relied upon by such witnesses relative to their 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 CMA intends to contest, if any, and the CMA's grounds and/or bases therefor (sic), including any facts and/or documents the CMA contends support those grounds.


**RESPONSE:**

**Objection.** CMA intends to timely provide testimony of any witnesses it intends to call, and will supply work papers, if any, relied upon by such witnesses relative to their testimony.

Respectfully submitted,

**GRANT KONVALINKA & HARRISON, P.C.**

By: \_\_\_\_\_

  
DAVID C. HIGNEY (BPR #14888)  
CATHERINE HALL GIANNASI (BPR # 024441)  
Attorneys for Intervenor  
Chattanooga Manufacturers Association  
Ninth Floor, Republic Centre  
633 Chestnut Street  
Chattanooga, Tennessee 37450-0900

- and -

**BOULT, CUMMINGS, CONNERS & BERRY, PLC**

HENRY M. WALKER (BPR #272)  
1600 Division Street, Suite 700  
P.O. Box 340025  
Nashville, Tennessee 37203

### 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 28th day of May , 2008, upon the following:

<input type="checkbox"/> Hand-Delivery	Richard Collier
<input checked="" type="checkbox"/> U.S. Mail	General Counsel
<input type="checkbox"/> Facsimile	Tennessee Regulatory Authority
<input type="checkbox"/> Overnight	460 James Robertson Parkway
<input type="checkbox"/> Email	Nashville, Tennessee 3 7243-00505

<input type="checkbox"/> Hand-Delivery	Ross Booher, Esq.
<input checked="" type="checkbox"/> U.S. Mail	R. Dale Grimes, Esq
<input type="checkbox"/> Facsimile	Bass, Berry & Sims, PLC
<input type="checkbox"/> Overnight	AmSouth Center
<input type="checkbox"/> Email	315 Deaderick Street, Suite 2700
	Nashville, TN 37238-3001

<input type="checkbox"/> Hand-Delivery	Michael A. McMahan, Esq.
<input checked="" type="checkbox"/> U.S. Mail	Special Counsel
<input type="checkbox"/> Facsimile	Nelson, McMahan & Noblett
<input type="checkbox"/> Overnight	801 Broad Street, Suite 400
<input type="checkbox"/> Email	Chattanooga, TN 37402

<input type="checkbox"/> Hand-Delivery	Robert E. Cooper, Jr., Attorney General
<input checked="" type="checkbox"/> U.S. Mail	Timothy C. Phillips, Senior Counsel
<input type="checkbox"/> Facsimile	Ryan L. McGehee, Assistant Attorney General
<input type="checkbox"/> Overnight	Office of the Attorney General
<input type="checkbox"/> Email	425 Fifth Avenue, North
	P.O. Box 20207
	Nashville, Tennessee 37202-0207

<input type="checkbox"/> Hand-Delivery	Harold L. North, Jr., Esq.
<input checked="" type="checkbox"/> U.S. Mail	Frederick L. Hitchcock, Esq.
<input type="checkbox"/> Facsimile	Chambliss, Bahner & Stophel, P.C.
<input type="checkbox"/> Overnight	1000 Tallan Building
<input type="checkbox"/> Email	Two Union Square
	Chattanooga, TN 37402-2500

  
GRANT, KONVALINKA & HARRISON, P.C.