

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**February 18, 2011**

IN RE:	)	
	)	<b>DOCKET NO.</b>
PETITION OF TENNESSEE AMERICAN WATER	)	<b>10-00189</b>
COMPANY FOR A GENERAL RATE INCREASE	)	
	)	

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**ORDER GRANTING UWUA'S MOTION TO EXCUSE LOCAL COUNSEL AND  
CONSUMER ADVOCATES' MOTION FOR LEAVE  
TO ISSUE ADDITIONAL LIMITED DISCOVERY**

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This matter is before the Hearing Officer upon the filing of a *Motion to Excuse Local Counsel* by The Utility Workers Union of America, AFL-CIO and UWUA Local 121 (collectively "UWUA") on February 14, 2011, and the *Motion for Leave to Issue Additional Limited Discovery* ("*Motion for Additional Discovery*") filed by the Consumer Advocate and Protection Division ("Consumer Advocate") with the Tennessee Regulatory Authority (the "Authority") on February 15, 2011.

**I. *Motion to Excuse Local Counsel***

Citing Tenn. Code Ann. § 23-3-103(a), Tenn. Comp. R. & Regs. R. 1220-1-2-.04(7), and Rule 19(g) of the Tennessee Supreme Court in its *Motion to Excuse Local Counsel*, the UWUA requests that the Authority excuse Mr. Mark Brooks, local counsel for UWUA, from attending the Hearing on the Merits scheduled to commence on February 28, 2011 in Chattanooga, Tennessee. In the event Mr. Brooks is excused from appearing, Mr. Scott Strauss and Ms. Katharine Mapes, UWUA counsel practicing *pro hac vice* before the Authority, each affirm that they will attend the Hearing in his stead. Upon review and consideration, and as no party has

filed a pleading in opposition, the Hearing Officer finds that the UWUA's *Motion to Excuse Local Counsel* is not unreasonable and should be granted.

## **II. *Motion for Additional Discovery***

In its *Motion for Additional Discovery*, the Consumer Advocate requests permission to propound discovery concerning two discreet items raised by Tennessee American Water Company ("TAWC") in rebuttal testimony offered by its witnesses, Mr. Michael Miller and Dr. Edward Spitznagel. The Consumer Advocate further states that its additional discovery requests are succinct and tailored to elicit technical data and information used in or related to the preparation of the rebuttal testimonies and exhibits. Specifically, the Consumer Advocate requests workpapers that support Line 10 of Michael Miller's Rebuttal Exhibit MAM-7 in its native electronic format, and responses to four subpart questions concerning information related to the 25-year period relied upon by Dr. Spitznagel in his Exhibits ELS-1 and ELS-2. The discovery requests have been filed with the *Motion for Additional Discovery*.

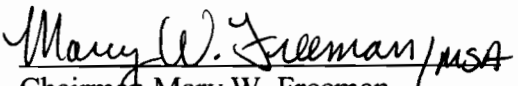
The Consumer Advocate asserts that the materials and information it requests is or should be readily accessible, and thus, production thereof should not impose an undue hardship on TAWC. Moreover, the Consumer Advocate states that the materials and information are essential to the Consumer Advocate's understanding of the testimony to which they relate, and will aid its preparation and presentation of the case before the Authority. Finally, the Consumer Advocate asserts that it will work with TAWC's counsel to arrive at a mutually agreeable time frame for production of the responses so as to reduce disruption to the parties' preparation for the upcoming Hearing on the merits.

Upon review of the Consumer Advocate's additional discovery requests filed contemporaneously with its *Motion for Additional Discovery*, the grounds upon which the

Consumer Advocate bases its discovery requests, as set forth in its *Motion for Additional Discovery* and herein, and as no party has filed a pleading in opposition, the Hearing Officer finds the additional requests to be limited in scope and otherwise reasonable. Therefore, finding the Consumer Advocate's request to be well taken, the Hearing Officer hereby grants the Consumer Advocate's *Motion for Leave to Issue Additional Limited Discovery*, and orders TAWC to respond completely to the discovery requests in a timely manner to be agreed upon by the counsel for TAWC and the Consumer Advocate.

IT IS THEREFORE ORDERED THAT:

1. The unopposed *Motion to Excuse Local Counsel* filed by The Utility Workers Union of America, AFL-CIO and UWUA Local 121 is granted.
2. The unopposed *Motion for Leave to Issue Additional Limited Discovery* filed by the Consumer Advocate and Protection Division is granted.

  
Chairman Mary W. Freeman  
Hearing Officer