

July 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

filed electronically in docket office on 07/07/08

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

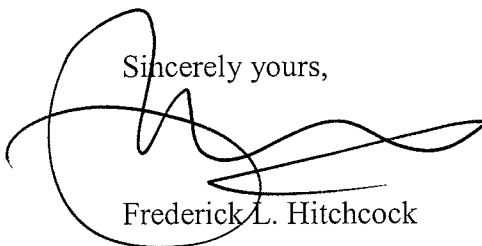
Dear Chairman Roberson:

Enclosed please find an original and five (5) copies of City of Chattanooga's Fifth Supplemental Discovery Responses to Tennessee American Water Company 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 yours,



Frederick L. Hitchcock

FLH:kw

Enclosures

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

**.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 ITS CUSTOMERS)

Docket No. 08-00039

**CITY OF CHATTANOOGA'S FIFTH SUPPLEMENTAL DISCOVERY RESPONSES
TO TENNESSEE AMERICAN WATER COMPANY**

The City of Chattanooga ("City") further responds to the Tennessee American Water Company's ("TAWC") discovery requests as follows:

GENERAL OBJECTIONS

1. City objects to all requests that seek information by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege or restriction on disclosure.
2. City objects to the definitions and instructions accompanying requests to the extent definitions and instructions contradict, are inconsistent with, or impose any obligations beyond those required by the Tennessee Rules of Civil Procedure or the rules, regulations, and orders of the Tennessee Regulatory Authority.
3. City objects to the definitions of the words "document" or "documents" or "documentation" that accompany the requests, because such definitions are overbroad and unduly burdensome.

4. City is providing its objections herein without waiver of, or prejudice to, its right at any later time to raise objections to: (a) the competence, relevance, materiality, privilege, or admissibility of the response, or the subject matter thereof; and (b) the use of any response or subject matter thereof, in any subsequent proceedings.

5. City objects to each request to the extent that it is unreasonably cumulative or duplicative or seeks information obtainable from some other source that is more convenient, less burdensome, or less expensive.

6. City objects to each request to the extent it is premature such that it seeks information concerning matters about which discovery is ongoing and/or seeks information to be provided by expert witnesses.

7. City's specific objections to each request shall be in addition to the General Objections set forth in this section. These General Objections form a part of each discovery response, and they are set forth here to avoid the duplication and repetition of restating them for each discovery response. The absence of a reference to a General Objection in response to a particular request does not constitute a waiver of any General Objection in response to that discovery request. All responses are made subject to and without waiver of City's general and specific objections.

DISCOVERY REQUEST NO. 1:

Identify each material fact and every document that you rely on to support your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 08-00039 should not be approved by the Tennessee Regulatory Authority ("TRA").

RESPONSE NO. 1:

Consistent with its General Objections, City will not respond to the extent this or other Requests seek information that is privileged or constitutes attorney work product. Without waiving any such objections, counsel for City have not yet identified all of the facts and documents upon which City will rely. Discovery disputes continue to be pending, without resolution. Additionally, information is being developed in connection with expert testimony following the receipt, after the close of business on July 3, 2008, of the Hearing Officer's Order establishing an Amended Procedural Schedule. As City has explained, it is not possible to complete the necessary analysis and development within the time frame set forth in the original procedural schedule or the amended procedural schedule. Accordingly, City anticipates that it will continue to develop facts and documents upon which it will rely to support its position that TAWC's rate request is excessive and unreasonable.

Subject to the foregoing, City will rely upon information disclosed by TAWC in response to discovery requests of City and other Intervenors in Docket No. 08-00039 and Docket No. 06-00290. City also anticipates that it will use information included in filings submitted by TAWC and information contained in testimony, hearings, and conferences held in this Docket and Docket No. 06-00290.

City anticipates that it also will use

- The Sarbanes-Oxley Act and regulations, standards, and other interpretive documents related thereto;
- Management audits involving TAWC affiliates operating in Pennsylvania and New Jersey;
- American Water Works Association, Benchmarking-Performance Indicators for Water and Wastewater Utilities: Service Data and Analyses Report (because of its size, a copy will be provided electronically on CD-ROM);

- Findings and Recommendations for a Water Utility Sector Management Strategy, dated March 30, 2007, prepared by the U.S. Environmental Protection Agency, American Public Works Association, American Water Works Association, Association of Metropolitan Water Agencies, National Association of Clean Water Agencies, National Association of Water Companies, and the Water Environment Foundation; and Appendices thereto (because of its size, a copy will be provided electronically on CD-ROM);
- Benchmarking data compiled by the Wisconsin Public Services Commission, which is available at <http://psc.wi.gov/utilityinfo/water/newsinfo/Benchmark.htm>.

To the extent that TAWC has continuing concerns regarding the sufficiency of City's discovery response, City will work in good faith with TAWC to resolve these concerns.

City reserves the right to supplement its responses

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

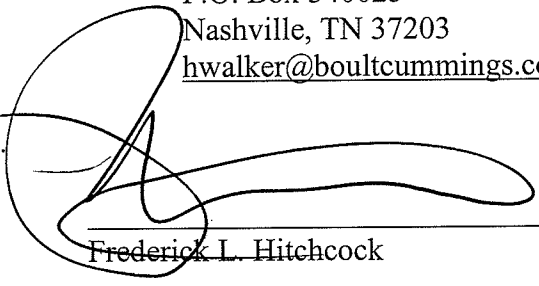
Timothy C. Phillips, Esq.
Office of the Attorney General
Consumer Advocate & Protection Division
P.O. Box 20207
Nashville, TN 37202
timothy.phillips@state.tn.us

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, Connors & Berry, PLC
1600 Division Street, Suite 700
P.O. Box 340025
Nashville, TN 37203
hwalker@boultcummings.com

This the 17th day of July, 2008.



Frederick L. Hitchcock