

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

IN RE:)	
)	
PETITION OF TENNESSEE-)	DOCKET NO.
AMERICAN WATER COMPANY TO)	10-00189
CHANGE AND INCREASE CERTAIN)	
RATES AND CHARGES)	

**RESPONSE OF THE CONSUMER ADVOCATE TO TAWC'S MOTION TO CALL
SCHUMAKER & COMPANY TO PRESENT TESTIMONY REGARDING ITS
AFFILIATE AUDIT REPORT**

The Consumer Advocate and Protection Division ("Consumer Advocate"), respectfully submits this response to TAWC's Motion to call Schumaker & Company to testify in this proceeding regarding the Shumaker & Company audit.

**THE CONSUMER ADVOCATE DOES NOT OPPOSE THE INTRODUCTION OF
TESTIMONY BY PAT SCHUMAKER IN THIS DOCKET**

The Consumer Advocate does not oppose the introduction of Pat Schumaker to present testimony regarding the Schumaker Audit. However, at this late stage of the hearing process the Authority must be mindful of the due process rights of the parties and the ability to obtain discovery regarding what testimony Ms. Schumaker intends to provide regarding the audit and the factual information she relies upon in support of her opinions.¹ While the Consumer Advocate concurs with certain aspects of the audit, it disagrees with some findings and conclusions. As the Company has placed great evidentiary reliance on the audit from the beginning of this rate case, if Ms. Schumaker is to testify, the intervening parties are entitled to know the facts and opinions relied upon by Ms. Schumaker in support of her findings and

¹ City of Chattanooga's Motion that Witness be Ordered to Appear for Deposition, January 18, 2011; Consumer Advocate's Response in Support of the City of Chattanooga's Motion that Witness be Ordered to Appear for Deposition, January 19, 2011.

conclusions prior to the hearing on the merits.

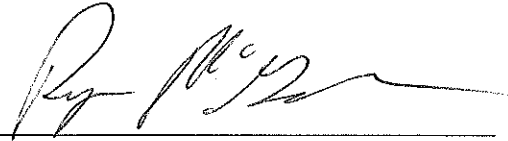
**THE AUTHORITY SHOULD DETERMINE MS. SHUMAKER'S INDEPENDENCE AS
A WITNESS ONLY AFTER THE HEARING ON THE MERITS**

The Consumer Advocate opposes TAWC's request for the Authority to declare Ms. Shumaker an independent witness on behalf of the Company prior to the conclusion of the hearing on the merits, if any determination is deemed necessary. At present, neither the Authority nor the intervening parties know the extent of what Ms. Shumaker's involvement in this proceeding will be. Moreover, there are still a great many unknowns surrounding TAWC and the audit. The conduct and involvement of TAWC in the audit is unknown as this time despite efforts of the City of Chattanooga to uncover information through the discovery process.² Even at this late stage, the intervening parties do not have possession of Ms. Schumaker's workpapers underlying the audit despite having requested them from the Company in both the first and second rounds of discovery.³ The Authority should have all facts available to it before making any decision on the issue of Ms. Shumaker's independence at the conclusion of the hearing, if such any such determination is warranted.

² City of Chattanooga's Third Motion to Compel TAWC to Respond to Discovery Requests, January 7, 2011.

³ See Company response to Consumer Advocate Discovery Request 114 and City of Chattanooga Request 19 providing documents related to dividend policies rather than Schumaker workpapers; See Second Round Consumer Advocate Discovery Request 8. The Consumer Advocate assumes the failure to provide Ms. Schumaker's workpapers is an inadvertent error.

RESPECTFULLY SUBMITTED,

A handwritten signature in dark ink, appearing to read "Ryan L. McGehee", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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on this the 20 day of January, 2011.



Ryan L. McGehee