

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

June 13, 2008

IN RE:

**PETITION OF TENNESSEE AMERICAN)
WATER COMPANY TO CHANGE AND)
INCREASE CERTAIN RATES AND)
CHARGES SO AS 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

**AGREED ORDER REGARDING DISCOVERY AND DISPOSING OF CERTAIN
OUTSTANDING MOTIONS FOLLOWING JUNE 4, 2008 STATUS CONFERENCE
(AMENDED BY HEARING OFFICER)**

This matter came before the Hearing Officer for a Status Conference on June 4, 2008.

The following motions were considered, as well as all responses and replies thereto:

- 5/06/08 Intervenors' Joint Motion to Modify Procedural Schedule
- 5/06/08 Joint Objection of the Intervenors to Discovery Question Limits for the Initial Round of Discovery
- 5/12/08 CAPD's Motion to Ask Additional Discovery Questions
- 5/14/08 CAPD's Request for Status Conference and Oral Argument
- 6/02/08 CAPD's 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
- 6/02/08 TAWC's Motion To Compel Chattanooga Manufacturers Association To Provide Complete Discovery Responses And To Exclude The Use Of All Information Withheld Without Good Cause
- 6/02/08 TAWC's Motion to Compel The City Of Chattanooga To Provide Complete Discovery Responses And To Exclude The Use Of All Information Withheld Without Good Cause

- 6/02/08 TAWC's Motion to Compel The CAPD To Provide Complete Discovery Responses And To Exclude The Use Of All Information Withheld Without Good Cause
- 6/02/08 CAPD's Motion to Compel TAWC To Answer The First Discovery Requests Of The CAD
- 6/02/08 City of Chattanooga's Motion To Compel And To Extend Deadlines And Motion To Compel Or Alternative Motion For Permission To Propound Additional Discovery Requests.
- 6/02/08 City of Chattanooga's Motion To Compel Or Alternative Motion For Permission To Propound Additional Discovery Requests
- 6/02/08 Chattanooga Manufacturers' Motion To Compel TAWC To Provide Appropriate And Complete Responses To CMA's First Set Of Data Requests
- 6/03/08 City of Chattanooga's Motion for Sanctions

After reviewing the filings, hearing the arguments of the parties, and taking into account the joint proposals of the parties, the Hearing Officer rules as follows:

1. At or before 3:00 PM Central time on June 9, 2008, by agreement, Tennessee American shall file responses to the discovery requests served on Tennessee American on May 28, 2008 which Tennessee American has not previously responded to, citing TRA Rule 1220-1-2-.11(5)(a) ("Additional Discovery Requests").
2. At or before 3:00 PM Central time on June 9, 2008, all Parties shall file supplemental responses to questions identified in the Parties' Motions to Compel filed on June 2, 2008 ("Supplemental Responses"). Supplemental Responses shall reflect the results of discussions among the parties concerning resolution of their respective motions to compel.
3. Between June 9, 2008 and June 13, 2008, the parties will discuss any disputes regarding Tennessee American's responses to the Additional Discovery Requests

and any Supplemental Responses in a good faith effort to resolve any disputes concerning such responses.

4. In the event any discovery disputes remain after June 13, 2008, regarding Tennessee American's responses to the Additional Discovery Requests or any party's Supplemental Responses, at or before *12:00 Noon Central time on June 17, 2008*, the parties shall serve motions to compel that may renew any arguments raised in their previously filed Motions to Compel with regard to the Supplemental Responses and which may seek to compel further responses regarding the Additional Discovery Requests. Any responses to such Motions to Compel may be served on the Parties on or before *12:00 Noon Central Time on June 18, 2008*.
5. The parties will appear before the Hearing Officer at *10:30 A.M. Central Time, June 19, 2008* at the offices of the Tennessee Regulatory Authority for a Status Conference. At this Conference, the Hearing Officer will decide any discovery disputes raised in the Motions to Compel described in paragraph 4 above.
6. The Hearing Officer will endeavor to provide the parties with the dates for the Contested Hearing of TAWC's Petition by *June 19, 2008* so the Parties may plan accordingly.
7. The Hearing Officer has determined that it is not "a valid objection or reason not to answer a question that a party is anticipating filing prefiled testimony."¹
8. Tennessee American Water Company is not required to "manipulate raw data that will come out in a particular result" in response to Intervenor's discovery requests.

¹ *The Chattanooga Manufacturers Association disagreed with this statement in the proposed order as being a complete statement of the ruling. The Hearing Officer adds: ". . . if a company or individual has an answer to a question, has the information and can provide it at the time the question is asked, then I think the question needs to be answered." Transcript of June 4, 2008 Status Conference at page 54.*

The Hearing Officer requires the parties to engage in “a process where the Intervenors would be able to obtain the raw data and make their own conclusions from the raw data but not require the company to manipulate the data in some fashion.” (*Transcript of June 4, 2008 Status Conference, at page 72.*)

9. The rulings above fully address, render moot or otherwise dispose of, all of the above-listed motions.

ORDERED AND ENTERED THIS 13th DAY OF JUNE, 2008.


J. RICHARD COLLIER
Hearing Officer

APPROVED FOR ENTRY:

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

Ryan McGehee
Consumer Advocate and Protection Division
Office of Attorney General
2nd Floor
425 5th Avenue North
Nashville, TN 37243-0491
Attorney for Intervenor Consumer Advocate and Protection Division

David C. Higney, Esq.
Grant, Konvalinka & Harrison, P.C.
633 Chestnut Street, 9th Floor
Chattanooga, TN 37450

and

Henry M. Walker, Esq.
Boult, Cummings, Conners & Berry, PLC
Suite 700
1600 Division Street
Nashville, TN 37203

Attorneys for Intervenor Chattanooga Manufacturers' Association

Michael A. McMahan, Esq.
Special Counsel
City of Chattanooga (Hamilton County)
Office of the City Attorney
Suite 400
801 Broad Street
Chattanooga, TN 37402

and

Frederick L. Hitchcock, Esq.
Harold L. North, Jr., Esq.
Chambliss, Bahner & Stophel, P.C.
1000 Tallan Building
Two Union Square
Chattanooga, TN 37402

Attorneys for Intervenor City of Chattanooga