



January 24, 2014

VIA HAND DELIVERY

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

RE: Petition of Tennessee American Water Company, for Approval of a Qualified Infrastructure Investment Program, an Economic Development Investment Rider, a Safety and Environmental Rider and Pass Throughs for Purchased Power, Chemicals, Purchased Water, Wheeling Water Costs, Waste Disposal, and TRA Inspection Fees, TRA Docket No. 13-00130

Chairman Allison:

With this letter, I enclose Tennessee-American Water Company's Motion Requesting Clarification of Order Modifying Procedural Schedule in the above-referenced matter. Please find attached to this letter five (5) paper copies the Company's Motion.

We appreciate your filing this Motion. Please let me know if you have any questions.

With best regards, I am

Very truly yours,

A handwritten signature in blue ink that reads "Junaid Odubeko".

Junaid A. Odubeko

JAO:sc

enclosures

cc: Joe Shirley
Vance Broemel

*The Pinnacle at Symphony Place
150 3rd Avenue South, Suite 1600
Nashville, TN 37201*

JUNAID A. ODUBEKO
615.651.6732
junaid.odubeko@butlersnow.com

T 615.651.6700
F 615.651.6701
www.butlersnow.com

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

IN RE:)	
)	
PETITION OF TENNESSEE-AMERICAN WATER COMPANY)	DOCKET NO.
FOR APPROVAL OF A QUALIFIED INFRASTRUCTURE)	13-00130
INVESTMENT PROGRAM, AN ECONOMIC DEVELOPMENT)	
INVESTMENT RIDER, A SAFETY AND ENVIRONMENTAL)	
COMPLIANCE RIDER AND PASS-THROUGHS FOR)	
PURCHASED POWER, CHEMICALS, PURCHASED WATER,)	
WHEELING WATER COSTS, WASTE DISPOSAL, AND TRA)	
INSPECTION FEE)	

**MOTION REQUESTING CLARIFICATION OF ORDER MODIFYING
PROCEDURAL SCHEDULE**

Tennessee-American Water Company (“TAWC”), by and through counsel, respectfully moves the Hearing Officer in this matter to clarify, in part, the *Order Modifying the Procedural Schedule* (the “*Order*”) issued on January 15, 2014. For the reasons set forth below, and for good cause shown, TAWC respectfully requests that its motion be granted.

BRIEF PROCEDURAL BACKGROUND AND ARGUMENT

This matter came before the Hearing Officer on January 13, 2014, to modify the procedural schedule established on October 29, 2013. Pursuant to the October 29, 2013, procedural schedule, this matter was originally scheduled for hearing on January 13, 2014. On January 10, 2014, however, the parties submitted a Stipulation with the Tennessee Regulatory Authority (“TRA” or “Authority”). In light of the recently filed Stipulation, and its timing on the eve of the hearing date, at the outset of the January 13th hearing, the presiding panel offered the parties two (2) options for proceeding emanating from the panel’s interpretation of Tenn. Code Ann. § 65-5-103(d). First, the panel could consider the Stipulation as an amendment to the original *Petition* filed with the Authority on October 4, 2013. Pursuant to this option, the panel

would consider the Stipulation as constituting an initial filing under Tenn. Code Ann. § 65-5-103(d)(1)(B), and the Authority would be granted an additional 120 days to consider the *Amended Petition*. Second, the panel would not consider the Stipulation, and the parties could proceed to a hearing on the merits based solely on the original *Petition*. At the request of the parties, the panel permitted an extended recess of the proceedings to allow TAWC and the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”) to discuss the agency’s interpretation of Tenn. Code Ann. § 65-5-103(d), and how the parties wished to proceed in light of this interpretation, with TRA Staff. When the hearing reconvened, TAWC respectfully informed the Authority that, for purposes of the record in this and future matters, it did not agree with the Authority’s interpretation of the statute, but would nonetheless, under the circumstances presented, concede to the TRA’s determination and proceed under the first option established by the panel.

As issued, the *Order* is subject to a reading and interpretation that is not reflective of the January 13, 2014, proceedings in this matter. TAWC does not object to the actions taken by the Hearing Officer on January 13, 2014. Rather, the purpose of this motion is merely to clarify the record in this matter and to acknowledge TAWC’s respectful, but duly noted, position with respect to the Authority’s interpretation and application of Tenn. Code Ann. § 65-5-103(d). Finally, TAWC would further note that the Consumer Advocate does not oppose this motion.

CONCLUSION

For the foregoing reasons, TAWC respectfully requests the Hearing Officer to grant this motion and clarify the *Order Modifying the Procedural Schedule* as requested herein. TAWC attaches a proposed Order as **Exhibit 1** for representative purposes.

Respectfully submitted:

By: Junaid Odubeko

Melvin J. Malone
Junaid Odubeko
Butler Snow LLP
The Pinnacle at Symphony Place
150 3rd Avenue South, Suite 1600
Nashville, TN 37201

Attorneys for Tennessee-American Water Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U.S. Mail to the following this 24th day of January, 2014.

Joe Shirley
Vance Broemel
Consumer Advocate and Protection Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202

Junaid Odubeko
Junaid Odubeko

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

IN RE:

**PETITION OF TENNESSEE-AMERICAN WATER COMPANY
FOR APPROVAL OF A QUALIFIED INFRASTRUCTURE
INVESTMENT PROGRAM, AN ECONOMIC DEVELOPMENT
INVESTMENT RIDER, A SAFETY AND ENVIRONMENTAL
COMPLIANCE RIDER AND PASS-THROUGHS FOR
PURCHASED POWER, CHEMICALS, PURCHASED WATER,
WHEELING WATER COSTS, WASTE DISPOSAL, AND TRA
INSPECTION FEE**

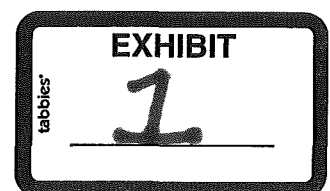
**DOCKET NO.
13-00130**

ORDER CLARIFYING ORDER MODIFYING PROCEDURAL SCHEDULE

This matter is before the Hearing Officer of the Tennessee Regulatory Authority (“Authority” or “TRA”) on a motion by Tennessee-American Water Company (“TAWC”) seeking clarification of the January 15, 2014, *Order Modifying Procedural Schedule* in the above-captioned matter. The motion is not opposed by the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”).

For good cause shown, TAWC’s *Motion Requesting Clarification of Order Modifying Procedural Schedule* is hereby granted. This *Order Clarifying Order Modifying Procedural Schedule* clarifies the January 15, 2014, *Order Modifying Procedural Schedule*.

This matter was scheduled for a hearing on the merits on January 13, 2014. The parties submitted a *Stipulation* with the Authority on January 10, 2014. In light of the *Stipulation*, and the timing of its filing on the eve of the hearing date, during the January 13, 2014, hearing, the presiding panel provided the parties with two (2) options based on the agency’s interpretation and application of Tenn. Code Ann. § 65-5-103(d). First, the *Stipulation* could be considered an amendment to the *Petition* filed with the Authority on October 4, 2013, constituting an initial



filing under Tenn. Code Ann. § 65-5-103(d)(1)(B). Second, the *Stipulation* would not be considered by the Authority, and the parties could proceed to a hearing on the merits based solely on the October 4, 2013, *Petition*. At the request of the parties, the presiding panel permitted an extended recess of the proceedings for the purpose of allowing TAWC and the Consumer Advocate to discuss, along with TRA Staff, how they wished to proceed in light of the *Stipulation* and the presiding panel's interpretation of Tenn. Code Ann. § 65-5-103(d). Upon reconvening the hearing, TAWC respectfully informed the Authority that it did not agree with the interpretation of the statute by the Authority, but would nonetheless, under the circumstances presented, concede to the TRA's determination and proceed under the first option established by the presiding panel. As such, the *Stipulation* will be considered along with and as an amendment to the *Petition*.

Subsequent to the hearing of this matter by the presiding panel, this matter came before the Hearing Officer on January 13, 2014, to modify the procedural schedule established on October 29, 2013. Under Tenn. Code Ann. 65-5-103(d)(1)(B), the Authority is required to make a final determination on any request for an alternative regulatory method no later than 120 days from the initial filing by the public utility. Upon TAWC's concession that the *Stipulation* shall be treated by the Authority as an amendment to the initial petition, the filings will be collectively considered an amended petition. Therefore, for purposes of the commencement of the 120 day statutory deadline, the amended petition constitutes TAWC's initial filing under Tenn. Code Ann. 65-5-103(d)(1)(B) and calculation of the time required for a determination will begin to run as of January 10, 2014.

Following discussion with the Hearing Officer, both TAWC and the Consumer Advocate have agreed to the following procedural deadlines:

Due Date	Filing/Action
January 17, 2014 by 2:00 p.m. CST	Supplemental Testimony in Support of Amended Petition filed by TAWC
January 21, 2014 by 2:00 p.m. CST	Consumer Advocate's Response to Supplemental Testimony
TBD	Pre-Hearing Conference (upon request of either arty and/or in the discretion of the Hearing Officer)
TBD	Hearing on the Merits (Target: February 3, 2014)

IT IS THEREFORE ORDERED THAT:

The procedural schedule set forth in this Order is adopted in full force and effect.

Kelly Cashman Grams, Hearing Officer