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February 28, 2011

VIA EMAIL

FILED ELECTRONICALLY IN DOCKET OFFICE ON 02/28/11

Chairman Mary W. Freeman
c/o Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: Docket No. 10-00189: *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*

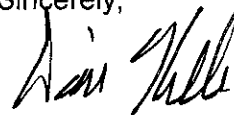
Dear Chairman Freeman:

Enclosed please find Tennessee American Water Company's Petition for Appeal of the Hearing Officer's Initial Order Granting the City of Chattanooga's First Motion in Limine.

Due to all parties having relocated to Chattanooga for the Hearing on the Merits this week, an original and four copies will be filed with the TRA Dockets and Records Manager, Sharla Dillon, on March 7th.

Should you have any questions concerning this matter, please do not hesitate to contact me at the email address or telephone number listed above.

Sincerely,



David Killion

Enclosure

cc: Mr. Richard Collier, Esq. (w/enclosure)
Ryan McGehee, Esq. (w/ enclosure)
Mary L. White, Esq. (w/ enclosure)
David C. Higney, Esq. (w/ enclosure)

Henry M. Walker, Esq. (w/ enclosure)
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Valerie L. Malueg, Esq. (w/ enclosure)
Frederick L. Hitchcock, Esq. (w/ enclosure)
Harold L. North, Jr., Esq. (w/ enclosure)
Mark Brooks, Esq. (w/ enclosure)
Scott H. Strauss, Esq. (w/ enclosure)
Katharine M. Mapes, Esq. (w/ enclosure)
Donald L. Scholes, Esq. (w/ enclosure)

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**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

**PETITION FOR APPEAL OF THE HEARING OFFICER'S INITIAL ORDER
GRANTING THE CITY OF CHATTANOOGA'S FIRST MOTION IN LIMINE**

Pursuant to Tenn. Code Ann. § 4-5-415(b), Tennessee American Water Company ("TAWC") respectfully petitions for an appeal of the Initial Order of the Hearing Officer in the above-captioned docket granting the City of Chattanooga's First Motion in Limine. TAWC appeals the Hearing Officer's ruling issued February 25, 2011 excluding all evidence pertaining to consideration of the \$275,000 in regulatory expenses excluded from recovery in Docket No. 08-00039.

The procedural schedule in this matter required that all pre-hearing motions were to be filed by February 14, 2011. Nevertheless, the City of Chattanooga proceeded to file its First Motion in Limine on February 24, 2011 – one day before the Pre-Hearing Conference. At the Pre-Hearing Conference the Hearing Officer granted the City's motion prior to TAWC responding to the motion or presenting argument. Upon request, counsel for TAWC was allowed to state the basis for the Company's opposition on the record. The Hearing Officer then issued an Order containing the ruling the evening of February 25, 2011.

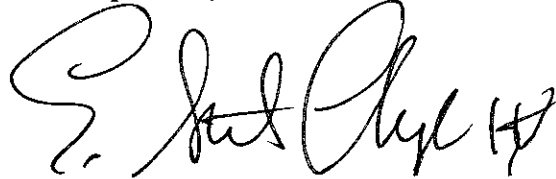
On January 28, 2011, in the appeal of Docket No. 08-00039, the Court of Appeals held “the TRA’s decision to only include one half of the cost of the rate case in the rate was arbitrary. Accordingly, we reverse the Commission of the TRA on this issue and award TAWC the full amount of its proposed rate case expenses.” Tennessee American Water Company v. Tennessee Regulatory Authority, Case No. M2009-00553-COA-R12-CV, at 30 (Jan. 28, 2011). The City claims in its motion that because the Authority has not yet received the mandate from the Court of Appeals, the regulatory expenses improperly excluded from rates in Docket No. 08-00039 should not be considered in this rate case.

The City’s motion ignores the reality of the rate-making process. Regardless of whether the Authority currently has jurisdiction to act in Docket No. 08-00039, TAWC has not asked the Authority to award those expenses in that docket; rather, TAWC has only asked the Authority to consider awarding the full amount of TAWC’s 2008 regulatory expenses in this docket. The TRA has the ability to consider any evidence in setting just and reasonable rates in the current docket. Moreover, by the time the Authority does receive the mandate from the Court of Appeals, Docket No. 08-00039 will likely be moot due to new superseding tariffs having already become effective in the current docket.

Choosing not to include in the rates in this case the amount now known that the Court of Appeals has ordered the Authority to award will only increase the costs to TAWC – and its customers – for recovery of those fees in some future rate case or other proceeding. Principles of fairness and economy therefore mandate that the Authority consider TAWC’s improperly excluded 2008 regulatory expenses in the current case rather than requiring the Company to file yet another rate case or other proceeding to recover these expenses.

Moreover, in the event an appeal in Docket No. 08-00039 is taken to the Tennessee Supreme Court and it reverses the Court of Appeals, the amount resulting from that change can simply be subject to a true-up in a later rate case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Grimes", with a stylized flourish at the end.

R. Dale Grimes (#006223)

E. Steele Clayton (#017298)

C. David Killion (#026412)

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Attorneys for Petitioner

Tennessee American Water Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by way of the method(s) indicated on this the 28th day of February, 2011, upon the following:

<input checked="" type="checkbox"/> Hand-Delivery	Ryan McGehee, Esq.
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