

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 21, 2012

IN RE:

**PETITION OF TENNESSEE AMERICAN WATER
COMPANY FOR A GENERAL RATE INCREASE**

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**DOCKET NO.
10-00189**

**ORDER GRANTING, IN PART, AND DENYING, IN PART REQUEST FOR
ENFORCEMENT OF
ORDER AND RELATED RELIEF**

This matter came before Chairman Kenneth C. Hill, Director Sara Kyle and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at an Authority Conference held on June 7, 2012, to consider the Utility Workers Union of America, AFL-CIO’s (“UWUA” or the “Union”) *Request for Enforcement of Order and Related Relief* (“*Request*”) filed on November 23, 2011. The *Request* asks that Tennessee American Water Company (“TAWC” or the “Company”) be required to provide requisite data missing from its semi-annual filings with the Authority and to promptly fill all staffing vacancies, so that the Company has a full-time workforce of 110 people, in accordance with the *Final Order* issued by the TRA in this docket.¹

Background²

On September 23, 2010, Tennessee American Water Company (“TAWC” or the “Company”) filed its *Petition* seeking TRA approval of its proposed rate increase.³

¹ *Request*, p. 1 (November 23, 2011).

² This Order provides background relevant to the *Request*. For information on the Authority’s ruling on other issues in TAWC’s *Petition*, see the *Final Order* issued in this docket on April 27, 2012.

³ *Petition*, p. 2 (September 23, 2010).

The UWUA and UWUA Local 121 filed a *Petition to Intervene* on October 14, 2010, which was granted on October 18, 2010.⁴

As part of its rate case, the Company sought to increase attrition year wage levels from 109 employees to 110 employees.⁵ The Union supported TAWC's request for 110 full-time employees, but conditioned its support on a requirement that the Company maintain its full-time employee workforce at the 110-person level at all times and if it did not, TAWC should be penalized.⁶ During the hearing held on TAWC's *Petition*, the Company indicated it would be willing to provide the number of employees in a quarterly report to the Authority.⁷

In the *Final Order* issued by the Authority on TAWC's *Petition*, the majority of the panel determined \$5,279,477 was the just and reasonable amount for Salaries and Wages Expense for TAWC's attrition period and the majority used a price-out consisting of 110 employees.⁸ Additionally, the Authority required TAWC to submit semi-annual reports of its staffing levels to the TRA's Utility Division Chief on April 5th and October 5th of each year.⁹ Specifically, each report needed to include: (1) the actual number of full-time equivalent employees for the previous period, by month; (2) an explanation of any differences between authorized and actual FTEs; and (3) the date(s) TAWC expects to fill any vacant positions.

Consideration of this Matter at the June 7, 2012 Authority Conference

According to the *Request* filed by UWUA, TAWC has not complied with the Authority's directive regarding filing semi-annual reports that include the expected date by which the

⁴ See *Order Granting Petitions to Intervene, Reflecting Action Taken at Status Conference and Establishing a Procedural Schedule* (November 12, 2010).

⁵ John S. Watson, Pre-Filed Direct Testimony, p. 21 (September 23, 2010).

⁶ James Lewis, Pre-Filed Direct Testimony, pp. 2-4 (January 5, 2011).

⁷ Transcript of Proceedings, vol. III-A, pp. 34-35 (March 2, 2011).

⁸ *Final Order*, p. 61 (April 27, 2012). Director Roberson did not vote with the majority and filed a separate opinion with his position.

⁹ *Id.* at 63-64.

Company will fill any staffing vacancies below the 110 full-time employee levels.¹⁰ In its *Request*, the UWUA asks the Authority to order TAWC to supply the requisite data and to promptly fill all staffing vacancies to reach a full-time workforce of 110 employees.¹¹ TAWC responded stating UWUA's *Request* is an "improper attempt to drag the Authority into ongoing labor negotiations" between TAWC's parent company, American Water Works ("AWW") and the UWUA.¹² TAWC states oversight of these negotiations and any grievance process is vested with the National Labor Relations Board and should remain with this entity.¹³ Further, TAWC stated there is no requirement that TAWC maintain a specific employee level and no requirement to make TAWC's rates contingent upon the information contained in these reports.¹⁴ UWUA responded on December 18, 2011 stating it is clear TAWC does not intend to staff its operations at a level necessary to provide adequate service and reiterated its request that the Authority's Order be enforced.¹⁵

Based on the record in this proceeding, the panel granted, in part, and denied, in part, UWUA's *Request*. The panel clarified that the *Final Order* issued in this docket did not mandate that TAWC employ a specific number of employees, but rather, it was the Authority's best judgment regarding the projected number of employees and related salary and wage expense and establishing rates needed by TAWC for this attrition period.¹⁶ The panel found that UWUA correctly points out that TAWC has not submitted information regarding the expected date by which the Company will fill staffing vacancies below the 110 employee level. Thereafter, the

¹⁰ *Request*, p. 1 (November 23, 2011).

¹¹ *Id.*

¹² *Tennessee American Water Company's Response in Opposition to UWUA's Request for Enforcement of Order and Related Relief*, pp. 1-2 (December 12, 2011).

¹³ *Id.*

¹⁴ *Id.* at 7 (December 12, 2011).

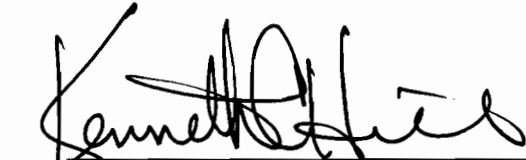
¹⁵ *See Reply Of The Utility Workers Union Of America, AFL-CIO To Tennessee American Water Company's Opposition To Request For Enforcement Of Order And Related Relief* (December 18, 2011).

¹⁶ Transcript of Proceedings, p. 6 (June 7, 2012).

panel voted unanimously to deny the UWUA's *Request*, in part and ordered TAWC to submit to the TRA the data required for the semi-annual filings within 30 days.

IT IS THEREFORE ORDERED THAT:

The Utility Workers Union of America, AFL-CIO's *Request for Enforcement of Order and Related Relief* is granted, in part, and denied, in part. Tennessee American Water Company shall submit to the Authority data regarding when it will fill staffing vacancies below the 110 employee level within 30 days of June 7, 2012. Any other relief sought in the *Request for Enforcement of Order and Related Relief* is denied.


Chairman Kenneth C. Hill


Sara Kyle, Director

Mary W. Freeman¹⁷

¹⁷ Director Freeman voted in agreement with the other Directors, but resigned her position as Director before this Order was issued.