

BUTLER | SNOW

July 9, 2012

VIA ELECTRONICALLY

Hon. Kenneth C. Hill, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

**RE: Petition Of Tennessee American Water Company To Change And Increase
Certain Rates And Charges So Far 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, TRA Docket No. 12-00049**

Dear Chairman Hill:

Enclosed for filing please find *Tennessee-American Water Company's Response To The
Petition Of The City Of Chattanooga To Intervene And Opposition To An Order Requiring
Cooperation Concerning Public Safety Issues.*

As required, an original of this filing, along with four (4) hard copies, will follow.
Should you have any questions concerning this filing, or require additional information, please
do not hesitate to let me know.

Very truly yours,

BUTLER, SNOW, O'MARA, STEVENS &
CANNADA, PLLC

Melvin J. Malone

clw
Attachment

:

ButlerSnow 9709953v1

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

PETITION OF TENNESSEE AMERICAN)	
WATER COMPANY TO CHANGE AND)	
INCREASE CERTAIN RATES AND)	
CHARGES SO FAR AS TO PERMIT IT TO)	DOCKET NO. 12-00049
EARN A FAIR AND ADEQUATE)	
RATE OF RETURN ON ITS PROPERTY)	
USED AND USEFUL IN FURNISHING)	
WATER SERVICE TO ITS CUSTOMERS)	

**TENNESSEE-AMERICAN WATER COMPANY’S RESPONSE TO THE PETITION OF
THE CITY OF CHATTANOOGA TO INTERVENE AND OPPOSITION TO AN ORDER
REQUIRING COOPERATION CONCERNING PUBLIC SAFETY ISSUES**

Tennessee-American Water Company (“TAWC”) does not object to the City of Chattanooga (“City”) intervening in this proceeding. The content of the City’s Petition, however, seeks not only to intervene in this proceeding for appropriate rate issues, but also requests the Tennessee Regulatory Authority (“TRA”) to order TAWC to “cooperate with the City concerning critical public safety issues.” Because of the extraordinary relief the City has requested, TAWC submits this Response to request that the TRA affirm the scope and purpose of a rate case in denying the City’s extraordinary request, or alternatively, deferring the public safety issues for consideration in a separate proceeding to be conducted at the conclusion of this proceeding.

I.

DISCUSSION

As stated at the outset of this Response, TAWC does not object to the City’s intervention in this case based on the issues raised in paragraph five of its Petition and the corresponding subparts, because those issues are relevant to TAWC’s requested rate increase. The issues raised in paragraph six of the Petition, however, seek to unduly complicate this proceeding by

requesting the TRA consider TAWC's cooperation with the City with regard to "public safety issues."

The underlying basis of the City's claim here is TAWC's alleged "refusal to cooperate" in emergency and disaster preparedness. To the contrary, TAWC has participated in numerous public safety initiatives and efforts, including, but not limited to, the following:

- Although TAWC was not formally invited to be part of the group that participated in the City's homeland security analysis performed by Jacobs Engineering Group, Inc., TAWC did provide information for the analysis, even though the City has refused to provide TAWC with the ensuing Water System Interconnection Study;
- TAWC has participated in the Hamilton County Local Emergency Planning Committee ("HCLEPC") since the 1990s;
- A TAWC employee is currently a Vice Chair of the HCELPC Executive Committee and has led a training class;
- In 2011, TAWC initiated, planned and hosted a Homeland Security Exercise Evaluation Program which simulated a hazardous chemical disaster drill with participation from local, regional and federal agencies, including the United States Environmental Protection Agency; Chattanooga Fire, Rescue, and HAZMAT; Chattanooga law enforcement; and Hamilton County emergency management;
- TAWC's Quality/Cross Connection Department works routinely with the City of Chattanooga's Fire Department Water Supply and Plans Review Officer with regard to the cross connection program, fire services and fire hydrants;
- Under a current agreement with the City, TAWC will provide, at the City's request, up to twenty-five hydrants per year at no cost to the City; and
- During the tornado outbreak in April 2011, TAWC worked closely with the Chattanooga Fire Department Water Supply and Plans Review Officer to ensure that fire protection services in the St. Elmo area was maintained, and also worked with the Chattanooga Police Department to ensure employee and community safety during staging and delivery.

See Exhibit A, Affidavit of Kevin N. Rogers.

These meaningful efforts demonstrate TAWC's unequivocal commitment to emergency and disaster preparedness. Because of TAWC's ongoing efforts, it is disappointing that the

City's Petition alleges that TAWC has refused to cooperate. Moreover, TAWC, at all times, has complied with the applicable public safety regulations and requirements. While TAWC is confident that its efforts are sufficient, if the TRA would like to further examine the public safety issues raised in the City's Petition, TAWC requests the TRA bifurcate those issues which are unrelated to this rate proceeding.

If the TRA finds it necessary, and jurisdictionally appropriate, to review the City's disaster preparedness in a separate proceeding, TAWC will demonstrate that it is prepared to respond appropriately to an emergency. Under the circumstances presented, TAWC should not be required to do so as part of its rate case proceeding, which, by statute, is confined to "whether the [requested rate] increase, change or alteration is just and reasonable." Tenn. Code. Ann. § 65-5-103. In determining whether TAWC's rate increase is just and reasonable, the TRA shall take into account the "safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility." *Id.* Although the TRA may examine, as part of this proceeding, whether TAWC is currently providing safe service to its customers, this proceeding should not be unduly broadened to encompass the relief the City has requested with regard to public safety.

II.

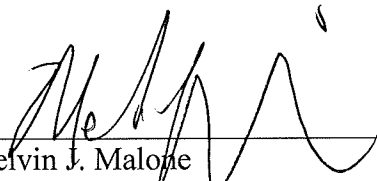
CONCLUSION

For the foregoing reasons, TAWC does not oppose the City's intervention in this proceeding, but respectfully requests the TRA deny the City's request with regard to public safety issues, or alternatively, defer the issues for consideration in a separate proceeding.

This the 9th day of July, 2012.

Respectfully submitted,

By:



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U.S. Mail on this 9th day of July, 2012, to:

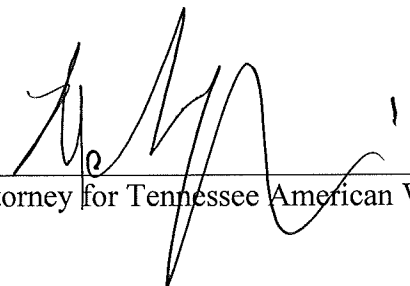
Kenneth C. Hill, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
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Also served electronically

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

PETITION OF TENNESSEE AMERICAN)
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USED AND USEFUL IN FURNISHING)
WATER SERVICE TO ITS CUSTOMERS)

AFFIDAVIT OF KEVIN N. ROGERS

Comes the affiant, Kevin N. Rogers, and after being duly sworn states, upon knowledge, information and belief, as follows:

1. My name is Kevin N. Rogers and I am the Operations Manager for Tennessee American Water Company ("TAWC").

2. As part of my duties as Operations Manager, I am familiar with TAWC's efforts with regard to emergency and disaster preparedness.

3. TAWC has participated in numerous public safety initiatives regarding emergency and disaster preparedness, which are identified in the following paragraphs of my Affidavit.

4. Although TAWC was not formally invited to be part of the group that participated in the City's homeland security analysis performed by Jacobs Engineering Group, Inc., TAWC did provide information for the analysis, even though the City has refused to provide TAWC with the ensuing Water System Interconnection Study.

5. TAWC has participated in the Hamilton County Local Emergency Planning Committee ("HCLEPC") since the 1990s.

6. A TAWC employee is currently a Vice Chair of the HCELPC Executive Committee and has led a training class.

EXHIBIT A

7. In 2011, TAWC initiated, planned and hosted a Homeland Security Exercise Evaluation Program which simulated a hazardous chemical disaster drill with participation from local, regional and federal agencies, including the United States Environmental Protection Agency; Chattanooga Fire, Rescue, and HAZMAT; Chattanooga law enforcement; and Hamilton County emergency management.

8. TAWC's Quality/Cross Connection Department works routinely with the City of Chattanooga's Fire Department Water Supply and Plans Review Officer with regard to the cross connection program, fire services and fire hydrants.

9. Under a current agreement with the City of Chattanooga, TAWC will provide, at the City's request, up to twenty-five hydrants per year at no cost to the City.

10. During the tornado outbreak in April 2011, TAWC worked closely with the Chattanooga Fire Department Water Supply and Plans Review Officer to ensure that fire protection services in the St. Elmo area was maintained, and also worked with the Chattanooga Police Department to ensure employee and community safety during staging and delivery.

11. Further the affiant sayeth naught.

Kevin N Rogers
Kevin N. Rogers

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

Subscribed, acknowledged, and sworn to before me by Kevin N. Rogers on this 9th day of July 2012.

My commission expires 8/25/2012.

Virginia B. Scoalf
NOTARY PUBLIC

