

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**December 30, 2008**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF HICKORY STAR WATER COMPANY,</b>	)	<b>DOCKET NO.</b>
<b>L.L.C. FOR APPROVAL OF ADJUSTMENT OF ITS</b>	)	<b>08-00051</b>
<b>RATES AND CHARGES</b>	)	

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**ORDER APPROVING SETTLEMENT AGREEMENT**

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This matter came before Director Eddie Roberson, Director Sara Kyle 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 November 10, 2008 for consideration of the *Petition* filed by Hickory Star Water Company, L.L.C. (“Hickory Star” or “Company”) on April 7, 2008 for approval of a revised tariff reflecting an adjustment of its rates and charges for water and sewer services. As more fully described herein, and for the reasons set forth below, the panel voted unanimously to grant the request of Hickory Star to increase rates as set forth in the *Settlement Agreement*.

**BACKGROUND**

Hickory Star is a limited liability company formed under the laws of the State of Delaware and authorized by the Secretary of State to conduct business in Tennessee. Hickory Star is a wholly-owned subsidiary of Hickory Star, LLC, the owner of the Hickory Star Marina and Campground in Union County. Hickory Star was granted its original Certificate of Convenience and Necessity on November 24, 1999 in Docket No. 99-00485. The Company purchases its water from the City of Maynardville (“City”) pursuant to a contract and provides

wastewater service via an on-site septic tank system. The Company currently serves 119 residential customers in addition to the marina and campground.

Hickory Star filed its *Petition* on April 7, 2008 along with the pre-filed direct testimony of William W. Geary, Jr., the managing member of the Company. At a regularly scheduled Authority Conference held on April 21, 2008, the Authority voted to suspend Hickory Star's proposed tariff for ninety days, convened a contested case, and appointed the General Counsel or his designee as Hearing Officer.

On May 9, 2008, the Company filed a *Motion for Interim Emergency Relief* ("Motion"). The Authority issued its *Order Granting Motion for Interim Emergency Relief* ("Emergency Relief Order") on June 20, 2008. On September 22, 2008, Hickory Star advised the Authority that it waived the "statutory period set forth in T.C.A. § 65-5-1039b)(1) which provides that if no Order is issued within six (6) months of their petition filing date, a utility may place the proposed rates into effect. . ."<sup>1</sup>

TRA Staff members Darlene Standley, Paul Greene and Shilina Chatterjee-Brown were designated to participate as a party in the investigation and preparation of this matter. No other parties intervened in this matter. On October 7, 2008, the parties filed their *Proposed Settlement Agreement* ("Settlement").

On October 23, 2008, the Hearing Officer filed a *Notice of Hearing*. On October 27, 2008, Hickory Star published in *The Knoxville News-Sentinel* its public notice of the proposed rate change.<sup>2</sup> As required by TRA Rule 1220-4-1-.05(2), the public notice also provided information regarding the hearing on the Company's *Petition*, stating that the hearing would be held on November 10, 2008 at 1:00 p.m. (CDT).

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<sup>1</sup> Letter of H. LaDon Baltimore, Esq. to Chairman Tre Hargett (September 22, 2008).

<sup>2</sup> Letter of H. LaDon Baltimore, Esq. to Chairman Tre Hargett (November 4, 2008), providing copy of public notice published on October 27, 2008.

## **PETITION**

Hickory Star requested an increase in its water and sewer rates to produce additional annual revenues of approximately \$21,198.<sup>3</sup> This rate case was filed by Hickory Star largely in response to an increase in water rates paid to the City, effective September 1, 2007.<sup>4</sup> In addition, the Company has installed new water lines ordered by the Tennessee Division of Water Supply (“TDWS”).

Since the Company’s last rate case in 2004, the Company asserts it has continued in a loss situation, experiencing net operating losses of \$27,382 in 2005, \$23,234 in 2006 and \$24,599 in 2007.<sup>5</sup> Without rate relief, a \$29,069 net loss was projected for 2008. Even with the requested water rate increase the Company projected a loss of \$7,871 going forward on its water operations.<sup>6</sup>

Hickory Star also requested an increase in its sewer rates, stating that any additional revenues generated by the sewer rates above costs would be used to help off-set the shortfall under of the water operations.<sup>7</sup> The Company asserted that sewer rates requested are commensurate with the rates charged by the City, which the Company considers a good market indicator.

## **PROPOSED SETTLEMENT AGREEMENT**

The *Settlement* states that the parties have resolved all issues in this docket. As a result of exchanged information and discussions between the parties, they have agreed upon rates that will generate a needed annual revenue requirement of \$107,492. The parties state that the settlement rates are based upon (1) August 2008 customer levels; (2) 2007 test year volumes at current rates; (3) 2007 normalized test year expenses grown at a fair and reasonable inflation rate of 3%

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<sup>3</sup> William W. Geary, Jr. Pre-filed Direct Testimony, p. 4 (April 7, 2008).

<sup>4</sup> The rate increase to Hickory Star from the City was 51% on the first 2,000 gallons usage, with similar increases on the other usage blocks.

<sup>5</sup> Hickory Star Annual Reports.

<sup>6</sup> *Petition*, p. 4.

<sup>7</sup> *Ibid.*

per year for the attrition years 2009, 2010, and 2011; and (4) a 15% allowable water loss percentage. The parties anticipate that the following rates will recover projected operating costs through 2011. However, nothing in the *Settlement* prevents either party from seeking rate adjustments prior to the end of 2011.

For water, the only rate change from those granted in the *Emergency Relief Order* is an increase in the base rate (minimum 2,000 gallons) from \$42.99 to \$43.45.

The *Settlement* proposes the following sewer rates which were not previously adjusted in the *Emergency Relief Order*:

Minimum 2,000 Gallons	\$17.73 per month
Next 8,000 Gallons	\$7.39 per 1,000 Gallons
Over 10,000 Gallons	\$6.62 per 1,000 Gallons
Hickory Star Marina	\$834.00 per month

#### **FINDINGS AND CONCLUSIONS**

The Hearing in this matter was held before the voting panel on November 10, 2008. Participating in the Hearing on behalf of Hickory Star were LaDon Baltimore, General Counsel and Local Counsel, and William Geary, Jr., managing member. Shilina Chatterjee-Brown, TRA Counsel, represented TRA Staff.

Mr. Baltimore provided an overview of the *Settlement* and responded to questions from the panel, and Ms. Chatterjee-Brown affirmed that there were no issues outstanding between the parties. After hearing from all of the parties and noting that no petitions for intervention had been filed in this docket and no members of the public sought recognition at the Hearing, the panel voted unanimously to accept the *Settlement* in its entirety.

**IT IS THEREFORE ORDERED:**

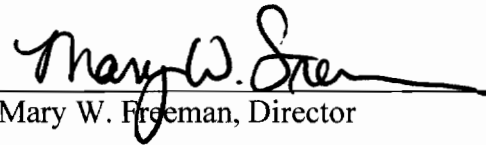
The *Proposed Settlement Agreement* filed by Hickory Star Water Company, LLC and the Staff of the Tennessee Regulatory Authority, attached hereto as Exhibit A, is accepted and approved and is incorporated into this Order as if fully rewritten herein.

A handwritten signature in black ink, appearing to read "Eddie Roberson", written over a horizontal line.

Eddie Roberson, Director

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director

A handwritten signature in black ink, appearing to read "Mary W. Freeman", written over a horizontal line.

Mary W. Freeman, Director

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

RECEIVED  
JULY 7 PM 2009  
T.R.A. DOCUMENT ROOM

IN RE: )  
)  
PETITION OF HICKORY STAR ) DOCKET NO. 08-00051  
WATER COMPANY, L.L.C. FOR )  
APPROVAL OF ADJUSTMENT OF ITS )  
RATES AND CHARGES )

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**PROPOSED SETTLEMENT AGREEMENT**

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Hickory Star Water Company, L.L.C. ("Hickory Star" or "Company") and Staff of Tennessee Regulatory Authority ("TRA Staff" or "Staff") (collectively, the "Parties") respectfully submit this Proposed Settlement Agreement to the Tennessee Regulatory Authority ("TRA" or "Authority") for approval for the purposes of settling this docket. The parties agree and stipulate as follows:

1. Full name and address of the principal place of business of the petitioner is:

Hickory Star Water Company, L.L.C.  
1360 Hickory Star Road  
Maynardville, TN 37807-3218

2. Hickory Star Water is incorporated under the laws of the State of Delaware and was authorized to do business in the State of Tennessee by the Secretary of State on August 4, 1998. Hickory Star Water is a public utility pursuant to the laws of the State of Tennessee and its public utility operations are subject to the jurisdiction of the Authority. Hickory Star Water was granted its original certificate of convenience and necessity by the Authority on November 24, 1999 in Docket No. 99-00485.

3. On April 7, 2008, Hickory Star filed a *Petition* for approval to adjust its water and sewer rates. Exhibit 8 of the *Petition* shows the existing and current rates.

4. On April 21, 2008, the voting panel of TRA Directors assigned to this docket voted unanimously to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding for the purposes of hearing preliminary matters prior to the Hearing, setting a procedural schedule, and preparing the matter for hearing before the panel. As of the date of this Proposed Settlement Agreement, no party has filed an intervention in this docket.

5. On May 19, 2008, the voting panel of TRA Directors assigned to this docket voted unanimously to approve Hickory Star's *Motion for Interim Emergency Relief* filed on May 9, 2008. The emergency rates applied only to water as follows:

WATER

Minimum 2,000 Gallons:	\$42.99 per month
Next 8,000 Gallons:	\$9.00 / 1,000 Gallons per month
Next 10,000 Gallons:	\$8.14 / 1,000 Gallons per month
Next 30,000 Gallons:	\$7.37 / 1,000 Gallons per month
All over 50,000 Gallons:	\$6.85 / 1,000 Gallons per month

6. The parties to this Proposed Settlement Agreement have exchanged information and engaged in discussions to resolve all known disputed issues in this docket. As a result of these efforts, the parties have agreed to settle the issues pending in this docket and have agreed to the requested rates as shown below.

7. The rates in this settlement are based upon August 2008 customer levels and 2007 test year volumes at current rates and 2007 normalized test year expenses grown at a fair and

reasonable agreed upon rate of 3% per year for the attrition years 2009, 2010 and 2011, with a water loss percentage of 15%. Exhibit 1 demonstrates the Company's needed revenue requirement.

8. The parties agree that the settlement rates as listed are fair and reasonable and will cover projected operating costs excluding any applicable excise or income taxes for the years 2009, 2010 and 2011 with no margin. Therefore, no rate of return will be established. Exhibit 2 demonstrates the revenue generated by the settlement rates.

WATER

Minimum 2,000 Gallons:	\$43.45 per month
Next 8,000 Gallons:	\$9.00 / 1,000 Gallons per month
Next 10,000 Gallons:	\$8.14 / 1,000 Gallons per month
Next 30,000 Gallons:	\$7.37 / 1,000 Gallons per month
All over 50,000 Gallons:	\$6.85 / 1,000 Gallons per month

SEWER

Minimum 2,000 Gallons:	\$17.73 per month
Next 8,000 Gallons:	\$7.39 / 1,000 Gallons per month
Over 10,000 Gallons:	\$6.62 / 1,000 Gallons per month
Hickory Star Marina	\$834.00 per month

9. While the parties have agreed that it is anticipated that the rates determined in this Proposed Settlement Agreement will be sufficient to cover operating costs through 2011 nothing in this Proposed Settlement Agreement shall prevent either party from seeking rate adjustments prior to the end of 2011 if such action is warranted.



10. Hickory Star agrees to contact the Chief of the Utilities Division of the Authority to review the Company's rates at such time as 100 new customers are added to the total customer level existing at August 31, 2008.

11. The parties agree that this Proposed Settlement Agreement is subject to the approval of the Directors of the TRA.

12. Upon Authority approval, the Company shall publish customer notice pursuant to TRA Rule 1220-4-1-.05 and file a tariff reflecting the settlement rates. The tariff shall include a copy of the public notice and be effective thirty (30) days after the published notice.

13. If questions should be asked by any person, including a TRA Director, who is not a party to this settlement, the parties may present testimony and exhibits; if necessary, provided however, such cross examination shall not be inconsistent with this stipulation.

14. The provisions of this Proposed Settlement Agreement do not necessarily reflect the positions asserted by any party and no party to this Proposed Settlement Agreement waives the right to assert any position in any future proceeding. This Proposed Settlement Agreement or subsequent approval by the Authority shall not have any precedential effect in any future proceeding or binding on any parties except to the limited extent necessary to implement the provisions hereof.

15. In the event that the Company merges, consolidates with or transfers its assets to another corporation or entity, its successor shall remain responsible for fully complying with the terms and conditions of this Proposed Settlement Agreement. The Company shall notify the TRA no later than ten (10) days prior to the completion of such transaction.

16. The parties will retain the right to terminate this Proposed Settlement Agreement by providing written notice. Any of the signatories to this Proposed Settlement Agreement shall

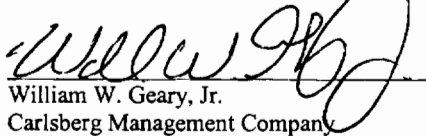
give notice within ten (10) business days of exercising its rights to terminate this Proposed Settlement Agreement; provided however, that the signatories to this Proposed Settlement Agreement could elect to revise and modify this Proposed Settlement Agreement. Should this Proposed Settlement Agreement be terminated by either party, it would be considered void and have no binding precedential effect, and the signatories to this Proposed Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Proposed Settlement Agreement.

17. If the TRA does not accept the Proposed Settlement Agreement in whole, the parties are not bound by any position set forth in this Proposed Settlement Agreement. In the event that Authority does not approve this Proposed Settlement Agreement, each of the signatories to this Proposed Settlement Agreement will retain the right to terminate this Proposed Settlement Agreement. In the event of such action by the Authority, any of the signatories to this Proposed Settlement Agreement would be entitled to give notice of exercising its rights to terminate this Proposed Settlement Agreement; provided however, that the signatories to this Proposed Settlement Agreement could, by unanimous consent, elect to modify this Proposed Settlement Agreement to address modification(s) required by, or issues raised by the Authority. Should this Proposed Settlement Agreement terminate, it would be considered void and have no binding precedential effect, and the signatories to this Proposed Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Proposed Settlement Agreement.

18. The parties agree to implement the terms of this Proposed Settlement Agreement in good faith and with due diligence.

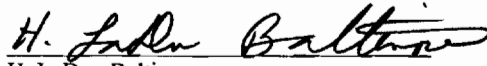
19. This agreement shall be governed by and construed under the laws of the State of Tennessee, notwithstanding conflict of law provisions.

**FOR HICKORY STAR WATER COMPANY, L.L.C.:**



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Date: 10/1/08



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Date: 10/2/2008

**FOR STAFF OF THE TENNESSEE  
REGULATORY AUTHORITY**



Shilina Chatterjee Brown (BPR# 020689)  
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Tennessee Regulatory Authority  
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(615) 741-2904 Ext. 154

Date: 10/7/08

**Hickory Star**  
**Expenses - Excluding Income Taxes**  
**08-00051**

**Exhibit 1**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Expenses Per Exhibit II "Certain Expenses"	\$105,324				
Less					
Legal attributable to this rate case	-3,386				
Reduced for 15% Water Loss (Actual 30%)	<u>-6,646</u> A/				
Adjusted Expenses	\$95,292	\$98,151	\$101,096	\$104,129	\$107,252
Add: Requested Mgt. Fee \$500/mo.					
Amortization of Rate Case Expense			3,333	3,333	3,334
Total per year			<u>104,429</u>	<u>107,462</u>	<u>110,586</u>
Total 09 - 11					322,477
Annual Average Revenue Requirement					<u>\$ 107,492</u>

A/ 2007 Annual Report, p. W-3 Purchased Water reduced by 15%.

**Hickory Star  
Revenues  
08-00051**

**Exhibit 2**

Percent increase in base rates	1.182 %		
Annual Average Revenue Requirement			\$107,492
Excess Water Revenue at Proposed Rates			22,713
Excess Sewer Revenue at Proposed Rates			0
			<u>\$84,779</u>
<b><u>Current Customer and Base Rates</u></b>			
Water Customers	123		
Water Base Rate	36.76	54,258	\$54,258
Sewer Customers	50		
Sewer Base Rate	15.00	9,000	9,000
Hickory Star (Laundry and Marina) 2007	8,465		<u>8,465</u>
<b><u>Required Increase in Base Rates</u></b>			\$13,056
Water Customers	123		
Water Base Rate Increase	6.69	9,875	9,875
Sewer Customers	50		
Sewer Base Rate Increase	2.73	1,638	1,638
Hickory Star	1,541		1,541
			<u>\$3</u>
<b>New Water Base Rate</b>	<b>\$43.45</b>	36.76 0.153976311	
<b>New Sewer Base Rate</b>	<b>\$17.73</b>	15 0.153976311	
<b>Hickory Star per month</b>	<b>10,006</b>	<b>\$833.80</b>	8465 0.153976311