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July 10, 2008

Chairman Eddie Roberson
c/o Sharla Dillon
Tennessee Regulatory Authority
460 Robertson Parkway
Nashville, TN 37243-0505

**VIA E-MAIL &
FIRST CLASS MAIL**

FILED ELECTRONICALLY IN DOCKET OFFICE ON 07/10/08

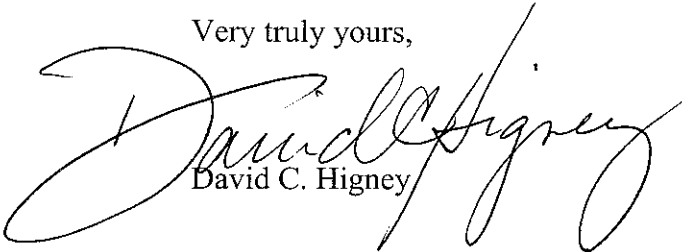
Re: **TRA Docket No. 08-00039**

Dear Chairman Roberson:

Enclosed please find an original and five (5) copies of The Chattanooga Manufacturers Association's Appeal of the Time Limits Set by the Hearing Officer. CMA respectfully requests to be heard on this matter, if necessary, at the Authority's July 14, 2008 agenda conference. Please return a file-stamped copy to us in the enclosed, self-addressed stamped envelope.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



David C. Higney

DCH/dmm
Enclosure

cc: Mr. Henry M. Walker (w/enclosure)
Mr. Michael A. McMahan (w/enclosure)
Mr. Harold L. North, Jr./Mr. Frederick. L. Hitchcock (w/enclosure)
Mr. Dale Grimes/Mr. Ross I. Booher (w/enclosure)
Mr. Robert E. Cooper, Jr./Mr. Timothy C. Phillips/Mr. Ryan L. McGehee (w/enclosure)

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

IN RE:

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

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Docket No. 08-00039

**THE CHATTANOOGA MANUFACTURERS ASSOCIATION'S APPEAL OF THE
TIME LIMITS SET BY THE HEARING OFFICER**

The Chattanooga Manufacturers Association ("CMA") appeals to the Authority the July 3, 2008 Order of the Hearing Officer *Granting, In Part, Joint Motion of Intervenors To Expand Time To Submit Testimony And Modifying Procedural Schedule*.¹ CMA asks that the Intervenors be granted an additional week, until July 21, 2008, to prefile testimony and that the Authority adopt the attached proposed procedural schedule instead of the schedule declared by the Hearing Officer.

In sum, CMA cannot adequately prepare and file its testimony by July 14 as ordered by the Hearing Officer. The prejudicial impact of the Hearing Officer's decision upon Chattanooga ratepayers far outweighs the ostensible balancing concerns identified in the Hearing Officer's Order.²

Because of an unprecedented series of procedural issues, largely the result of Tennessee American's strategies, the preparation of this case has been unreasonably delayed. But, the Hearing Officer's decision means that the Intervenors, not the utility, are being forced to compromise the presentation of their case because of these delays. The outcome extends a

¹ The *Order* issued after 5:30 EDT on Thursday, July 3, 2008.

² CMA understands a separate motion was filed on behalf of the CAPD and City of Chattanooga, and CMA supports the additional positions set forth by those parties.

monumentally unfair advantage to one party – Tennessee American – in preparation for a hearing in this docket.

It is still possible to give the parties due process and also complete the case within the six-month period traditionally followed by the Authority. To do so will, however, require compromises from all of the parties and the agency itself. CMA has attached a proposed schedule for the completion of the case.

Tennessee American had months to review, analyze, influence, shape, prepare and submit their rate case on March 14. Since that time, the utility has filed more than twenty (20) supplemental or amended responses to data requests on at least nine (9) different days. Even now, some of the information requested by Intervenors remains secret in the hands of the Company.³

The Hearing Officer's statement in his Order to the effect that the filing of testimony by Intervenors after full and complete responses to outstanding discovery is "a laudable idea but not practical in a complex rate case" is tantamount to saying that the agency cannot conduct its business within the time limits set by the General Assembly without denying the due process of law to the parties before it. That should not be and cannot stand as the policy or practice of this agency.

CMA still awaits responses to the following discovery requests:

CMA 11. Please provide complete copies of all presentations made to the credit analysts and equity analysts by or on behalf of American Water Works, American Water Capital Corporation, and Tennessee-American Water Company over the last two years.

³ The *Order*, at p. 5 wrongly implies that this intervenor, CMA, has been in possession of Tennessee-American's petition and testimony and numerous native schedules for three months. In fact, CMA was not granted intervention status until May 1 and then, only after repeated discovery requests, a status conference, the meet and confer process, and the commencement of the second status conference June 19-20, did CMA receive information on compact disk as submitted to this Authority by TAWC at the outset.

CMA 17. Please provide a tabulation of the authorized rates of return in orders from around the country (if any), reviewed by or referred to or regarding any RWE, AWW, or TAWC affiliated entity, that supports or contradicts TAWC's opinion that an 11.75% return on common equity is fair, just, reasonable, or representative of current investor expectations for a water utility. Please include, but do not limit your response to, the jurisdiction, docket number, authorized return, number of customers served and dates of issue of the order(s) surveyed by Tennessee-American or its affiliate(s).

To this day, responsive information concerning CMA Request 11 and a complete response to CMA Request 17 has not been provided. CMA and the other Intervenors cannot adequately present their case without it.

CONCLUSION

For the foregoing reasons, CMA submits that the Intervenors at least should be afforded one additional week to file testimony and that the agency should adopt the attached proposed schedule.

Respectfully submitted,

GRANT KONVALINKA & HARRISON, P.C.

By: 

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- and -

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 

HENRY M. WALKER (BPR #272)
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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 10th day of July, 2008, upon the following:

☐ Hand-Delivery Richard Collier
☒ U.S. Mail General Counsel
☐ Facsimile Tennessee Regulatory Authority
☐ Overnight 460 James Robertson Parkway
☒ Email Nashville, Tennessee 37243-00505

☐ Hand-Delivery Ross Booher, Esq.
☒ U.S. Mail R. Dale Grimes, Esq
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☐ Overnight AmSouth Center
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☐ Hand-Delivery Michael A. McMahan, Esq.
☒ U.S. Mail Special Counsel
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GRANT KONVALINKA & HARRISON, P.C.

TRA DOCKET NO. 08-00039

PROCEDURAL SCHEDULE
PROPOSED BY CMA
(July 10, 2008)

Intervenor testimony ---	Monday, July 21
Discovery questions issued ---	Friday, July 25
Responses to Discovery ---	Monday, August 4
Company Rebuttal ---	Friday, August 15
Hearing ---	Tuesday Wed Thursday, August 26-28
Post Hearing Brief ---	Thursday, September 4
Agency deliberations ---	Monday, September 8 (or at a specially set agenda conference later that week)
New rates effective ---	September 14, 2008