

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 12, 2010

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

**ORDER GRANTING PETITIONS TO INTERVENE
AND REQUIRING THE PARTIES TO SUBMIT A
PROPOSED PROCEDURAL SCHEDULE AND PROTECTIVE ORDER**

This matter came before Chairman Mary W. Freeman, Director Eddie Roberson and Director Sara Kyle, of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 27, 2010 for consideration of the *Petition* filed by Tennessee American Water Company on September 23, 2010. During that Conference, the panel voted unanimously to proceed to convene a contested case proceeding and to appoint Chairman Mary W. Freeman as Hearing Officer for the purpose of preparing this matter for hearing, including handling preliminary matters and establishing a procedural schedule to completion. The panel also voted unanimously to suspend the effective date of the tariffs filed with the *Petition* for ninety (90) days, through January 18, 2011.

BACKGROUND

On September 23, 2010, Tennessee American Water Company (“TAWC” or the “Company”) filed its *Petition* in which the Company seeks approval by the Authority of proposed increased rates, alleging that “[t]he Company’s existing rates and charges will not

provide, and cannot be made to provide, sufficient revenues to cover all the costs incurred in providing adequate quality water service including its cost of capital.”¹ The *Petition* as filed seeks an upward adjustment of \$9,984,463 or a 27.66% increase in its rates. In the *Petition*, TAWC requests that the Authority set a hearing and determine, after the presentation of evidence, that the rates proposed by TAWC are just and reasonable.

On September 21, 2010, the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”) filed a *Petition to Intervene*. Chattanooga Manufacturers Association (“CMA”) and the City of Chattanooga (“Chattanooga”) filed petitions to intervene on October 4, 2010 and October 6, 2010, respectively.

PETITIONS TO INTERVENE

Criteria for Permitting Intervention

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;
 - (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
 - (2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and
 - (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

¹ *Petition* at 2 (September 23, 2010). TAWC’s *Petition* was submitted to the Authority on September 17, 2010, but do to an incomplete filing the *Petition* and supporting testimony were withdrawn from the TRA and were resubmitted and filed on September 23, 2010.

Under TRA Rule 1220-1-2-.06, any party opposing a motion in a contested case must file and serve a response to the motion within seven days of service of the motion.

In its *Petition to Intervene*, the Consumer Advocate seeks intervention, stating that it is authorized to intervene in proceedings to represent the interests of Tennessee consumers pursuant to Tenn. Code Ann. § 65-4-118. The *Petition to Intervene* alleges that approval of the increase in rates requested by TAWC “. . . result in harm to consumer.”² The Consumer Advocate states that it can protect the public interest in this regard only by participating in this proceeding. CMA states that it is a trade association in existence for 108 years and representing approximately 250 manufacturers and businesses. CMA asserts it has substantial and vital interest in the outcome of the Authority’s action in this docket and . . . “desires to intervene in order to protect such interest on behalf of its members and those similarly situated.”³ Chattanooga states that its intervention request should be granted because “the City of Chattanooga is a customer of TAWC” and “. . . the legal rights, duties, privileges, immunities or other legal interest of the City of Chattanooga and its citizens may be determined in these proceedings.”⁴ No party or person has filed an objection to or opposed the intervention requests.

The Hearing Officer finds that the legal rights and interests of Tennessee consumers, the CMA and the City of Chattanooga may be determined in this proceeding and that the petitions to intervene are timely and the interventions will not impair the orderly and prompt conduct of these proceedings. For these reasons and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a), the Hearing Officer grants the petitions to intervene filed by the Consumer Advocate, Chattanooga Manufacturers Association and the City of Chattanooga.

² *Petition to Intervene* at 2 (September 21, 2010).

³ *Petition to Intervene by the Chattanooga Manufacturers Association*, p. 1 (October 4, 2010).

⁴ Chattanooga’s *Petition to Intervene*, p. 2 (October 6, 2010).

STATUS CONFERENCE

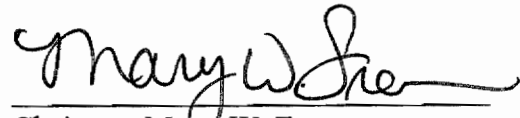
In an effort to expedite the proceedings in this docket, a Status Conference has been set for **Monday, October 18, 2010 at 10:30 a.m.** to establish a procedural schedule and discuss other preliminary matters. A separate Notice has issued setting forth specific matters for consideration during the Status Conference. In preparation of the Status Conference, the parties are hereby ordered to work together to submit a joint procedural schedule at the time of the Status Conference. If the parties cannot reach an agreement with respect to a procedural schedule, then the parties shall submit separate proposed procedural schedules on October 18, 2010 which will be considered by the Hearing Officer during the Status Conference. The parties are requested to be mindful of the statutory deadlines for a decision in this docket as set forth in Tenn. Code Ann. § 65-5-103.

The parties are also ordered to work together in submitting a Joint Agreed Protective Order at the time of the Status Conference on October 18, 2010. In the event an agreement cannot be reached, the parties may submit separate proposed protective orders at the Status Conference. The Hearing Officer will thereafter enter a Protective Order for use in this matter.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division, Office of the Attorney General, Chattanooga Manufacturers Association and the City of Chattanooga are hereby granted leave to intervene and receive copies of any notices, orders or other documents herein.
2. The parties shall meet and, if possible, submit a joint procedural schedule at the time of the Status Conference on **October 18, 2010** for review by the Hearing Officer. In the event that an agreement cannot be reached, the parties shall each submit a separate proposed procedural schedule at the Status Conference.

3. The parties shall work together to submit an Agreed Protective Order at the time of the Status Conference on **October 18, 2010**. In the absence of an Agreed Protective Order, the parties shall submit separate proposed protective orders at the Status Conference on **October 18, 2010**.


Chairman Mary W. Freeman,
Hearing Officer