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 PROPERTY USED AND USEFUL IN FURNISHING WATER SERVICE TO ITS CUSTOMERS	)	**Docket No. 10-00189**

CONSUMER ADVOCATE AND PROTECTION DVISION'S RESPONSES TO TENNESSEE REGULATORY AUTHORITY'S DATA REQUEST

Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), hereby submits its responses to the TRA Staff Data Request of January 28, 2011.

<u>DISCOVERY REQUEST NO. 5</u>:

On page 55 (lines 7-10) of his direct testimony, Mr. Buckner states that CAPD "recommends that the FIN 48 amount be included as a deduction from rate base. Conversely, TAWC has excluded the FIN 48 amount for setting rates in this docket."

TAWC witness Mr. Miller states on page 62 (lines 23-24) of his testimony that the "Company proposes that its jurisdictional rate base be reduced for the value of the additional ADITs arising from application of the tax accounting charge." On page 63 (lines 15-17), Mr. Miller states "I am attaching to this testimony Rebuttal Exhibit MAM-14 which I believe demonstrates what level of rate base reduction is in the Company's filing related to deferred income taxes-capitalized repairs (net of the FIN 48 reserve)."

Please reconcile these statements (whether in your opinion TAWC has included a reduction to rate base to reflect FIN 48) and provide your position as to this inclusion or exclusion of the reduction to rate base for FIN 48. Provide any documentation, workpapers, or reference to previously submitted workpapers that will support your position.

RESPONSE:

TAWC has not included the FIN 48 amounts as a deduction from rate base. TAWC's exhibit MAM-14, Page 1 of 2 shows the amount of $2,484,027 for the rate base reduction due to the tax accounting change. This amount is net of the FIN 48 offset amounts of $323,956 and $1,744,373 as shown on exhibit MAM-14, Page 1 of 2. The FIN 48 offset amounts total $2,068,329, which has been included in the Consumer Advocate's Accumulated Deferred Income Taxes. See work paper AMENDED RB-ADIT.

The Consumer Advocate believes that TAWC has already received the tax benefit of the tax accounting change (TRA-01-Q005-ATTACHMENT 3 Page 20 of 26), which includes the FIN 48 amount.

DISCOVERY REQUEST NO. 6:

Regarding the CAPD's CWIP forecast, please explain whether retirements were included in the balances of CWIP and provide justification for the inclusion (or exclusion) of retirements in that calculation.

RESPONSE:

The Consumer Advocate did not include retirements in the balance of CWIP. The balance of RWIP at September 30, 2010 for TAWC was $0 (all account balances within account #1862). Normally, retirements are debits to the Accumulated Depreciation by plant account and credits to the Plant in Service by plant account. As a result, TAWC's retirement amounts flow through the monthly balances of Plant in Service and Accumulated Depreciation for the attrition year.

DISCOVERY REQUEST NO. 7:

With regard to UPIS forecast, should the addition of $250,000 of land be included in additions to Plant in determining the 13-month average? Provide justification for your position.

RESPONSE:

The Consumer Advocate has corrected the omission of the $250,000 land addition as forecasted by TAWC for the month of November 2011 in calculating its Plant in Service. See work paper AMENDED RB-PLANT. Also, see Terry Buckner Direct Testimony Amendment and Amended Direct Testimony.

DISCOVERY REQUEST NO. 8:

On page 54 (lines 9-11) of his direct testimony, Mr. Buckner states that CAPD has included SFAS 109 assets and liabilities in its rate base calculations. Please identify the amount of SFAS 109 temporary differences related to Post 80 Book Depreciation is included in the CAPD's projected Accumulated Deferred Income Taxes for the attrition period. Please reconcile the temporary differences related to Post 80 Book Depreciation utilized by CAPD to the Accumulated Post 80 Book Depreciation provided on TRA-02-Q92g, page 7 of 9, in the amount of $39,006,144. Provide all supporting workpapers or reference to the previously submitted workpapers for these amounts.

RESPONSE:

The Consumer Advocate does not have Post 80 vintage year records by plant account at September 30, 2010 to properly determine the book depreciation or the SFAS 109 temporary differences related to Post 80 book depreciation. Therefore, the Consumer Advocate cannot reconcile or affirm that the accumulated book depreciation of $39,006,144 is an accurate amount.

DISCOVERY REQUEST NO. 9:

Please reference CAPD's data response of January 27, 2011, questions #20 and #22. Is CAPD of the opinion that regulatory accounting requires the inclusion of these regulatory assets to recognize future recovery from customers? Please provide a full explanation.

RESPONSE:

The Consumer Advocate does not believe that regulatory accounting requires the inclusion of regulatory assets, but believes that the TRA should formally approve the regulatory assets for setting rates. The Consumer Advocate believes the inclusion in previous dockets was premature and improper. Therefore, if the TRA elects to include the regulatory assets, then the Consumer Advocate's amended exhibits and work papers are provided to recognize the resulting revenue requirement. Also, see Terry Buckner Direct Testimony Amendment and Amended Direct Testimony.

DISCOVERY REQUEST NO. 10:

Please explain how the Accumulated Deferred Income Tax calculated by TAWC in the amount of $17,153,815 (MAM-13 & 14) is incorrect and why the methodology applied in arriving at this amount should not be approved. Note: The docket file should contain any data needed to answer this question. If not, please consult with the other party to obtain any needed information.

RESPONSE:

TAWC's Accumulated Deferred Income Tax amount is incorrect, because it does not reconcile to their books at September 30, 2010. Prior to 1981 any timing difference was flowed through on its tax return. The timing difference simply reduced TAWC's taxes due to the IRS. Subsequently, in 1981, the IRS required normalization of timing differences. Further, in 1992, SFAS 109 required that a deferred tax liability be recorded for the temporary ("timing") difference amounts previously flowed-through prior to 1980. TAWC's methodology does not recognize the future liability that it will owe when the temporary differences reverse or the benefit TAWC received when the temporary differences were recognized. Further, in 1982, another pronouncement, SFAS 71 - "Accounting for the Effects of Certain Types of Regulation" provided that a regulatory asset should be provided where it is probable, based on the decisions /actions of a regulator, that rate revenues will be increased to recover from customers the future tax expenses. The Consumer Advocate is simply not aware of any regulatory decision in Tennessee formally approving recognition of the regulatory assets in question.

DISCOVERY REQUEST NO. 11:

Terry Buckner states in his direct testimony (page 12) that, for eleven categories of O&M expenses, the CAPD grew each test period amount by half of customer growth plus the annual GDP Chained Price Deflator growth rate at December 2011. The combined growth rate from September 2010 through December 2011 was calculated to be 1.51%. John Hughes work paper (R-CUSTOMER GROWTH) calculates an "annual" growth rate of 0.89%, based on the totals at September 2010 and December 2011. To arrive at the customer growth rate for the attrition period, the CAD "normalized" this rate by dividing 0.89% by 12 months and multiplying by 15 months to the end December 2011 resulting in 1.112%. One-half of this rate is 0.556% and when added to the annual GDP rate of 0.95% at December 2011 results in a combined rate of 1.51%.

a. Please explain why the CAD normalized the customer growth rate of 0.89%, when the 0.89% was calculated using the total at December 2011 compared to the total at September 2010.

b. Should the customer growth rate for the attrition period be 0.89%, resulting in a combined growth rate of 1.4% (0.445% plus 0.95%)?

c. If the answer to b. above is "yes," please provide corrected work papers and revised CAD exhibits.

RESPONSE:

Yes. Amended work papers are provided.

RESPECTFULLY SUBMITTED,

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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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