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June 18, 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 06/18/08

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 seven (7) copies of Tennessee American Water Company's Response to the City of Chattanooga's Renewed Motion to Compel. It has been filed electronically with the Tennessee Regulatory Authority today.

Please stamp three (3) copies of this document as "filed," and return them to me by way of our courier.

Should you have any questions concerning any of the enclosed, please do not hesitate to contact me.

Sincerely,



Kathryn Hannen Walker

Enclosures

Chairman Eddie Roberson, PhD

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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*)
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:

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)	Docket No. 08-00039
USEFUL IN FURNISHING WATER)	
SERVICE TO ITS CUSTOMERS)	

**TENNESSEE AMERICAN WATER COMPANY'S RESPONSE TO CITY OF
CHATTANOOGA'S RENEWED MOTION TO COMPEL**

The City of Chattanooga (the "City") seeks to compel responses to four of its 43 discovery requests, including subparts.¹ For all of the following reasons, the City's Renewed Motion to Compel should be denied. In addition to the positions set forth in this Response, Tennessee American Water Company ("TAWC") renews every objection and argument set forth in its Discovery Responses, Supplemental Responses, Responses to the Remaining Requests, Second Supplemental Responses, and Initial Response to the City's First Motion to Compel, to the extent each of those objections and arguments applies to the Requests set forth below.

A. Request No. 4

The City's Request No. 4 asks TAWC to "explain any addition, subtraction, acceleration, delay, deferral, or change" in TAWC's planned Capital Expenditure projects identified in any Comprehensive Planning Study completed since 2000. In its response, TAWC explained the process by which such changes to Capital Expenditure plans are made, enumerated the three projects added to TAWC's Capital Expenditure plans since the previous rate case, and stated that

¹ In an effort to compromise, TAWC agreed to respond to all of the City's requests even though the City issued discovery in excess of the limits imposed by the Hearing Officer.

no projects have been subtracted from TAWC's Capital Expenditure plans since that time. In addition, TAWC has offered to open its business records, in which responsive data may be contained, for inspection and copying by the City at a mutually agreeable time.

The Tennessee Rules of Civil Procedure specifically provide that "[w]here the answer to an interrogatory may be derived or ascertained from the business records" of the party on whom the discovery request is served, "it is a sufficient answer" to that discovery request to "specify the records from which the answer may be derived or ascertained and to afford the party serving the [discovery request] reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries." *See* Tenn. R. Civ. P. 33.03. Additionally, the Order, entered on June 13, 2008 ("Procedural Order No. 2"), further affirms that TAWC has no duty to compile, customize, or create data in response to the Intervenor's discovery requests. *See* Procedural Order No. 2, ¶ 8.

All data reflecting any "addition, subtraction, acceleration, delay, deferral, or change in any recommended capital improvement projects identified in any Comprehensive Planning Study" is contained in TAWC business records. The burden of deriving or ascertaining the answer to the City's onerous discovery Request No. 4 is substantially the same for TAWC and the City. Accordingly, TAWC's offer to open its business records for inspection and copying is, standing alone, an entirely appropriate and sufficient response to the City's request. TAWC's explanation of the Capital Expenditure planning process and its enumeration of projects added to the Comprehensive Planning Study since the last rate case is an accommodation made by TAWC beyond its legal discovery obligations.

B. Request No. 7

The City's Request No. 7 requests that TAWC "[i]dentify the location, by latitude and longitude or by census tract and block number, of each Capital Expense identified in the Request No. 6 in excess of five hundred dollars." In response, TAWC has offered to open its business records, in which responsive data are contained, for inspection and copying by the City at a mutually agreeable time. As explained above with regard to the City's Request No. 4, providing access to responsive business records is, standing alone, an entirely appropriate and sufficient response. The City has yet to make any effort to inspect TAWC's records.

On June 9, 2008, TAWC filed a Second Supplemental Response in which TAWC agreed to create and produce a detailed, comprehensive map of responsive information. TAWC has repeatedly explained to the City that all information used to produce the aforementioned map was included in TAWC's responses to TRA Staff Data Requests No. 13 and 52 and John Watson's direct testimony in this matter. Together, TAWC's offer to open its relevant business records for inspection and copying by the City, TAWC's production of the detailed map of responsive data, and reference to the data sources constitute a full and adequate response to the City's Request No. 7.

C. Request No. 15

The City requests "a copy of all management audits . . . performed by or for TAWC, AWWSC, or any other TAWC Parent or Affiliate." Aside from the Booz Allen Hamilton management audit already produced, no other management audit is in TAWC's possession, custody, or control. Regardless, any such audits of entities other than TAWC, AWW, and AWWSC would be both irrelevant and would not lead to the discovery of admissible evidence.

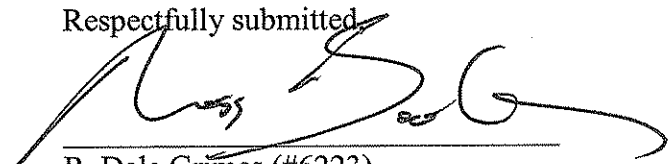
D. Request No. 23

The City's Request No. 23 seeks documents and materials that are not in TAWC's possession or control, and this request is not reasonably calculated to lead to the discovery of admissible evidence. The City seeks to compel all "benchmarking studies" conducted by or for TAWC or its parents or affiliates since 1997. TAWC disputes that any benchmarking studies exist, however, TAWC will produce the "Hackett Study" — although it is not a benchmarking study — as an accommodation to the City.

Conclusion

TAWC has made reasonable efforts, going beyond its legal obligations, to satisfy the City's Requests. For all of the reasons set forth in TAWC's Responses, Supplemental Responses, this Motion Response and those reasons to be discussed at the Status Conference², the City's Renewed Motion to Compel should be denied.

Respectfully submitted,



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² Due to the incredibly short time period between the filing of the City's Renewed Motion to Compel and the deadline for filing TAWC's Response, TAWC reserves its right to further respond to the City's motion and claims at the Status Conference.

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 18th day of June, 2008, upon the following:

<input checked="" type="checkbox"/> Hand-Delivery	Timothy C. Phillips, Esq.
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