

provide a fair rate of return on its investment for a reasonable period; (c) attract on reasonable terms the large sums of additional capital required to adequately maintain, expand and improve the Company's plant in Tennessee to meet the needs of the public for additional improved quality water service and to maintain existing service levels; (d) maintain its credit; and (e) maintain its operations at a level that will not be materially impaired or damaged.¹

In the *Petition*, TAWC requests that the Authority set a hearing and, after the presentation of evidence, enter an order approving the rates proposed by TAWC which are designed to increase Company revenues by approximately \$7,644,859. Along with the *Petition*, TAWC filed several tariffs containing the effective dates of April 13, 2008, which have been suspended by the panel until July 17, 2008.

PETITIONS TO INTERVENE

On April 1, 2008, the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") filed a Petition to Intervene. Chattanooga Manufacturers Association ("CMA") and the City of Chattanooga ("Chattanooga") filed petitions to intervene on April 4, 2008 and April 17, 2008, respectively.

The Consumer Advocate seeks intervention, stating that it is authorized to intervene in proceedings to represent the interests of Tennessee consumers pursuant to Tenn. Code Ann. § 65-4-118. The Petition to Intervene alleges that the increase in rates requested by TAWC ". . . may be too high and may not be just and reasonable under the circumstances."² The Consumer Advocate states that it can protect the public interest in this regard only by participating in this proceeding.

CMA asserts that it is a trade association in existence for 106 years and representing over 250 manufacturers and businesses. CMA alleges that approval of the Company's request to increase certain rates and charges "will adversely affect ratepayers including but not limited to CMA, its members and others similarly situated."³ Chattanooga states that its intervention request should be granted because "the City of Chattanooga is a customer of TAWC and the legal rights, duties,

¹ *Petition* at 3 (March 14, 2008).

² *Petition to Intervene* at 2 (April 1, 2008).

³ *Petition to Intervene by the Chattanooga Manufacturers Association*, p. 2 (April 4, 2008).

privileges, immunities or other legal interests of the City of Chattanooga and its citizens may be determined in these proceedings.”⁴ No party or person filed an objection to or opposed the intervention requests of the Consumer Advocate, CMA or Chattanooga.

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

Under TRA Rule 1220-1-2-.06, any party opposing a motion in a contested case must file and serve a response to the motion within seven days of service of the motion.

The Hearing Officer finds that the legal rights and interests of Tennessee consumers, CMA and the City of Chattanooga may be determined in this proceeding and that the petitions are timely and the interventions will not impair the orderly and prompt conduct of these proceedings. For these reasons and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a), the Hearing Officer grants the petitions to intervene filed by Consumer Advocate, CMA and the City of Chattanooga.

PROCEDURAL SCHEDULE

In TRA Docket No. 06-00290, wherein the Company filed a petition seeking Authority approval of proposed increased rates, the Consumer Advocate, CMA and Chattanooga intervened and engaged in discovery, submitted profiled testimony and participated in the hearing before the

⁴ *Petition to Intervene*, p. 2 (April 17, 2008).

Directors of the TRA. Following an initial Status Conference in that docket, the parties proposed separate procedural schedules from which the Hearing Officer fashioned and implemented a procedural schedule. In lieu of a Status Conference and in the interest of conserving resources and time, the Hearing Officer has prepared a Procedural Schedule in this docket which roughly follows the time periods provided for filings and conferences in the Docket No. 06-00290. The Procedural Schedule established for this docket is attached to this Order as Exhibit A and is effective as of the date of this Order.

DISCOVERY

In Docket No. 06-00290, the issue was raised whether the Consumer Advocate would be permitted to propound more than forty questions in its initial discovery requests. The parties in that docket agreed to an initial discovery limit of eighty questions from the Consumer Advocate based on that number having been permitted in an earlier TAWC rate case, TRA Docket No. 03-00118. The Hearing Officer finds that a limit of eighty questions, including subparts, in the Consumer Advocate's first round of discovery is reasonable in this docket. Any objection to this determination should be filed with the Hearing Officer within five days of the date of this Order.

PROTECTIVE ORDER

In light of the advent of discovery, the Hearing Officer directs the parties to meet and, if possible, submit an agreed proposed protective order by May 6, 2008 for review by the Hearing Officer. In the event that an agreement cannot be reached the Company and the Intervenors (collectively) may submit a separate proposed protective orders by May 6, 2008. The Hearing Officer will thereafter enter a Protective Order for use in this matter.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division, Office of the Attorney General; Chattanooga Manufacturers Association and the City of Chattanooga are hereby granted leave to intervene and receive copies of any notices, orders or other documents herein.

TRA DOCKET NO. 08-00039

PROCEDURAL SCHEDULE

(May 1, 2008)

May 12, 2008	1st Round of Discovery Due
May 28, 2008	Discovery Responses and Objections Due
June 2, 2008	Motions to Compel Due
June 4, 2008	Status Conference
June 9, 2008	Supplemental Discovery Responses Due
June 23, 2008	Intervenors' Pre-Filed Testimony Due
June 30, 2008	2nd Round of Discovery Due
July 10, 2008	Discovery Responses and Objections Due
July 14, 2008	Motions to Compel Due
July 16, 2008	Status Conference (Parties will report on settlement talks)
July 21, 2008	Supplemental Discovery Responses Due
July 28, 2008	Company's Pre-Filed Rebuttal Testimony Due
August 1, 2008	Pre-Hearing Conference

2. The Procedural Schedule, attached to this Order as Exhibit A, is effective as of the date of this Order.

3. The Consumer Advocate is permitted to propound discovery in excess of the number prescribed in TRA Rule 1220-1-2-.11(5)(a), up to a total of eighty questions, including subparts, during the initial round of discovery. Any objection to this determination should be filed with the Hearing Officer within five days of the date of this Order.

4. The parties shall meet and, if possible, submit an agreed proposed protective order by May 6, 2008 for review by the Hearing Officer. In the event that an agreement cannot be reached the Company and the Intervenors (collectively) may submit separate proposed protective orders by May 6, 2008. The Hearing Officer will thereafter enter a Protective Order for use in this matter.


J. Richard Collier, Hearing Officer