



1000 Tallan Building
Two Union Square
Chattanooga, TN 37402
Tel 423.756.3000
www.cbslawfirm.com

Frederick L. Hitchcock
Tel 423.757.0222
Fax 423.508.1222
rhitchcock@cbslawfirm.com

June 17, 2008

Via E-Mail and USPS

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

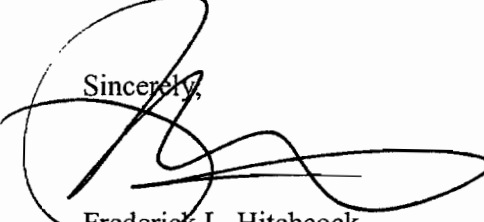
Re: Docket No. 08-00039
In Re: Petition of Tennessee American Water Company to Change and
Increase Certain Rates

Dear Chairman Roberson:

Enclosed please find an original and five (5) copies of the City of Chattanooga's Renewed Motion to Compel which has been filed electronically and served today.

I would appreciate you stamping one copy of the document as "filed," and returning to me in the enclosed, self-addressed and stamped envelope.

With best regards, I am

Sincerely,

Frederick L. Hitchcock

FLH:kw
Enclosures

cc: Ryan L. McGehee, Esq. (w/encl.)
Timothy C. Phillips, Esq. (w/encl.)
David C. Higney, Esq. (w/encl.)
R. Dale Grimes, Esq. (w/encl.)
Ross Ian Booher, Esq. (w/encl.)
J. Davidson French, Esq. (w/encl.)
Adam Futrell, Esq. (w/encl.)
Erin Everitt, Esq. (w/encl.)
Henry M. Walker, Esq. (w/encl.)
Michael A. McMahan, Esq. (w/encl.)

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)
SERVICE TO ITS CUSTOMERS)

Docket No. 08-00039

CITY OF CHATTANOOGA'S RENEWED MOTION TO COMPEL

Intervenor, City of Chattanooga ("Chattanooga"), by and through counsel, hereby renews its Motion to Compel filed on June 2, 2008 as to the discovery requests described below.

This Motion follows discussions between counsel for Chattanooga and TAWC ("TAWC") in an effort to resolve the matters raised in Chattanooga's previous Motion to Compel. Although these discussions led to the resolution of a number of disputes, TAWC continues to refuse to provide discoverable information responsive to four requests. These requests and TAWC's responses to them are attached as collective Exhibit D.

A. **Request No. 4 (changes to capital improvement projects)**: TAWC continues to refuse to provide requested information concerning additions, subtractions, accelerations, delays, or other changes in planned capital improvements. In the spirit of compromise, Chattanooga has agreed to modify its initial request to cover only information relating to changes since the 2000 Comprehensive Planning Study. Chattanooga has also agreed to accept the information in the same format as was provided in response to the substantially similar Request No. 11 following a motion to compel in Docket No. 06-00290. For convenient reference, a copy of TAWC's

supplemental response to Chattanooga Request No. 11, in the previous matter, is attached as Exhibit A. TAWC's wrongful refusal to provide similar information in this proceedings ignores the Hearing Officer's instructions the parties were to be guided by discovery rulings in the previous docket.

B. **Request No. 7 (location of capital expenses)**: TAWC has refused to provide the mapping data or any other means of determining the location of the capital expenditures listed in TAWC's Exhibit 1, Schedule 2, although it has provided a pdf-format map. A copy of the map is attached as Exhibit B. The map was obviously generated using location information for these expenditures, but TAWC has refused to provide that information. As Exhibit B illustrates, TAWC's unjustified refusal prevents the meaningful analysis of the data.

C. **Request No. 15 (management audits completed since January 1, 1997)**: TAWC has refused to provide management audits completed for or in relation to TAWC's Parent or Affiliates. Since TAWC's Affiliates that are operating companies are paying the same kinds of fees to AWWSC and other Affiliates that TAWC is paying, the analysis of the appropriateness of payments by these other Affiliates is directly relevant to the appropriateness of such payments by TAWC. Further, management audits of TAWC's Parent and any Affiliates that are receiving fees from TAWC are also directly relevant to the issue of whether payments by TAWC are being made for reasonable, necessary, and prudent expenditures. TAWC has refused to further supplement its initial refusal to provide any such information, even though Chattanooga cited an example of such an audit in its earlier Motion to Compel.

D. **Request No. 23 (benchmarking studies of TAWC Parent or Affiliates since January 1, 1997)**: TAWC has refused to further supplement its response and continues to refuse to provide benchmarking studies that have been completed for TAWC's Parent and Affiliates,

including AWWSC. The resume of Mr. Frank Impagliazzo, which was included as an exhibit to the CAD's responses to TAWC's First Discovery Requests filed May 28, 2008, illustrates the importance and relevance of this information. For convenient reference, a copy of the resume as it currently appears in the TRA's public record is attached as Exhibit C. On pages 1 and 2 of the resume, Mr. Impagliazzo reports that he "[d]irected the effort to externally benchmark American Water's business and operational performance." Mr. Impagliazzo also reports that he identified areas containing millions of dollars of annual savings opportunities and reported that "[o]ther benchmarking efforts identified cost-reduction opportunities of 20% or more in customer service operations." These benchmarking studies along with the management studies requested in No. 15 are essential to an understanding of the reasonableness, necessity, and prudence of expenditures for which TAWC is being charged, and on account of which it is seeking to again raise rates. These studies are also essential to an understanding of whether TAWC has complied with the TRA's requirement that it demonstrate the propriety of the expenses for which it is being charged by its Parent and Affiliates.

For these reasons, Chattanooga respectfully requests that TAWC be compelled to respond fully and completely to the Requests noted.

Respectfully submitted,

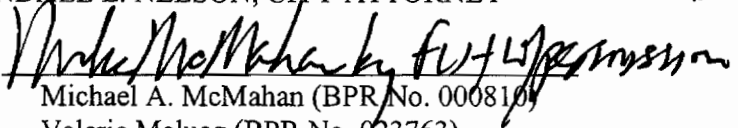
By: 

Frederick L. Hitchcock (BPR No. 005960)
Harold L. North, Jr. (BPR No. 007022)
Chambliss, Bahner & Stophel, P.C.
1000 Tallan Building, Two Union Square
Chattanooga, Tennessee 37402-2500
Telephone: (423) 756-3000

Attorneys for the City of Chattanooga

CITY OF CHATTANOOGA, TENNESSEE
RANDALL L. NELSON, CITY ATTORNEY

By:


Michael A. McMahan (BPR No. 000810)
Valerie Malueg (BPR No. 023763)
801 Broad Street, Suite 400
Chattanooga, TN 37450-0900
Telephone: (423) 757-5338

Attorneys for the City of Chattanooga

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served a true and correct copy of the foregoing pleading by electronic mail and by depositing same in the United States mail, postage prepaid, and addressed to the following:

Ryan L. McGehee, Esq.
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202-0207
ryan.mcgehee@state.tn.us

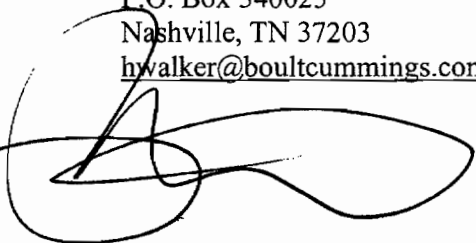
Timothy C. Phillips, Esq.
Office of the Attorney General
Consumer Advocate & Protection Division
P.O. Box 20207
Nashville, TN 37202
timothy.phillips@state.tn.us

David C. Higney, Esq.
Grant, Konvalinka & Harrison, P.C.
Ninth Floor, Republic Centre
633 Chestnut Street
Chattanooga, TN 37450-0900
dhigney@gkhpc.com

R. Dale Grimes, Esq.
Ross Ian Booher, Esq.
J. Davidson French, Esq.
Adam Futrell, Esq.
Erin Everitt, Esq.
BASS, BERRY & SIMS, PLC
315 Deadrick Street, Suite 2700
Nashville, TN 37238-3001
dgrimes@bassberry.com
rbooher@bassberry.com
dfrench@bassberry.com
afutrell@bassberry.com
eeveritt@bassberry.com

Henry M. Walker, Esq.
Boult, Cummings, Conners & Berry, PLC
1600 Division Street, Suite 700
P.O. Box 340025
Nashville, TN 37203
hwalker@boultcummings.com

This the 17th day of June, 2008.



Frederick L. Hitchcock