

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

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

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**JOINT MOTION OF THE INTERVENORS TO EXPAND THE TIME TO SUBMIT  
THEIR PREFILED DIRECT TESTIMONY TO JULY 21, 2008**

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The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), the City of Chattanooga ("Chattanooga"), and the Chattanooga Manufacturers Association ("CMA") (collectively, the "Intervenors") jointly request the Hearing Officer to expand the time allowed for the Intervenors to submit their prefiled direct testimony to July 21, 2008. As grounds for this request, the Intervenors would show as follows:

1. Rate cases are highly complex endeavors for all parties. There is neither a magic formula nor litmus test that may be employed to arrive at just and reasonable rates. *CF Industries v. Tennessee Pub. Serv. Comm'n*, 599 S.W. 2d 536, 543 (Tenn.1980). As stated by the Tennessee Public Service Commission:

Rate-making is an extremely complex process which involves much more than inputting cost figures into a computer and waiting for the results of the machine's mathematical functions. We must consider all aspects surrounding the determination of just and reasonable rates.

*Id.* at 538-539. In other words, rate cases such as this one do not involve simple and common analyses. Rather, this proceeding requires the consideration of large amounts of specific and technical information in order for experts to form their opinions, as well as the development of a sufficient factual foundation from which a party may adequately present its case. Indeed, as expressed and documented by the Intervenor, the record in this case already indicates a large number of complex and fact-intensive issues requiring the detailed analyses of voluminous information.<sup>1</sup>

2. Furthermore, discovery disputes have consumed a significant amount of time the Intervenor would have otherwise had to analyze the information sought in discovery. The Intervenor filed discovery requests on May 12, 2008. On May 28, 2008, TAWC responded to only 53 of 181 discovery requests of the Consumer Advocate. In addition, there have been discovery disputes regarding the discovery requests of Chattanooga and CMA and several issues remain outstanding. The Company's lack of responses and the procedure in this docket required all of the Intervenor to file original, and the Consumer Advocate and Chattanooga to file renewed, motions to compel discovery responses to initial discovery requests. Since June 4, 2008, the parties have made earnest and good faith efforts to resolve outstanding discovery disputes; and, progress has been made. The fact remains, however, that many supplemental discovery responses have come into the possession of the Intervenor only recently; other anticipated supplemental responses have not yet been received by the Intervenor; and other discovery issues are still outstanding between the

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<sup>1</sup> Transcript of Status Conference, June 4, 2008; Memorandum in Support of Motion to Set Aside Procedural Schedule and Extend the Date of the Final Hearing Or In The Alternative Grant Leave to Seek Emergency Relief from the Hearing Panel, June 2, 2008; Consumer Advocate's Memorandum in Support of Motion to Ask Additional Discovery Questions, May 12, 2008; and Joint Objection of the Intervenor to Discovery Question Limits in the Initial Round of Discovery, May 6, 2008.

Intervenors and the Company, some of which are related to issues regarding the protective order.

3. Furthermore, the Intervenors have devoted a significant amount of time and effort to attempt to resolve an issue raised by the Company regarding the Consumer Advocate's and Chattanooga's possible use of a former American Water Works Services Company employee as a consultant in this matter. This issue was first raised by the Company on June 4, 2008, and as of June 24, 2008, the parties involved were still working on a resolution. The Intervenors' work on this issue has been a material distraction to the Intervenors' preparation of their respective cases and has eroded a significant amount of time the Intervenors would have otherwise had to address the substantive issues regarding the merits (or lack thereof) of the Company's petition.

4. There are now additional time constraints upon the outside consultants employed by the Intervenors to investigate this matter. Some consultants of the Consumer Advocate, Chattanooga, and the CMA are involved in proceedings and engagements in other states and/or otherwise are not available through June 30, 2008.

5. In order to allow the Intervenors and the Company sufficient time to resolve the outstanding discovery issues (including the related protective order issues), and to allow the outside consultants of the Intervenors and the in-house experts of the Consumer Advocate sufficient time to receive all discovery responses and materials, review relevant issues in this docket, perform the requisite analyses of issues, and form their expert opinions, as well as to allow the Intervenors sufficient time to review and analyze the Company's materials, including recently produced discovery responses, on the issues to be contested at the hearing on the merits, the Intervenors



respectfully request that their prefiled direct testimony be due on July 21, 2008.<sup>2</sup>

6. The Intervenors aver that July 21, 2008, is the earliest possible date allowing minimally sufficient time upon which to submit prefiled direct testimony.

7. If the Hearing Officer determines that this request for expansion of time cannot be granted without also expanding the initial six-month period the Authority has undertaken to decide the Company's petition from the date of its filing, the Intervenors request the Hearing Officer to move the date of the decision in this matter beyond the initial six-month period by as much time as required to accommodate this request, up to the nine-month period allowed for the Authority's decision pursuant to Tenn. Code Ann. § 65-5-103(a).

8. Although the burden remains on the petitioning utility to demonstrate whether the utility's proposed rate increase could be considered just and reasonable, the prefiled direct testimony of Intervenors is a procedure established by the Authority to allow additional analyses and proof regarding whether TAWC's rate increase request should be rejected or modified. If the Intervenors are not granted sufficient time to prepare this testimony, their opportunity to be heard in this matter will be unduly prejudiced and their due process rights will be infringed.

WHEREFORE, the Intervenors jointly request the Hearing Officer to allow the Intervenors until July 21, 2008, to submit their prefiled direct testimony in this matter and, if necessary, to extend the date of the Authority's decision in this matter beyond six months in accordance with Tenn. Code Ann. § 65-5-103(a) by as much time as required to accommodate this request.


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<sup>2</sup> The Authority Staff is also renewing its request for responsive information to the Minimum Filing Requirements that should be examined relative to certain rate base issues. *See* Authority Data Request from Darlene Standley to Dale Grimes dated June 23, 2008.

RESPECTFULLY SUBMITTED,



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Dated: June 24, 2008

**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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This the 25 day of June, 2008.



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