

**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) **DOCKET NO. 08-00039**
EARN A FAIR AND ADEQUATE RATE)
OF RETURN ON ITS PROPERTY USED)
AND USEFUL IN FURNISHING WATER)
SERVICE TO ITS CUSTOMERS)
)

**SUPPLEMENTAL RESPONSES AND OBJECTIONS OF THE CONSUMER
ADVOCATE AND PROTECTION DIVISION TO THE FIRST DISCOVERY REQUEST
OF TENNESSEE AMERICAN WATER COMPANY**

Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to the Hearing Officer's ruling at the status conference held on June 4, 2008, hereby submits these supplemental responses and objections to the first discovery request of Tennessee American Water Company ("TAWC" or "Company").

GENERAL OBJECTIONS

1. The Consumer Advocate objects to the definitions and instructions contained in the Company's interrogatories to the extent that the definitions and instructions attempt to impose on the Consumer Advocate a burden or obligation greater than that required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

2. The Consumer Advocate objects to the interrogatories to the extent they call for information and the production of documents which are protected from disclosure by the attorney-

client privilege, the attorney work product doctrine or any other applicable privilege or protection. The Consumer Advocate objects to the data requests to the extent that the Company is attempting to impose on the Consumer Advocate obligations with regard to identification of privileged documents beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

3. The Consumer Advocate objects to the Company's interrogatories to the extent they seek information not related to the subject matter involved in this litigation or to the extent they are not reasonably calculated to lead to the discovery of admissible evidence. By providing information in response to these requests, the Consumer Advocate does not concede that such information is relevant, material or admissible in evidence. The Consumer Advocate reserves all rights to object to the use of such information as evidence.

4. The Consumer Advocate objects to the Company's interrogatories to the extent that the Company is attempting to impose on the Consumer Advocate obligations to supplement its responses beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

5. The Consumer Advocate objects to the Company's interrogatories to the extent that the Company is attempting to require the Consumer Advocate to provide information and produce documents beyond those in its possession, custody or control as that phrase is used in the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

6. The Consumer Advocate objects to the Company's data requests to the extent they seek information and documents that are readily available through public sources or are in the Company's own possession, custody or control. It is unduly burdensome and oppressive to require

the Consumer Advocate to respond or produce documents that are equally available to the Company.

7. The Consumer Advocate's objections and responses to these requests are based on information now known to it. The Consumer Advocate reserves the right to amend, modify or supplement its objections and responses if it learns of new information.

8. The Consumer Advocate's responses to these requests are made without waiving or intending to waive the right to object to the use of any information provided in response to any subsequent proceeding or trial of this or any other action. The Consumer Advocate's responses to these requests are also not a waiver of any of the foregoing objections or any objections it has made or may make with respect to any similar, related, or future data request, and the Consumer Advocate specifically reserves the right to interpose any objection to further requests notwithstanding any response or lack of objection made in this response.

9. The Consumer Advocate will supplement its responses in accordance with the requirements of state law.

10. The Consumer Advocate expressly incorporates these general objections into its responses set forth below.

Subject to and without waiving any objections stated above the Consumer Advocate responds to the specific requests as follows:

DISCOVERY REQUEST NO. 4:

Identify any person you intend to call as a fact or expert witness (including, but not limited to, the persons referred to in paragraph 4 of your "Joint Objection of the Intervenor To Discovery Question Limits for the Initial Round of Discovery," in which you refer to "two outside consultants hired by the Consumer Advocate to respond to the Company's revenue and depreciation witnesses"),

the subject matter of the witness' testimony, the substance of the facts and opinions to be expressed and the basis and reasons therefor, the data, documents, materials or other information shown to, relied upon, created by or considered by the witness as part of this case and/or as a basis in forming his or her opinions, any exhibits to be used as a summary of or support for each such opinion, the qualifications of the witness, including a full resume, a list of all publications authored by the witness, the compensation to be paid for the study and testimony, and a listing of any other cases in which the witness has testified at trial or by deposition.

FOURTH SUPPLEMENTAL RESPONSE:

Consistent with the General Objections restated above, as well as the previous objections and responses of the Consumer Advocate, the Consumer Advocate will not respond to the extent this request seeks privileged information or information protected from disclosure by the attorney work product doctrine or other applicable law. Subject to and without waiving these objections, the Consumer Advocate responds as follows: The following sentence that appears on p. 8 of the *Supplemental Responses and Objections of the Consumer Advocate to the First Discovery Requests of TAWC* filed on July 17, 2008 should be disregarded:

“The Consumer Advocate further anticipates that it will present the expert witness testimony of Charles W. King. Mr. King is expected to present recommendations on depreciation rates that the Authority should adopt in this proceeding, and he is expected to testify that TAWC’s weather normalization adjustment (“WNA”) should be rejected by the Authority because the WNA model used by TAWC -- a model that relies primarily on temperature to predict water usage -- does not stand the test of reasonableness, a conclusion that is supported by actual events.”

The Consumer Advocate further supplements this response with the following:

The Consumer Advocate further anticipates that it will present the expert witness testimony of Charles W. King. Mr. King is expected to present recommendations on depreciation rates that the Authority should adopt in this proceeding, and he is expected to testify that TAWC's weather normalization adjustment ("WNA") should be rejected by the Authority because the WNA model used by TAWC -- a model that relies primarily on a monthly driven analysis to predict water usage -- does not stand the test of reasonableness, a conclusion that is supported by actual events. The Consumer Advocate reserves the right to further supplement this response.

DISCOVERY REQUEST NO. 13:

The Joint Objection of the Intervenors to Discovery Question Limits for the Initial Round of Discovery, which was filed in this docket, states: "the Company has proposed a significant adjustment to its weatherization figures which calls for \$1.3 million in new rates." Specifically identify each conclusion or aspect of the weatherization figures the CAPD intends to contest, if any, and the CAPD's grounds and/or bases therefor, including any facts and/or documents the CAPD contends support those grounds.

THIRD SUPPLEMENTAL RESPONSE:

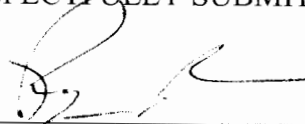
Consistent with the General Objections restated above, as well as the previous objections and responses of the Consumer Advocate, the Consumer Advocate will not respond to the extent this request seeks privileged information or information protected from disclosure by the attorney work product doctrine or other applicable law. Subject to and without waiving these objections, the Consumer Advocate responds as follows: The following sentence that appears on p. 15 of the *Supplemental Responses and Objections of the Consumer Advocate to the First Discovery Requests of TAWC* filed on July 17, 2008 should be disregarded:

“The Consumer Advocate further anticipates that it will present the expert witness testimony of Charles W. King. Mr. King is expected to present recommendations on depreciation rates that the Authority should adopt in this proceeding, and he is expected to testify that TAWC’s weather normalization adjustment (“WNA”) should be rejected by the Authority because the WNA model used by TAWC -- a model that relies primarily on temperature to predict water usage -- does not stand the test of reasonableness, a conclusion that is supported by actual events.”

The Consumer Advocate further supplements this response with the following:

The Consumer Advocate further anticipates that it will present the expert witness testimony of Charles W. King. Mr. King is expected to present recommendations on depreciation rates that the Authority should adopt in this proceeding, and he is expected to testify that TAWC’s weather normalization adjustment (“WNA”) should be rejected by the Authority because the WNA model used by TAWC -- a model that relies primarily on a monthly driven analysis to predict water usage -- does not stand the test of reasonableness, a conclusion that is supported by actual events. The Consumer Advocate reserves the right to further supplement this response.

RESPECTFULLY SUBMITTED,



RYAN L. McGEHEE
Assistant Attorney General
Office of the Attorney General and Reporter
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202-0207

Dated: August 8, 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:

R. Dale Grimes, Esq.
Ross Ian Booher, Esq.
Bass, Berry & Sims PLC
315 Deaderick Street, Suite 2700
Nashville, TN 37238

Michael A. McMahan, Esq.
Valerie L. Malueg, Esq.
Special Counsel
City of Chattanooga
801 Broad Street, Suite 400
Chattanooga, TN 37402

Frederick L. Hitchcock, Esq.
Harold L. North, Jr., Esq.
Chambliss, Bahner & Stophel, P.C.
1000 Tallan Building
Two Union Square
Chattanooga, TN 37402-2500

David C. Higney, Esq.
Grant, Konvalinka & Harrison, P.C.
Ninth Floor, Republic Centre
633 Chestnut Street
Chattanooga, TN 37450-0900

Henry M. Walker, Esq.
Boult, Cummings, Conners & Berry, PLC
1600 Division Street, Suite 700
Nashville, TN 37203

This the 8 day of July, 2008.



RYAN L. McGEHEE
Assistant Attorney General

#121599