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November 18, 2010

Mary Freeman, Chairman
Tennessee Regulatory Authority
c/o Sharla Dillon, Docket Clerk
460 James Robertson Parkway
Nashville, TN 37243

filed electronically in docket office on 11/18/10

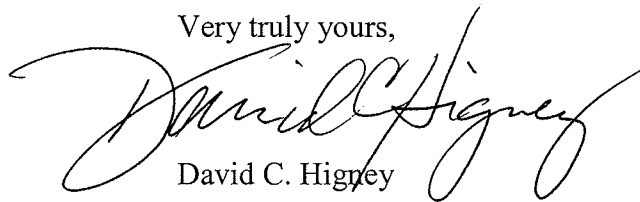
Re: In re Petition of Tennessee American Water Company for a General Rate Increase
TRA Docket No. 10-00189

Dear Chairman Freeman:

Enclosed are the original and five (5) copies of Chattanooga Regional Manufacturers Association's Motion to Compel Tennessee American Water Company to Provide Appropriate & Complete Responses to CRMA's First Set of Data Requests and, in the Alternative, to Allow CRMA's Entire First Set of Data Requests if Those Are Construed to Exceed Forty (40) Requests. Please return a file-stamped copy to us in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



David C. Higley

Enclosure

cc: Counsel for All Parties
Henry M. Walker, Esq. (via email)
Timothy L. Spires (via email)

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

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PETITION OF TENNESSEE-
AMERICAN WATER COMPANY TO
CHANGE AND INCREASE CERTAIN
RATES AND CHARGES

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DOCKET NO. 10-00189

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**CHATTANOOGA REGIONAL MANUFACTURERS ASSOCIATION'S
MOTION TO COMPEL TENNESSEE AMERICAN WATER COMPANY
TO PROVIDE APPROPRIATE & COMPLETE RESPONSES TO
CRMA'S FIRST SET OF DATA REQUESTS AND, IN THE ALTERNATIVE,
TO ALLOW CRMA'S ENTIRE FIRST SET OF DATA REQUESTS
IF THOSE ARE CONSTRUED TO EXCEED FORTY (40) REQUESTS**

The Chattanooga Regional Manufacturers Association ("CRMA"), by and through counsel, respectfully moves to compel the Tennessee American Water Company ("TAWC" or the "Company") to provide an appropriate and complete answer to each and every discovery and data request promulgated by CRMA on November 1, 2010, as reflected at <http://www.state.tn.us/tra/orders/2010/1000189as.pdf>. Those requests by CRMA and TAWC's objections and/or responses are set forth on the Authority's website at <http://www.state.tn.us/tra/orders/2010/1000189br.pdf>. In the alternative, CRMA moves for an order to allow CRMA's entire first set of data requests propounded upon TAWC, to the extent any claim or finding is made that those requests exceed forty (40) in number. Thus, CRMA seeks an order on its motion(s) requiring TAWC to answer the CRMA's first set of data requests.

BACKGROUND

TAWC's petition seeks a massive rate increase. CRMA's first set of discovery requests are limited in scope to fundamental ratemaking issues. CRMA's data requests seek to obtain, *inter alia*: information that TAWC claims forms the basis for the utility's requested increase; information that reveals flaws in those claims or that TAWC may have failed to adequately

consider; information relevant to the Authority's consideration of the request and how other authorities or commissions have viewed or been presented similar data; and, documents that relate to the alleged bases for a petitioned increase in such an exorbitant amount.

TAWC took months to carefully craft and submit chosen exhibits and testimony. American Water affiliates have been doing so throughout the country with the help of many of the very same witnesses. TAWC orchestrated a media campaign during which it embraced a thorough review process. TAWC espoused an intention to be open and forthcoming concerning the increased rates; yet, TAWC repeatedly refuses to answer many of the most basic questions raised by CRMA about those efforts.¹

ARGUMENT

Public trust in a public utility is eroded through when critical ratemaking data is withheld. The procedural schedule established in this case allows only a few weeks for CRMA to identify and analyze information requested and obtained from TAWC, some of which can be detrimental to the position taken by the Company. Delay in providing responsive data works to the Company's advantage, in this regard. In fairness to ratepayers upon whom increases may be imposed, evasive and incomplete responses by TAWC should not be encouraged or condoned. In fact, TAWC should be encouraged to supply requested information, especially when or where it has the data in the format requested.

TAWC fails or refuses to answer the less than forty (40) data requests CRMA propounded, despite TRA's order dated November 12, 2010. CRMA conducted a "meet and

¹ See TAWC Community Relations Materials (pp. 8, 10) filed September 17, 2010 wherein witness John Watson describes the rigorous examination TAWC purportedly is willing to undergo, including providing financial data in the rate case. TAWC, despite repeated requests for advance information and consultation with its largest ratepayers, did not provide and has not served CRMA with a complete copy of requested material. To require parties to engage in a hunt for information so clearly known and in the Company's possession simply encourages the Company to make ratepayer advocates waste valuable time and limited resources.

confer” teleconference with TAWC and now understands TAWC intends to supply additional responsive data it had not previously provided.² CRMA further understands that confirmation or further explanation of certain information relative to other data requests also is forthcoming, including but not limited to TAWC responses (or parts thereof) to CRMA data requests 2, 3, 5, 6, and 13. CRMA will continue to confer with TAWC regarding the information sought in data request 21 and attempt to provide a more refined inquiry.

In several instances, the Company answers only part of a question, refers to other material, or provides something other than an answer to the question CRMA actually asked. Examples include responses to CRMA data requests 5, 10 and 19. In CRMA 5 the question asked for costs and expense associated with lost water; in 10 the expense related to tank painting, and in 19 the cost/expense amounts for water main breaks. If there is an associated TAWC cost figure, amount or dollar value (5, 10c or 10e, 19c or 19d), then CRMA simply asks that those numbers be provided directly as part of the response. Doing so alleviates guesswork or misunderstandings, and may narrow the triable issues. If those are not known or measurable amounts in the Company’s possession, then the Company should respond it does not know or have the requested information. Then, after actually responding with a dollar amount, number or figure, the Company can provide its explanations or its reference to another source, including the format is in kept in if the response is that it is not kept in the “requested format.” Another example is found at 10(a), asking for water tank ownership data. The information does not appear to be in the data response or on its attachment; but, CRMA appreciates TAWC’s efforts

² For example, CRMA understands that TAWC “should be able” to now provide CRMA the CD(s) that TAWC indicates contain information responsive to data requests 1, 5, 9, 11, 14, 15, 19, 22 and 23 (including native data formats). Of course, until receiving the information, CRMA reserves any determination as to the TAWC responses fulfilling that the information has been provided. CRMA remains hopeful the data provides complete responses to the question asked.

to supplement response 10(a) to identify when the attachment provided was created and whether it is current.

Despite weeks ago having obtained CRMA's consent to the Protective Order in this matter, CRMA is greatly concerned with precedent being set for this and/or other utility cases by which a utility shelters information from the public. The utility controls the timing of its filing for rate increases, purports it needs to earn more monies at the expense of ratepayers, and touts the process as being rigorous, but then embargos data while time compresses for CRMA to meaningfully analyze it. CRMA moves for immediate production of data that TAWC has designated "Confidential Information" in its responses, including but not limited to response to CRMA data requests 4, 11, 14 and 15.

During the meet and confer process, CRMA's requested that TAWC provide a record or illustration how TAWC "counted" what the utility considers to be forty (40) data requests.; TAWC said the Company should be able to provide its methodology "at some point." CRMA submits it would be more efficient for the Company to simply answer the questions, rather than engage in debate how to count questions and drive up rate case costs. TAWC contorts the discovery rules to claim the clearly limited 34 requests issued by CRMA somehow violate the letter, or spirit, of the rules.³ The Company then simply refuses to respond at all to the remaining requests – CRMA Requests 25 through 34. Because of TAWC's deficiencies in responding, CRMA moves for an Order compelling TAWC's answers to all outstanding requests including fundamental ratemaking questions regarding cost of capital (26); return on equity (27) and cost of service/rate design (28-29); and advertising costs (31-32). Moreover, CRMA submits the Company waived any objections it otherwise may have to CRMA data requests 25-34, by not

³ Any Company argument that it should not be required to actually answer more CRMA data requests (*i.e* CRMA 25-34) is undermined by TAWC's representations that various responses to CRMA data requests 1-24 are completely subsumed by other TAWC responses (whether made to CRMA, Staff or another intervenor).

responding to those questions. Further, to the extent any claim or finding is made that its requests exceed forty (40) in number, which CRMA disputes, CRMA moves in the alternative for an order to allow CRMA's entire first set of data requests propounded upon TAWC and require TAWC's answers to all requests since the inquiries are directed at whether TAWC can satisfy the utility's burden to demonstrate raising rates by the requested amount is just and reasonable.

CRMA and TAWC counsel participated in a good faith "meet and confer" and CRMA is advised additional materials, clarification or explanations will be forthcoming. CRMA has not had an opportunity to completely review all materials and set forth with specificity each and every argument as to TAWC's deficiencies relative to data request responses. CRMA reserves its rights to further address requests to which the Company did not initially respond completely and appropriately.

CONCLUSION

Based upon the foregoing, CRMA respectfully requests an Order requiring TAWC to provide appropriate and complete responses to each and every request contained in CRMA's First Set of Data Requests Propounded Upon Tennessee-American Water Company on November 1, 2010.

Respectfully Submitted,

~~GRANT, KONVALINKA & HARRISON, P.C.~~

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2010, a true and correct copy of the foregoing document was served either by fax, overnight delivery service or first class mail-postage prepaid, to all parties of record at their addresses shown below:

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