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July 11, 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 07/11/08

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 in Opposition to the Consumer Advocate Division and the City of Chattanooga's Joint Petition for Interlocutory Review and Chattanooga Manufacturers Association's Appeal of the Time Limits Set by the Hearing Officer. It also 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

KHW:smb

cc: Hon. Tre Hargett (*w/o enclosure*)
Hon. Mary Freeman (*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 USEFUL IN FURNISHING WATER SERVICE TO ITS CUSTOMERS	)	**Docket No. 08-00039**

TENNESSEE AMERICAN WATER COMPANY'S RESPONSE IN OPPOSITION TO THE CONSUMER ADVOCATE AND THE CITY OF CHATTANOOGA'S JOINT PETITION FOR INTERLOCUTORY REVIEW AND CHATTANOOGA MANUFACTURER'S ASSOCIATION'S APPEAL OF THE TIME LIMITS SET BY THE HEARING OFFICER

On July 3, 2008, the Hearing Officer entered an Order Granting, In Part, Joint Motion of the Intervenors To Expand Time to Submit Testimony and Modifying Procedural Schedule ("July 3 Order"). The July 3 Order extended Intervenors' time to file their testimony until July 14, 2008 — fully 21 days beyond the date set forth in the initial scheduling order filed in this matter on May 1, 2008. The amended procedural order already crowds TAWC's discovery and rebuttal. More importantly, the date upon which TAWC receives Intervenors' pre-filed testimony will be the ***first*** time that TAWC has been afforded a substantive view of Intervenors' position in this matter since Intervenors effectively withheld all such information during the first round of discovery. Notwithstanding such obstacles, TAWC has fully acquiesced to the Hearing Officer's orders in a good faith effort to bring this matter to final resolution within the statutory period. Unfortunately, the same cannot be said of the Intervenors.

On July 9, 2008, the Consumer Advocate and Protection Division ("CAPD") and the City of Chattanooga ("City") filed their Petition for Interlocutory Review ("CAPD/City Petition") of the July 3 Order. On July 10, 2008, the Chattanooga Manufacturer's Association ("CMA") filed an Appeal of the Time Limits Set by the Hearing Officer ("CMA Appeal").[1] These latest petitions constitute the fourth set of filings by the Intervenors requesting additional time to fulfill their obligations in this docket[2]. Tennessee American Water Company ("TAWC") opposes the Intervenors' Petitions because the review they seek is unnecessary and would itself create further undue delay. TAWC has exercised incredible effort to accommodate the Intervenors' requests and supply the requested data as quickly as possible, while simultaneously having to ensure proper safeguards were afforded the most sensitive material requested. Accordingly, as the Hearing Officer's July 3 Order found, the Intervenors have had ample time and opportunity to discover TAWC's case and to prepare their own. (July 3 Order, at 5.) The Intervenors' pre-filed testimony is, and should remain, due on July 14, 2008.[3]

The Hearing Officer has heard all of the Intervenors' arguments multiple times before. There is no factual or legal basis for the further delay that would result from granting the Intervenors' extraordinary requests for interlocutory review. Under TRA Rule 1220-1-2-.06(6), the Hearing Officer may not "unreasonably" deny permission for an interlocutory appeal of a

[1] The CMA's Appeal does not comply with TRA Rule 1220-1-2-.06, which expressly requires permission from the Hearing Officer for interlocutory appeal of an order on a preliminary motion. Accordingly, the CMA Appeal is not properly before either the Hearing Officer or the TRA and should be denied for this reason. Nevertheless, out of an abundance of caution, TAWC hereby responds to the contents of the CMA's "Appeal" as though it were a proper Petition for Interlocutory Review.

[2] The CMA Appeal and CAPD/City Petition are collectively referred to hereinafter as "Intervenors' Petitions."

[3] The July 3 Order provided a Procedural Schedule that requires the Intervenors to file their pre-filed testimony no later than July 14 at 4:30 p.m. The Intervenors should not be permitted to effectively nullify the Hearing Officer's Order simply by claiming their Petitions are pending. In the absence of an order altering the July 3 Order, the Intervenors' pre-filed testimony remains due on July 14 at 4:30 P.M.

decision on a preliminary motion. For all of the reasons set forth below, as well as those previously submitted in response to the Intervenors' multiple requests for additional time, denying permission to appeal and/or an extension of time, is entirely reasonable and necessary to avoid unfair prejudice to TAWC and maintain the orderly and prompt resolution of this case within the six month period that is clearly contemplated by state law. *See* Tenn. Code Ann. § 65-5-103(b)(1). Accordingly, TAWC submits that the Intervenors' Petitions should be denied.

I. Intervenors' Permission Is Reasonably Denied Pursuant To The Hearing Officer's Broad Discretion To Prevent The Intervenors' Involvement From Impairing The Orderly And Prompt Conduct Of Proceedings.

The Intervenors seek interlocutory review of the July 3 Order, which is a procedural order setting forth the discovery schedule in this rate case. The Hearing Officer should deny the request the Hearing Officer has the power by statute to ensure the case proceeds in an orderly and prompt manner, which he has done by entering the July 3 Order.

The Uniform Administrative Procedures Act (the "UAPA") empowers the Hearing Officer to "impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time." Tenn. Code Ann. § 4-5-310(c) (2005). For example, this Hearing Officer can "[limit] the intervenor's use of discovery, cross-examination and other procedures ***so as to promote the orderly and prompt conduct of the proceedings***. . . ." Tenn. Code Ann. §4-5-310(c)(2) (emphasis added).

The July 3 Order specifically rejects the Intervenors' contentions that pre-filed testimony should not be due until some period of time after they have received and analyzed all requested discovery information.[4] The overarching concern in granting a petition to intervene is that "the

[4] *See* July 3 Order at 4 (stating that "[t]he premise that pre-filed testimony should not be due until a set period of time following the receipt of 'full and complete responses' to discovery is a laudable idea but not practical in the setting of a complex rate case where there is a statutorily predetermined amount of time to complete the case.").

intervention sought is in the interests of justice and ***shall not impair the orderly and prompt conduct of the proceedings***." Tenn. Code Ann. § 4-5-310(b) (emphasis added).[5] The Intervenors to date have (1) completely disregarded the discovery limitations established by the Tennessee Rules of Civil Procedure and the Authority by serving a combined total of 303 discovery requests without obtaining leave; (2) introduced conflict of interest issues into this case that they knew or should have known to avoid[6]; (3) made no fewer than four sets of motions requesting additional time to fulfill their obligations in this docket resulting in delay after delay; and (4) provided no substantive response to the vast majority of TAWC's discovery requests.

These actions by the Intervenors are inconsistent with the statutory requirements that their involvement in this case "not impair the orderly and prompt conduct of the proceedings" of this case.[7] The July 3 Order is a valid exercise of the Hearing Officer's discretion to ensure the orderly and prompt conduct of this case while affording the Intervenors sufficient time to prepare their testimony. Accordingly, permission for review may reasonably be denied.

II. Permission Is Reasonably Denied Because The Intervenors Will Not Suffer Unfair Prejudice From The July 3 Schedule.

The Intervenors' Petitions rehash the same position the Intervenors took in their June 25 Joint Motion to Expand the Time to Submit Their Prefiled Direct Testimony: that the existing deadline "does not provide the Intervenors with an adequate amount of time to analyze all of the

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[5] The Intervenors' desire for additional time and discovery is less important than the expedient and efficient resolution of this administrative proceeding. *See* Tenn. Code Ann. § 4-5-310(c)(2); *see also Envtl. Confederation of Southwest Fla., Inc., v. Fla. Dept. of Envtl. Prot.*, 886 So. 2d 1013, 1018, n.4 (Intervenors do not "have the same rights as those who may initiate an action" because "[t]he rights of intervenors in an administrative proceeding are subordinate to the propriety of the main proceeding.").

[6] The CAPD and the City retained the consulting services of a known former employee of the Company, which created a conflict of interest inconsistent with the law. *See* TAWC's Response In Opposition To The Joint Motion Of The Intervenors To Expand The Time To Submit Their Pre-Filed Direct Testimony to July 21, 2008, at 4-6.

[7] There is a substantial question as to whether there is a right to appeal the Hearing Officer's to the TRA Directors at all, given the express language of Tenn. Code Ann. § 4-5-301(b) (2005).

issues raised in this case and to prepare pre-filed testimony."[8] The Hearing Officer has already considered this position and rejected it. TAWC respectfully submits that nothing has changed.[9] Now, as then, the Intervenors base their argument on the contention that TAWC has caused unfairly prejudicial delays in this docket. In fact, the actions of the Intervenors have precipitated the delays thus far, and those Intervenors should not be permitted to cite the natural results of their own strategic and tactical decisions as justification for further delay.

A. The Intervenors Chose Not To Comply With The Hearing Officer's Discovery Limits.

In the Order entered May 9, 2008, this Hearing Officer granted the CAPD 80 discovery requests — double the number allowed by the TRA Rules — and the City and CMA 40 requests each. Instead of abiding by this Order, each Intervenor chose to exceed their respective limitations for a collective total of 303 discovery requests.[10] The CAPD/City Petition faults TAWC for having responded to "less than one-third of [CAPD's] discovery requests" on "the original date that discovery responses were due." In fact, TAWC responded to only one-third of CAPD's discovery requests because the remaining two-thirds were propounded in direct violation of both TRA Rule 1220-1-2-.11(5)(a) and this Hearing Officer's May 9 discovery limitation order. In an effort to expedite the case, TAWC subsequently agreed to respond to the

[8] One reason the Intervenors claim they will not have adequate time is that their petitions to intervene were not granted until May 1. The Intervenors conveniently ignore the fact that the Company's petition, pre-filed testimony, exhibits and work papers have been publicly available on the TRA website since on or about March 14, 2008 and TAWC's responses to the all but three of the TRA staff's 87 Data Requests have also been available at the TRA website since on or about April 11, 2008. Nothing prevented the Intervenors from using the available information to prepare their cases prior to their intervention petitions being granted.

[9] TAWC hereby incorporates all of the arguments it raised in TAWC's Response In Opposition To The Joint Motion Of The Intervenors To Expand The Time To Submit Their Pre-Filed Direct Testimony To July 21, 2008, filed June 27, 2008.

[10] All three Intervenors failed to properly seek advance leave for permission to exceed the permitted discovery limitations ordered by the Hearing Officer on May 9, 2008. Instead, the CAPD chose to wait until the deadline for the first round of discovery to properly move for leave, the City waited until days later, and the CMA never moved for leave.

Intervenors' excess requests.[11] Had the Intervenors simply stayed within the Hearing Officer's May 9 discovery limitations, the first round of discovery would have been almost entirely complete in May.[12]

The Intervenors have had all but a handful of TAWC's substantive discovery for weeks and should have been — and surely have been — preparing their pre-filed testimony throughout that time. For instance, the Intervenors have had TAWC's Petition, direct testimony and exhibits since March 14, 2008 and voluminous documents filed in response to the TRA Data Requests since April 11, 2008. Thus, TAWC has not caused any unfair prejudice in this docket. Instead, TAWC has engaged in good-faith efforts to abide by the TRA Rules and the Hearing Officer's Orders, and to resolve all discovery disputes with the Intervenors. The discovery disputes in this docket have been narrow and have not prejudiced the Intervenors' preparation. The parties have worked together to resolve almost all of the disputes regarding TAWC's discovery responses, and the Hearing Officer has commended these "fruitful" efforts. (*See* July 3 Order, at 4).

B. The Intervenors Insist On Gathering Information They Do Not Need.

The Intervenors again contend that discovery disputes have deprived their experts of the time they need to analyze TAWC's case.[13] While discovery disputes have occurred, they have

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[11] *See* Proposed Order Regarding Discovery and Disposing of Certain Outstanding Motions dated June 9, 2008.

[12] CAPD, for example, only questioned TAWC's response to one of the 80 requests CAPD served within the Hearing Officer's limitation. *See* CAPD Mot. to Compel, dated June 2, 2008 (requesting supplemental information to CAPD Part II, Request No. 7).

[13] The Intervenors state they are most concerned with the responsiveness of the voluminous information that TAWC has produced and their experts need more time to analyze the information. The Intervenors raised this argument before without asserting any factual basis for the claim. *See* TAWC's Response In Opposition To The Joint Motion Of The Intervenors To Expand The Time To Submit Their Pre-Filed Direct Testimony To July 21, 2008. The Intervenors once again fail to specify either the affected experts or the facts supporting their asserted difficulties. TAWC remains willing to work with the Intervenors ***within reason*** to accommodate individual experts that have fallen behind in developing their opinions. See TAWC's Resp. In Opp'n To The Joint Mot. Of The Intervenors To Expand The Time To Submit Their Pre-Filed Direct Testimony To July 21, 2008 at 8, n. 8. To expect to derail the entire procedural schedule, however, is not reasonable.

consumed relatively minimal time considering how long Intervenors have had to prepare their pre-filed testimony. Additionally, the time expended is largely attributable to the Intervenors' discovery strategy. The Intervenors propounded an extraordinary number of discovery requests, and now protest that they have difficulty analyzing the discovery produced by TAWC in response.

TAWC's responses have been so voluminous in part because of the CAPD's apparent determination to adopt different test years than the those used by TAWC. It appears from the substance of the CAPD's discovery requests that the CAPD has sought much of its extraordinary discovery in an effort to construct and litigate an entirely different case than that filed by TAWC. This "parallel universe" approach to contesting rate cases has been rejected by this Authority[14] and does not speed the resolution of this rate case.

III. The Intervenors Have Sufficient Information To Prepare Their Case Within The Existing Schedule.

TAWC has received and responded to a total of 303 discovery requests from the Intervenors in this rate case. The Intervenors, however, still claim to find fault with TAWC's discovery responses. The Intervenors' Petitions collectively cite only ***eight*** of the Intervenors' 303 total discovery requests that the Intervenors claim remain outstanding.[15] All but one of the cited discovery requests, however, have previously been resolved or were just recently resolved

[14] *See* Docket No. 06-00290, Order dated 6/10/2008, at 20 ("[t]he Panel rejected the multiple test periods utilized by the CAPD.").

[15] Conspicuously absent from this list is CAPD Part II, Request 7, which apparently sought some aspect of the proprietary Gannett Fleming formulae or software code related to the database used by TAWC expert Spanos. At the June 20 Status Conference, the CAPD vigorously complained that CAPD's depreciation expert could not timely submit his pre-filed testimony without this information. The Hearing Officer ruled that the CAPD should explain in writing to TAWC exactly what CAPD's expert deemed deficient in TAWC's response to CAPD's Part II, Request 7. *See* Transcript, June 20 Status Conference, at 47:22 – 48:2. In the three weeks since the June 20 Status Conference, the CAPD has failed to submit anything pursuant to this directive of the Hearing Officer, and now has apparently abandoned the request altogether. This appears to be another example of the Intervenors crying wolf. *See, e.g.*, TAWC's Resp. In Opp'n To The CAD's Mot. To Ask Additional Disc. Reqs., at 2.

by the Hearing Officer. The sole remaining unresolved issue is pending a ruling by the Hearing Officer with regard to whether the requested documents is even likely to lead to the discovery of admissible evidence in this proceeding.

A. TAWC Has Fully Responded To Six Of The Eight Discovery Requests Cited By Intervenors.

TAWC has continually worked in good faith to timely supplement its production to resolve discovery disputes as they arise in this case. On June 27, seven days after a marathon two-day status conference, TAWC filed supplemental responses to CAPD's Part III, Requests 7-10 in a further good faith attempt to resolve CAPD's concerns. The supplemental responses complied with the Hearing Officer's ruling at the June 20 Status Conference. Accordingly, TAWC considers those Requests satisfied. The City's Request 15 involves a single document and is pending resolution by the Hearing Officer, to whom TAWC has submitted the requested document for *in camera* review. With respect to City Request 23, TAWC represented to the Hearing Officer that the Hackett Study already produced in response to City Request 23 is the only arguably responsive document in TAWC's possession or control. TAWC considers its response to the City's Request 23 complete.

B. The Intervenors Fail To Acknowledge That Responses To Two Requests They Cite Were Pending A Decision On A Motion Before the Hearing Officer.

TAWC's responses to the CMA's Requests 11 and 17 were awaiting resolution of the supplemental protective order issue, recently decided late on Thursday, July 10, 2008, by the entry of the Amended Protective Order. Accordingly, each of the CMA requests cited by the Intervenors' Petitions have been fully resolved. Intervenors' argument that they could not

prepare their pre-filed testimony in a timely manner while awaiting the entry of the Amended Protective Order is not credible.[16]

On May 6, 2008, in order to facilitate and expedite the discovery process, TAWC moved for entry of the same protective orders entered in Docket No. 06-00290 so that highly sensitive information such as that subsequently sought by CMA Requests 11 and 17 would be immediately produced.

The Intervenors are well aware that the delay in responding to CMA requests 11 and 17 resulted from TAWC's objection to producing highly confidential material in the absence of an adequate protective order.[17] The Intervenors actively opposed the entry of a protective order that would have enabled such information to be produced.[18] In fact, the CMA first sponsored the entry of the enhanced provisions, but then inexplicably opposed such provisions ten days later.[19] Having delayed the entry of the protections provided by the Amended Protective Order through repeated motion practice, the Intervenors cannot justly blame TAWC nor credibly complain that

[16] The CMA's Appeal criticizes the July 3 Order for stating that "[w]hile discovery is ongoing, the Intervenors have had the Company's testimony available to them for over three months." This statement, however, is entirely accurate. TAWC's testimony (including exhibits and work papers) has been available for inspection by the Intervenors at their convenience on the TRA website in pdf format since it was posted there by TRA staff on or about March 14, 2008. The CMA implied that the above-quoted statement was inaccurate because CMA did not receive a courtesy disk of this information in "native format" from TAWC until three weeks ago. These native files, however, have also been readily available to the CMA for several months at the TRA and from one or more of the Intervenors with whom the CMA has been working in concert. Accordingly, CMA's complaint is rightfully relegated to the category of frivolous.

[17] The Highly Sensitive proprietary information responsive to CMA Requests 11 and 17 consists of less than 75 pages out of the tens of thousands of pages produced by TAWC in this docket to date, as acknowledged by the Hearing Officer in his July 3 Order.

[18] *See, e.g.*, Resp. Of The CAD To TAWC's Mot. For Entry Of Confidential Protective Order filed on May 13, 2008; CMA's Opposition To Entry Of Amended Protective Order filed on June 23, 2008; Notice Of Objections And Concerns With The Hearing Officer's Draft Of A Proposed Protective Order filed on June 23, 2008.

[19] *See* Proposed Highly Confidential Protective Order Agreed To By CMA And TAWC filed on June 13, 2008 and CMA's Opp'n To Entry Of Amended Protective Order filed on June 23, 2008.

they were unfairly prejudiced by delays of their own making.[20] Now that the Amended Protective Order has been entered, TAWC will serve the requested information today.

IV. The Intervenors' Proposed Procedural Schedule Unfairly And Unnecessarily Compresses The Procedural Schedule.

The Hearing Officer's denial of permission to Intervenors is further reasonable because Intervenors' remedy— their alternatively proposed procedural schedule — is unnecessary and improperly slanted in Intervenors' favor. The Intervenors still have not responded substantively to the overwhelming majority of TAWC's discovery requests. In fact, although the Intervenors state that they "believe that they will be able to present valuable evidence demonstrating that TAWC's requested rate hike is too high in light of attendant circumstances,"[21] Intervenors have provided no such information, maintaining that they are unable to provide ***any*** facts or theories to support their opposition to the rate increase (in spite of their ongoing obligation to supplement their discovery responses as soon as they become aware of any such responsive information).[22] Thus, unlike Intervenors, who have had TAWC's full case in hand for nearly four months, TAWC still has no idea what specific facts and contentions Intervenors will assert to oppose any aspect of the requested rate increase.

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[20] CAPD and the City have no standing to complain about responses to CMA's discovery requests. Despite the complaints in CMA's Appeal about TAWC's Response to CMA Requests 11 and 17, CMA should also be estopped from lodging such complaints. CMA agreed to and was required to raise any concerns about TAWC's discovery responses in a renewed motion to compel to be filed by June 17, 2008. *See* Agreed Order entered June 13, 2008. CMA did not file a renewed motion to compel. Additionally, CMA's counsel has already acknowledged that the production of TAWC's responses to Requests 11 and 17 required the entry by the Hearing Officer of the enhanced protections proposed by TAWC which CMA also sponsored and supported. *See* Proposed Highly Confidential Protective Order Agreed To By CMA And TAWC filed on June 13, 2008; Transcript of June 19 Status Conference at 9:11-13. CMA should not be permitted to disrupt the schedule in this case by attempting to revive discovery issues CMA long ago waived.

[21] *See* CAPD/City Pet., at 5.

[22] *See* TAWC's Discovery Requests To CAPD; TAWC's Discovery Requests To City Of Chattanooga; TAWC's Discovery Requests To Chattanooga Manufacturers' Association, filed May 12, 2008.

The Intervenors' proposed schedule only further impedes TAWC's efforts to prepare its case. The Intervenors' proposed schedule would not allow TAWC sufficient time to rebut the pre-filed testimony or prepare for the final hearing. While the Intervenors have given themselves an additional seven days to prepare their pre-filed testimony, TAWC's time to request discovery and offer its rebuttal is truncated. The Intervenors' proposed procedural schedule is unnecessary and unfair to TAWC. "To enlarge the time allotted for one party at the expense of the time allotted for another party would result [in] an unfair advantage to certain parties in their preparation for the hearing in this docket." *See* July 3 Order at 5. The Hearing Officer's July 3 Order is fair to all parties and thus should remain in effect.[23]

It is clear that TAWC has satisfied all of its discovery obligations in a good-faith and timely manner, and that the amount and importance of information not yet in the Intervenors' hands is miniscule compared to the amount and importance of the information the Intervenors received long ago. Furthermore, to the extent disagreements still exist among the parties, the Hearing Officer has already rejected that fact as a basis for further extension of the Intervenors' deadline for pre-filed discovery.[24]

Conclusion

For all the foregoing reasons, it is reasonable to deny Intervenors permission to appeal the Hearing Officer's July 3 Order. To consent to the Intervenors' request would only result in further delay when both TAWC and Intervenors are capable of preparing their cases under the Hearing Officer's current procedural order. Such ability renders Intervenors' proposed schedule

[23] The Hearing Officer's July 3 procedural schedule does not set forth a date for the final hearing. TAWC again notes that one of its key experts is not available during most of the week of August 18.

[24] In his July 3 Order, the Hearing Officer explained "[t]he fact that discovery is ongoing . . . is not novel to this case. Rarely are parties able to discover completely the other side's case and gather all of the information they would like to obtain before the filing of testimony." *Id.* at 5.

unnecessary and undesirable given its unfair compression of the schedule in Intervenors' favor. In addition, pursuant to Tenn. Code Ann. § 65-5-103(b), if a final decision in this case is not made by September 14, 2008, TAWC will be forced to implement the requested rates under bond. Accordingly, TAWC respectfully submits that the Intervenors' Petitions for Interlocutory Review should be immediately denied by the Hearing Officer.

Respectfully submitted,

R. Dale Grimes emc

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Attorneys for Petitioner
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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 11th day of July, 2008, upon the following:

[ ] Hand-Delivery [ ] U.S. Mail [ ] Facsimile [ ] Overnight [x] Email	Timothy C. Phillips, Esq. Consumer Advocate and Protection Division Office of Attorney General 2nd Floor 425 5th Avenue North Nashville, TN 37243-0491
[ ] Hand-Delivery [ ] U.S. Mail [ ] Facsimile [ ] Overnight [x] Email	David C. Higney, Esq. Counsel for Chattanooga Manufacturers Association Grant, Konvalinka & Harrison, P.C. 633 Chestnut Street, 9th Floor Chattanooga, TN 37450
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[ ] Hand-Delivery [ ] U.S. Mail [ ] Facsimile [ ] Overnight [x] Email	Michael A. McMahan, Esq. Special Counsel City of Chattanooga (Hamilton County) Office of the City Attorney Suite 400 801 Broad Street Chattanooga, TN 37402
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Erin M. Everitt