BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:	*	
	*	
PETITION OF TENNESSEE-AMERICAN WATER COMPANY TO CHANGE AND INCREASE CERTAIN RATES AND CHARGES...	*	DOCKET NO. 08-00039

CHATTANOOGA MANUFACTURERS ASSOCIATION'S MOTION TO STRIKE FROM THE RECORD AND/OR TO EXCLUDE AS EVIDENCE THE SUPPLEMENTAL TESTIMONY OF TENNESSEE AMERICAN WATER COMPANY WITNESSES, INCLUDING BUT NOT LIMITED TO JOHN WATSON, SHEILA MILLER AND MICHAEL MILLER, RELATED TO ALLEGED INCREASED EXPENSES

On March 14, 2008, Tennessee American Water Company (the "Company" or "TAWC") filed its Petition along with testimony allegedly supporting its Petition in this matter. On more than one occasion, the Chattanooga Manufacturers Association ("CMA") and others had to move to compel responses to certain discovery requests related to the alleged support for TAWC claimed revenue deficiencies. On August 13, 2008, merely three (3) business days before the commencement of this contested case and ostensibly supplied by TAWC as "rebuttal" testimony, the utility seeks to inject adjusted calculations to bolster their revenue deficiency claims in this matter. CMA hereby requests that the Hearing Officer strike from the record and/or exclude as evidence any and all portions of TAWC witnesses' "rebuttal" testimony or supposed data responses related to allegations of increasing expense amounts.

The reason for a petition in a rate-making matter is so that the Tennessee Regulatory Authority (the "Authority") can take into consideration the estimated effect of reasonably-expected revenues, expenses and investments. Direct testimony is filed with the Petition to illustrate those estimated effects of reasonably-expected variables and, presumably, the Company submitted such. CMA seeks to exclude the purported "rebuttal" which is, in actuality, an

offering of cherry-picked expenses designed to bolster the Company's initially-requested revenue requirement. CMA's witnesses and others identified in testimony that the Company needed to make adjustments which would lower the Company's purported revenue deficiency. In some instances, such as CWIP and pre-paid insurance, TAWC has conceded and made the adjustment to its errors. To offset the fact that those adjustments would result in the Company reducing its revenue request to an amount less than $7.645 million, however, the Company now seeks to selectively introduce at least an additional $500,000 into its case through additional expense projections such as those for purported chemical expense contracts for 2009 and reported future potential electric rate increases.

The Company's belated injection of these items is undertaken without performance of a complete and adequate case-package analysis examining the entire rate base revenue/expense relationship inherent in proper rate-making relative to both the test year and attrition year, and should not be condoned. For example, the Company's "rebuttal" does not adjust upward its projected industrial revenues despite all of the reported accounts concerning increased industrial activity in and around Chattanooga to supply and support the newly announced Enterprise South Volkswagen assembly facility appearing in the same newspaper that TAWC now relies upon to claim increased expenses concerning possible electrical cost increases.

It would be inequitable to allow the Company to reference such belated filings concerning singularly identified expenses. Doing so would, in essence, give TAWC the unilateral control and ability to strategically impute expenses during a pending contested case regardless of the impact or timing on rate-making analysis. Allowing these belated, one-sided calculations to be introduced into the proceeding at the eleventh hour clearly results in prejudicial harm to and otherwise undermines the analysis of the Staff and any intervenor.

Moreover, it effectively deprives those parties scrutinizing the Company's Petition of due process to adequately address such issues.

One should recall the Company's adamant objection in TRA Docket No. 06-00290, at nearly the same stage in the process, to the introduction of an issue (E-CIS depreciation) that would have effectively reduced the Company's claimed revenue deficiency substantially. Since the late introduction of evidence as to depreciation expense in the last case was detrimental, the Company vigorously objected; however, where the introduction of forecasted higher chemical expenses (and other items) would appear to benefit the Company's claim of a revenue deficiency in this case, it now seeks to introduce those days before the hearing.

It is simply too late for the Company to file additional direct testimony under the guise of "rebuttal" in an effort to support or bolster its exorbitant rate increase. There is no equitable basis to permit such testimony to be considered or referenced as evidence. Additionally, increases sought by a utility that are filed separately and at different times, even if reviewed and determined by the TRA through a single investigation and hearing, may not be placed into effect until the expiration of six months following the date on which that increase, change or alteration was filed with the TRA.[1]

Because the ostensible "rebuttal" testimony and supplemental exhibits are untimely, CMA respectfully requests that the Hearing Officer strike from the record in this case and/or exclude as evidence those portions of testimony and materials submitted by the Company or its witnesses relative to purported likely increases in expenses, including alleged increased chemical expense per 2009 contracts and purported electric cost increases in the future as reported in the

[1] *In Re: Petition of Chattanooga Gas Company, TRA Docket No. 04-00034*, Order dated July 12, 2004 at p. 8.

newspaper.[2] Additionally, to the extent the testimony, references and materials are not stricken, and only assuming a revenue deficiency is found by the Authority in this matter, the Company should not be allowed to place rates into effect relative to the newly-claimed expenses any sooner than six months from the date (August 13, 2008) the Company identified those expenses.

Respectfully submitted,

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[2] To the extent those are not stricken or reference is allowed, and while CMA reserves its objections and takes exception to any such ruling, CMA and other intervenors should in such an instance be allowed to address the newly-proffered issues either in their direct case or after cross-examination of Company witnesses or in post-hearing briefs.

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 14th day of August, 2008, upon the following:

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