

# BUTLER | SNOW

December 5, 2014



## VIA HAND DELIVERY

Hon. Herbert H. Hilliard, Chairman  
c/o Sharla Dillon  
Tennessee Regulatory Authority  
502 Deaderick Street, 4th Floor  
Nashville, TN 37243

RE: TRA Docket No. 14-00139 – Motion of Tennessee-American Water Company to Dismiss the City of Chattanooga’s Complaint in Opposition to Petition of Tennessee-American Water Company Regarding 2015 Investment and Related Expenses Under Alternative Regulatory Mechanisms (TRA Docket No. 14-00121)

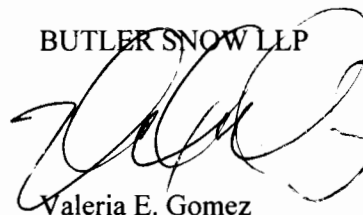
Dear Chairman Hilliard:

Enclosed please find the original and thirteen (13) copies of *Tennessee-American Water Company’s Motion to Dismiss* in the above-captioned matter. An extra copy is also attached to be file-stamped for our records.

Should you have any questions concerning this filing, or require additional information, please do not hesitate to let us know.

Sincerely,

BUTLER SNOW LLP



Valeria E. Gomez

VEG/clw  
Enclosures

ButlerSnow 23747564v1

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**IN RE OPPOSITION OF THE CITY OF  
CHATTANOOGA TO PETITION OF  
TENNESSEE-AMERICAN WATER  
COMPANY REGARDING 2015  
INVESTMENT AND RELATED  
EXPENSES UNDER ALTERNATIVE  
REGULATORY MECHANISMS**

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*Complaint* should be summarily dismissed.<sup>1</sup> In support of its motion, Tennessee American submits the following:

## I.

### BACKGROUND

In 2013, the Tennessee General Assembly passed House Bill 191, which revised Tenn. Code Ann. § 65-5-103. Among other things, this legislation authorized the TRA to implement alternative regulatory methods to allow public utility rate reviews and cost recovery in lieu of a general rate case proceeding. More specifically, under Tenn. Code Ann. § 65-5-103 *et seq.*, a public utility may request, and the TRA may authorize, a mechanism to recover the operational expenses, capital costs or both related to certain programs, as long as specific criteria are satisfied, including, but not limited to, the Authority making a finding, prior to approval, that such alternative methods and mechanisms are in the public interest.<sup>2</sup>

On October 4, 2013, Tennessee American submitted a Petition (the “*October 2013 Petition*”) seeking approval of four (4) proposed alternative regulatory methods and mechanisms as permitted under Tenn. Code Ann. § 65-5-103 *et seq.* More specifically, in TRA Docket No. 13-00130, the Company sought approval for a Qualified Infrastructure Investment Program Rider (“QIIP”),<sup>3</sup> an Economic Development Investment Rider (“EDI”),<sup>4</sup> a Safety and

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<sup>1</sup> The Authority has the discretion to decide whether to convene a contested case to consider complaints filed with the agency. *See, e.g., Consumer Advocate Div. v. Greer*, 967 S.W.2d 759, 763-64 (Tenn. 1998). Tennessee American reserves its right to submit a responsive pleading to the *Complaint*, depending upon the action of, or direction from, the Authority. *See* TRA Rule 1220-1-2-.03(3).

<sup>2</sup> Moreover, Tenn. Code Ann. § 65-5-103(d)(7) provides that the Authority is empowered to adopt policies or procedures that would permit a more timely review and revisions of the rates, tolls, fares, charges, schedules, classifications or rate structures of public utilities, and that would further streamline the regulatory process and reduce the cost and time associated with the ratemaking processes of §§ 65-5-101 and 65-5-109.

<sup>3</sup> The QIIP Rider is designed, in part, to mitigate regulatory lag, to accelerate the timeframe of essential infrastructure upgrades and replacements, and to produce a safer and more reliable water distribution and production

Environmental Compliance Rider (“SEC”)<sup>5</sup> and a Pass-Throughs mechanism for Fuel, Purchased Power, Chemicals, Purchased Water, Wheeling Water Costs, Waste Disposal and TRA Inspection Fee (“PCOP”).<sup>6</sup> One of the primary regulatory concepts underlying the then-proposed Capital Riders and PCOP was to allow, with the requisite safeguards to serve the public interest, smaller, gradual increases in rates and thereby lessen the occurrence of “rate shock.” One of the many benefits of this more streamlined recovery approach is the likelihood of less frequent rate case filings.

On January 10, 2014, the Company and the Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division (“CAPD” or “Consumer Advocate”), submitted a Stipulation in TRA Docket No. 13-00130 (the “*Stipulation*”), resolving the contested issues presented and offering the *Stipulation* to the Authority for its review, consideration and approval. Considering the *Stipulation* and the supporting documentation as an *Amended Petition*, the Authority approved the Capital Riders and the PCOP on April 14, 2014.<sup>7</sup>

Based upon the Authority’s approval of the *Amended Petition*, and the accompanying tariffs, in TRA Docket No. 13-00130, Tennessee American submitted the *Petition* in TRA

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system for ratepayers. Additionally, this mechanism has many other customer benefits and protections, including the lessening of the occurrence of “rate shock” associated with Base Rate increases.

<sup>4</sup> The EDI Rider is designed, in part, to promote the public interest by supporting and enhancing Tennessee American’s ability to serve both growing and new businesses and by permitting the Company to prudently promote economic development, growth and expansion in its service area.

<sup>5</sup> Generally, the SEC Rider supports the Company’s ability to serve the public interest by providing safe and reliable drinking water. The current regulatory environment, coupled with aging infrastructure, will require a larger investment in safety and environmental compliance not previously recognized in the Company’s rates. Hence, one of the benefits of this rider is avoiding “rate shock” by permitting smaller, more gradual rate increases over time.

<sup>6</sup> The PCOP is designed to streamline the recovery process by permitting Tennessee American to recover the largest non-labor related component of the Company’s operations and maintenance expenses in a more timely manner, as increases in these essential and non-discretionary expenses (such as chemicals and power) are outside the control of the Company’s management.

For ease of reference, the QIIP, the EDI and the SEC are referred to collectively herein as the “Capital Riders.”

<sup>7</sup> *Transcript of Proceedings, In the Matter of Tennessee Regulatory Authority Conference*, TRA Docket No. 13-00130, pp. 14-16 (April 14, 2014) (excerpt) (hereinafter “*Hearing Tr.*”).

Docket No. 14-00121, along with supporting documentation and proposed tariffs, on October 29, 2014. The Authority has not yet acted on the merits of the *Petition*.

## II.

### DISCUSSION, ANALYSIS AND ARGUMENTS

#### *a. Introduction*

At the outset, it should be firmly noted that Tennessee American very much respects the concerns raised by the City with respect to the *Petition*. Tennessee American values its cooperative working relationship with the City and looks forward to working even more effectively in the future to maintain this essential relationship. As the Company attempted to demonstrate in a fair and balanced manner in the *Petition*, since the Authority's approval of the *Amended Petition* Tennessee American has made sincere, good faith efforts to work with the City with respect to the alternative regulatory methods and mechanisms permitted under Tenn. Code Ann. § 65-5-103 *et seq.*<sup>8</sup> The Company will continue to make, and improve upon, these efforts.

In an abundance of caution, and in deference to, and out of respect for, the City and other community stakeholders, Tennessee American chose not to highlight in its *Petition*, with any degree of detail, its efforts to work alongside the City and others in conjunction with the approved alternative regulatory methods and mechanisms in order to avoid any unintended mischaracterizations or over-statements. But, in order to fairly respond to the *Complaint*, the Company will briefly discuss some of these efforts.

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<sup>8</sup> See, e.g., *Petition*, Direct Testimony of Tennessee American President Deron E. Allen, p. 7, LL 6-7, TRA Docket No. 14-00121 (Oct. 29, 2014).

*b. The City's Requests for the Authority to Initiate a Contested Case, Consolidate the Matters, Suspend the Proposed Tariffs and Permit Discovery*

In submitting its requests for approval of the Capital Riders and the PCOP in the *Amended Petition*, the Company fully complied with Tenn. Code Ann. § 65-5-103 *et seq.*<sup>9</sup> Moreover, after carefully and thoughtfully considering the record, and after a public hearing on the merits of the *Amended Petition*, the Authority found it and the companion tariffs to be reasonable and in compliance with the statutory requirements.<sup>10</sup> Among the Authority's findings was a determination that the *Amended Petition* and the related tariffs serve the public interest.<sup>11</sup> Further, the *Amended Petition*, and the action of the Authority on April 14, 2014, expressly embraced several safeguards and oversight measures to guard the public interest.<sup>12</sup> The *Petition*, and the supporting documentation and proposed tariffs, adhere to such safeguards and oversight measures.

The request set forth within the *Complaint* to initiate a new contested case on matters currently pending before the Authority is inappropriate. Pursuant to long-established agency procedures and precedent, an attempt to assail a pending petition in a separate docket by asking that a "new" contested case regarding substantially the same or intertwined issues be initiated — no matter how well intended — is, in most all instances, clearly inappropriate and thus denied. To permit such subterfuge would easily run afoul of the Authority's long held regulatory fiat, create uncertainty, encourage confusion, unnecessarily burden interested parties and the agency and even possibly encroach upon notions of fair play and due process.

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<sup>9</sup> *Hearing Tr.*, TRA Docket No. 13-00130, pp. 14-16.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *See, e.g., Stipulation*, TRA Docket No. 13-00130 (Jan. 10, 2014). *See also, e.g., Supplemental Testimony of Gary M. Verdouw*, TRA Docket No. 13-00130 (Jan. 17, 2014).

Among other things, it appears that the *Complaint* seeks to extend the Authority-established implementation and review period of the Capital Riders and PCOP and to modify, or even overturn in full, the Capital Riders and the PCOP.<sup>13</sup> In effect, the gravamen of the *Complaint* seems to request a reversal of the Authority's April 14, 2014 approval of the *Amended Petition*.<sup>14</sup> While it is for the Authority to defend its approval action of April 14, 2014, any attempt via the *Complaint* to reverse the agency's decision by seeking the initiation of a new contested case and the consolidation of the *Complaint* and TRA Docket No. 14-00139 with the *Petition* and TRA Docket No. 14-00121 is, to say the least, inappropriate and not well-grounded.<sup>15</sup>

The *Petition* was appropriately submitted on October 29, 2014. The requests within the *Complaint* to consolidate the dockets, to suspend the tariffs proposed in TRA Docket No. 14-00121 and to permit discovery in such a consolidated matter would undermine, if not eviscerate, Tenn. Code Ann. § 65-5-103 *et seq.*, the Authority's April 14, 2014 decision, and the good faith reliance of the Company upon both the statutes and the TRA's decision.

Apart from Tenn. Code Ann. § 65-5-103 *et seq.*, and the Authority's April 14, 2014 decision, the requests set forth in the *Complaint* may appear to be "routine." Under the circumstances presented, however, allowing these requests would, at a minimum, cause unmitigated confusion, undercut the applicable administrative law process and infringe upon

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<sup>13</sup> See, e.g. *Complaint*, TRA Docket No. 14-00139, p. 2, ¶ 5 (Nov. 19, 2014) ("[A]s will be shown at the hearing, TAWC's proposed tariffs (i) violate Tenn. Code Ann. § 65-5-103(d) in that the tariffs and the riders upon which they are based are manifestly not in the public interest and (ii) violate Tenn. Code Ann. § 65-5-103(d)(5), §§ 65-5-103(d)(3) and (d)(4), and § 65-5-103(d)(2) in that they seek recovery of expenses and investments not authorized by the alternative regulatory methods described in those subsections.").

<sup>14</sup> *Id.* Although on its face the *Complaint* purports to be based on the Company's alleged failures to communicate pursuant to the *Letter*, in essence the *Complaint* amounts to an outright assault on the Authority's April 14, 2014 decision.

<sup>15</sup> See, e.g., *Consumer Advocate Div. v. Tenn. Reg. Auth.*, No. M1999-01170-COA-R12-CV, 2001 Tenn. App. LEXIS 387, at \* 19 (Tenn. Ct. App. May 30, 2001) (affirming the TRA's decision to decline to convene a contested case when the issues raised by the complaint had been determined by the TRA in previous cases) (attached hereto).

notions of fairness and due process. Although permissible informal and formal mechanisms for the concerns raised by the City may exist, the dedicated route chosen and espoused within the *Complaint* is clearly not among them.<sup>16</sup>

For the foregoing reasons, it is the position of Tennessee American that the afore-referenced requests made by the City in its *Complaint* fail to state a claim upon which relief can be granted.

*c. The November 25, 2013 Letter*

It should be clearly noted that in opposing the *Complaint*, Tennessee American is not retreating from the November 25, 2013 letter (the “*Letter*”). Rather than confirming any intended failure on the part of the Company, the *Letter* evidences Tennessee American’s willingness to work cooperatively with the City.

As noted earlier herein, the *Amended Petition* was approved on April 14, 2014. The tariffs implementing the Capital Riders and the PCOP became effective on April 15, 2014. After the tariffs became effective, the Company began to fulfill the design of the *Letter*. The Company and the City met on July 18, 2014, to discuss and review the Company’s first report to the City in relation to the *Letter*. The written report provided by the Company during that meeting is attached hereto as **Exhibit A**. On September 8, 2014, the Company provided the City a second written report in relation to the *Letter*. The second written report, which was provided via email at the City’s request, is attached hereto as **Exhibit B**. The Company is in the process of preparing and submitting the third written report to the City. In addition to these

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<sup>16</sup> For instance, generally speaking, and depending upon the particular language of the same, Tennessee American would not oppose a request by the City to intervene in TRA Docket No. 14-00121, so long as such a request for intervention is permissible under Tenn. Code Ann. § 65-5-103 *et seq.*, and narrowly tailored to the parameters of, and thus consistent with, both Tenn. Code Ann. § 65-5-103 *et seq.* and the Authority’s April 14, 2014 decision.



regular/quarterly written reports, additional written informational updates have also been provided to the City, such as the May 19, 2014, and June 30, 2014, updates, attached hereto as **Collective Exhibit C**.

In addition to the foregoing, a number of other discussions and meetings were held between Tennessee American and the City. Several topics were covered during these meetings, including, but not limited to, the Company's infrastructure investments and improvement plans, the Company's contemplated economic development efforts, including any such material efforts under consideration by the Company, the Company's contemplated safety and environmental compliance projects, including any such material projects under consideration by the Company, and information related to the operation of the PCOP. Although the Company will not here compile an exhaustive listing of each and every such discussion and meeting, such in-person discussions, meetings, and communications took place between Tennessee American representatives and City representatives on the following dates: May 16, 2014; July 18, 2014; July 29, 2014; October 20, 2014; and October 22, 2014.

As the General Assembly's passage of Tenn. Code Ann. § 65-5-103 *et seq.* and the Authority-approved tariffs in TRA Docket No. 13-00130 are fairly new, so too are the Company's and the City's efforts to exchange information and to have ongoing dialogue with respect to the same. If the purposes of the *Letter* have not yet reached their full potential, and the exchange of information and ongoing dialogue have not met expectations, such shortcomings likely rest with both the Company and the City. Additionally, any improvement on, and resolution of, those shortcomings lies solely with both the Company and the City. The Company is committed to any necessary improvements.

In sum, the *Letter* represents a voluntary, good faith effort by both the Company and the City to work cooperatively together. The *Letter* itself, however, is not, and was never intended to be, a matter subject to adjudication by the Tennessee Regulatory Authority. Therefore, any claims or allegations based upon the *Letter* fail to state a claim upon which relief can be granted and/or are beyond the subject matter jurisdiction of the Authority.<sup>17</sup>

### III.

#### CONCLUSION

Again, Tennessee American very much respects the concerns raised by the City and truly values its cooperative working relationship with the City. To actively demonstrate its respect for the City and the value it places on this relationship, the Company will work in earnest to alleviate the concerns.

For the foregoing reasons, Tennessee American respectfully requests that each of the City's requests set forth in the *Complaint* be summarily denied and the *Complaint* be summarily dismissed.

**WHEREFORE**, Tennessee American respectfully requests:

1. That the Authority deny the City of Chattanooga's request to initiate a contested case to hear the objections of the City of Chattanooga to the tariffs pending in TRA Docket No. 14-00121;
2. That the Authority deny the City of Chattanooga's request to consolidate TRA Docket Nos. 14-00121 and 14-00139;

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<sup>17</sup> See *Consumer Advocate Div.*, 2001 Tenn. App. LEXIS 387, at \* 18-21 (affirming the TRA's dismissal of a breach of contract claim for failure to state a claim when the claim was based on a document that was not binding on either party) (attached hereto).

3. That the Authority deny the City of Chattanooga's request to suspend the tariffs pending in TRA Docket No. 14-00121;

4. That the Authority deny the City of Chattanooga's request to permit appropriate discovery and other proceedings;

5. That the Authority deny such other and/or further relief requested by the City of Chattanooga in its *Complaint*; and

6. That the Authority dismiss the *Complaint* in its entirety.

This the 5th day of December, 2014.

Respectfully submitted:

By: 

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Valeria Gomez

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

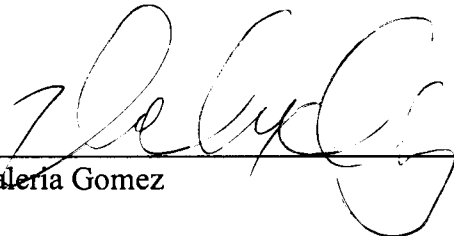
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This the 5th day of December, 2014.

  
\_\_\_\_\_  
Valeria Gomez

**Consumer Advocate Div. v. State Regulatory Auth. & Bellsouth Telcoms**

Court of Appeals of Tennessee, Middle Section, at Nashville

May 30, 2001, Filed

No. M1999-01170-COA-R12-CV

**Reporter**

2001 Tenn. App. LEXIS 387; 2001 WL 575570

CONSUMER ADVOCATE DIVISION, ON BEHALF OF  
TENNESSEE CONSUMERS v. TENNESSEE  
REGULATORY AUTHORITY AND BELLSOUTH  
TELECOMMUNICATIONS, INC.

**Prior History:** [\*1] An Appeal from the Tennessee  
Regulatory Authority. No. 99-00391. Sara Kyle, Director.

**Disposition:** Tenn. R. App. P. 12 Petition for Review from  
the Tennessee Regulatory Authority; Judgment of the  
Tennessee Regulatory Authority is Affirmed.

**Core Terms**

Consumer, tariff, services, price regulation, directory, issues,  
proposed agreement, declaratory order, rates, contested  
case, Telecommunications, applicability, declaratory relief,  
telephone company, telephone, charges, convene, basic  
service, incumbent, fail to state a claim, settlement  
agreement, proposed settlement, approving, effective,  
non-basic, agency's, sections, argues

**Case Summary**

**Procedural Posture**

Appellee phone company filed a proposed tariff with  
appellee regulatory agency to charge for directory assistance  
calls. Appellant consumer agency intervened for declaratory  
orders and injunctive relief to deny the tariff and filed a  
breach of contract action. Appellee phone company filed an  
amended proposed tariff. Appellee regulatory agency  
dismissed appellant's actions and approved the amended  
tariff. Appellant challenged the decision.

**Overview**

After appellee phone company's application for price  
regulation was approved by appellee regulatory agency,  
appellee phone company sought a tariff for directory

assistance calls. Appellant contended that under Tenn. Code  
Ann. §§ 65-5-208(a), 65-5-209, appellee phone company  
was precluded from increasing its rate for directory assistance  
for four years after appellee phone company became subject  
to price regulation. Appellee regulatory agency denied the  
petition because it determined that the issues raised therein  
had been determined in previous cases. It also dismissed a  
breach of contract complaint by appellant for failure to state  
a claim. On appeal, the court found no error in appellee  
regulatory agency's dismissal of the breach of contract  
claim for failure to state a claim, and no abuse of discretion  
in the decision not to issue declaratory relief as to the  
proposed tariff.

**Outcome**

Appellee regulatory agency's decision to dismiss the petition  
for declaratory relief and to dismiss the breach of contract  
claim for failure to state a claim were affirmed.

**LexisNexis® Headnotes**

Business & Corporate Compliance > ... > Federal Versus State  
Law > Intrastate Communications > State Regulation of  
Intrastate Communications

Energy & Utilities Law > Administrative Proceedings > General  
Overview

Energy & Utilities Law > Regulators > Public Utility  
Commissions > Authorities & Powers

Energy & Utilities Law > Utility Companies > General  
Overview

**HN1** The Tennessee Regulatory Authority is vested with  
general supervisory and regulatory power, jurisdiction, and  
control over all public utilities. *Tenn. Code Ann. § 65-4-104*.

Communications Law > ... > Telephone Services > Local  
Exchange Carriers > General Overview

**HN2** See Tenn. Code Ann. § 65-5-208(a).

Communications Law > ... > Regulated Entities > Telephone Services > General Overview

Communications Law > ... > Telephone Services > Local Exchange Carriers > General Overview

**HN3** See Tenn. Code Ann. § 65-5-209.

Administrative Law > Judicial Review > Standards of Review > General Overview

**HN4** Tenn. Code Ann. § 4-5-322(h) (1998) sets forth the standard of review for the decision of an administrative agency.

Administrative Law > Judicial Review > Standards of Review > General Overview

Administrative Law > Judicial Review > Standards of Review > Arbitrary & Capricious Standard of Review

Administrative Law > Judicial Review > Standards of Review > Substantial Evidence

**HN5** See Tenn. Code Ann. § 4-5-322(h) (1998).

Communications Law > ... > Regulated Entities > Telephone Services > General Overview

Communications Law > ... > Telephone Services > Local Exchange Carriers > General Overview

**HN6** Tenn. Code Ann. § 65-5-209(f) precludes increasing rates on a basic service for four years after a local exchange telephone company becomes subject to price regulation.

Communications Law > ... > Regulated Entities > Telephone Services > General Overview

Communications Law > ... > Telephone Services > Local Exchange Carriers > General Overview

**HN7** See Tenn. Code Ann. § 65-5-209(f).

Administrative Law > Agency Adjudication > Decisions > Contents

Administrative Law > Judicial Review > Reviewability > Factual Determinations

**HN8** An agency, when issuing a final order, must provide a concise and explicit statement of the underlying facts supporting the agency's findings. Tenn. Code Ann. § 4-5-314(c). Findings of fact made by the agency should be based exclusively on the evidence of the record and on matters noted in the proceeding. Tenn. Code Ann. § 4-5-314(d). Exactness in form and procedure is not required; rather, the findings based on the evidence need

only be specific and definite enough so that a reviewing court may determine the pertinent questions of law and whether the agency's general findings should stand, particularly when the findings are material facts at issue.

Administrative Law > Judicial Review > Reviewability > Factual Determinations

**HN9** The sufficiency of an agency's findings of fact must be measured against the nature of the controversy and the intensity of the factual dispute.

Administrative Law > Judicial Review > Reviewability > Factual Determinations

**HN10** In order to comply with the requirements of Tenn. Code Ann. § 4-5-314, an agency need only set forth facts sufficient to support its legal conclusions and to afford an appellate court an effective review of its findings.

Communications Law > Federal Acts > Telecommunications Act > Tariffs

Business & Corporate Compliance > ... > Federal Versus State Law > Intrastate Communications > State Regulation of Intrastate Communications

Communications Law > ... > Telephone Services > Local Exchange Carriers > General Overview

**HN11** The classification of services in the 1995 Tennessee Telecommunications Act, Tenn. Code Ann. § 65-5-201 et seq., supersedes classifications in any prior agreements or tariffs.

Administrative Law > Agency Adjudication > Hearings > General Overview

**HN12** The Tennessee Regulatory Authority has the discretion to decide whether to convene a contested case to consider complaints filed with the agency.

**Counsel:** Paul G. Summers, Attorney General & Reporter; Michael Moore, Solicitor General; and L. Vincent Williams, Assistant Attorney General, for the appellant, Consumer Advocate Division.

J. Richard Collier and Julie Woodruff, Nashville, Tennessee, for the appellee, Tennessee Regulatory Authority.

Guy M. Hicks and Patrick W. Turner, Nashville, Tennessee, for the appellee, BellSouth Telecommunications, Inc.

**Judges:** HOLLY KIRBY LILLARD, J., delivered the opinion of the court, in which W. FRANK CRAWFORD, P.J., W.S. and ALAN E. HIGHERS, J., joined.

**Opinion by:** HOLLY K. LILLARD

## Opinion

This is an appeal from an order by the Tennessee Regulatory Authority. The Tennessee Regulatory Authority denied the Consumer Advocate Division's request for a declaratory order as to the applicability of Tennessee Code Annotated §§ 65-5-208(a) and 65-5-209 to a telephone company's proposed tariff. It also denied the Consumer Advocate [\*2] Division's request for a declaratory order as to the applicability of a previous order by the Authority approving the telephone company's application for price regulation, dismissed its claim for breach of contract, and denied its request for injunctive relief. Consequently, the proposed tariff was approved. The Consumer Advocate Division appeals. We affirm.

This case is an appeal of an order by the Tennessee Regulatory Authority. The appellant, the Consumer Advocate Division (the "Consumer Advocate"), is a division of the Office of the Attorney General & Reporter which represents the interests of Tennessee consumers of public utilities. *See Tenn. Code Ann. §§ 65-4-118(c), 65-5-210(b)* (Supp. 2000). *HNI* The appellee Tennessee Regulatory Authority ("Authority") is vested with "general supervisory and regulatory power, jurisdiction, and control over all public utilities." *Tenn. Code Ann. § 65-4-104*. The predecessor to the Authority was the Tennessee Public Service Commission ("Commission"). BellSouth Telecommunications, Inc. ("BellSouth") [\*3] is a public utility providing telecommunication services in Tennessee.

In October 1994, BellSouth filed with the Commission a proposed tariff. BellSouth sought to amend its existing tariff to include a charge for directory assistance. The Consumer Advocate filed a petition to intervene, in opposition to the tariff. The Consumer Advocate's petition to intervene was granted by the Commission. On January 5, 1995, the Commission approved BellSouth's proposed tariff, on the condition that BellSouth file an amended tariff meeting certain conditions by February 1, 1995. BellSouth failed to file the amended tariff by the required date. Consequently,

the Commission voted to reconsider the January order conditionally approving the tariff.

Before the Commission reconsidered BellSouth's proposed tariff, BellSouth and the Consumer Advocate entered into a settlement agreement altering the proposed directory assistance charge so that the net effect of the charges would be as close to zero as possible. The proposed settlement agreement stated that the agreement would be presented and recommended to the Commission, and recognized that the Commission had "the authority to approve or disprove tariffs, [\*4] rates, and related issues." On February 3, 1995, BellSouth and the Consumer Advocate submitted to the Commission the settlement agreement and the revised tariff. They asked that the agreement be placed on the agenda for the Commission's next conference. The Commission, however, took no further action on the proposed agreement and revised tariff.

In June 1995, the Tennessee Legislature enacted new legislation, The 1995 Tennessee Telecommunications Act, which substantially altered the manner in which public utilities in Tennessee are regulated. *See* 1995 Tenn. Pub. Acts, ch. 408; *Tenn. Code Ann. § 65-5-201 et seq.* The Act created a new procedure by which companies such as BellSouth could elect price regulation. It also terminated the Commission effective June 30, 1996 and created the Authority effective July 1, 1996. *See* 1995 Tenn. Pub. Acts, ch. 305. As a result, on June 28, 1996, the Commission entered a general order terminating all pending business effective June 30, 1996. This included BellSouth's proposed settlement agreement and revised tariff.

On July 18, 1996, the new Authority entered an administrative order accepting recommencement [\*5] of cases pending at the sunset of the Commission. However, the Consumer Advocate did not recommence BellSouth's case. In August 1996, the Authority sent a letter to BellSouth informing BellSouth that its 1994 filing seeking approval of the directory assistance tariff was closed and "**will not** become effective." (emphasis in original).

Citing changes in the regulatory landscape, BellSouth sent a letter dated May 30, 1996 to the Consumer Advocate, informing the Consumer Advocate that its October 1994 tariff had been withdrawn.<sup>1</sup> The letter asserted that changes in the regulatory environment and the withdrawal of the tariff now made the settlement agreement between the

<sup>1</sup> As the Authority points out in its brief, it is unclear whether BellSouth notified the Commission of the withdrawal of the tariff. There is nothing in the record confirming the withdrawal of the tariff, and, in its complaint the Consumer Advocate alleges "that no hearing or motion withdrawing the tariff was ever held."

parties "moot." The letter stated that BellSouth had no immediate plans to make a similar filing, and that before it made such a filing, it would contact the Consumer Advocate "to discuss [the] matter in a manner consistent with the negotiation procedure which produced the draft settlement agreement."

[\*6] Meanwhile, in June 1995, BellSouth filed an application with the Commission for price regulation. Its application for price regulation was finally approved in December 1998.<sup>2</sup>

[\*8] . Subsequently, on June 1, 1999, BellSouth filed a proposed tariff to begin charging \$ 0.29 for each directory assistance call. On June 15, 1999, the Consumer Advocate filed a petition with the Authority seeking declaratory orders and injunctive relief. In the petition the Consumer Advocate sought a declaratory order as to the applicability of Tennessee

Code Annotated sections 65-5-208(a)<sup>3</sup> [\*9] and 65-5-209<sup>4</sup> to BellSouth's proposed tariff, as well as a declaratory order as to whether the Authority's order approving BellSouth's application for price regulation was applicable to the 1995 settlement agreement between the Consumer Advocate and BellSouth. The Consumer Advocate alleged that, under sections 65-5-208(a) and 65-5-209, directory assistance is a basic service for price regulation purposes, and, therefore, under the statutes, BellSouth was precluded from increasing its price for a period of four years after BellSouth became subject to price regulation. The petition also alleged [\*7] that BellSouth breached a contract with the Consumer Advocate by failing to contact the Consumer Advocate before BellSouth filed the 1999 proposed tariff, pursuant to the 1995 settlement agreement. The complaint requested that the charge for directory assistance be enjoined until

---

<sup>2</sup> The Commission had tentatively approved BellSouth's application to elect price regulation in January 1996 with the condition that BellSouth reduce its rates by fifty-six million. BellSouth appealed. In BellSouth Telecommunications, Inc. v. Greer, 972 S.W.2d 663 (Tenn. Ct. App. 1997) (perm. to appeal denied June 15, 1998), the Court of Appeals reversed the Commission and remanded the cause for approval of the application. Id. at 682. On remand the Authority approved the price regulation plan. The Authority's order was subsequently affirmed on appeal. See Consumer Advocate Div. v. Tennessee Regulatory Auth., 2000 Tenn. App. LEXIS 11, No. M1999-02151-COA-R12-CV, 2000 WL 13794 (Tenn. Ct. App. Jan. 10, 2000), *reh'g denied* Feb. 11, 2000.

<sup>3</sup> Section 65-5-208(a) provides:

**HN2** (a) Services of incumbent local exchange telephone companies who apply for price regulation under § 65-5-209 are classified as follows:

(1) "Basic local exchange telephone services" are telecommunications services which are comprised of an access line, dial tone, touch-tone and usage provided to the premises for the provision of two-way switched voice or data transmission over voice grade facilities of residential customers or business customers within a local calling area, Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on June 6, 1995, or other services required by state or federal statute. These services shall, at a minimum, be provided at the same level of quality as is being provided on June 6, 1995. Rates for these services shall include both recurring and nonrecurring charges.

(2) "Non-basic services" are telecommunications services which are not defined as basic local exchange telephone services and are not exempted under subsection (b). Rates for these services shall include both recurring and nonrecurring charges.

<sup>4</sup> Section 65-5-209 states in pertinent part:

**HN3** (f) Notwithstanding the annual adjustments permitted in subsection (e), the initial basic local exchange telephone services rates of an incumbent local exchange telephone company subject to price regulation shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation. . .

(h) Incumbent local exchange telephone companies subject to price regulation may set rates for non-basic services as the company deems appropriate, subject to the limitations set forth in subsections (e) and (g), the non-discrimination provisions of this title, any rules or orders issued by the authority pursuant to § 65-5-208(c) and upon prior notice to affected customers. . . .



resolution of the Consumer Advocate's breach of contract claim.

After receiving the Consumer Advocate's petition, the Authority suspended BellSouth's tariff for thirty days. The Authority then considered the Consumer Advocate's petition at its regularly scheduled July 27, 1999 conference. [\*10] After hearing oral arguments, the Authority deferred action on the tariff, expressing concern about charging elderly persons for directory assistance. Subsequently, BellSouth filed an amended proposed tariff. Thereafter, on July 29, 1999, the Authority dismissed the Consumer Advocate's petition and complaint, *sua sponte*, and approved BellSouth's amended tariff.

In its July 29 order, the Authority found that there was no basis for granting the declaratory relief sought by the Consumer Advocate. The Authority concluded that "the classification of BellSouth's tariff to implement a charge for directory assistance as a 'non-basic' service [was] consistent with [section] 65-5-208(a)(1)" as determined in the Authority's prior decision in *United Telephone-Southeast, Inc. Tariff No. 96-201, To Reflect Annual Price Cap Adjustment*, Docket No. 96-01423 (Sept. 4, 1997).<sup>5</sup> [\*12] In this prior decision, the Authority concluded that directory assistance was a non-basic service under section 65-5-208(a). In the July 29 order, the Authority also declined to convene a contested case, asserting that the Consumer Advocate had already litigated the same issues in two cases previously decided [\*11] by the Authority, and which were pending at that time before the Court of Appeals.<sup>6</sup> The Authority found that the proposed settlement agreement was not binding on either the Consumer Advocate or BellSouth because it was never approved by the Commission, it pre-dated the 1995 Tennessee Telecommunications Act, and because the Consumer Advocate did not recommence the action regarding the proposed agreement after the Commission ceased to exist. The Authority concluded, therefore, that there was no basis for issuing a declaratory order as to the applicability of the proposed agreement to the tariff. From this order, the Consumer Advocate now appeals.

Our review of this case is governed by *HN4 Tennessee Code Annotated section 4-5-322(h)*, which sets forth the standard

of review for the decision of an agency such as the Tennessee Regulatory Authority:

*HN5* The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Arbitrary or capricious or characterized by an abuse of discretion [\*13] or clearly unwarranted exercise of discretion; or
- (5) Unsupported by evidence which is both substantial and material in the light of the entire record.

In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.

*Tenn. Code Ann. § 4-5-322(h)(1998).*

On appeal, the Consumer Advocate argues that the Authority did not properly interpret Tennessee Code Annotated sections 65-5-208(a) and 65-5-209 as they relate to charges for directory assistance under an incumbent local exchange telephone company price regulation plan. The Consumer Advocate contends that, under the statutes, BellSouth was precluded from increasing its rate for directory assistance for four years after the company became subject to price

<sup>5</sup> This case arose out of a tariff filed by United Telephone-Southeast, Inc. seeking to increase in rates for non-basic services. At issue was the methodology used by United Telephone-Southeast to determine the amount of the proposed increase. The Authority found that the method used by United Telephone-Southeast complied with the section 65-5-209(e) and approved the tariff. The Consumer Advocate appealed, and in *Consumer Advocate Division v. Tennessee Regulatory Authority*, 2000 Tenn. App. LEXIS 687, No. M1999-01699-COA-R12-CV, 2000 WL 1514324 (Tenn. Ct. App. Oct. 12, 2000) (hereinafter *United Telephone*), this Court affirmed.

<sup>6</sup> In both cases the Authority's decision was affirmed. See *Consumer Advocate Div.*, 2000 WL 13794 at \*3; *United Telephone*, 2000 WL 1514324 at \*5 & n.3.

regulation,<sup>7</sup> because directory assistance is a basic service as defined in section 65-5-208(a), and the ordinary and natural meaning of the terms "usage," "provision," and "recurring and nonrecurring charges" include [\*14] directory assistance.

In the order which is the subject of this appeal, the Authority did not reach the merits of the issues raised by the Consumer Advocate. Instead, the Authority denied the Consumer Advocate's petition seeking declaratory relief and declined to convene a contested case because it determined [\*15] that the issues raised by the Consumer Advocate had been determined in previous cases. The order also dismissed the Consumer Advocate's complaint, *sua sponte*, for failure to state a claim. The Consumer Advocate does not argue, under Tennessee Code Annotated § 4-5-322(h) that the Authority's decision was in violation of constitutional or statutory provisions, in excess of its statutory authority, made by unlawful procedure, or that it is unsupported by substantial material evidence. Therefore we surmise that, by our statutory standard of review, the issue on appeal is whether the Authority's decision to decline to grant declaratory relief, decline to convene a contested case, and to dismiss the complaint for failure to state a claim was an abuse of the Authority's discretion.

The Consumer Advocate argues first that the Authority's order should be reversed because the Agency failed to provide a sufficient statement of the underlying facts to support its findings, as required by Tennessee Code Annotated § 4-5-314(c). The Consumer Advocate argues that the Authority failed to detail facts regarding why directory assistance is [\*16] not a basic service as defined in section 65-5-208(a); what the terms usage, provision, or charges mean as they relate to local basic exchange service; whether the United Telephone-Southeast tariff in the Authority's prior decision was sufficiently similar to the BellSouth tariff so that the Authority's decision in that matter would be applicable in this case; the relevant issues and part of the decision in the two cases named by the Authority in its order related to this case; and why the 1995 agreement was not binding.

**HN8** An agency, when issuing a final order, must provide a concise and explicit statement of the underlying facts supporting the agency's findings. Tenn. Code Ann. § 4-5-314(c). Findings of fact made by the agency should be based exclusively on the evidence of the record and on matters noted in the proceeding. Tenn. Code Ann. § 4-5-314(d). Exactness in form and procedure is not required; rather, the findings based on the evidence need only be specific and definite enough so that a reviewing court may determine the pertinent [\*17] questions of law and whether the agency's general findings should stand, particularly when the findings are material facts at issue. See Levy v. State of Tennessee Bd. Of Exam'rs for Speech Pathology and Audiology, 553 S.W.2d 909, 911-12 (Tenn. 1977) (quoting State Bd. of Med. Exam'rs v. Gandy, 248 S.C. 300, 149 S.E.2d 644, 646 (S.C. 1966)). **HN9** "The sufficiency of an agency's findings of fact must be measured against the nature of the controversy and the intensity of the factual dispute." CF Industries v. Tennessee Pub. Serv. Comm'n, 599 S.W.2d 536, 541 (Tenn. 1980).

**HN10** Therefore, in order to comply with the requirements of section 4-5-314, an agency need only set forth facts sufficient to support its legal conclusions and to afford the Court an effective review of its findings. In denying the Consumer Advocate's petition, the Authority asserted that there was no basis for issuing the requested declaratory order as to the applicability [\*18] of sections 65-5-208 and 65-5-209 or for convening a contested case because the issues raised by the Consumer Advocate had been addressed by the Authority in prior decisions. The Authority stated that it had previously ruled in United Telephone-Southeast that directory assistance was classified as a non-basic service, rejecting the same argument the Consumer Advocate now advances in this proceeding, namely, that directory assistance is a basic service under the statutory term "usage." The Authority then dismissed the Consumer Advocate's claim for breach of contract, finding that it failed to state a claim, based on the following facts: that the proposed agreement had required, but never received, approval of the Commission; the Consumer Advocate's failure to preserve the docket which included the agreement; and the fact that the 1995 Tennessee Telecommunications Act expressly

<sup>7</sup> **HN6** Section 65-5-209(f) precludes increasing rates on a basic service for four years after a local exchange telephone company becomes subject to price regulation:

**HN7** (f) Notwithstanding the annual adjustments permitted in subsection (e), the initial basic local exchange telephone services rates of an incumbent local exchange telephone company subject to price regulation shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation. . .

established what constituted basic and non-basic services and superseded any pre-existing agreement or tariff which classified services to the contrary. The Authority noted that since the agreement was not binding, it had no effect on BellSouth's proposed tariff. Under these circumstances, the Authority's [\*19] decision was supported by a sufficient statement of the underlying facts that served as the basis for its decision.

We next address whether the Authority abused its discretion by refusing to issue the requested declaratory relief and by refusing to convene a contested case. The decision of whether to issue a declaratory order is within an agency's discretion. *Tenn. Code Ann. § 4-5-223(a)(2)* (1998). Upon an agency's refusal to issue a requested declaratory order, an affected person may file a lawsuit in the Chancery Court of Davidson County. *Tenn. Code Ann. § 4-5-225* (1998).

As noted above, the Authority based its decision not to issue a declaratory order as to the applicability of sections 65-5-208 and 6-5-209 on the fact that the Consumer Advocate sought a ruling on issues that had been addressed by the Authority in a previously contested case, *United Telephone-Southeast*. Under these circumstances, we cannot conclude that the Authority abused its discretion in refusing to issue the requested declaratory relief.

The Consumer Advocate also sought a declaratory order as to the applicability of the 1995 proposed settlement [\*20] agreement between the parties. The Authority's refusal to grant declaratory relief as to the applicability of the proposed settlement stems largely from its determination that the proposed agreement was not binding on either party. The Authority found that the proposed agreement was contingent upon its approval by the Commission, approval which was never granted. The proposed agreement expressly contemplated acceptance by the Commission, and acknowledged that the Commission had the authority to "approve or disprove tariffs, rates, and related issues." Moreover, *HN11* the classification of services in the 1995 Tennessee Telecommunications Act supersedes classifications in any prior agreements or tariffs. In addition, the proposed agreement did not survive the dismissal of the

1994 tariff docket. See *Sandstrom v. Chemlawn Corp.*, 904 F.2d 83 (1st Cir. 1990); *Frank Rudy Heirs Assoc. v. Sholodge*, 967 S.W.2d 810 (Tenn. Ct. App. 1997). The Consumer Advocate argues that the May 30th letter shows that BellSouth contemplated the sunset of the Commission and [\*21] indicates that BellSouth would negotiate regarding future filings. Regardless, the proposed agreement was expressly contingent on the approval of the Commission. Consequently, we find no error in the Authority's dismissal of the Consumer Advocate's breach of contract claim for failure to state a claim, and we find no abuse of discretion in its decision not to issue declaratory relief as to the applicability of the proposed agreement on the 1999 tariff.

Finally, the Consumer Advocate argues that the Authority erred in refusing to convene a contested case. *HN12* The Authority has the discretion to decide whether to convene a contested case to consider complaints filed with the agency. See *Consumer Advocate Div. v. Greer*, 967 S.W.2d 759, 763-64 (Tenn. 1998). The Authority's decision in this case was based on its finding that the issues presented by the Consumer Advocate in its petition had been previously decided by the Authority, and that the Consumer Advocate's breach of claim contract failed to state a claim because the proposed agreement was based on a contingency that [\*22] never occurred. Under these circumstances, we find no abuse of discretion in the Authority's decision.

In sum, we affirm the Authority's decision to refuse to issue the requested declaratory relief, the dismissal of the breach of contract claim for failure to state a claim, and the decision to decline to convene a contested case. All other issues raised in this appeal are pretermitted.

The decision of the Tennessee Regulatory Authority is affirmed. Costs are taxed to the appellant, the Consumer Advocate Division and its surety, for which execution may issue if necessary.

HOLLY K. LILLARD, JUDGE

# **EXHIBIT A**



Tennessee American Water  
109 Wiehl Street, PO Box 6338  
Chattanooga, TN 37403  
Amwater.com

July 18, 2014

Wade A. Hinton, City Attorney  
City of Chattanooga  
100 E. 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402

First Quarter 2014 Surcharge Report

Dear Mr. Hinton,

As a follow-up to my letter dated November 25, 2013, please find attached a quarterly report that provides the information regarding the three capital riders and the operational expense tracker program for the first quarter of 2014.

As you may recall, Tennessee American Water was authorized by the Tennessee Regulatory Authority on April 14, 2014 to implement four surcharges. Three surcharges are capital riders for investment in infrastructure for three specific categories. These are 1) a Qualified Infrastructure Improvement Program Rider ("QIIP") for capital expenditures made to replace infrastructure that has reached the end of its service life; 2) an Economic Development Investment Rider ("EDI") for capital expenditures and some operational expenses related to Economic Development; and 3) a Safety and Environmental Compliance Rider ("SEC") for capital expenditures and some operations expenses related to Safety and Environmental Compliance. Tennessee American Water was also authorized to implement a Production Cost and Other Pass-Throughs ("PCOP") Rider that essentially true-up the actual expenses to the amount authorized.

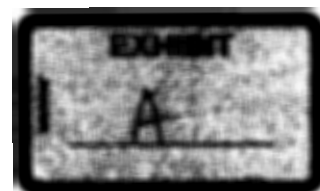
Tennessee American Water implemented the surcharges on April 15, 2014. The three capital riders were authorized at a total increase of 1.08% while the Production Cost and Other Pass-Throughs Rider was authorized at a decrease of 1.15% for the year 2014.

Because this is the first report, Tennessee American has attempted to include some explanation of the information that is provided.

The first three pages of the report provide a summary of the capital investments under each of the three capital riders and the total of all of the capital riders.

**Page 1** specifically is a comparison of the proposed revenue requirement to support each of the three capital riders as presented to the Tennessee Regulatory Authority to the actual revenue requirement. Please note that because the capital riders were not approved in the first quarter, no surcharge revenues were actually collected. Therefore, although the actual capital additions to Tennessee American Water rate base were under the proposed amount, the total revenues collected were under the proposed amount as well. This is reflected on Line 22 of that page.

Further, please note that Tennessee American proposed that the revenue requirement for the capital riders be calculated on a forecasted period of 2014, and therefore the rate base is



calculated on a 12-month average of the additional rate base amount. As such, Page 1 reflects the average of the three months in order to calculate the revenue requirement. At the end of the second quarter, Tennessee American will calculate the revenue requirement based on a six month period, and so on.

**Page 2** is a comparison of the total net investment compared to the proposed net investment for the same three month period for each of the capital riders, and the total of all capital riders.

**Page 3** of the report is comparison of the total capital expenditures on each of the capital budget lines that would be included in the capital riders. These numbers vary from Page 2 because it includes all capital expenditures, while Page 2 reflects only the amount of expenditures that have been placed into service for use. The difference reflects projects that were carried over from 2013 and therefore are not part of the capital riders, as well as construction expenditures that may not have been placed in service yet.

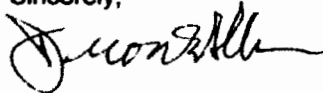
The final page of the report is a snapshot of the first quarter expenses that are included in the PCOP rider, compared to the total amount that was authorized in the previous rate proceeding in 2012. That previous authorized amount is the basis of comparison for this rider each year.

The information included on these schedules will be provided to you on a going forward quarterly basis.

We appreciate the opportunity to review this information with the City of Chattanooga, and are happy to discuss any questions or concerns you may have.

Please feel free to contact either myself, Linda Bridwell (Tennessee American Manager of Rates and Regulation, 859-268-6373 or [Linda.Bridwell@amwater.com](mailto:Linda.Bridwell@amwater.com)), or Gary VerDouw (American Water Central Division Director of Rates, 314-996-2398 or [Gary.VerDouw@amwater.com](mailto:Gary.VerDouw@amwater.com)) should you have any follow up questions.

Sincerely,



Deron Allen, President  
Tennessee-American Water Company

Tennessee American Water Company  
 Qualified Infrastructure Improvement Program Rider (QIIP)  
 Economic Development Investment Rider (EDI)  
 Safety and Environmental Compliance Rider (SEC)  
 Calculation of Revenue Requirement based on First Quarter Average - Actual vs. Filed  
 As of 03/31/2014

Line No.	Description	Qualified Infrastructure Investment Program Rider QIIP Average YTD 03/31/2014			Economic Development Investment Rider EDI Average YTD 03/31/2014			Safety and Environmental Compliance Rider SEC Average YTD 03/31/2014			Total Average YTD 03/31/2014		
		Actual	Budget	Variance	Actual	Budget	Variance	Actual	Budget	Variance	Actual	Budget	Variance
1	Average of Additions Subject to Rider:	\$320,508	\$419,528	(\$99,020)	\$126,031	\$129,873	(\$3,843)	\$5,349	\$100,833	(\$95,485)	\$451,887	\$650,235	(\$198,348)
2	Plus: Cost of Removal less Salvage	64,226	21,975	42,250	0	0	0	0	0	0	64,226	21,975	42,250
3	Less: Contributions in Aid to Construction (CIAC)	0	0	0	(900)	10,972	(11,872)	0	0	0	(900)	10,972	(11,872)
4	Less: Deferred Income Taxes	25	(463)	488	(32)	(151)	120	0	(367)	367	(7)	(981)	974
5	Less: Accumulated Depreciation	345	2,287	(1,942)	235	708	(472)	1	1,976	(1,975)	581	4,971	(4,389)
6	Net Investment Supplied Additions:	\$384,364	\$439,680	(\$55,316)	\$126,727	\$118,346	\$8,382	\$5,347	\$99,224	(\$93,877)	\$516,438	\$657,249	(\$140,811)
7													
8	Pre-Tax Authorized Rate of Return:	9.45%	9.45%		9.45%	9.45%		9.45%	9.45%		9.45%	9.45%	
9	Pre-Tax Return on Additions:	\$36,339	\$41,569	(\$5,230)	\$11,981	\$11,189	\$792	\$506	\$9,381	(\$8,875)	\$48,826	\$62,139	(\$13,313)
10													
11	Depreciation Expense on Additions:	776	4,725	(3,949)	575	1,296	(720)	4	3,313	(3,309)	1,356	9,334	(7,978)
12													
13	Property and Franchise Taxes Associated:	4,314	5,422	(1,108)	1,716	1,607	109	72	1,363	(1,291)	6,102	8,392	(2,291)
14													
15	Revenues:	\$41,429	\$51,716	(10,287)	\$14,272	\$14,092	181	\$582	\$14,057	(13,475)	\$56,283	\$79,865	(23,581)
16													
17	Revenue Taxes	3.19%	3.19%		3.19%	3.19%		3.19%	3.19%		3.19%	3.19%	
18	Total Revenues with Revenue Taxes	\$42,795	\$53,421	(10,626)	\$14,743	\$14,556	187	\$601	\$14,520	(13,919)	\$58,139	\$82,497	(24,358)
19													
20													
21	Actual Revenues Billed (effective 4/15/14)	0			0			0			0		
22	Over/(Under) Revenue Billings	(\$42,795)			(\$14,743)			(\$601)			(\$58,139)		
23													

Explanation:

Tennessee American Water has been authorized 3 capital riders based on a 13-month average of in-service capital projects in the forecasted period. The revenue requirement for each rider is calculated similar to how total ratebase is calculated by the Tennessee Regulatory Authority in a rate case. This table shows a comparison of the actual average over the reporting period to the proposed amount of each rider, and the total of the three. Note that while the actual average additions in the First Quarter were below the proposed average amounts, the revenues collected were also under the proposed amount because the riders program had not been authorized in the first quarter of 2014. This is reflected on Line 22 above.

Tennessee American Water Company  
Qualified Infrastructure Improvement Program Rider(QIIP)  
Economic Development Investment Rider (EDI)  
Safety and Environmental Compliance Rider (SEC)  
Total Net Investment - Actual vs. Filed  
As of 03/31/2014

			YTD 03/31/14			
Line Number	Rate Mechanism	Account Descrip	Rates	Actual	Budget	Variance
1		<u>Qualified Infrastructure Improvement Program "QIIP"</u>				
2		Addition		\$401,361	\$765,318	(\$363,957)
3		Retirement		(2,666)	(29,598)	26,932
4		CIAC		0	0	0
5		Net Investment		398,695	735,720	(337,025)
6		Cost of Removal		99,841	35,334	64,507
7		Accum Deferred Income Taxes		(61)	983	(1,044)
8		Accum Depreciation		(776)	(4,725)	3,949
9		Earnings Basis Net Investment*		\$500,366	\$796,910	(\$296,545)
10						
11		<u>Economic Development Investment "EDI"</u>				
12		Addition		\$172,562	\$207,420	(\$34,858)
13		Retirement		0	0	0
14		CIAC		1,350	(18,038)	19,388
15		Net Investment		173,912	189,382	(15,470)
16		Cost of Removal		0	0	0
17		Accum Deferred Income Taxes		90	275	(185)
18		Accum Depreciation		(575)	(1,296)	720
19		Earnings Basis Net Investment*		\$173,427	\$188,361	(\$14,934)
20						
21		<u>Safety and Environmental Compliance "SEC"</u>				
22		Addition		\$13,364	\$137,500	(\$124,136)
23		Retirement		0	0	0
24		CIAC		0	0	0
25		Net Investment		13,364	137,500	(124,136)
26		Cost of Removal		0	0	0
27		Accum Deferred Income Taxes		(0)	560	(560)
28		Accum Depreciation		(4)	(3,313)	3,309
29		Earnings Basis Net Investment*		\$13,359	\$134,747	(\$121,388)
30						
31						
32		<u>Total</u>				
33		Addition		\$587,287	\$1,110,238	(\$522,951)
34		Retirement		(2,666)	(29,598)	26,932
35		CIAC		1,350	(18,038)	19,388
36		Net Investment		585,971	1,062,602	(476,631)
37		Cost of Removal		99,841	35,334	64,507
38		Accum Deferred Income Taxes		30	1,818	(1,789)
39		Accum Depreciation		(1,356)	(9,334)	7,978
40		Earnings Basis Net Investment*		\$687,152	\$1,120,019	(\$432,867)
41						
42		*excludes retirements				

Explanation:

This table shows a comparison of the actual total to budgeted in-service capital additions to rate base, net of retirements, Contributions in the Aid of Construction, Cost of Removal, Deferred Income Taxes and Accumulated Depreciation for the three authorized capital riders, and the total for the First Quarter.



Tennessee American Water Company  
Qualified Infrastructure Improvement Program (QIIP)  
Economic Development Investment Rider (EDI)  
Safety and Environmental Compliance Rider (SEC)  
Strategic Capital Expenditures Plan - Actual vs. Filed  
As of 03/31/2014

Line Number	Rate Mechanism	Business Unit No.	Project Title	Type	YTD 03/31/14		
					Actual	Budget	Variance
1	QIIP	B	Mains - Replaced / Restored	ADDITION	\$242,144	\$145,000	\$97,144
2		C	Mains - Unscheduled	ADDITION	274,746	237,000	37,746
3		D	Mains - Relocated	ADDITION	66,154	10,000	56,154
4		F	Hydrants, Valves, and Manholes - Replaced	ADDITION	33,144	50,000	(16,856)
5		H	Services and Laterals - Replaced	ADDITION	42,030	54,600	(12,570)
6		J	Meters - Replaced	ADDITION	15,540	150,385	(134,845)
7		R	Capitalized Tank Rehabilitation/Painting	ADDITION	715,476	180,000	535,476
8		2605	Whitwell Acquisition Capital Investment	ADDITION	0	100,000	(100,000)
9	EDI	A	Mains - New	ADDITION	804	0	804
10		E	Hydrants, Valves, and Manholes - New	ADDITION	9,182	4,000	5,182
11		G	Services and Laterals - New	ADDITION	80,642	75,420	5,222
12		I	Meters - New	ADDITION	71,941	128,000	(56,059)
13		O	Vehicles	ADDITION	42,436	0	42,436
14	SEC	I26-020034	3000'-24" Tennessee River Crossing (\$0.5)	ADDITION	0	0	0
15		L	SCADA Equipment and Systems	ADDITION	217,545	30,000	187,545
16		M	Security Equipment and Systems	ADDITION	564	32,500	(31,936)
17		Q	Process Plant Facilities and Equipment	ADDITION	329,404	150,000	179,404
18		I26-020024	Install New Hill City Pumps (\$0.7)	ADDITION	0	0	0
19		I26-020031	Citico Plant Improvements Phase 1B (\$8.6)	ADDITION	0	0	0
20		I26-020032	Wastewater Treatm't & Handling Impr (\$4.5)	ADDITION	568,986	80,000	488,986
21							
22			<b>Total</b>		<b>\$2,710,738</b>	<b>\$1,426,905</b>	<b>\$1,283,833</b>
23							
24							
25	QIIP		Qualified Infrastructure Improvement Program		\$1,389,234	\$926,985	\$462,249
26	EDI		Economic Development Investment		205,005	207,420	(2,415)
27	SEC		Safety and Environmental Compliance		1,116,499	292,500	823,999
28							
29					<b>\$2,710,738</b>	<b>\$1,426,905</b>	<b>\$1,283,833</b>
30							
31							

Explanation:

This table reflects a comparison of the total expenditures in the first quarter in each capital expense line that would be eligible for inclusion in the riders. However, not all capital expenditures in each line are included as spending may have occurred on projects not yet in service, or carryover projects from previous years that have been removed from the actual additions on page 2.

**Tennessee American Water Company**  
**Docket No. 13-00130**  
**Production Costs and Other Pass-Throughs ("PCOP") Quarterly Reconciliation**  
**For the 1st Quarter of 2014**

Line Number	Description	Actual Expenses 1st Qtr 2014	Yearly Amount Approved in Docket No. 13-00130	Yearly Approved Amount Less 1st Quarter	1st Qtr Percent of Yearly Total
1	Purchased Water	\$ 9,427	\$ 47,102	\$ 37,675	20.01%
2	Purchased Power	650,495	2,223,479	1,572,984	29.26%
3	Chemicals	201,390	728,500	527,110	27.64%
4	Waste Disposal	77,366	237,656	160,290	32.55%
5	TRA Inspection Fee	38,557	138,344	99,787	27.87%
6					
7	<b>PCOP Total Expenses</b>	<u>\$ 977,235</u>	<u>\$ 3,375,082</u>	<u>\$ 2,397,847</u>	<u>28.95%</u>
8					
9					
10					
11		<u>Actual for</u>	<u>Yearly Amount</u>	<u>Yearly Approved</u>	<u>1st Qtr Percent</u>
12		<u>1st Qtr 2014</u>	<u>Approved</u>	<u>Less 1st Qtr Sales</u>	<u>of Total Sales</u>
13					
14	Water Sales (100 Gallons)	22,400,126	100,589,065	78,188,940	22.27%
15					
16	Total PCOP Expenses	\$ 977,235	\$ 3,375,082	\$ 2,397,847	28.95%
17					
18	Cost per 100 Gallons	<u>\$ 0.04363</u>	<u>\$ 0.03355</u>		

**Explanation:**

Tennessee American Water was also authorized by the Tennessee Regulatory Authority to implement a tracker mechanism that compares historical expense levels to the amounts authorized in the previous rate proceeding. This table compares the amount of actual expenses in the first quarter, by category, to the overall amount authorized in the last rate proceeding.

## **EXHIBIT B**



Tennessee American Water  
109 Wiehl Street, PO Box 6338  
Chattanooga, TN 37403  
Amwater.com

September 8, 2014

Wade A. Hinton, City Attorney  
100 E. 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402

Second Quarter 2014 Surcharge Report

Dear Mr. Hinton,

As a follow-up to Deron Allen's letter dated November 25, 2013, please find attached a quarterly report that provides the information regarding the three capital riders and the operational expense tracker program for the second quarter of 2014.

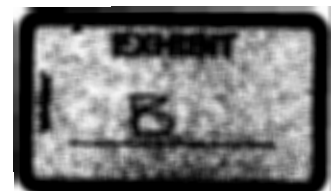
As you may recall, Tennessee American Water was authorized by the Tennessee Regulatory Authority on April 14, 2014 to implement four surcharges. Three surcharges are capital riders for investment in infrastructure for three specific categories. These are 1) a Qualified Infrastructure Improvement Program Rider ("QIIP") for capital expenditures made to replace infrastructure that has reached the end of its service life; 2) an Economic Development Investment Rider ("EDI") for capital expenditures and some operational expenses related to Economic Development; and 3) a Safety and Environmental Compliance Rider ("SEC") for capital expenditures and some operations expenses related to Safety and Environmental Compliance. Tennessee American Water was also authorized to implement a Production Cost and Other Pass-Throughs ("PCOP") Rider that essentially true-up the actual expenses to the amount authorized.

Tennessee American Water implemented the surcharges on April 15, 2014. The three capital riders were authorized at a total increase of 1.08% while the Production Cost and Other Pass-Throughs Rider was authorized at a decrease of 1.15% for the year 2014.

The first three pages of the report provide a summary of the capital investments under each of the three capital riders and the total of all of the capital riders.

**Page 1** specifically is a comparison of the proposed revenue requirement to support each of the three capital riders as presented to the Tennessee Regulatory Authority to the actual revenue requirement. Please note that because the capital riders were not approved in the first quarter, no surcharge revenues were actually collected. Therefore, although the actual capital additions to Tennessee American Water rate base were under the proposed amount, the total revenues collected were under the proposed amount as well. This is reflected on Line 23 of that page.

Further, please note that Tennessee American proposed that the revenue requirement for the capital riders be calculated on a forecasted period of 2014, and therefore the rate base is calculated on a 12-month average of the additional rate base amount. As such, Page 1 reflects the average of the six months in order to calculate the revenue requirement. At the end of the third quarter, Tennessee American will calculate the revenue requirement based on a nine month period, and so on.



**Page 2** is a comparison of the total net investment compared to the proposed net investment for the same three month period for each of the capital riders, and the total of all capital riders.

**Page 3** of the report is comparison of the total capital expenditures on each of the capital budget lines that would be included in the capital riders. These numbers vary from Page 2 because it includes all capital expenditures, while Page 2 reflects only the amount of expenditures that have been placed into service for use. The difference reflects projects that were carried over from 2013 and therefore are not part of the capital riders, as well as construction expenditures that may not have been placed in service yet. Similar to the first quarter, capital expenditures are somewhat over budget, reflected on page 3. However, these projects are not fully in-service as budgeted as reflected on page 2.

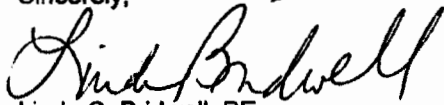
The final page of the report is a snapshot of the second quarter expenses that are included in the PCOP rider, compared to the total amount that was authorized in the previous rate proceeding in 2012. That previous authorized amount is the basis of comparison for this rider each year.

The information included on these schedules will be provided to you on a going forward quarterly basis.

We appreciate the opportunity to review this information with the City of Chattanooga, and are happy to discuss any questions or concerns you may have.

We are happy to go over the information in person if it would be of assistance. Please feel free to contact either me ([Linda.Bridwell@amwater.com](mailto:Linda.Bridwell@amwater.com), 859-268-6373), or Gary VerDouw (American Water Central Division Director of Rates, 314-996-2398 or [Gary.VerDouw@amwater.com](mailto:Gary.VerDouw@amwater.com)) should you have any follow up questions.

Sincerely,



Linda C. Bridwell, PE  
Manager, Rates and Regulation, TN & KY

C: Deron E. Allen, TAW President  
Kevin N. Rogers

Tennessee American Water Company  
 Qualified Infrastructure Improvement Program Rider (QIIP)  
 Economic Development Investment Rider (EDI)  
 Safety and Environmental Compliance Rider (SEC)  
 Calculation of Revenue Requirement based on First Half Average - Actual vs. Filed  
 As of 06/30/2014

Line Number	Description	Qualified Infrastructure Investment Program Rider QIIP Average YTD 06/30/2014			Economic Development Investment Rider EDI Average YTD 06/30/2014			Safety and Environmental Compliance Rider SEC Average YTD 06/30/2014			Total Average YTD 06/30/2014		
		Actual	Budget	Variance	Actual	Budget	Variance	Actual	Budget	Variance	Actual	Budget	Variance
1	Additions Subject to Rider:	\$668,126	\$1,026,669	(\$358,543)	\$256,844	\$280,116	(\$23,273)	\$190,269	\$176,667	\$13,603	\$1,115,239	\$1,483,453	(\$368,214)
2	Plus: Cost of Removal less Salvage	82,196	45,785	36,411	0	0	0	96	0	96	82,293	45,785	36,507
3	Less: Contributions In Aid to Construction (CIAC)	0	0	0	(1,350)	\$2,008	(53,358)	0	0	0	(1,350)	52,008	(53,358)
4	Less: Deferred Income Taxes	117	(1,659)	1,776	(158)	(446)	288	73	(635)	707	32	(2,739)	2,771
5	Less: Accumulated Depreciation	1,411	8,499	(7,089)	1,052	2,200	(1,148)	310	4,922	(4,612)	2,772	15,621	(12,849)
6	Net Investment Supplied Additions:	\$748,795	\$1,065,614	(\$316,820)	\$257,300	\$226,355	\$30,945	\$189,983	\$172,379	\$17,603	\$1,196,077	\$1,464,348	(\$268,271)
7													
8	Pre-Tax Authorized Rate of Return:	9.45%	9.45%		9.45%	9.45%		9.45%	9.45%		9.45%	9.45%	
9	Pre-Tax Return on Additions:	\$70,794	\$100,747	(\$29,953)	\$24,326	\$21,400	\$2,926	\$17,962	\$16,297	\$1,664	\$113,082	\$138,445	(\$25,363)
10													
11	Depreciation Expense on Additions:	3,657	20,703	(17,046)	2,697	5,273	(2,576)	1,215	10,188	(8,973)	7,569	36,165	(28,596)
12													
13	Property and Franchise Taxes Associated:	8,856	13,359	(4,503)	3,487	3,450	37	2,525	2,388	137	14,869	19,197	(4,328)
14													
15	Revenues:	\$83,307	\$134,810	(\$51,503)	\$30,510	\$30,123	387	\$21,702	\$28,874	(7,171)	\$135,520	\$193,807	(58,287)
16													
17	Revenue Taxes	3.19%	3.19%		3.19%	3.19%		3.19%	3.19%		3.19%	3.19%	
18	Total Revenues with Revenue Taxes	\$86,053	\$139,253	(\$53,200)	\$31,516	\$31,116	399	\$22,418	\$29,826	(7,408)	\$139,987	\$200,195	(60,209)
19													
20													
21	Actual Revenues Billed (effective 4/15/14)	57,748			13,158			8,041			78,946		
22													
23	(Over)/Under Revenue Billings	\$28,305			\$18,358			\$14,377			\$61,040		
24	Budget to Actual Adjustment	(53,200)			399			(7,408)			(60,209)		
25	Earnings Test Adjustment										0		
26	Interest	(202)			152			57			7		
27													
28	Reconciliation Amount	(\$24,895)			\$18,757			\$6,969			\$832		
29													
30	Authorized Revenues (9/12th)	\$35,305,293			\$35,305,293			\$35,305,293			\$35,305,293		
31													
32	Current Reconciliation Factor Percentage	-0.07%			0.05%			0.02%			0.00%		
33													

**Explanation:**

Tennessee American Water has been authorized 3 capital riders based on a 13-month average of in-service capital projects in the forecasted period. The revenue requirement for each rider is calculated similar to how total ratebase is calculated by the Tennessee Regulatory Authority in a rate case. This table shows a comparison of the actual average over the reporting period to the proposed amount of each rider, and the total of the three. Note that while the actual average additions in the First Quarter were below the proposed average amounts, the revenues collected were also under the proposed amount because the riders program had not been authorized in the first quarter of 2014. This is reflected on Line 23 above.

Tennessee American Water Company  
Qualified Infrastructure Improvement Program (QIIP)  
Economic Development Investment Rider (EDI)  
Safety and Environmental Compliance Rider (SEC)  
Net Investment - Actual vs. Filed  
As of 06/30/2014

Line Number	Rate Mechanism	Account Descrip	Rates	YTD 06/30/14		
				Actual	Budget	Variance
1	QIIP					
2		Addition		\$1,249,612	\$2,125,607	(\$875,995)
3		Retirement		(24,789)	(74,070)	49,281
4		CIAC		0	0	0
5		Net Investment		1,224,823	2,051,536	(826,714)
6		Cost of Removal		100,819	88,425	12,394
7		Accum Deferred Income Taxes		(335)	3,845	(4,180)
8		Accum Depreciation		(3,657)	(20,703)	17,046
9		Earnings Basis Net Investment*		\$1,346,438	\$2,197,173	(\$850,735)
10						
11	EDI					
12		Addition		\$509,001	\$565,429	(\$56,427)
13		Retirement		0	0	0
14		CIAC		1,350	(52,008)	53,358
15		Net Investment		510,351	513,421	(3,069)
16		Cost of Removal		0	0	0
17		Accum Deferred Income Taxes		380	1,023	(644)
18		Accum Depreciation		(2,697)	(5,273)	2,576
19		Earnings Basis Net Investment*		\$508,034	\$509,171	(\$1,137)
20						
21	SEC					
22		Addition		\$426,225	\$305,000	\$121,225
23		Retirement		(11,450)	0	(11,450)
24		CIAC		0	0	0
25		Net Investment		414,774	305,000	109,774
26		Cost of Removal		389	0	389
27		Accum Deferred Income Taxes		(289)	967	(1,256)
28		Accum Depreciation		(1,215)	(10,188)	8,973
29		Earnings Basis Net Investment*		\$425,109	\$295,779	\$129,331
30						
31						
32	Total					
33		Addition		\$2,184,838	\$2,996,035	(\$811,198)
34		Retirement		(36,239)	(74,070)	37,831
35		CIAC		1,350	(52,008)	53,358
36		Net Investment		2,149,948	2,869,957	(720,009)
37		Cost of Removal		101,208	88,425	12,783
38		Accum Deferred Income Taxes		(244)	5,836	(6,080)
39		Accum Depreciation		(7,569)	(36,165)	28,596
40		Earnings Basis Net Investment*		\$2,279,582	\$3,002,123	(\$722,541)
41						
42		*excludes retirements				

Explanation:

This table shows a comparison of the actual total to budgeted in-service capital additions to rate base, net of retirements, Contributions in the Aid of Construction, Cost of Removal, Deferred Income Taxes and Accumulated Depreciation for the three authorized capital riders, and the total for the Second Quarter.

Tennessee American Water Company  
Qualified Infrastructure Improvement Program (QIIP)  
Economic Development Investment Rider (EDI)  
Safety and Environmental Compliance Rider (SEC)  
SCEP Spend - Actual vs. Filed  
As of 06/30/2014

Line Number	Rate Mechanism	Business Unit No.	Project Title	Type	YTD 06/30/14		
					Actual	Budget	Variance
1	QIIP	B	Mains - Replaced / Restored	ADDITION	\$440,492	\$620,000	(\$179,508)
2		C	Mains - Unscheduled	ADDITION	471,513	403,000	68,513
3		D	Mains - Relocated	ADDITION	113,267	140,000	(26,733)
4		F	Hydrants, Valves, and Manholes - Replaced	ADDITION	113,160	200,000	(86,840)
5		H	Services and Laterals - Replaced	ADDITION	179,217	109,400	69,817
6		J	Meters - Replaced	ADDITION	106,558	331,540	(224,982)
7		R	Capitalized Tank Rehabilitation/Painting	ADDITION	1,870,946	275,000	1,595,946
8		2605	Whitwell Acquisition Capital Investment	ADDITION	0	360,000	(360,000)
9	EDI	A	Mains - New	ADDITION	66,431	43,000	23,431
10		E	Hydrants, Valves, and Manholes - New	ADDITION	50,850	19,797	31,053
11		G	Services and Laterals - New	ADDITION	301,260	217,450	83,810
12		I	Meters - New	ADDITION	159,248	296,015	(136,767)
13		O	Vehicles	ADDITION	107,658	30,000	77,658
14	SEC	I26-020034	3000'-24" Tennessee River Crossing (\$0.5)	ADDITION	0	0	0
15		L	SCADA Equipment and Systems	ADDITION	432,926	90,000	342,926
16		M	Security Equipment and Systems	ADDITION	4,721	65,000	(60,279)
17		Q	Process Plant Facilities and Equipment	ADDITION	606,781	375,000	231,781
18		I26-020024	Install New Hill City Pumps (\$0.7)	ADDITION	0	0	0
19		I26-020028	Citico Plant Improvements Phase 1B (\$8.6)	ADDITION	204,498	50,000	154,498
20		I26-020032	Wastewater Treatm't & Handling Impr (\$4.5)	ADDITION	931,407	175,000	756,407
21							
22			<b>Total</b>		<b>\$6,160,933</b>	<b>\$3,800,202</b>	<b>\$2,360,731</b>
23							
24							
25	QIIP		Qualified Infrastructure Improvement Program		\$3,295,153	\$2,438,940	\$856,213
26	EDI		Economic Development Investment		685,448	606,262	79,186
27	SEC		Safety and Environmental Compliance		2,180,333	755,000	1,425,333
28							
29					<b>\$6,160,933</b>	<b>\$3,800,202</b>	<b>\$2,360,731</b>
30							
31							

**Explanation:**

This table reflects a comparison of the total expenditures in the second quarter in each capital expense line that would be eligible for inclusion in the riders. However, not all capital expenditures in each line are included as spending may have occurred on projects not yet in service, or carryover projects from previous years that have been removed from the actual additions on page 2.



**Tennessee American Water Company**  
**Docket No. 13-00130**  
**Production Costs and Other Pass-Throughs ("PCOP") Quarterly Reconciliation**  
**For the 1st and 2nd Quarter of 2014**

Line Number	Description	Actual Expenses From Invoices 1st Qtr 2014	Actual Expenses From Invoices 2nd Qtr 2014	Actual Expenses From Invoices YTD 2014	Yearly Amount Approved in Docket No. 13-00130	Yearly Approved Amount Less 1st and 2nd Quarter	1st and 2nd Qtr Percent of Yearly Total
1	Purchased Water	\$ 7,797	\$ 12,265	\$ 20,062	\$ 47,102	\$ 27,040	42.59%
2	Purchased Power	732,716	696,460	1,429,176	2,223,479	794,303	64.28%
3	Chemicals	186,196	177,059	363,255	728,500	365,245	49.86%
4	Waste Disposal	148,185	78,833	227,018	237,656	10,638	95.52%
5	TRA Inspection Fee	38,557	46,304	84,862	138,344	53,483	61.34%
6							
7	<b>PCOP Total Expenses</b>	<u>\$ 1,113,452</u>	<u>\$ 1,010,921</u>	<u>\$ 2,124,373</u>	<u>\$ 3,375,082</u>	<u>\$ 1,250,709</u>	<u>62.94%</u>
8							
9							
10							
11		<u>Actual for 1st Qtr 2014</u>	<u>Actual for 2nd Qtr 2014</u>	<u>Actual for YTD 2014</u>	<u>Yearly Amount Approved</u>	<u>Yearly Approved Less 1st and 2nd Qtr Sales</u>	<u>1st and 2nd Qtr Percent of Total Sales</u>
12							
13							
14	Water Sales (100 Gallons)	22,400,126	24,304,817	46,704,943	100,589,065	53,884,123	46.43%
15							
16	Total PCOP Expenses	\$ 1,113,452	\$ 1,010,921	\$ 2,124,373	\$ 3,375,082	\$ 1,250,709	62.94%
17							
18	Cost per 100 Gallons	<u>\$ 0.04971</u>	<u>\$ 0.04159</u>	<u>\$ 0.04548</u>	<u>\$ 0.03355</u>		

**Explanation:**

Tennessee American Water was also authorized by the Tennessee Regulatory Authority to implement a tracker mechanism that compares historical expense levels to the amounts authorized in the previous rate proceeding. This table compares the amount of actual expenses in the second quarter, by category, to the overall amount authorized in the last rate proceeding. Purchased Power, Waste Disposal and TRA Inspection Fee expenses are all currently more than 50% above the amount authorized in the last rate proceeding at the end of the 2nd Quarter.

# **EXHIBIT C**



2300 Richmond Road

Lexington, KY 40502

Brent.oneill@amwater.com

P 859.268.6316

F 859.335.3393

May 19, 2014

Mr. Rick Tate  
Pretreatment Supervisor  
Department of Public Works  
455 Moccasin Bend Road  
Chattanooga, TN 37405

RE: Tennessee American Water Wastewater Discharge – May Progress Update on  
Compliance and Commence Construction Update

Dear Mr. Tate:

The purpose of this letter is to update the City of Chattanooga on recent activities associated with the compliance schedule noted in Wastewater Discharge Permit No. 0074; Revision.

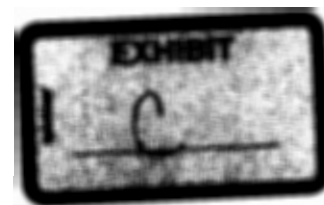
Tennessee American has received the following permits to allow for construction to commence:

- Tennessee Department of Environment and Conservation (TDEC) – NPDES General Permit for Construction Stormwater
- TDEC – Plans Review and Approval for Public Water Systems
- Electric Power Board – Power Relocation Services (relocation to commence during May)
- City of Chattanooga – Wastewater Discharge Permit (upon submission of signed copies on 5/19/14)

Tennessee American has not received the following permit:

- City of Chattanooga – Land Disturbance Permit

Upon receipt of the final permit and relocation of the power lines, Bowen Engineering expects to be ready to start with the demolition work of the old clearwell where a majority of the construction of the new facilities will take place. Bowen Engineering will apply for additional permits, such as electrical, plumbing, and building permits at the appropriate times during construction, but these permits do not have any bearing on starting the deconstruction activities.





2300 Richmond Road

Lexington, KY 40502

[Brent.oneill@amwater.com](mailto:Brent.oneill@amwater.com)

P 859.288.6316

F 859.335.3393

At this time, we still anticipate completion of the pretreatment work necessary to meet the requirements of the permit on March 31, 2015 and prior to permit expiration on April 30, 2015. An update regarding permit approvals and the start of construction will be forwarded to you upon receipt of the Land Disturbance Permit.

If you should have any questions or need additional information associated with the submitted plans, please let me know.

Sincerely,

Brent O'Neill  
Director of Engineering  
Tennessee American Water



2300 Richmond Road  
Lexington, KY 40502

P 859.288.6316  
F 859.335.3393

Brent.Loneill@amwater.com

June 30, 2014

Mr. Rick Tate  
Pretreatment Supervisor  
Department of Public Works  
455 Moccasin Bend Road  
Chattanooga, TN 37405

RE: Tennessee American Water Wastewater Discharge – June Progress Update on  
Compliance and Commence Construction Update

Dear Mr. Tate:

The purpose of this letter is to update the City of Chattanooga on recent activities associated with the compliance schedule noted in Wastewater Discharge Permit No. 0074; Revision.

Tennessee American has received the following permits to allow for construction to commence:

- Tennessee Department of Environment and Conservation (TDEC) – NPDES General Permit for Construction Stormwater
- TDEC – Plans Review and Approval for Public Water Systems
- Electric Power Board – Power Relocation Services (relocation to commence during May)
- City of Chattanooga – Wastewater Discharge Permit
- City of Chattanooga – Land Disturbance Permit

Bowen Engineering will apply for additional permits, such as electrical, plumbing, and building permits at the appropriate times during construction, but these permits do not have any bearing on starting the deconstruction activities.

Construction has started on the site with relocation of utilities and fleet parking areas. Bowen Engineering will commence demolition of the abandoned clearwell by July 7. Construction of the improvements will begin upon the demolition of the clearwell.



**TENNESSEE  
AMERICAN WATER**

2300 Richmond Road  
Lexington, KY 40502

[Brent.oneill@amwater.com](mailto:Brent.oneill@amwater.com)

P 859.268.6318  
F 859.335.3393

At this time, we still anticipate completion of the pretreatment work necessary to meet the requirements of the permit on March 31, 2015 and prior to permit expiration on April 30, 2015.

If you should have any questions or need additional information associated with the submitted plans, please let me know.

Sincerely,

Brent O'Neill  
Director of Engineering  
Tennessee American Water