

CHAMBLISS

1000 Tallan Building
Two Union Square
Chattanooga, TN 37402
(423) 756-3000
cbslawfirm.com

CHAMBLISS, BAHNER & STOPHEL, P.C.

FREDERICK L. HITCHCOCK
DIRECT DIAL (423) 757-0222
DIRECT FAX (423) 508-1222
rhitchcock@cbslawfirm.com

July 12, 2012

VIA EMAIL AND USPS

Chairman Kenneth C. Hill, Ed. D.
c/o Ms. Sharla Dillon
Tennessee Regulatory Authority
460 James Robinson Parkway
Nashville, TN 37243

Re: In re: TRA Docket No. 12-00049

Dear Ms. Dillon:

Enclosed are an original and five (5) copies of the following:

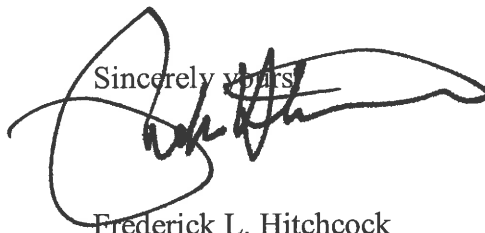
- City of Chattanooga's Response to TAWC's Opposition to the City's Petition for an Order Requiring Cooperation Concerning Public Safety Issues;
- Affidavit of Mike Marino, appended as Exhibit A to the Response.

Please file these appropriately in the referenced docket.

I would appreciate you stamping the extra copies of the documents as "filed," and returning them to me in the enclosed, self-addressed, stamped envelope.

With best regards, I am

Sincerely yours,



Frederick L. Hitchcock

FLH:rmb

cc: Mr. Melvin Malone
Mr. Lindsey W. Ingram, III
Mr. Ryan L. McGehee
Mr. Phillip A. Noblett
Mr. Michael A. McMahan
Mr. Tom Greenholtz

IN RE:)
)
PETITION FOR A GENERAL RATE)
INCREASE, IMPLEMENTATION OF A) **Docket No. 12-00049**
DISTRIBUTION SYSTEM)
INFRASTRUCTURE CHARGE AND THE)
ESTABLISHMENT OF TRACKING
MECHANISMS FOR PURCHASED
POWER, PENSIONS AND CHEMICAL
EXPENSES

The City of Chattanooga (“Chattanooga” or the “City”) submits this response to the Opposition of Tennessee American Water Company (“TAWC”) to Chattanooga’s Petition for an order requiring cooperation concerning important public safety issues.

THE PUBLIC SAFETY ISSUES

02423 00/1201/FLH-1406173 2

interrupt the supply source, treatment facilities, or supply mains of any one (1) of the three (3) major water utilities serving Chattanooga. The catastrophic flooding that the Nashville area experienced in 2010, which submerged one of two water treatment plants, is an example of such a natural disaster.

Jacobs Engineering, which was retained to complete the planning study, requested information from the utilities serving Chattanooga and surrounding areas. The information sought focused on the location and the characteristics of key supply, treatment, storage, and distribution facilities and on hydraulic information needed to complete models to evaluate options for interconnection of the three (3) major utilities to provide backup in the event of a disaster. As Michael Marino explains in the affidavit attached as Exhibit A, TAWC was the only one (1) of the three (3) major water utilities that failed to provide the information needed for the analysis. *To the extent that TAWC suggests otherwise, that suggestion is simply incorrect.*

Without the requested information from TAWC, Jacobs Engineering was only able to reach general and limited conclusions concerning actions that would be needed to provide adequate interconnection capacity. However, it documented that there is no active interconnection between TAWC and one (1) of the other two (2) major water utilities and that the single interconnection with the other water utility is restricted by an eight-inch meter. Marino Aff., ¶¶ 6, 7. Obviously, without TAWC's cooperation, no additional or improved interconnections can be established for use in a natural or manmade disaster.

**THE AUTHORITY HAS UNQUESTIONABLE AUTHORITY TO
CONSIDER AND GRANT CHATTANOOGA'S REQUEST**

As the courts have explained, this Authority has "practically plenary authority over the utilities within its jurisdiction." *Tennessee Cable Television Ass'n v. Tennessee Public Service Commission*, 844 S.W.2d 151, 159 (Tenn. Ct. App. 1992), *req. perm. app. den'd id.* See, e.g.,

Tenn. Code Ann. §§ 65-4-104 (“The authority has general supervisory and regulatory power, jurisdiction, and control over all public utilities, and also over their property, property rights, facilities, and franchises”); 65-4-106 (Chapter shall be given liberal construction as to the power granted to the Authority “to the end that the authority may effectively govern and control the public utilities placed under its jurisdiction”). In considering whether TAWC’s requested rates are just and reasonable, the Authority is required to “take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility.” Tenn. Code Ann. § 65-5-103(a). There can be no serious question that the Authority’s consideration and grant of Chattanooga’s petition is “jurisdictionally appropriate.”¹

**CONSIDERATION OF CHATTANOOGA’S REQUEST
WILL PREVENT DUPLICATIVE PROCEEDINGS AND
WILL AVOID UNNECESSARY DELAY**

The Authority has expressed a strong interest in reducing the time and expense involved in contested cases, convening, for example, a recent docket to explore the use of mediation or settlement discussions to streamline such cases.² The consideration of Chattanooga’s request for an order requiring cooperation concerning critical public safety issues will avoid duplicative proceedings and unnecessary delay.

For example, in this Docket, Chattanooga will ask the Authority to carefully evaluate how TAWC has spent the many millions of dollars that the utility has requested in recent rate cases for capital expenditures to improve its system. Chattanooga anticipates that the Authority will have before it evidence showing that TAWC has, in fact, failed to make many of the investments for which it requested rate increases, including, for example, investments in repair and replacement of valves. No meaningful investment has been made in interconnections with

¹ TAWC cites no authority in support of its suggestion otherwise. *See* Opposition at p. 3.

² TRA Docket No. 11-00140.

other water utilities. Operational valves and interconnections with alternative sources of supply would be essential to an effective response to a natural or manmade disaster that interrupted TAWC's supply source, its treatment facilities, or its storage or distribution facilities.

The safety, adequacy, and efficiency of the services provided by TAWC to the citizens of Chattanooga have been reduced by TAWC's decisions not to use rate increase revenue to finance long-planned system investments. Similarly, the safety, adequacy, and efficiency of the services provided by TAWC have been reduced by TAWC's refusal to provide necessary information and to otherwise cooperate with Chattanooga's efforts to identify opportunities for, and engineering impediments to, interconnection of the three (3) major water utilities to minimize disruption of water supplies in the event of a natural or manmade disaster. The facts and legal issues will be the same. Granting TAWC's request that the same facts and legal issues have to be developed twice in two (2) separate proceedings would unnecessarily increase costs and administrative burden to the Authority, to TAWC, and to the Intervenors. Requiring that resolution of the critical public safety issues raised by Chattanooga be delayed would unnecessarily increase the risk to the water supply of Chattanooga residents, businesses, industries, and public institutions.

CONCLUSION

For the reasons set forth above, Chattanooga respectfully requests that its Petition for an Order Requiring Cooperation Concerning Public Safety Issues be granted.

Respectfully Submitted,

OFFICE OF THE CITY ATTORNEY

By: 

Michael A. McMahan (BPR No. 000810)

Valerie L. Malueg (BPR No. 023763)

Special Counsel

100 East 11th Street, Suite 200

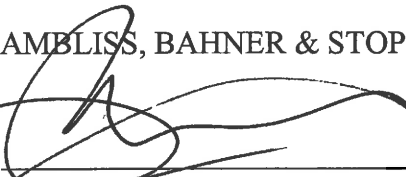
Chattanooga, TN 37402

(423) 643-8225

Email: mcmahan@chattanooga.gov

Email: malueg@mail.chattanooga.gov

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: 

Frederick L. Hitchcock (BPR No. 005960)

Thomas C. Greenholtz (BPR No. 020105)

Willa B. Kalaidjian (BPR No. 029606)

1000 Tallan Building

Two Union Square

Chattanooga, Tennessee 37402

(423) 757-0222 – Telephone

(423) 508-1222 – Facsimile

Email: rhitchcock@cbslawfirm.com

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing pleading was emailed and was served upon the following person(s) via ☐ hand delivery or ☒ United States first class mail with proper postage applied thereon to ensure prompt delivery:

Mr. Melvin J. Malone
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
1200 One Nashville Place
150 Fourth Avenue, North
Nashville, TN 37219-2433

Mr. Lindsey W. Ingram, III
Stoll Keenon Ogden PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507

Mr. Robert E. Cooper, Jr.
Attorney General and Reporter
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202-0207

Mr. Ryan McGehee
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202-0207

Mr. Phillip A. Noblett
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

This 12 day of July, 2012.

By:  _____

("EUD") and Hixson Utility District ("HUD"), provided all information requested. Tennessee American Water Company ("TAWC") did not provide all information requested.

5. Jacobs made a second request to obtain the requested data, but no maps or hydraulic model information was provided.

6. Based upon the information provided by HUD and EUD, Jacobs has determined that there exists only one active interconnection between EUD and TAWC that could be used in the event of a supply interruption and is restricted by an eight (8) inch meter. There exists only one (1) interconnection between HUD and TAWC and it is not active.


7. Based on the information provided for Jacobs' analysis, Jacobs was only able to reach general and limited conclusions concerning actions that would need to be taken to provide adequate interconnection capacity so that Chattanooga residents, businesses, industries, and public institutions would have water available in the event of a natural or manmade disaster that interrupted the source of supply, the treatment plant, or a major main.

8. Further, this Affiant saith not.


MICHAEL ANGELO MARINO

STATE OF TENNESSEE:
COUNTY OF HAMILTON:

Sworn to and subscribed before me by Michael A. Marino on the 12th day of July, 2012.


Notary Public

My commission expires: 4/19/15



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I do hereby certify that a true and correct copy of the foregoing pleading was emailed and was served upon the following person(s) via ☐ hand delivery or ☒ United States first class mail with proper postage applied thereon to ensure prompt delivery:

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This 12 day of July, 2012.

By: _____