

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**September 2, 2008**

**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**

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**ORDER SETTING HEARING ON THE MERITS  
IN CHATTANOOGA, TENNESSEE**

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This matter came before Chairman Tre Hargett, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 28, 2008 to receive a report from the Hearing Officer regarding the status of the proceeding and to discuss setting the location and date of the hearing on the merits.

During the July 28, 2008 Authority Conference, the Hearing Officer provided a brief summary of the proceedings to date. Tennessee American Water Company (“TAWC” or “the Company”) filed its *Petition* on March 14, 2008. TAWC and the Intervenor, the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”), the City of Chattanooga (“the City”) and the Chattanooga Manufacturers Association (“CMA”) have followed the procedural schedule which has been amended to facilitate discovery and the filing of testimony. The parties are presently concluding the second round of discovery. The Company filed its direct pre-filed testimony at the time it filed the *Petition*. The Intervenor each filed their direct

pre-filed testimony pursuant to the Second Amended Procedural Schedule on July 18, 2008. The Company's rebuttal pre-filed testimony is scheduled to be filed on August 13, 2008.

The Second Amended Procedural Schedule concludes with the Pre-Hearing Conference set for August 15, 2008, at which time the docket can proceed to a Hearing on the merits of the *Petition*. The *Petition* and accompanying tariffs have been suspended through September 15, 2008, the date when the six-month period from the filing of the *Petition*, as contemplated in Tenn. Code Ann. § 65-5-103(b), will come to an end.<sup>1</sup> Following the summary of the proceedings, the panel discussed the location and dates for the Hearing on the merits of the *Petition*.

The TRA is not restricted by statute or rule in setting the location of meetings and hearings. Tenn. Code Ann. § 65-1-103(a) permits the Authority to hold sessions

. . . at such times and places as may be necessary for the proper discharge of their duties, or as the convenience of the parties, in the judgment of the Tennessee regulatory authority, may require.

TRA Rule 1220-1-1-.06 sets forth the following requirements for hearings before the Authority:

- (1) All contested case hearings, public hearings under rulemaking and any other hearings pursuant to these rules shall be held at the offices of the Authority in Nashville, Tennessee as such dates and times as may be set in the official notice of hearing or as may be set by order of the Authority.
- (2) . . . The Authority may schedule regular periodic dates for Authority Conferences, which may be rescheduled by the Authority, and any special meetings at such places, dates and times as the Authority may direct.
- (3) On its own motion or on the motion of any party, the Authority may fix the place, date and time of any hearing as it deems appropriate.

TRA Rule 1220-1-1-.06 expressly permits the Authority to conduct public hearings at locations other than Nashville, Tennessee, upon the Authority's own motion or upon the motion of a party, as the Authority may deem appropriate.

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<sup>1</sup> While Tenn. Code Ann. § 65-5-103(a) allows nine months for the investigation by the TRA, Tenn. Code Ann. § 65-5-103(b)(1) permits the Company to place the proposed rates into effect under bond after six months.

In Docket No. 06-00290, TAWC's previous rate case, CMA and the City made written requests to have the Hearing on the merits of the case in Chattanooga. TAWC issued a statement in opposition to those requests. The Consumer Advocate did not oppose the requests. The Hearing in that docket was held in Chattanooga during the week of April 16, 2007.<sup>2</sup> In this docket, the Hamilton County Commission has filed a formal resolution opposing the rate increase proposed by TAWC and asking the TRA to hold the hearing in Hamilton County. None of the parties have expressed opposition to holding the hearing in Chattanooga.

A Chattanooga location for the Hearing in this docket would afford ratepayers of the Company a ready opportunity to observe the hearing and become better educated concerning the ratemaking process. The costs associated with travel to and lodging, if necessary, in Nashville could hinder many ratepayers from attending and participating in a public hearing in Nashville. Conducting the Hearing in the City of Chattanooga provides a better opportunity for ratepayers and other interested parties in the City of Chattanooga to attend and be heard during a hearing. Further, the location of the Hearing in Chattanooga does not necessarily impose a hardship on the parties involved in the proceeding. Three of the four parties participating in this docket, including the Petitioner, TAWC, conduct business in Chattanooga. The two Chattanooga-based Intervenors are represented by legal counsel whose offices are located in Chattanooga. The Consumer Advocate, whose offices are in Nashville, has not opposed holding the hearing in Chattanooga. For these reasons, the panel found that conducting the Hearing in this docket in Chattanooga is appropriate and voted unanimously to hold the hearing the week of August 18, 2008 in Chattanooga.<sup>3</sup> Director Eddie Roberson will preside over the Hearing.

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<sup>2</sup> See *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. 06-00290, *Order Setting Hearing on the Merits in Chattanooga, Tennessee* (March 9, 2007).

<sup>3</sup> The panel notes that the TRA must absorb the additional costs associated with conducting the Hearing in Chattanooga and weighs such costs in conjunction with the benefits of holding the Hearing in this docket in a location where interested members of the public, particularly ratepayers, have an opportunity to participate in the process.

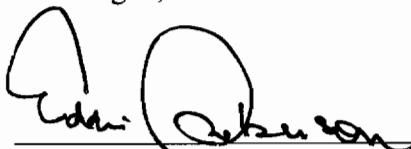
Recognizing that the six-month period from the filing of the *Petition* would expire on September 14, 2008, the panel questioned counsel for the Company regarding withholding any request to put the proposed rates into effect until October 1, 2008. Without waiving its ability to have to put rates into effect after six months from the filing date, TAWC agreed not to put the proposed rates into effect until October 1, 2008. The panel determined that post-hearing briefs would be due on August 29, 2008 and deliberations would take place on September 22, 2008, with rates to be effective October 1, 2008.

**IT IS THEREFORE ORDERED THAT:**

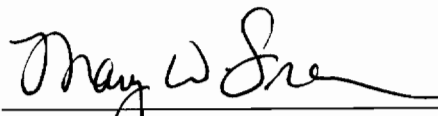
1. The Hearing on the merits of the *Petition* in this docket shall be held in Chattanooga, Tennessee during the week of August 18, 2008.<sup>4</sup>
2. Post-hearing briefs shall be due from the parties by the close of business on August 29, 2008.
3. The Authority shall deliberate the issues in this docket on September 22, 2008, with new rates to be effective October 1, 2008.



Tre Hargett, Chairman



Eddie Roberson, Director



Mary W. Freeman, Director

<sup>4</sup> A separate Notice of Hearing was issued by the Authority on July 31, 2008.