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A PROFESSIONAL LIMITED LIABILITY COMPANY

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September 16, 2008

VIA HAND DELIVERY

Chairman Tre Hargett
c/o Ms. Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

filed electronically in docket office on 09/16/08

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

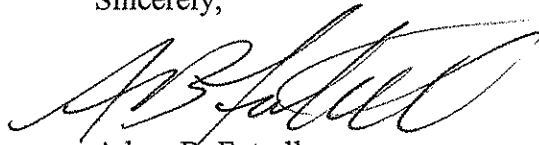
Dear Chairman Hargett:

Enclosed for filing, please find an original and seven (7) copies of *Tennessee American Water Company's Notice of Filing of Affidavit in Response to Consumer Advocate's Rebuttal to the Affidavit of Dr. Edward Spitznagel, Jr.*

Please return three file stamped copies to me by way of our courier.

Should you have any questions concerning the enclosed, please do not hesitate to contact me.

Sincerely,



Adam B. Futrell

ABF:jgl
Enclosure

cc: Hon. Mary W. Freeman (*w/o enclosure*)
Hon. Sara Kyle (*w/o enclosure*)
Hon. Eddie Roberson, PhD (*w/o enclosure*)
Ms. Darlene Standley, Chief of Utilities Division (*w/o enclosure*)
Richard Collier, Esq. (*w/o enclosure*)
Ms. Shilina Chatterjee (*w/o enclosure*)
Ms. Kelly Grams (*w/o enclosure*)
Mr. Jerry Kettles, Chief of Economic Analysis & Policy Division (*w/o enclosure*)
Ms. Pat Murphy (*w/o enclosure*)
Timothy C. Phillips, Esq. (*w/enclosure*)
David C. Higney, Esq. (*w/enclosure*)
Henry M. Walker, Esq. (*w/enclosure*)
Michael A. McMahan, Esq. (*w/enclosure*)
Frederick L. Hitchcock, Esq. (*w/enclosure*)
Mr. John Watson (*w/o enclosure*)
Mr. Michael A. Miller (*w/o enclosure*)

**BEFORE 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)	Docket No. 08-00039
PROPERTY USED AND USEFUL IN)	
FURNISHING WATER SERVICE TO ITS)	
CUSTOMERS)	

**TENNESSEE AMERICAN WATER COMPANY'S NOTICE OF FILING OF
AFFIDAVIT IN RESPONSE TO CONSUMER ADVOCATE'S REBUTTAL TO THE
AFFIDAVIT OF DR. EDWARD SPITZNAGEL, JR.**

In response to the Consumer Advocate and Protection Division's Rebuttal to the Affidavit of Dr. Edward Spitznagel, Jr., and pursuant to its right under Tenn. Code Ann. § 4-5-313(b) and § 65-2-109(3) to present arguments and evidence in rebuttal to facts of which this Authority intends to take official notice, Tennessee American Water Company ("TAWC"), hereby respectfully gives notice of its filing of the Rebuttal Affidavit of Dr. Edward Spitznagel, Jr., attached hereto as Exhibit A.

The CAPD's Rebuttal states that the earlier Spitznagel affidavit "is incorrect," and that it "misrepresent(s)" facts about attempts to remedy some of the deficiencies of the PDSI. TAWC submits the attached Rebuttal Affidavit to make it clear that Dr. Spitznagel's original affidavit in no way misrepresented any facts and was entirely correct.

TAWC notes its agreement with one point of the CAPD's Rebuttal, which stated that "the Authority's mission is not to judge or mediate an academic debate" and that the real question for the Authority is whether it is appropriate to use the PDSI for weather normalization in water rate

cases. In his affidavit attached to the CAPD's Rebuttal, Dr. Michael Hayes clearly states that he has no opinion regarding that question. *See* Aff. of Dr. Michael Hayes, at 6. Accordingly, the contents of Dr. Hayes' affidavit are irrelevant to this proceeding and should be disregarded.

Respectfully Submitted,

R Dale Grimes *ABF*

R. Dale Grimes (#6223)

Ross I. Booher (#019304)

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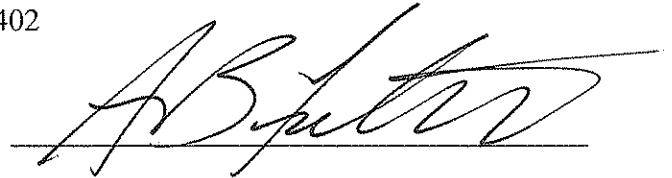
Counsel for Petitioner

Tennessee American Water Company

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 16th day of September, 2008, upon the following:

<input checked="" type="checkbox"/> Hand-Delivery	Timothy C. Phillips, Esq.
<input type="checkbox"/> U.S. Mail	Consumer Advocate and Protection Division
<input type="checkbox"/> Facsimile	Office of Attorney General
<input type="checkbox"/> Overnight	2nd Floor
<input checked="" type="checkbox"/> Email	425 5th Avenue North
	Nashville, TN 37243-0491
<input type="checkbox"/> Hand-Delivery	David C. Higney, Esq.
<input type="checkbox"/> U.S. Mail	Counsel for Chattanooga Manufacturers Association
<input type="checkbox"/> Facsimile	Grant, Konvalinka & Harrison, P.C.
<input checked="" type="checkbox"/> Overnight	633 Chestnut Street, 9th Floor
<input checked="" type="checkbox"/> Email	Chattanooga, TN 37450
<input checked="" type="checkbox"/> Hand-Delivery	Henry M. Walker, Esq.
<input type="checkbox"/> U.S. Mail	Counsel for Chattanooga Manufacturers Association
<input type="checkbox"/> Facsimile	Boult, Cummings, Conners & Berry, PLC
<input type="checkbox"/> Overnight	Suite 700
<input checked="" type="checkbox"/> Email	1600 Division Street
	Nashville, TN 37203
<input type="checkbox"/> Hand-Delivery	Michael A. McMahan, Esq.
<input type="checkbox"/> U.S. Mail	Special Counsel
<input type="checkbox"/> Facsimile	City of Chattanooga (Hamilton County)
<input checked="" type="checkbox"/> Overnight	Office of the City Attorney
<input checked="" type="checkbox"/> Email	Suite 400
	801 Broad Street
	Chattanooga, TN 37402
<input type="checkbox"/> Hand-Delivery	Frederick L. Hitchcock, Esq.
<input type="checkbox"/> U.S. Mail	Harold L. North, Jr., Esq.
<input type="checkbox"/> Facsimile	Counsel for City of Chattanooga
<input checked="" type="checkbox"/> Overnight	Chambliss, Bahner & Stophel, P.C.
<input checked="" type="checkbox"/> Email	1000 Tallan Building
	Two Union Square
	Chattanooga, TN 37402



TENNESSEE REGULATORY AUTHORITY
AFFIDAVIT OF DR. EDWARD L. SPITZNAGEL, JR.

STATE OF MISSOURI

COUNTY OF SAINT LOUIS

Having been first duly sworn, Dr. Edward L. Spitznagel, Jr. states under oath as follows:

1. I have appeared as a witness on behalf of Tennessee-American Water Company before the Tennessee Regulatory Authority, Docket No. 08-00039.

2. I have personal knowledge of the facts contained in this affidavit and the exhibits attached hereto.

3. I have reviewed the Consumer Advocate and Protection Division's ("CAPD") Rebuttal to the Affidavit of Dr. Edward Spitznagel, Jr. (the "Rebuttal"), filed in TRA Docket No. 08-00039.

4. On page 2, line 4, the CAPD's Rebuttal refers to the Heddinghaus and Sabol article as an "unpublished paper the company has submitted." In reality, this paper is publicly available on the NOAA website at:

<http://vlb.ncdc.noaa.gov/oa/climate/research/drought/heddinghaus-sabol-pmdi-article.pdf>.

Thomas Heddinghaus is still employed by NOAA, and Paul Sabol retired in 2003 after more than thirty years of service to NOAA. While the conference proceedings bear the disclaimer that the papers are "unrefereed" and "their appearance in this collection does not constitute formal publication," the Heddinghaus and Sabol paper has been cited by 44 other papers, making it an important and recognized contribution to the meteorological literature.

5. With regard to the CAPD Rebuttal's criticism of Paragraphs 5 and 6 of my affidavit, I believe a careful reading of the Heddinghaus and Sabol article shows clearly that the modified Palmer index addresses deficiencies 1 (demonstrated in Figure 1 on page 243), 3 (also demonstrated in Figure 1 on page 243), and 4 (evidenced by the statement that "[t]he modified index is continuous and likely to be more normally distributed" on page 243. A normally distributed index is not bimodal). The only deficiency I am not sure the modified Palmer index addresses is 2, which is why my original affidavit said "some or all." The Wells *et al.* article focuses on that issue, the possible lack of regional comparability, but I have pointed out that this criticism is not important for Chattanooga weather normalization because data from only one climate district is used.

6. With regard to the footnote on page 3 of the CAPD's Rebuttal, it may well be important to incorporate other parameters for monitoring drought. For example, in states such as California that use extensive irrigation for agriculture, the depth of the mountain snowpacks is a crucial piece of information. However, for purposes of predicting outside water use in Chattanooga, the crucial predictor is the degree to which grass and other lawn plantings have sufficient water available, and that is the essence of the Palmer index.

7. With regard to the affidavit of Dr. Michael Hayes, attached to the CAPD's Rebuttal, I agree fully that the Wells *et al.* article was devoted only to regional comparability and not to any of the other deficiencies in the Palmer index. I believe that paragraphs 8, 9, and 10 in my previous affidavit make this abundantly clear.

8. It should be noted that, in paragraph 6 of his affidavit, Dr. Hayes admits that he has no opinion regarding use of the PDSI for weather normalization.

FURTHER AFFIANT SAITH NOT.

Edward L. Spitznagel, Jr.
DR. EDWARD L. SPITZNAGEL, JR.

Sworn to and subscribed before me
This 6th day of September 2008.

Georgiann Kegel
Notary Public

My commission expires 10/6/11

7034077.2



GEORGIANN KEGEL
My Commission Expires
October 6, 2011
St. Louis City
Commission #07385345