

**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 DIVISION'S RESPONSES TO
TENNESSEE AMERICAN WATER COMPANY'S SUPPLEMENT TO ITS SECOND
DISCOVERY REQUESTS**

The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to the Scheduling Order entered in this Docket and the agreement reached between the parties at the conference of January 24, 2011, hereby submits its responses and objections to the Supplement to the Second Discovery Requests of Tennessee American Water Company ("TAWC" or "Company").

The Consumer Advocate incorporates here the "General Objections" contained in the Consumer Advocate's responses to TAWC's second set of discovery requests. Subject to and without waiving any objections incorporated above, the Consumer Advocate responds to the specific requests as follows:

DISCOVERY REQUEST NO.36

In order to assess the changes to Dr. Klein's direct testimony, please refer to page 8 of the original direct testimony of Dr. Klein where he states, "I started with the capital structure proposed by TAWC's witness Mr. Miller. I then compared this to the historical structure of TAWC as shown on page 3 of my Exhibit."

- a) Please provide the total capital (in dollars) on which Dr. Klein based his original capital structure, by each element of the total capitalization (i.e. ST Debt, LT Debt, Preferred Stock and Common Equity) included on page 2 of the Exhibit to Dr. Klein's original testimony.

RESPONSE:

Dr. Klein did not use particular dollar amounts of each element of capitalization to arrive at his capital structure on page 2 of his Exhibit, nor did he use a total dollar amount of capitalization. As shown on page 3 of his Exhibit, Dr. Klein calculated the historical average capital structure for TAWC using the proportions of total capitalization accounted for by each element for the years 2007-2010. These proportions were derived from TAWC's Response to TN-CAPD-01-Part II-Q4 Attachment 2. In similar fashion, Dr. Klein calculated the historical average capital structure for AWWC Parent-only as shown on page 4 of his Exhibit using TAWC's Response to CAPD-01-PART II-Q4, Attachment 1, Page 2. The capital structure on page 2 of his Exhibit uses AWWC's Parent-only historical capital structure (page 4) to double lever TAWC's historical average capital structure (page 3).

DISCOVERY REQUEST NO.37:

In response to question No. 21 of the company's second set of discovery requests to the CAPD, the CAPD indicates the total capital on which Dr. Klein based his corrected testimony and Page 2 of his corrected Exhibit is \$106,597,549 (shown by the individual capital components).

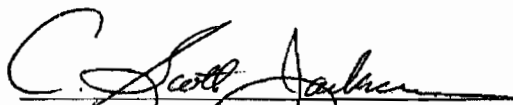
- a) Please state whether the CAPD agrees that the cash generated by ADITs permits the Company to avoid having to obtain additional debt and equity capital. If the CAPD does not agree, please explain in detail your answer.
- b) Please reconcile the amount provided in response to question No. 36(a) with the \$106,597,549 of capitalization on which the CAPD claims it based its capital structure in response to question No. 21.
- c) Please state each element the CAPD eliminated from its calculation of rate base and state whether the CAPD contends each eliminated element was imprudently incurred or financed plant not used and useful in the provision of service to the Company's customers.
- d) If the CAPD does not agree that the cash generated by ADITs permits the Company to avoid having to obtain additional debt and equity capital, please provide the CAPD's explanation of how the CAPD's use of increased ADITs in this case, over the amount used in the Company's 2008 rate case (approximately \$14 million), can produce rate base approximately \$16 million below the Company's known and measurable attrition year total capitalization.

RESPONSE:

- a) The Consumer Advocate agrees that deferred income taxes are generally a component of cost of service for ratemaking purposes. As a result, a utility may collect in rates from the ratepayers more cash than is necessary to pay current income taxes.

- b) Since Dr. Klein did not use particular dollar amounts in question No. 36(a), the requested reconciliation to capitalization cannot be performed.
- c) The Consumer Advocate has eliminated from its calculation of rate base Deferred Rate Case Expense amounting to \$293,973 and Deferred Cost of Service Study Expense amounting to \$26,190. The Consumer Advocate believes that the amounts were not useful in the provision of service to the Company's customers. The Consumer Advocate is not aware of any financed plant with a book value in this docket that is imprudent.
- d) The Consumer Advocate agrees that cash generated by accumulated deferred income taxes ("ADITs") permits the Company to avoid having to obtain additional debt and equity capital. However, based on the Company's filing amount of ADITs, it is unclear to the Consumer Advocate whether the ratepayers will receive the known and measurable benefit of its ADITS as recorded on the Company's books.

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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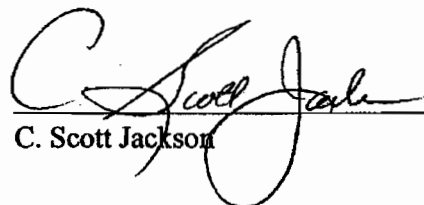
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on this the 2nd day of February, 2011.


C. Scott Jackson