

**Sharla Dillon - Docket No. 10-00189: Response to City of Chattanooga's Email Concerning Discovery**

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**From:** "Grimes, Dale" <DGrimes@bassberry.com>  
**To:** "Hitchcock, Frederick L." <RHitchcock@cbslawfirm.com>  
**Date:** 11/24/2010 11:55 AM  
**Subject:** Docket No. 10-00189: Response to City of Chattanooga's Email Concerning Discovery  
**CC:** "T.Jay.Warner@ag.tn.gov" <T.Jay.Warner@ag.tn.gov>,  
"Mary.White@ag.tn.gov" <Mary.White@ag.tn.gov>,  
"Ryan.McGehee@ag.tn.gov" <Ryan.McGehee@ag.tn.gov>,  
"hwalker@babco.com" <hwalker@babco.com>, "dchigney@GKHPC.com"  
<dchigney@GKHPC.com>, "mcmahan@chattanooga.gov"  
<mcmahan@chattanooga.gov>, "North, Harold L."  
<HNorth@cbslawfirm.com>, "MarkBrooks@UWUA.net"  
<MarkBrooks@UWUA.net>, "Scott.Strauss@spiegelmc.com"  
<Scott.Strauss@spiegelmc.com>, "Katharine.Mapes@spiegelmc.com"  
<Katharine.Mapes@spiegelmc.com>, "dscholes@branstetterlaw.com"  
<dscholes@branstetterlaw.com>, "sharla.dillon@tn.gov"  
<sharla.dillon@tn.gov>, "richard.collier@tn.gov" <richard.collier@tn.gov>,  
"Greenholtz, Tom" <TGreenholtz@cbslawfirm.com>, "Clayton, Steele"  
<SClayton@bassberry.com>, "Killion, David" <dkillion@bassberry.com>,  
"Bible, Sue" <SBible@bassberry.com>

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Rick:

This email responds to your email to my associate, David Killion, that was filed with the TRA on November 22, 2010. Because your email has been placed in the public record of this docket, we feel compelled to respond in writing.

Tennessee American Water Company (the "Company") disagrees with the assertions in your email. Instead, the Company is confident that it produced its confidential materials in this case in an entirely appropriate manner.

As you know, when the Company produced documents responsive to your client's requests prior to 2:00 pm deadline on Monday, November 15, 2009, the Protective Order had not been entered or approved by the Hearing Officer. Accordingly, your position that the Company's failure to produce its Confidential materials on November 15, 2009, violated the Protective Order is untenable given that the Protective Order was not operative at that point.

Your argument also ignores our email of November 15, 2010, which transmitted the Company's discovery responses to you, and which clearly stated: "Please note that Tennessee American Water Company has not produced any of the referenced confidential materials today due to the Protective Order not having been entered by the TRA." Further, we promptly

advised you of the confidentiality issue regarding the Union Intervenors and acted quickly to resolve that issue by seeking an amendment of the protective order so that the confidential information could be provided to everyone as soon as possible.

Of course your e-mail also fails to acknowledge that on Wednesday, November 17, 2010, at 2:11 pm (Central Time) I personally offered to provide the confidential materials to you before all confidentiality issues with the Union Intervenors had been resolved if you would simply provide confirmation that you would not forward the confidential materials to the Union Intervenors. Rather than simply provide the confirmation so you could receive the confidential materials at that time, you refused.

Once the amendment to the Protective Order was signed on Friday, I sent the confidential materials to you via Fed Ex for Saturday morning delivery. As confirmed by the detailed tracking information, Fed Ex attempted to deliver these materials to your office at 11:14 am (Eastern Time) on Saturday but no one was available at your office to accept delivery. Accordingly, FedEx delivered the package to your office at 9:32am (Eastern Time) on Monday, November 22 as reflected in its records.

We are satisfied that our production of the confidential information as set forth above was appropriate and that your criticisms are unfounded and without merit.

Sincerely,  
Dale Grimes

**R. Dale Grimes**

150 Third Avenue South, Suite 2800  
Nashville, TN 37201  
615-742-6244 • 615-742-2744 F  
dgrimes@bassberry.com • www.bassberry.com



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