



IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE:

PETITION OF TENNESSEE WATER  
SERVICE, INC. FOR APPROVAL OF  
AN INTERIM EMERGENCY  
WILDFIRE RESTORATION  
SURCHARGE, INTERIM EMERGENCY  
WATER SERVICE AVAILABILITY  
FEE, EMERGENCY MAKE-WHOLE  
SURCHARGE AND AN INTERIM  
EMERGENCY OPERATIONAL COST  
PASS-THROUGH MECHANISM

DOCKET NO. 17-00108

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AFFIDAVIT

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I, David N. Dittemore, CPA, on behalf of the Consumer Protection and Advocate Division of the Attorney General's Office, hereby certify that the attached Direct Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate Division.

  
DAVID N. DITTEMORE

Sworn to and subscribed before me  
this 9th day of Nov., 2017.

  
NOTARY PUBLIC



My commission expires: May 6, 2019

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1       **Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION**  
2       **FOR THE RECORD.**

3       **A1.** My name is David N. Dittmore. My business address is Office of the Tennessee  
4       Attorney General, UBS Tower, 315 Deaderick Street, Nashville, TN 37243. I am a  
5       Financial Analyst employed by the Consumer Protection and Advocate Division of  
6       the Tennessee Attorney General's Office (Consumer Advocate).

7       **Q2. PLEASE PROVIDE A SUMMARY OF YOUR BACKGROUND AND**  
8       **PROFESSIONAL EXPERIENCE.**

9       **A2.** I received a Bachelor of Science Degree in Business Administration from the  
10      University of Central Missouri in 1982. I am a Certified Public Accountant licensed  
11      in the state of Oklahoma (#7562). I was previously employed by the Kansas  
12      Corporation Commission (KCC) in various capacities, including Managing Auditor,  
13      Chief Auditor and Director of the Utilities Division. For approximately four years,  
14      I was self-employed as a Utility Regulatory Consultant representing primarily the  
15      KCC Staff in regulatory issues. I also participated in proceedings in Georgia and  
16      Vermont, evaluating issues involving electricity and telecommunications regulatory  
17      issues. Additionally, I performed a consulting engagement for Kansas Gas Service  
18      (KGS), my subsequent employer during this time frame. For eleven years I served  
19      as Manager and subsequently Director of Regulatory Affairs for KGS, the largest  
20      natural gas utility in Kansas serving approximately 625,000 customers. KGS is a  
21      division of One Gas, a natural gas utility serving approximately two million  
22      customers in Kansas, Oklahoma and Texas. I joined the Tennessee Attorney  
23      General's Office in September, 2017 as a Financial Analyst. Overall, I have thirty  
24      years' experience in the field of public utility regulation. I have presented testimony  
25      as an expert witness on a number of occasions. Attached as Exhibit 1 is a detailed  
26      vitae of my background.

1       **Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE**  
2       **TENNESSEE PUBLIC UTILITY COMMISSION?**

3       **A3.** Yes, I have filed testimony in Docket No. 17-00014.

4       **Q4. ON WHOSE BEHALF ARE YOU TESTIFYING?**

5       **A4.** I am testifying on behalf of the Consumer Advocate.

6       **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

7       **A5.** The purpose of my testimony is to support the Consumer Advocate's positions,  
8       concerns, and recommendations regarding the Tennessee Water Service (TWS)  
9       Emergency Rate Request proposal in Tennessee Public Utility Commission (TPUC)  
10      Docket No. 17-00108.

11      **I. TWS PROPOSALS**

12      **Q6. COULD YOU PLEASE SUMMARIZE THE TWS PROPOSALS**  
13      **CONTAINED IN ITS PETITION?**

14      **A6.** Yes. TWS seeks approval of four surcharges under their Petition for Emergency  
15      Rate Relief<sup>1</sup> (Petition), and two accounting deferrals. TWS seeks comprehensive  
16      relief addressing all revenue requirement components, other than capital structure,  
17      plus compensation for historic losses due to the 2016 Wildfires (2016 Wildfires).  
18      Basically, TWS has filed a rate case under the caption of an emergency request for  
19      relief. For the capital structure components, TWS uses the agreed-upon rate of  
20      return authorized in its last rate case. The surcharges requested are as follows:

- 21           1. 2016 Wildfires Restoration Surcharge: This surcharge provides TWS with a  
22           pre-tax rate of return on planned and partially completed capital expenditures,  
23           only part of which are related to the 2016 Wildfires. TWS indicates that some

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<sup>1</sup> The Emergency Operation Cost Pass-Through Mechanism would only be charged if water costs increase from its supplier, the City of Gatlinburg, or its electricity costs increase.

1 of the “cap-ex” was envisioned before the 2016 Wildfires. The proposed  
2 monthly surcharge is \$3.78 and would be applied to all customers, “active” and  
3 “inactive”.<sup>2</sup>

- 4 2. Service Availability Fee: This surcharge provides a pre-tax rate of return on rate  
5 base as of March, 2017 (excluding a recorded amount of negative cash working  
6 capital). The proposed monthly surcharge of \$6.77 would be applied to all  
7 customers, “active” and “inactive”.
- 8 3. O&M Make Whole Surcharge: TWS proposes a monthly surcharge for  
9 “inactive” customers of \$14.26 to recover the difference between forecasted  
10 2017 Operating and Maintenance costs compared with its actual and forecasted  
11 2017 revenues. This surcharge essentially is designed to recover TWS’s 2017  
12 losses, while the two surcharges above ensure returns on TWS assets (profits).  
13 The proposed surcharge is calculated based upon the actual TWS revenues  
14 through July and forecasted revenues from August through December, 2017,  
15 applied against a form of actual 2017 expenses through June, 2017 and  
16 forecasted expenses for the period July through December, 2017.
- 17 4. Interim Emergency Operation Cost Pass-Through Mechanism: TWS is  
18 requesting approval of this mechanism in order to pass through prospective  
19 anticipated increases in non-discretionary water supply costs and electricity  
20 costs that it may incur from its water supplier, the City of Gatlinburg, and/or the  
21 electric cooperative providing its electric service.
- 22 5. Deferral Mechanisms: In addition to the four surcharges discussed above, TWS  
23 seeks two accounting deferral mechanisms:

- 24 (a) TWS seeks approval from the TPUC to establish an accounting order to  
25 defer any increase in uncollectible expense from “inactive” customers  
26 compared with the similar ratio experienced prior to the 2016 Wildfires with

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<sup>2</sup> TWS defines the term “inactive customer” as one that has access to the water distribution system but does not have an active account and thus is not consuming water or being billed for water consumption. The Consumer Advocate questions whether TWS has adequately informed “inactive customers” of their right to terminate service and thus avoid paying fees and charges to TWS if it is in their individual best interest.

1 the disposition of any balance to be addressed in the next TWS rate  
2 proceeding.<sup>3</sup>

3 (b) TWS seeks to defer all losses incurred from January, 2017 through the  
4 date the corresponding surcharge is adopted.

5 I recommend rejection of both of these proposals, which I will discuss later in my testimony.

6 The following chart illustrates how the proposed surcharges would be applied to the newly  
7 defined “active” and “inactive” customer groups:

<b>Tennessee Water Company</b>		
<b>Schedule of Proposed Fixed Charges (1)</b>		
<b>Charge</b>	<b>Customer Type</b>	
	<b>Active</b>	<b>Inactive</b>
Customer Charge - Existing	\$ 18.70	(2)
Wildfire Restoration	3.78	\$ 3.78
Service Availability Fee	6.77	6.77
O&M Make Whole	0	14.26
Interim Operation Cost Pass-Through	?	?
<b>Total known increase in monthly customer charges</b>	\$ 10.55	\$ 24.81
<b>Total known increase in authorized customer charges</b>	\$ 10.55	\$ 6.11
(1) Customers are also charged a volumetric rate of \$13.30 per 1,000 gallons		
(2) Not specified in tariff. Per CPAD discovery response1-6 TWS does not intend to bill a customer charge to inactive customers, if the surcharges are approved.		

<sup>3</sup> The Petition in paragraph 19 refers to the need to defer uncollected revenue associated with increases in the “collection percentage.” However, increases in the collection percentage would not result in the need to defer uncollected revenue. For the sake of discussion I am assuming TWS intended to request permission to defer increases in its ratio of uncollectable revenue.

## **II. CONSUMER ADVODATE RECOMMENDATION SUMMARY**

### **Q7. PLEASE SUMMARIZE YOUR RECOMMENDATIONS IN THIS DOCKET.**

**A7.** I recommend the following:

1. The 2016 Wildfires were extraordinary and impactful to the community serviced by TWS; however, the evidence presented in the application does not rise to the level of a financial emergency to TWS and is insufficient to justify approval of the requested surcharges and deferrals.
2. TPUC should order TWS to provide TPUC and the Consumer Advocate a proposed customer information document for approval. This information should make clear that customers may cancel their service and avoid paying any service fees and charges. It should clearly advise individuals receiving it that if they have sold their property who to contact. The document should provide information to TWS customers regarding their full range of options and how to make the election in their best interest and should be distributed via mail with the Company's return address on the envelope and clearly marked "Postmaster: Address Correction Requested", and e-mail.<sup>4</sup>
3. The Petition is unclear in many critical respects, including:
  - a. The lack of proposed tariff language documenting how the surcharges would be calculated and applied to customers;
  - b. The uncertainty regarding possible changes to disconnect and reconnect fees;
  - c. The uncertainty regarding whether a 2018 Make-Whole surcharge is appropriate or will be requested; and

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<sup>4</sup> The Consumer Advocate is also concerned as to whether consumers received the notice of hearing with less than 30 days' notice; the notice did not tell consumers they could express their views regarding the Company's request, or the date of the hearing. Furthermore, the notice was on Utilities, Inc. letterhead which may have confused consumers. Attached as Exhibit DND-4 is a copy of the notice provided to customers by TWS. It is also important to note the mailing envelopes were blank with no return address so TWS would not have received returned notices with address corrections or notification the notice was undeliverable.



1 d. The lack of clarity on whether a reconciliation (or true-up) mechanism will  
2 be incorporated into the surcharge collection calculation and, if proposed,  
3 how such mechanism would work.

4 4. The 2016 Wildfires Restoration Surcharge (\$3.78/month applied to all  
5 customers) should be denied because it is premature due to uncertainty  
6 surrounding, among other things:

- 7 a. Total costs of the projects;  
8 b. The date the group of projects will be placed in service;  
9 c. Whether insurance coverage will reimburse TWS for property damage thus  
10 reducing the revenue requirements associated with the new projects<sup>5</sup>; and  
11 d. To the extent the 2016 Wildfires Restoration Surcharge is considered, it  
12 should be offset by the reduction in revenue requirement associated with  
13 retired property giving rise to the new investment.

14 5. Approval of the Interim Emergency Water Service Availability Surcharge  
15 (\$6.77/month charged to all customers) should be denied because:

- 16 a. TWS has not demonstrated that a financial emergency exists that supports  
17 emergency rate relief;  
18 b. Active customers are already paying rates designed to provide a return on  
19 the legacy assets, the subject of the water service availability surcharge; and  
20 c. This request, in conjunction with the other three requests, achieves the same  
21 effect as a full rate case, without the full opportunity to completely review  
22 the underlying data afforded the parties in a full rate case.<sup>6</sup>

23 6. The Interim Emergency Make-Whole Surcharge (\$14.26/month applied to  
24 “inactive” customers) should be rejected because the losses underlying this  
25 request are the obligation of TWS investors, not TWS customers.  
26 Notwithstanding the opposition of the Consumer Advocate to this surcharge, it  
27 is worth noting that the calculation has two major flaws:

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<sup>5</sup> Discovery Response to Consumer Advocate #2-1 indicates that TWS does not have plans to seek government assistance as a result of the 2016 Wildfires. If such assistance is requested and obtained at any point in the future, such benefits shall be quantified and retained on the books of TWS as a regulatory liability for a future regulatory determination by TPUC.

<sup>6</sup> I may need to supplement or correct my testimony if other materials are received.

- a. The proposed rate contains a mismatch between the period over which the rate is calculated (12 months) versus the period it is to be collected (18 months) resulting in a rate that is overstated by 50%; and
- b. The TWS request to defer expenses incurred prior to the order in this Docket<sup>7</sup> covers the precise Operating and Maintenance expense shortfall used to calculate the proposed \$14.26 charge and represents a request to double-recover its costs.

7. TWS's two proposed deferral mechanisms should be rejected. The request to defer historic losses is duplicative with the surcharge request, and is simply a business risk of TWS/Utilities, Inc. (UI) that should not be shifted to TWS ratepayers. The request to defer uncollectible expense associated with "inactive" customers should be denied because the underlying surcharge requests to be charged to "inactive" customers should be denied.
8. The Operational Costs Pass-Through Mechanism proposal may have merit on a stand-alone basis; however, TWS has not included sufficient detail to the Consumer Advocate to properly evaluate the proposal.
9. Regulatory relief in the form of the creation of a deferred asset to accumulate prospective losses is appropriate.
10. TWS needs to conduct a business analysis of whether insurance should be obtained going forward to protect itself and its customer in the event of a disaster in the future.
11. TWS needs to provide clear guidance to customers of their options and send notices in a manner so that TWS will receive notice if the mailing was undeliverable or a new customer address is available through the postal service.
12. TWS needs to convert its books to the NARUC Uniform Systems of Accounts (NARUC USOA) before its next rate case.

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<sup>7</sup> See the Petition, Paragraph 18.

1 **III. EMERGENCY RATE RELIEF CRITERIA**

2 **Q8. BEFORE ADDRESSING CRITERIA ASSOCIATED WITH EMERGENCY**  
3 **RATE RELIEF, DO YOU HAVE ANY PRELIMINARY COMMENTS?**

4 **A8.** Yes. I believe some limited regulatory relief for TWS is in the public interest.  
5 However, regulatory relief may take several forms and does not necessarily translate  
6 to approval of a suite of new surcharges that would be applied to a fluctuating and  
7 indefinite number of customers, some of whom may not understand their options.  
8 There are a number of reasons why TPUC should reject these proposed surcharges.  
9 I will discuss the regulatory relief I believe is appropriate later in my testimony.

10 Discovery Response to Consumer Advocate #1-12 indicates that TWS does not use  
11 the NARUC USOA for reporting services, but instead uses a “JD Edwards  
12 Accounting System”. Potentially, this is a significant issue in terms of whether the  
13 underlying accounting data presented was prepared consistent with the instructions  
14 contained in the NARUC USOA that is generally adopted and used by water utilities  
15 in preparing their regulatory reports<sup>8</sup>. Discovery Response to Consumer Advocate  
16 #2-4 indicates that TWS is not complying with the accounting instructions contained  
17 in the NARUC USOA, but that TPUC has ‘constructive or actual notice’ of such  
18 non-compliance. TWS goes on to state that it is ‘complying’ because it is able to  
19 “convert accounts”. Simply being able to ‘map’ a TWS account number to the  
20 appropriate USOA account number does not constitute compliance as it does not  
21 address the question of whether the TWS accounting practices are consistent with  
22 the accounting instructions endorsed by NARUC. The Discovery Response to  
23 Consumer Advocate #2-4 suggests TWS is not complying with the accounting  
24 instructions which sets forth important instructions on the underlying accounting  
25 methods to be followed<sup>9</sup>.

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<sup>8</sup> Compliance with the NARUC USOA is required pursuant to TPUC Rule 1220-04-01.11(g).

<sup>9</sup> Discovery Response to Consumer Advocate #2-4 indicates that TWS is both complying and not complying with the NARUC USOA requirements, including its instructions.

1 TWS has failed to provide draft detailed tariffs with their Petition<sup>10</sup> that would have  
2 allowed better insight into the nature of the proposals. Any tariff changes should be  
3 submitted with a Petition and be subject for review by TPUC and the Consumer  
4 Advocate in conjunction with the Petition. This joint submittal did not occur,  
5 presenting additional challenges to the Consumer Advocate in its review of the TWS  
6 request.

7 **Q9. WHAT CRITERIA DO YOU BELIEVE SHOULD BE USED TO EVALUATE**  
8 **WHETHER EMERGENCY RATE RELIEF WOULD BE APPROPRIATE?**

9 **A9.** I recommend TPUC consider the following issues in determining whether  
10 emergency rate relief is in the public interest:

- 11 1. Are the events giving rise to the emergency rate relief request extraordinary and  
12 outside the control of the utility such as an act of God or force majeure?
- 13 2. Has the event resulted in a material impact on the financial status of the utility?
- 14 3. Has the utility's financial situation been significantly impaired, or is likely to be  
15 significantly impaired in its ability to provide safe, reliable and efficient service  
16 to its customers in the near future?
- 17 4. Is there insurance coverage, grants or other governmental assistance available to  
18 the utility that would mitigate its losses? Did the utility take remedial actions to  
19 reduce its losses?
- 20 5. If insurance coverage, grants and/or other governmental assistance are not  
21 available, do the losses rise to the level of an emergency that require ratepayer  
22 relief?
- 23 6. Are there unique implications of the particular emergency rate relief request  
24 which impact the public interest that should be considered?
- 25 7. An evaluation of historic operating results to put the request for emergency rate  
26 relief in context.

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<sup>10</sup> On October 24, 2017 TWS filed a tariff but it is not consistent with their Petition.

1       **Q10. DO YOU BELIEVE THE 2016 WILDFIRES MET THE REQUIREMENTS**  
2       **OF THE FIRST CRITERIA THAT THE EVENT GIVING RISE TO THE**  
3       **EMERGENCY RATE RELIEF CLAIM WAS EXTRAORDINARY AND**  
4       **OUTSIDE THE CONTROL OF THE UTILITY?**

5       **A10. Yes.**

6       **Q11. HAS THE EVENT HAD A MATERIAL IMPACT ON THE FINANCIAL**  
7       **SITUATION OF THE UTILITY?**

8       **A11.** As discussed more fully below, the impact on the financial situation of UI or Corix  
9       Utilities (Corix) (TWS' parent entities described below) would appear to be  
10      minimal. With respect to TWS, the 2016 Wildfires has had a material impact on its  
11      financial condition. TWS has supplied information indicating its forecasted losses  
12      for 2017 are anticipated to be \$72,201. Further, TWS has stated that its customer  
13      count<sup>11</sup> has declined from 565 prior to the December, 2016 Wildfires to 133 as of  
14      July 2017.<sup>12</sup>

15      **Q.12. HAS THE UTILITY'S FINANCIAL CONDITION IMPAIRED ITS ABILITY**  
16      **TO PROVIDE ADEQUATE SERVICE TO ITS CUSTOMERS?**

17      **A12.** No. At this point it is helpful to understand the ownership structure of TWS and the  
18      scope of operations of its affiliates. TWS is owned by UI, which in turn is a wholly  
19      owned subsidiary of Corix. Exhibit DND-2 is a webpage identifying the scope of  
20      operations of UI, which indicates is it among the largest water and wastewater  
21      utilities in the United States, with operations in fifteen states. Exhibit DND-3 is a  
22      webpage highlighting the scope of operations of Corix, the parent of UI. Corix is  
23      described as providing a broad range of "multi-utility services" to municipalities,

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<sup>11</sup> For purposes of defining the term "customer" in this context, I am referring to those customers that had water usage subsequent to the 2016 Wildfire.

<sup>12</sup> TWS surcharge workpaper.

1 military installations, universities, resort properties, developers, and gas, water and  
2 electric utilities.

3 The financial strength of UI was referenced in the testimony of TWS witness, Mr.  
4 Linneman (Linneman), who indicated that UI is backed by a private equity owner  
5 with the necessary capital and a strong interest in maintaining operational stability  
6 and customer satisfaction.<sup>13</sup> Based upon the information contained on the webpage  
7 coupled with Linneman's statement, it can be determined that Corix is in turn owned  
8 by private equity investors.

9 The source of financing for TWS operations<sup>14</sup> is provided by UI. The financial  
10 impact of the 2016 Wildfires on UI, and in turn Corix, appears to be minimal and  
11 does not appear to impair the ability of TWS to offer sufficient service to its  
12 customers.

13 TWS has acknowledged in Discovery Response to Consumer Advocate #1-15 that  
14 the financial results for TWS will have no significant impact on meeting the debt  
15 covenants of UI, the source of financing for TWS operations. In its Discovery  
16 Response to Consumer Advocate #1-18, TWS acknowledges that its only financial  
17 constraint is its own internal capital budget. This internal budget constraint does not  
18 rise to the level of a true financial impediment as utilities have an obligation to  
19 provide financing necessary to ensure safe, reliable and efficient service. Of course,  
20 this obligation may be constrained under extreme financial duress. However, that  
21 is not the case in this situation as UI is the underlying source of financing and it has  
22 not suffered financial impairment as a result of the 2016 Wildfires.

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<sup>13</sup> Direct testimony of Linneman, page 3, lines 9-11.

<sup>14</sup> Certainly, a portion of the financing of TWS operations is provided by its customers through base rates.

1       **Q13. YOU CONCLUDE THAT THE TWS RESULTS HAVE NOT HAD A**  
2       **MATERIAL FINANCIAL IMPACT ON THE RESULTS OF UI. WHAT IS**  
3       **THE BASIS FOR YOUR CONCLUSION?**

4       **A13.** TWS has provided the financial statements of UI on a confidential basis. Due to the  
5       claim of confidentiality regarding the UI data, I will not disclose the specific levels  
6       of assets and net income of UI. However, by any definition of materiality, the  
7       financial results of TWS are insignificant to the overall financial results of UI.

8       **Q14. HAVE YOU ATTEMPTED TO DETERMINE WHETHER TWS, UI, OR**  
9       **CORIX HAVE PROPERTY INSURANCE COVERAGE THAT WOULD**  
10       **PROVIDE REIMBURSEMENT IN THIS SITUATION?**

11       **A14.** Yes. Discovery Response to Consumer Advocate #1-16 indicates that both:

- 12           1.     TWS is still considering claim options; and  
13           2.     “. . . at this juncture TWS does not intend to file an insurance claim related to  
14                 the 2016 Wildfires.”

15       I find the combination of these two statements to be ambiguous.

16       TWS further states that the damage was related to assets that were either uninsured,  
17       or such damage was less than the deductible. In my view, the damages less than the  
18       deductible should be the obligation of TWS/UI. Given the lack of property  
19       insurance coverage and the fact that damages are less than the amount of the  
20       deductible leads me to the conclusion that the property damage aspect of the 2016  
21       Wildfires on TWS does not rise to the level of a financial emergency.

22       Discovery Response to Consumer Advocate # 2-24 indicates that TWS has property  
23       loss insurance because IU carries property loss insurance for all its subsidiaries. The  
24       response also indicates TWS has not filed any property claims. The response fails  
25       to respond to the request to discuss why a claim has not been pursued. Despite  
26       having every opportunity to do so, TWS has not clarified whether the damages are  
27       less than the deductible, or whether the damaged property was covered by property

1 insurance. In either case, TWS has not met its burden to demonstrate why its  
2 property losses (and the related increases in plant as a result of the losses) rise to the  
3 level of a financial emergency.

4 **Q15. PLEASE DEFINE BUSINESS INTERRUPTION INSURANCE.**

5 **A15.** Business Interruption Insurance is insurance against loss of net profits and  
6 continuing fixed charges during a period of total or partial suspension of business  
7 activity because of damage to described premises from specified perils<sup>15</sup>.

8 **Q16. HAS THE CONSUMER ADVOCATE SOUGHT TO DETERMINE**  
9 **WHETHER TWS OR UI HAS BUSINESS INTERRUPTION INSURANCE**  
10 **THAT WOULD PROVIDE TWS WITH FINANCIAL RELIEF RESULTING**  
11 **FROM THE 2016 WILDFIRES?**

12 **A16.** Yes. Discovery Response to Consumer Advocate #1-17 indicates that TWS does  
13 not carry Business Interruption Insurance. Discovery Response to Consumer  
14 Advocate #2-6 indicates UI does not carry business interruption insurance.

15 **Q17. DOES THE LACK OF BUSINESS INTERRUPTION INSURANCE**  
16 **SUGGEST THIS EVENT IS NOT MATERIAL TO UI?**

17 **A17.** Yes. The absence of Business Interruption coverage suggests that UI or Corix  
18 determined that this type of coverage for TWS was not necessary due to the small  
19 revenue stream of TWS relative to the revenue stream of UI/Corix, or such insurance  
20 was cost-prohibitive. If such insurance was not held by TWS/UI/Corix covering  
21 this event, the applicant should be required to demonstrate and support the decision  
22 not to obtain this type of coverage before seeking reimbursement from ratepayers  
23 through emergency rate relief. TWS has indicated in Discovery Response to

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<sup>15</sup> Merriam Webster definition.



1 Consumer Advocate #1-17 that it was unable to locate any analysis supporting the  
2 decision not to acquire Business Interruption Insurance.

3 **Q18. ARE THERE UNIQUE CUSTOMER CIRCUMSTANCES IN THIS**  
4 **SITUATION THAT SHOULD BE CONSIDERED?**

5 **A18.** Yes. I believe the unique situation facing TWS customers, many of whom have  
6 experienced significant personal and financial loss, should be considered in  
7 developing a resolution to this situation that is balanced between the interests of  
8 TWS customers and TWS investors/shareholders.

9 **Q19. ARE YOU AWARE OF ANY LEGAL REQUIREMENT THAT A UTILITY**  
10 **BE SHIELDED FROM OPERATING RISKS SUCH AS THOSE AT ISSUE**  
11 **IN THIS PROCEEDING?**

12 **A19.** No. There is nothing within regulatory theory or law that I am aware of that suggests  
13 a utility is guaranteed to be shielded from losses in all operating scenarios, which is  
14 essentially the request TWS is seeking in the present Petition. Instead, through the  
15 ratemaking process, utilities should be provided an opportunity (not a guarantee) to  
16 earn its authorized return on equity on a prospective basis. In my view, TWS should  
17 not be permitted to shift all business risk posed from the 2016 Wildfires to TWS  
18 customers. The financial shortfalls incurred by TWS to date should be the burden  
19 of TWS/UI and Corix investors.

20 I support regulatory relief associated with the 2016 Wildfires on a prospective basis  
21 from the date of the TPUC order in this Docket. In this way, the utility financial  
22 implications of the 2016 Wildfires are shared between TWS customers and TWS  
23 investors, representing an appropriate balance between the two stakeholder groups.

1       **Q20. HAVE YOU HAD THE OPPORTUNITY TO REVIEW THE HISTORIC**  
2       **FINANCIAL RESULTS OF TWS?**

3       **A20.** Yes. As discussed in Mr. Bradley's testimony (Bradley) filed on behalf of the  
4       Consumer Advocate, and shown in Exhibits AB-2 and AB-3 the Return on Equity  
5       (ROE) earned by TWS for the periods under review ranged from 13.05% to  
6       23.57%.<sup>16</sup> The authorized return on equity adopted in the most recent TWS rate  
7       case was 7.6%. Therefore, the ROE's earned during the annual periods prior to the  
8       2016 Wildfires were quite healthy and represent a consistent history of earnings far  
9       above levels authorized by TPUC.

10       **Q21. DOES TPUC HAVE APPROVED CRITERIA BY WHICH TO EVALUATE**  
11       **REQUESTS FOR EMERGENCY RATE RELIEF?**

12       **A21.** Not to my knowledge. TPUC should consider establishing formal rules and  
13       procedures for emergency petitions filed in the future.

14       **IV. CUSTOMER COMMUNICATION AND OPTIONS**

15       **Q22. HAVE YOU REVIEWED THE NOTICE PROVIDED BY UI TO ITS**  
16       **CUSTOMERS CONCERNING THE PROPOSED SURCHARGES?**

17       **A22.** Yes.

18       **Q23. DO YOU HAVE CONCERNS WITH THE CONTENT OF THE NOTICE?**

19       **A23.** Yes. From my perspective it is incomplete and may mislead customers. Customers  
20       should be informed of all options available to them in accordance with the  
21       Company's proposal. Currently, the Company has indicated customers have the  
22       option to cancel and not be an active or inactive customer<sup>17</sup> so at least one option is  
23       not included in the notice. I am concerned customers need to be aware of all options  
24       so they can act in their individual best interest. The notice referred to "active" and

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<sup>16</sup> This is the historic financial information available to Consumer Advocate at the time of testimony preparation.

<sup>17</sup> Discovery Response to Consumer Advocate #1-40.

1 “inactive” customers, which may lead some to believe that all landowners would  
2 fall into one of those two categories, and therefore be subject to one of the two sets  
3 of proposed charges. However, there appears to be an option for existing “inactive  
4 customers”<sup>18</sup> who do not anticipate occupying a dwelling served by TWS within the  
5 next eight months<sup>19</sup> may wish to simply cancel their TWS service and thus avoid  
6 the “inactive customer” charges proposed in the Petition.

7 Additionally, the Company’s notice provided less than 30 days’ notice to customers  
8 of the date of the hearing. <sup>[3]</sup> I believe it would be helpful if there was a requirement  
9 that the notice include the process by which customers were informed how they  
10 could participate in TPUC proceedings, such as submitting letters to TPUC that  
11 would be included as part of the record. Further, Consumer Advocate recommends  
12 that customer notices be pre-approved by TPUC and Consumer Advocate to avoid  
13 this type of situation in the future.

14 Lastly, it did not direct individuals receiving the notice who have sold the property  
15 to contact TWS with who they sold their property to so the prior customer can be  
16 removed from TWS’ records and the new customer added.

17 **Q24. ARE YOU RECOMMENDING THAT A SUBSEQUENT NOTICE BE**  
18 **ISSUED AT SUCH TIME AS TPUC ISSUES AN ORDER IN THIS**  
19 **PROCEEDING?**

20 **A24.** Yes. Due to the unique circumstances presented in this docket, I believe a notice to  
21 customers is appropriate. This notice would document the findings of the TPUC in  
22 this proceeding, indicate that customers should notify TWS if they plan to have a  
23 change of address, and provide a contact number in the event the customer wishes  
24 to terminate service. I also recommend that TPUC and the Consumer Advocate be

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<sup>18</sup> “Inactive Customers” is defined by TWS as a customer that has access to the water distribution system but does not currently have an active account and thus is not consuming water or being billed for water consumption (CPAD Discovery Response #1-41).

<sup>19</sup> Per Consumer Advocate, the corrected surcharge should be \$9.51 as discussed in Bradley’s testimony.

given an opportunity to review and recommend changes to TWS second notice prior to it being disseminated to customers.

**Q25. WHAT IS THE PRACTICAL EFFECT ON FUTURE RATES IF A MATERIAL NUMBER OF CUSTOMERS LEAVE THE TWS SYSTEM?**

**A25.** If a material number of customers leave the system, rates will be higher than they otherwise would be than if customers returned to the system. In future regulatory proceedings the system (common) costs necessary to serve TWS customers would be spread over a smaller customer base as customers terminate service, resulting in higher rates for the remaining customers. Customers should be aware that there is a strong likelihood of significant base rate increases in future rate proceedings due to a reduction in TWS customer counts.

I recommend TPUC require TWS to make a monthly submittal of its active customers within this docket, which would allow for monitoring of the potential rate implications of the next TWS rate case submittal.

**V. ASPECTS OF THE PETITION ARE NOT CLEAR**

**Q26. EARLIER IN YOUR TESTIMONY YOU INDICATED THE PETITION WAS NOT CLEAR IN CERTAIN RESPECTS. PLEASE IDENTIFY THESE AREAS AND EXPLAIN YOUR CONCERNS.**

**A26.** 1. Failure to Provide a Proposed Tariff<sup>20</sup>. The Petition did not include a set of proposed tariffs that would more clearly specify how the proposed charges would be calculated and applied to customers. For example, the Petition does not explicitly indicate whether the proposed surcharges would displace the Base Charge for “inactive” customers. This is the type of information that should be contained in the draft tariff filed with the Petition. While not contained in the Petition, TWS has indicated in Discovery Response to Consumer Advocate # 1-6(C) that if the

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<sup>20</sup> On October 24, 2017, TWS submitted a set of proposed tariffs. However, it did not amend its Petition to reflect changes resulting from the tariff submittal.

1 emergency surcharges are approved, “inactive” customers would not be subject to  
2 the \$18.70 customer charge. The calculations supplied in TWS’ Linneman Exhibit  
3 B suggests that “inactive” customers will no longer be billed a customer charge;  
4 however, it would be helpful to have an explicit statement in the tariff language  
5 confirming this point.

6 2. Failure to Provide Information on Disconnect and Reconnect Fees. The  
7 Consumer Advocate attempted to clarify whether TWS intends to make any changes  
8 to its charges for disconnect and reconnections. Discovery Response to Consumer  
9 Advocate #1-5 indicates this issue is still under consideration.

10 3. Ambiguity About Future Make-Whole Surcharges. The Petition is silent  
11 regarding whether TWS believes that a 2018 O&M Make-Whole surcharge is  
12 appropriate. However, in Discovery Response to Consumer Advocate # 1-31, TWS  
13 suggests that such a surcharge “may be advisable.” Therefore, it’s possible that the  
14 Make-Whole surcharge would extend beyond the twelve to eighteen months  
15 requested in this application once the potential prospective losses are factored in.  
16 TWS customers may be facing another surcharge request from TWS in the coming  
17 months.

18 4. Failure to Provide for a True-Up. The Petition is silent regarding whether the  
19 requested surcharge balances would reconcile actual losses with revenues collected  
20 by the surcharge. However, in Discovery Response to Consumer Advocate #1-30,  
21 TWS indicates that it believes such a true-up is appropriate, as approved by TPUC.  
22 There are benefits to such a reconciliation in that it ensures there is no over/under  
23 collection of approved amounts and estimated costs can be trued-up to actual costs.  
24 However, this situation is unique in that the customer base may not materialize to  
25 the extent forecasted by TWS, resulting in the potential for a significant ‘reload’ of  
26 uncollected revenue applied to customers that actually pay the surcharge. Thus, the

1 requested \$14.26 charge<sup>21</sup> may in the end be something larger for those “inactive”  
2 (but paying) customers.

3 5. Failure to Address “Make-Whole” Surcharges Calculation Problems. Another  
4 question unanswered is how TWS will address surcharge collection in the following  
5 scenario. Recall that the “Make-Whole” surcharge is based upon actual and  
6 forecasted losses, divided by the number of “inactive” customers estimated as of  
7 August, 2017. To the extent that customers switch from “inactive” to “active”  
8 status, will those formerly inactive customers continue to be billed the “Make-  
9 Whole” surcharge? In other words, will the “inactive” customers be defined at a  
10 date certain, or will their status (and associated billing) be updated on a month to  
11 month basis? If the status is determined at a point in time that would then translate  
12 to a monthly fixed charge of \$32.96 for the defined “inactive” customers, once they  
13 transition to “active” status. If instead, the customer status is updated on a month to  
14 month basis, there may be a significant shortfall in collection of the “Make-Whole”  
15 surcharge as the number of “inactive” customers decline (and “active” customers  
16 increase) resulting in a corresponding decline in “Make-Whole” surcharge revenue  
17 that would then be reloaded if the surcharge is trued-up. I think this aspect is  
18 important in considering the potential full impact of the proposal on customers<sup>22</sup>.

## 19 VI. UNCERTAIN CUSTOMER COUNTS

20 **Q27. DO YOU HAVE CONCERNS ABOUT THE IMPOSITION OF A**  
21 **SURCHARGE AS IT RELATES TO THE FLUCTUATION AND**  
22 **UNCERTAINTY WITH CUSTOMER COUNTS? IF SO, PLEASE**  
23 **EXPLAIN.**

24 **A27.** Yes. As a matter of public policy, I do not believe it is appropriate to develop rates  
25 in a situation where there is a significant level of uncertainty over customer counts.  
26 The assumed customer counts are the denominator in the calculation deriving the

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<sup>21</sup> Per Consumer Advocate, the corrected surcharge should be \$9.51 as discussed in Bradley’s testimony.

<sup>22</sup> This same concern exists regarding the Wildfire and Water Availability surcharge if a significant number of inactive customers cancel service.

1 proposed rates. The Petition is silent regarding whether there are planned  
2 reconciliations (true-ups) to the extent the customer base differs from the assumed  
3 number of customers included within the TWS calculations. Thus, if customers  
4 return to the TWS system more rapidly than is forecasted by TWS, it could recover  
5 more base revenue<sup>23</sup> than it has set forth in its Petition. There is no reliable estimate  
6 of the amount of revenue that will be generated from the surcharges, nor base  
7 revenue, nor the level of uncollectible revenue that may be incurred once TWS  
8 begins billing surcharges to “inactive” customers. It is important to recall that TWS  
9 has requested to defer uncollectible revenue to the extent it is higher than historic  
10 levels. Therefore, the eventual price tag to customers from these proposals is  
11 unknown.<sup>24</sup>

## 12 **VII. WILDFIRES RESTORATION SURCHARGE**

13 **Q28. EARLIER YOU DESCRIBED THE 2016 WILDFIRES RESTORATION**  
14 **SURCHARGE. WHAT IS YOUR POSITION WITH RESPECT TO THIS**  
15 **REQUEST?**

16 **A28.** The TPUC should deny the proposed 2016 Wildfires Restoration Surcharge. As  
17 discussed above, the requested surcharges should not be approved given the  
18 uncertainty with the number of TWS customers. There are other reasons that justify  
19 denial of this surcharge request including:

- 20 1. Uncertainty over the total cost of the projects; and
- 21 2. The recovery of a return on plant that is not in service permits TWS to double  
22 recover its financing costs.

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<sup>23</sup> Base revenue is comprised of the \$18.70 customer charge, plus the revenue associated with water usage and is distinct from the previous discussion of the collection of “Make-Whole” revenue.

<sup>24</sup> The request to defer the increase in its rate of uncollectible revenue is a duplication of its statement in Discovery Response to Consumer Advocate # 1-30 that the surcharges be reconciled or ‘trued-up’. If such reconciliation is determined to be in the public interest, there should either be a true-up or a deferral, but not both.

1       **Q29. IS THE FACT THAT THE SURCHARGE PROPOSAL IS BASED UPON**  
2       **ESTIMATED COSTS WITH AN UNCERTAIN COMPLETION DATE POSE**  
3       **A RISK TO RATEPAYERS?**

4       **A29.** Yes. The uncertainty over the eventual costs of the projects is highlighted in the  
5       testimony of Mr. Mendenhall. He indicates that to date, TWS has spent  
6       approximately \$178,000 in capital projects associated with the 2016 Wildfires. Of  
7       this amount, approximately \$50,000 is associated with completed projects, nearly  
8       \$130,000 applies to projects that are in progress, with an unknown level of  
9       remaining costs, and an estimated cost of future projects of \$250,000. TWS's  
10      requested surcharge is based upon an assumed net rate base of \$294,000. It is  
11      unclear how the existing level of expenditures reconciles with the net rate base in  
12      the proposed surcharge. Further, it is uncertain when these projects may be  
13      complete and providing service to customers.

14      **Q30. HOW WOULD A DOUBLE RECOVERY OF FINANCING COSTS OCCUR?**

15      **A30.** The request to collect the surcharge based upon plant that is not in service represents  
16      yet another potential double-recovery of TWS costs. Of the \$294,000 in proposed  
17      rate base underlying the requested surcharge, only \$50,000 is completed and in  
18      service. Utilities are compensated for their financing costs incurred during  
19      construction through the application of an Allowance for Funds Used During  
20      Construction (AFUDC), designed to provide a return to utility  
21      shareholders/investors that offsets financing costs. The application of the AFUDC  
22      rate corresponds to the ratemaking principle that ratepayers should only provide a  
23      return on plant that is in service. Shareholders/investors are compensated during the  
24      period of construction from the application of the AFUDC rate, which increases the  
25      cost of the plant. At such time as plant is in service, it becomes eligible to be  
26      included in rate base, an important component in the calculation of base rates. The  
27      request here violates the standard ratemaking principles used to set rates. TWS is  
28      eligible to accrue an AFUDC rate on the very plant that it is recovering in the  
29      surcharge, representing a double-recovery of financing costs associated with the



1 plant under construction. If TWS follows standard water utility accounting  
2 practices, it will increase rate base for accrued financing costs (AFUDC) at the same  
3 time it recovers a cash return from TWS customers on \$244,000 in plant (\$294,000  
4 total plant, less \$50,000 that is in-service). TWS indicated in Discovery Responses  
5 to Consumer Advocate Nos. 2-22 and 2-23 it is applying AFUDC to its construction  
6 project balances, thus confirming the double counting of financing costs.

7 **Q31. DO YOU BELIEVE THE 2016 WILDFIRE RESTORATION SURCHARGE**  
8 **IS IN THE PUBLIC INTEREST?**

9 **A31.** No, for the reasons mentioned above.

10 **Q32. IF TPUC FINDS THE COMPENSATION SOUGHT BY TWS IS IN THE**  
11 **PUBLIC INTEREST, DO YOU HAVE RECOMMENDATIONS ON WHAT**  
12 **FORM OF REGULATORY RELIEF SHOULD BE GRANTED?**

13 **A32.** Yes. If TPUC finds that some regulatory relief is justified to compensate TWS for  
14 its capital expenditures placed in service as a result of the 2016 Wildfires, I suggest  
15 approval of a deferral mechanism calculated as follows:

- 16 1. The TWS rate of return of 6.89%<sup>25</sup> should be applied divided by twelve to arrive  
17 at a monthly return rate to apply to eligible investment.
- 18 2. Eligible investment should be defined as follows:
  - 19 a. Projects initiated after the 2016 Wildfires that are a direct result of the  
20 2016 Wildfires;
  - 21 b. The deferral should not be calculated until the question of insurance  
22 coverage and governmental assistance are resolved;
  - 23 c. Insurance proceeds and governmental assistance related to property  
24 damage are offset against the costs of the project, to arrive at net  
25 investment costs; and

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<sup>25</sup> This rate of return is computed in the same manner as that contained in Linneman's Exhibit B. There is no disagreement between Consumer Advocate and TWS in the development of the rate of return calculation.

1 d. Projects must be complete and providing service to TWS customers prior  
2 to the application of the carrying charge.

3 **Q33. DISCUSS THE UNDERLYING ACCOUNTING IMPACT OF THE**  
4 **DEFERRAL MECHANISM COMPARED WITH THE COLLECTION OF A**  
5 **SURCHARGE.**

6 **A33.** Notwithstanding the concerns I have raised with the surcharge calculation, the  
7 deferred accounting treatment would permit TWS to record accrued revenue in the  
8 same manner that it would record revenue through the collection of a surcharge.  
9 The only significant difference between the two is that the surcharge would permit  
10 a 'cash' return while the deferred accounting approach permits an 'accrued' return.

11 **Q34. HOW DOES THE ACCRUED RETURN GENERATED UNDER THE**  
12 **DEFERRAL RECOMMENDATION TRANSLATE TO THE EVENTUAL**  
13 **RECEIPT OF CASH BY TWS?**

14 **A34.** The deferred asset would be amortized in the next rate case and be included in the  
15 revenue requirement. The inclusion of the amortization expense increases base rates  
16 and translates to the recovery of cash for this item. This approach is commonly used  
17 in utility ratemaking proceedings.

18 **Q35. IS THE APPROACH YOU HAVE RECOMMENDED CONSISTENT WITH**  
19 **GENERALLY ACCEPTED ACCOUNTING PRINCIPLES?**

20 **A35.** Yes. An order from TPUC authorizing this accounting and ratemaking treatment  
21 will provide sufficient authority for TWS to make the recommended deferred asset  
22 accounting entry.

1       **Q36. WHAT IS YOUR RECOMMENDATION FOR HOW THIS DEFERRED**  
2       **ASSET SHOULD BE TREATED IN THE NEXT TWS RATE**  
3       **PROCEEDING?**

4       **A36.** The deferred asset should be amortized into the revenue requirement over a ten-year  
5       period, with the deferred asset included in rate base.

6       **VIII. INTERIM EMERGENCY WATER SERVICE AVAILABILITY SURCHARGE**

7       **Q37. DESCRIBE THE WATER SERVICE AVAILABILITY SURCHARGE**  
8       **PROPOSAL.**

9       **A37.** The surcharge of \$6.77/month would be applied to all customers of TWS. The  
10       calculation is based upon a pre-tax rate of return applied to the TWS rate base. The  
11       interesting aspect of this proposal is that existing base rates are designed to recover  
12       the same costs.

13       **Q38. WHAT IS YOUR RECOMMENDATION REGARDING THE WATER**  
14       **SERVICE AVAILABILITY SURCHARGE?**

15       **A38.** This surcharge should be rejected. First, I do not believe a surcharge designed to  
16       recover a return (profit) qualifies as an “emergency.” Secondly, TWS requested that  
17       the surcharge be applied to all customers, including those “active” customers who  
18       have already been paying rates designed to recover these same costs. For the  
19       “active” customers, it represents a double-payment of the return on rate base  
20       component of the revenue requirement. I recommend TPUC reject this request for  
21       these reasons, as well as concerns expressed earlier in my testimony with applying  
22       a surcharge to an estimated customer base that is in flux. Given the uncertainty with  
23       the customer base, coupled with the uncertainty over the level of Operating and  
24       Maintenance expenses going forward, it is not certain that the full surcharge is  
25       necessary to provide a return on TWS’s existing rate base.

1       **Q39. ADDRESS YOUR FIRST POINT THAT ENSURING A PROSPECTIVE**  
2       **PROFIT OR RETURN TO TWS DOES NOT CONSTITUTE AN**  
3       **EMERGENCY.**

4       **A39.** There are no guaranteed financial returns in operating a utility. It would appear that  
5       historic financial returns of TWS have been healthy and have provided TWS  
6       investors a return beyond that authorized by TPUC. At such time as TWS has its  
7       next base rate case, rates will be recast and TWS will have an opportunity to earn a  
8       reasonable return going forward. The lack of a return does not constitute an  
9       “emergency” or justify the imposition of a unique surcharge, especially given the  
10      recent financial results of TWS.

11      **Q40. TURN TO YOUR SECOND POINT, THAT EXISTING BASE RATES ARE**  
12      **DESIGNED TO PROVIDE A RETURN ON RATE BASE.**

13      **A40.** The existing rates incurred by “active” customers were developed to include an  
14      opportunity to earn a return on rate base. As contained in Mr. Bradley’s testimony,  
15      this opportunity was achieved and then some, during the historic period he reviewed.  
16      Applying the Availability Surcharge to “active” customers layers in a return on rate  
17      base to them a second time; once through existing base rates and a second through  
18      the surcharge request.

19      **Q41. HAVE YOU INQUIRED WHETHER THE 2016 WILDFIRES RESULTED**  
20      **IN THE NEED TO WRITE-OFF EXISTING PLANT?**

21      **A41.** Consumer Advocate Discovery Request #1-19 seeks to determine whether TWS has  
22      written off any assets that are no longer useful as a result of the 2016 Wildfires and  
23      to provide the related accounting entries. The response indicates that as of July,  
24      2017 TWS has not written off any assets and is currently attempting to determine  
25      what the write-off should be, if any. Discovery Response to Consumer Advocate  
26      #2-7 TWS indicates that as a result of a full review of the ages of the destroyed  
27      assets, it does not believe any write-offs are necessary since the destroyed assets

1 were fully depreciated<sup>26</sup>. There was no underlying documentation provided to  
2 support the claim that the destroyed assets were fully depreciated. Also, regardless  
3 of whether the assets were in fact fully depreciated, I do not agree with the  
4 conclusion that no asset write-offs are needed. It is possible that depreciation  
5 expense is still being calculated on gross plant in service thus, increasing 2017  
6 losses, impacting the Make-Whole surcharge request. Until such time as the  
7 determination of the appropriate accounting entries to eliminate any assets that are  
8 no longer providing service to TWS customers is resolved, adoption of the  
9 “Availability” and “Make-Whole” surcharges is premature. TWS customers should  
10 not incur costs and provide a rate base return on assets that are no longer providing  
11 service.<sup>27</sup>

12 **Q42. ARE THERE ANY ERRORS IN THE CALCULATION AS PROPOSED BY**  
13 **TWS?**

14 **A42.** Yes. TWS recognized the calculation should contain an offset for negative cash-  
15 working capital of \$84,483 in its Discovery Response to Consumer Advocate #1-  
16 25.

17 **IX. “MAKE-WHOLE” SURCHARGE**

18 **Q43. TURN TO THE “MAKE-WHOLE” O&M SURCHARGE REQUEST AND**  
19 **IDENTIFY HOW TWS HAS CALCULATED THIS RATE.**

20 **A43.** TWS proposes to initiate a charge of \$14.26 to “inactive” customers to recover  
21 actual and anticipated losses in 2017. For purposes of this testimony, the term losses  
22 represent the amount by which Expenses, including Taxes and Depreciation, exceed

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<sup>26</sup> CPAD has not had the opportunity to independently verify that the fire damaged plant of TWS was limited to those assets that were fully depreciated.

<sup>27</sup> To be clear, I oppose this surcharge and do not find that TWS has met its burden supporting its request for emergency rate relief. However, if TPUC believes some TWS relief is justified at this time, I recommend what I term “regulatory relief” rather than adoption of the surcharge proposal. Specifically, I recommend one comprehensive deferral mechanism that would also encompass similar deferrals of losses on a prospective basis. The recovery of actual and forecasted losses is the subject of TWS’s “Make-Whole” surcharge.

1 revenue. The revenue upon which the loss was estimated was based upon actual  
2 revenue through July, and forecasted revenue for the period August through  
3 December, 2017. Expenses incorporated into the loss forecast are based upon the  
4 ratio of January through June 2017 expenses compared with January through June  
5 2016 expenses, with such ratio applied to expenses for the twelve-month period  
6 ending June 30, 2016. Thus, the developed surcharge is based upon a combination  
7 of actual and forecasted data. By definition, the actual losses that will be incurred  
8 in 2017 cannot be accurately determined until all financial data has been recorded  
9 for the year.

10 **Q44. WHAT IS THE TOTAL IDENTIFIED AMOUNT OF SURCHARGE**  
11 **REQUESTED BY TWS?**

12 **A44.** The total amount sought is \$72,201.

13 **Q45. DO YOU HAVE INFORMATION IDENTIFYING THE ACTUAL LOSS**  
14 **FOR THE PERIOD JANUARY 2017 THROUGH JUNE, 2017?**

15 **A45.** Yes. According to information provided by TWS the loss for the first six months of  
16 2017 totaled \$46,216. Thus, TWS is projecting the loss for the remainder of 2017  
17 at just under \$26,000, in part reflecting a growth in revenue as the number of  
18 “active” customers increase in the latter half of the year.

19 **Q46. ADDITIONALLY, ARE THERE ERRORS ASSOCIATED WITH THE**  
20 **PROPOSAL THAT WARRANT DENIAL OF THE REQUEST?**

21 **A46.** Yes.

22 The “Make-Whole” surcharge as calculated by TWS contains a discrepancy  
23 between the period used in developing the rate (12-months) and the period in which  
24 the rate is to be collected (up to 18-months). If left unchecked, the requested  
25 \$72,000 in losses could result in recoveries of \$108,000 over an 18-month period.  
26 If TPUC approves of the collection of the “Make-Whole” surcharge, the rate to be

1 recovered over the 18-month period would be \$9.51/month, rather than the  
2 requested \$14.26/month. TWS seems to agree conceptually that the period used in  
3 the calculation and the length of the collection period need to be identical in  
4 Discovery Response to Consumer Advocate #1-29.

5 **Q47. DO THE OTHER TWO SURCHARGES CONTAIN THE SAME FLAW YOU**  
6 **HAVE IDENTIFIED HERE?**

7 **A47.** No. Unlike the other two proposed surcharge rates<sup>28</sup> the “Make-Whole” surcharge  
8 is based upon 2017 financial results and such losses as defined in the rate are not  
9 recurring. The other two defined surcharges are designed to provide a return on rate  
10 base, which is recurring on a monthly and annual basis.

11 **Q48. EARLIER YOU MENTIONED A DOUBLE-COUNT SITUATION**  
12 **REGARDING THE COLLECTION OF FINANCING COSTS. IS THERE A**  
13 **DOUBLE-COUNT PROPOSAL WITH RESPECT TO 2017 OPERATING**  
14 **LOSSES?**

15 **A48.** Yes. Paragraph 18 of the Petition contains the following request:

16 With respect to O&M expenses and capital expenditures that are  
17 incurred prior to a ruling on this Petition and are not paid from  
18 system revenues, TWS requests that the Commission permit TWS  
19 to accrue said expenses in a deferral account with recovery thereof  
20 to be addressed in the Company’s next rate case.

21 In this request TWS is seeking to set-aside excess O&M expenses that exceed  
22 revenues into a deferred regulatory asset account for future recovery. The costs  
23 referred to in this deferral request are the same costs comprising the surcharge  
24 request. Simply, TWS is requesting double recovery of the losses it has incurred in  
25 the early portion of 2017; once on a current basis from TWS customers through the

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<sup>28</sup> The Operational Cost Pass-Through mechanism will only become effective if and when purchased water rates or electricity rates increase. Thus, this surcharge is contingent upon a subsequent event occurring which may not materialize and is not included in this discussion.

1 O&M Make-Whole surcharge and a second time through the preservation of these  
2 losses in an asset account to be recovered through the next ratemaking process.

3 **Q49. IS THERE THE LIKELIHOOD THAT CUSTOMERS WILL**  
4 **EVENTUALLY PAY MORE FOR THE “MAKE-WHOLE” SURCHARGE**  
5 **THAN IS BEING REQUESTED?**

6 **A49.** Yes. As mentioned before, the number of “inactive” customers upon which the  
7 charge is based is uncertain and will undoubtedly differ from the level used within  
8 the surcharge. The number used in the calculation is 422, which is simply the  
9 reciprocal of the total customers prior to the 2016 Wildfires less the ‘active’  
10 customers forecast as of August, 2017. TWS has forecast that it will grow its  
11 “active” customers at the rate of ten customers a month for the period September  
12 through December, thus leaving a declining number of “inactive” customers upon  
13 which to collect the “Make-Whole” surcharge. The forecasted increase in customers  
14 is one reason the forecasted losses over the latter portion of 2017 has declined in  
15 comparison with the actual losses accruing in the first half of the year. The revenue  
16 stream produced by this surcharge cannot be determined due to the uncertainty of  
17 future “inactive” customers, but there is a strong likelihood TWS would under-  
18 recover these costs which would then be “reloaded” to future customers.

19 **Q50. HOW WOULD THIS “RELOAD” PROCESS RESULT IN A SUBSEQUENT**  
20 **CHARGE TO RECOVER THE 2017 “MAKE-WHOLE” SURCHARGE**  
21 **REQUEST?**

22 **A50.** TWS proposes to defer the level of uncollectible revenue that is greater than its  
23 portion of historic uncollectible revenue. Consumer Advocate witness Bradley is  
24 supporting testimony and exhibits quantifying the potential impact of this proposal  
25 on active customers. Assuming an uncollectible ratio of 25% (this would include  
26 either customers not paying, or customers that cancel service), the resulting deferral  
27 balance would approximate \$47,168 over the collection period.



1       **Q51. DO YOU HAVE CONCERNS WHETHER THE “MAKE-WHOLE”**  
2       **SURCHARGE CAN BE LEGALLY ASSESSED TO CUSTOMERS?**

3       **A51.** Yes. I question whether the “Make-Whole” surcharge request constitutes  
4       Retroactive Ratemaking, prohibited by traditional regulatory utility law. Under this  
5       legal concept, rates are deemed just and reasonable until such time as new rates are  
6       approved by an appropriate regulatory body. Rates cannot be designed to recoup  
7       historic shortfalls, but instead rates can only be proscribed prospectively. Unlike  
8       the use of a historic test period to establish prospective rates, the “Make-Whole”  
9       surcharge is a prospective rate designed to recover historic losses as well as  
10      forecasted losses, over a specific period. I am not offering a legal opinion in this  
11      instance, simply pointing out a question regarding whether the portion of the “Make-  
12      Whole” surcharge associated with the recovery of historic losses is legally  
13      permissible. I believe this is an issue that the attorneys need to fully brief and TPUC  
14      must evaluate prior to approval of the surcharge to determine whether adopting such  
15      a surcharge is legally permitted.

16      **X. INTERIM EMERGENCY OPERATIONAL COST PASS-THROUGH MECHANISM**  
17      **(PASS THROUGH MECHANISM)**

18      **Q52. PLEASE TURN TO THE ISSUE OF THE PASS-THROUGH MECHANISM**  
19      **BY FIRST EXPLAINING THE NATURE OF THE REQUEST.**

20      **A52.** TWS has requested the timely adjustment of rates to recover what it anticipates will  
21      be rate increases from its water and electricity supplier, both of whom were also  
22      impacted by the 2016 Wildfires. Conceptually, this proposal would be similar to a  
23      Purchased Gas Adjustment mechanism for gas utilities, or an Electric Cost  
24      Adjustment for an electric utility, both of which are very common. I could endorse  
25      such a mechanism conceptually under appropriate conditions; however, there are  
26      absolutely no details surrounding this proposal and therefore the request should be  
27      denied as filed.

1       **Q53. IS THERE ADEQUATE INFORMATION CONTAINED IN THE PETITION**  
2       **TO APPROVE THIS PROPOSAL?**

3       **A53.** No. The request does not indicate how such increased costs will be determined. In  
4       other words, there is no established benchmark identified to quantify the level of  
5       “increased costs.” One potential benchmark is the purchased water and electricity  
6       costs included in the last TWS rate case and which were used to establish current  
7       rates. Another option is simply to compare the old water rates with the new water  
8       rates and apply this rate of increase times the current quantity of water used in that  
9       period. Finally, another option for defining increased costs is to simply compare the  
10      TWS water bill in total with some pre-defined water bill – which would encompass  
11      both the variations in price and quantity used in comparing the current month with  
12      a prior (historic) month. The TWS request should be denied until it can more clearly  
13      define how the pass-through would be calculated. Parties could then evaluate the  
14      proposal and ensure there are appropriate customer safeguards in place to ensure the  
15      calculation is as intended and there is some regulatory oversight confirming the  
16      increased customer costs.

17      **Q54. IF SUCH A MECHANISM IS DEVELOPED, WOULD CARE NEED TO BE**  
18      **TAKEN TO ENSURE A DOUBLE-COUNT DOES NOT EXIST BETWEEN**  
19      **THE DEFERRAL OF PROSPECTIVEE LOSSES AND THE**  
20      **OPERATIONAL COST PASS-THROUGH MECHANISM?**

21      **A54.** Yes. Since purchased water and electricity costs are a component of O&M  
22      expenses, any other mechanism that is impacted by O&M expenses, such as the  
23      “Make-Whole” surcharge or the Alternate Deferral Mechanism proposed by the  
24      Consumer Advocate, must be reconciled with the Operational Cost Pass-Through  
25      mechanism to ensure a double-count situation does not occur.

1 **XI. ALTERNATIVE DEFERRAL MECHANISM**

2 **Q55. EARLIER YOU INDICATED YOU BELIEVE LIMITED REGULATORY**  
3 **RELIEF MAY BE APPROPRIATE. PROVIDE AN OVERVIEW OF YOUR**  
4 **PROPOSAL TO PERMIT A LIMITED REGULATORY ASSET.**

5 **A55.** I would recommend that all prospective accounting losses (the amount by which the  
6 total O&M costs, depreciation and taxes other than income exceed revenue) be  
7 deferred on the books of TWS in a distinct regulatory asset account, for a period not  
8 to exceed 18-months, first initiated with November, 2017 operating results. The  
9 benefits of this approach include:

- 10 1. The deferral mechanism provides financial protection to TWS in that it would  
11 not incur any prospective losses during the period the deferral mechanism is in  
12 effect.
- 13 2. The deferral replaces the “Make-Whole” surcharge mechanism and avoids  
14 charging customers a rate based upon an uncertain level of customers.
- 15 3. Depending upon the amortization period selected, the deferral approach avoids  
16 the rapid recovery of the losses as proposed in the “Make-Whole” surcharge  
17 request, thus reducing the impact to TWS customers.
- 18 4. It would be appropriate to amortize such deferrals in the subsequent case over a  
19 ten-year period given the extraordinary and non-recurring nature of the event  
20 giving rise to the deferral.
- 21 5. If a ten-year deferral period is adopted for ratemaking purposes, it would be  
22 appropriate to include such deferred balance in rate base, allowing TWS  
23 investors to earn a return on the unamortized balance. The rate base inclusion  
24 of the deferred balance ensures TWS investors are fully compensated for the  
25 losses.
- 26 6. The deferral approach based upon prospective losses has the added benefit of  
27 avoiding any possible arguments of retroactive ratemaking that are present with  
28 the O&M “Make-Whole” surcharge request.

1 **XII. TWS TARIFF SUBMITTAL**

2 **Q56. HAS TWS SUPPLIED PROPOSED TARIFF LANGUAGE SUBSEQUENT**  
3 **TO THE FILING OF THE PETITION?**

4 **A56.** Yes.

5 **Q57. HAS TWS MODIFIED ITS PETITION TO BE CONSISTENT WITH THE**  
6 **LANGUAGE AND PROVISIONS CONTAINED IN ITS PROPOSED**  
7 **TARIFF?**

8 **A57.** No. Therefore, since the Petition has not been modified, my testimony above  
9 addresses the Consumer Advocate's recommendations based upon the Petition on  
10 file with TPUC.

11 **Q58. PLEASE TURN TO THE PASS-THROUGH MECHANISM. DOES THE**  
12 **TARIFF LANGUAGE (DISTINCT FROM THE PETITION) ADDRESS THE**  
13 **CONCERNS YOU RAISED EARLIER IN YOUR TESTIMONY**  
14 **REGARDING THE INTERIM EMERGENCY OPERATIONAL COST**  
15 **PASS-THROUGH MECHANISM?**

16 **A58.** The tariff provisions of the Pass-Through Mechanism submitted by TWS on  
17 October 24, 2017 addresses many of my concerns listed above and provide sufficient  
18 details to justify consideration at this time. I recommend TPUC adopt the Pass-  
19 Through Mechanism with the following conditions:

- 20 1. The surcharge mechanism should be separately identified as line items on  
21 customer bills with the end date clearly noted.
- 22 2. The semi-annual 'filings' referenced in the tariff should be submitted to TPUC  
23 under this Docket and be made part of the record available to the public. TWS  
24 will include in its annual filing an electronic copy of its water and electricity  
25 supplier invoices.
- 26 3. The tariff should be modified to reflect that the base period and review period  
27 costs included in the calculation of the surcharge should be limited to invoiced

costs from its water and electricity supplier respectively and should not include any other costs. I believe this is the intent of the tariff submittal; this point merely attempts to ensure there is no ambiguity on this point.

4. TWS will not object to the right of TPUC Staff or Consumer Advocate to recommend suspension of the Pass-Through surcharge for good cause shown.
5. The tariff should be modified under the general description to indicate that the mechanism will also permit the flow-through to customers of any reductions in costs such that the mechanism is symmetrical in reflecting cost increases or decreases.
6. The surcharge rate should be expressed as a volumetric rate rather than a fixed rate per customer as outlined in the tariff.

I have included Exhibit DND-5 as an attachment to my testimony which sets forth my recommended Pass-Through tariff language changes.

**Q59. WHY DO YOU BELIEVE IT IS APPROPRIATE TO REFLECT THE PASS-THROUGH SURCHARGE ON CUSTOMER BILLS?**

**A59.** I believe it is important to provide transparency to customers within the TWS rate structure so they will know the portion of their overall bill that is comprised of third party costs, outside the control of TWS<sup>29</sup> and the time frame the surcharge will be imposed.

**Q60. WHY DO YOU BELIEVE IT IS IMPORTANT TO SUBMIT THE SEMI-ANNUAL PASS-THROUGH FILING WITHIN THE CURRENT DOCKET?**

**A60.** The submittal of the pass-through mechanism surcharge should be done in a formal, public manner with TPUC. This can be accomplished by incorporating the filing within this Docket, which will allow for convenience of the Parties to this Docket as well as any interested TWS customer. For ease of review by TPUC and

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<sup>29</sup> Notwithstanding the impact TWS management has on the TWS water loss ratio.

1 Consumer Advocate staff, I also recommend an electronic copy of the applicable  
2 invoices be submitted as part of the filing.

3 **Q61. WHY SHOULD THE PASS-THROUGH MECHANISM BE LIMITED TO A**  
4 **CALCULATION BASED UPON INVOICED ELECTRICITY AND WATER**  
5 **SUPPLY COSTS?**

6 **A61.** It is important to ensure the base period costs and the review period costs are  
7 composed of the same types of costs, and specifically exclude any costs associated  
8 with internal labor, or other indirect costs that is designed to be included in base  
9 rates. My interpretation of the drafted tariff is TWS only intends to recover third-  
10 party invoiced costs, however, I recommend the tariff language be strengthened in  
11 this area to avoid any future misunderstandings regarding the intent and components  
12 of the mechanism.

13 **Q62. SHOULD TPUC STAFF AND THE CONSUMER ADVOCATE HAVE THE**  
14 **AUTHORITY TO REVIEW THE PASS-THROUGH SURCHARGE**  
15 **MECHANISM CALCULATIONS AND HAVE THE LEGAL AUTHORITY**  
16 **TO REQUEST THAT SUCH COLLECTIONS BE SUSPENDED IF THEY**  
17 **BELIEVE THERE IS AN ISSUE WITH THE CALCULATION?**

18 **A62.** Yes. Further, it should be made clear that TWS will cooperate with any reasonable  
19 request for substantiating data requested by TPUC staff and the Consumer  
20 Advocate.

21 **Q63. ADDRESS YOUR RECOMMENDATION THAT THE GENERAL**  
22 **DESCRIPTION BE MODIFIED.**

23 **A63.** The general description section of the tariff indicates the Pass-Through mechanism  
24 allows TWS to recover its incremental purchased water and power expenses. I  
25 recommend a modification to the language to reflect that the purpose of the  
26 mechanism is to collect or refund the difference between actual purchased water and  
27 power costs stated on a per unit basis with that of the corresponding base period

1 costs. This ensures that there is an understanding among the Parties that the Pass-  
2 Through mechanism is symmetrical and that customers will benefit in the event that  
3 per-unit costs of water and power decrease in a future period.

4 **Q64. ADDRESS YOUR FINAL RECOMMENDATION ON THE PASS-**  
5 **THROUGH MECHANISM, CONCERNING THE FORM THE**  
6 **SURCHARGE RATE WILL TAKE.**

7 **A64.** The costs incurred by TWS for purchased water and power are primarily variable in  
8 nature. For example, the total cost of purchased water will vary more directly with  
9 the quantity of water consumed by TWS than the number of TWS customers. Since  
10 these costs are primarily variable in nature, it is appropriate that the same costs be  
11 recovered from TWS customers based upon a variable charge based upon  
12 volumetric consumption.

13 **Q65. DO YOU BELIEVE THAT IMPOSING THE PASS-THROUGH**  
14 **SURCHARGE MECHANISM AS A FIXED CHARGE PER CUSTOMER**  
15 **MAY RESULT IN CROSS-SUBSIDIES BETWEEN TWS CUSTOMERS?**

16 **A65.** Yes. TWS Customers that use less water than average, and therefore cause less  
17 purchased water and power costs to be incurred by TWS, would pay the same  
18 monthly fixed charge as customers that use significantly more water. The TWS  
19 pricing proposal would create a cross-subsidy issue whereby customers using lesser  
20 amounts of water would subsidize those customers using greater amounts of water.  
21 The Consumer Advocate proposes that any surcharge (or credit) for purchased water  
22 and power be collected (or refunded) on a volumetric charge per thousand gallons  
23 of usage.

1       **Q66. THUS FAR YOU HAVE ADDRESSED THE PASS-THROUGH**  
2       **MECHANISM TARIFF. HAVE YOU REVIEWED THE TARIFF**  
3       **SUBMITTED COVERING THE 2016 WILDFIRES RESTORATION**  
4       **SURCHARGE, THE WATER SERVICE AVAILABILITY SURCHARGE**  
5       **AND THE MAKE-WHOLE SURCHARGE?**

6       **A66. Yes.**

7       **Q67. BASED UPON YOUR REVIEW OF THE SUPPLIED TARIFF LANGUAGE**  
8       **FOR THESE THREE SURCHARGES, DO YOU CONTINUE TO**  
9       **RECOMMEND THAT TPUC REJECT THE THREE SURCHARGE**  
10       **REQUESTS?**

11       **A67. Yes.** The supplied tariff language is beneficial and necessary for consideration of  
12       the surcharges, I continue to oppose the request to implement these three surcharges  
13       above, for reasons stated earlier in my testimony.

14       **Q68. HAVE YOU REVIEWED THE CALCULATIONS CONTAINED WITHIN**  
15       **THE TARIFF SUPPLIED FOR THE THREE SURCHARGES?**

16       **A68. Yes.**

17       **Q69. NOTWITHSTANDING YOUR OPPOSITION TO THE 2016 WILDFIRES**  
18       **RESTORATION, THE WATER AVAILABILITY AND “MAKE-WHOLE”**  
19       **SURCHARGES DO YOU WISH TO COMMENT ON THE**  
20       **CALCULATIONS CONTAINED IN THE SUPPLIED TARIFFS?**

21       **A69. Yes.** TWS has corrected for the error in the “Make-Whole” surcharge I addressed  
22       earlier in my testimony concerning the mismatch of periods used to calculate the  
23       surcharge and collect the surcharge. TWS has updated the amount of loss to be  
24       recovered by the surcharge to reflect more current financial results and has  
25       calculated an annual “Make-Whole” surcharge of \$80,860 to be applied to  
26       “inactive” customers resulting in a monthly charge of \$11.09/month. Within this



1 calculation they have now properly matched the periods used to calculate the rate  
2 with the period over which the fixed amount of losses would be recovered.

3 However, while I agree with the underlying calculation of the "Make-Whole"  
4 surcharge, TWS also made the same changes to the calculation of the 2016 Wildfires  
5 Restoration and Water Availability surcharges and as a result have understated the  
6 calculated surcharge.

7 **Q70. WHY DO YOU NOW DISAGREE WITH THE CALCULATION OF THE**  
8 **2016 WILDFIRES RESTORATION AND WATER AVAILABILITY**  
9 **SURCHARGES IF THEY HAVE BEEN MODIFIED TO BE CALCULATED**  
10 **IN THE SAME MANNER AS THE MAKE-WHOLE SURCHARGE**  
11 **DESCRIBED ABOVE?**

12 **A70.** The Make-Whole surcharge is an attempt to recover a fixed, non-recurring, nominal  
13 amount, namely the estimated 2017 Operating Losses. However, the 2016 Wildfires  
14 Restoration and Water Availability surcharges are different from the Make-Whole  
15 costs in that they are recurring annual costs based upon applying a return to a level  
16 of utility investment. Simply, TWS has changed the method used to calculate the  
17 surcharges, while ignoring the underlying distinction between recovery of a fixed  
18 amount of dollars and recovery of recurring annual costs.

19 The error made by TWS within its tariff calculation is to divide the 2016 Wildfires  
20 Restoration and Water Availability costs by eighteen months, rather than twelve  
21 months. While there are a number of reasons why such relief should not be granted,  
22 including uncertainty over the level of plant that is truly providing service to TWS  
23 customers, if such a surcharge is to be implemented the rate should be determined  
24 using a denominator of twelve, rather than eighteen as contained within the tariff for  
25 these two surcharges.

1       **Q71. WHAT IS THE IMPACT OF THE CORRECTION IN THE**  
2       **DEVELOPMENT OF THE 2016 WILDFIRES RESTORATION AND**  
3       **WATER AVAILABILITY SURCHARGE AMOUNTS AS CONTAINED IN**  
4       **THE TARIFF?**

5       **A71.** If TPUC decides to approve these surcharges, the 2016 Wildfires Restoration  
6       surcharge would be increased from \$2.52 per month to \$3.78 per month and the  
7       Water Availability surcharge would be increased from \$4.51 per month to \$6.77 per  
8       month. The surcharges contained in the Petition, as opposed to the tariff, properly  
9       reflect that the return costs (in the form of a surcharge rate) should be developed  
10      using a denominator of twelve, rather than eighteen.

11      **XIII. EMERGENCY PETITION COST RECOVERY**

12      **Q72. DESCRIBE THE TWS PROPOSAL TO RECOVER COSTS ASSOCIATED**  
13      **WITH THIS PROCEEDING**

14      **A72.** TWS has indicated in its Discovery Response to Consumer Advocate #1-36 that  
15      legal, travel and internal labor costs associated with the emergency petition will be  
16      recorded as a rate case expense, deferred and included in rate base in future  
17      proceedings and amortized over a three-year period. The initial estimate of these  
18      costs were \$50,000. TWS revised its estimate of Petition costs in Discovery  
19      Response to Consumer Advocate #2-10 to \$30,000.

20      **Q73. DO YOU HAVE CONCERNS WITH THE TWS PROPOSAL REGARDING**  
21      **RECOVERY OF COSTS ASSOCIATED WITH THIS PETITION?**

22      **A73.** Yes. First, internal labor costs should not be deferred for future recovery. These  
23      costs, by definition, are not incremental costs to UI, and as such do not represent an  
24      additional expense to the company and should not be deferred for future recovery in  
25      customer rates. Secondly, the proposed three-year amortization period is extremely  
26      short, especially in light of the highly unusual nature of the event giving rise to these  
27      costs, the 2016 Wildfires. I also do not believe rate base recognition for costs to be

recovered over a three-year period is appropriate as it would likely result in excessive cost recovery.

**Q74. EXPLAIN HOW EXCESSIVE COST RECOVERY COULD OCCUR WITH A THREE-YEAR AMORTIZATION OF COSTS ALONG WITH RATE BASE RECOGNITION.**

**A74.** Excessive emergency petition cost recovery could occur if TWS is permitted a relatively short amortization period, coupled with rate base recognition, and it doesn't have a subsequent rate case that would reflect that such costs are fully amortized. For example, assume \$30,000 in total regulatory costs, recovered over a three-year period in a subsequent rate case with rate base recognition. Assume for the ease of the example and overall rate of return of 8%.

The costs to TWS customers would be calculated as follows:

Expense = \$30,000 / 3 years or \$10,000/year

Return = 30,000 \* 8% or \$2,400/year

Total Costs = \$12.400/year

Assume a five-year period between the next TWS rate case and a subsequent TWS rate case<sup>30</sup>. The total costs recovered from customers associated with the cost of this Petition would be \$62,000 (\$12,400\*5). This compares with the actual cost incurred by TWS, including its financing costs, of \$34,800<sup>31</sup>, for a total over-recovery of \$27,200. The over-collection would be material applied to the small customer base of TWS.

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<sup>30</sup> The last TWS rate case was submitted on January 30, 2009, resulting in a period of approximately ten years between expected rate cases. Thus a five-year assumption may be overly conservative.

<sup>31</sup> In this example, TWS will incur financing costs at the rate of 8% per year on its unamortized (i.e. uncollected) balance of rate case costs. Annual financing costs calculated simplistically would result in annual financing costs of \$2,400, \$1,600 and \$800, respectively for a total of \$4,800.

1       **Q75. WHAT IS YOUR RECOMMENDATION REGARDING RECOVERY OF**  
2       **THE COSTS ASSOCIATED WITH THIS PETITION?**

3       **A75.** I recommend a ten-year amortization of the incremental costs, with rate base  
4       recognition, incurred by TWS associated with this docket. The relatively long  
5       amortization period is appropriate for two reasons. First, the event giving rise to  
6       these costs is highly unusual and not recurring, thus a ten-year period better reflects  
7       the non-recurring nature of the event. Secondly, the customer impact of these costs  
8       should be considered when determining an appropriate amortization period. TWS  
9       has indicated it will be submitting a base rate case in the near future which will add  
10      to the regulatory costs. Therefore, TWS customers will be incurring regulatory costs  
11      from this docket as well as from the subsequent rate case at such time as new base  
12      rates become effective, essentially incurring two layers of costs. Further, with the  
13      uncertainty with the ongoing customer count, the impact to customers from the next  
14      base rate case may be significant. For these reasons, I recommend a longer  
15      amortization period which will reduce the annual impact to customers and reduce  
16      the likelihood of TWS over-recovery of regulatory costs.

17      **Q76. DOES THIS CONCLUDE YOUR TESTIMONY?**

18      **A76.** Yes. However, I reserve the right to correct, amend or add to my testimony if new  
19      information becomes available or I identify an error.

**David Dittmore**

**Experience**

**Areas of Specialization**

Approximately thirty-year experience in evaluating and preparing regulatory analysis, including revenue requirements, mergers and acquisitions, utility accounting and finance issues and public policy aspects of utility regulation. Presented testimony on behalf of my employers and clients in natural gas, electric, telecommunication and transportation matters covering a variety of issues.

Tennessee Attorney General's Office; **Financial Analyst September, 2017 – Current**

Responsible for evaluation of utility proposals on behalf of the Attorney General's office including water, wastewater and natural gas utility filings. Prepare analysis and expert witness testimony documenting findings and recommendations.

Kansas Gas Service; **Director Regulatory Affairs 2014 – 2017; Manager Regulatory Affairs, 2007 - 2014**

Responsible for directing the regulatory activity of Kansas Gas Service (KGS), a division of ONE Gas, serving approximately 625,000 customers throughout central and eastern Kansas. In this capacity I have formulated strategic regulatory objectives for KGS, formulated strategic legislative options for KGS and led a Kansas inter-utility task force to discuss those options, participated in ONE Gas financial planning meetings, hired and trained new employees and provided recommendations on operational procedures designed to reduce regulatory risk. Responsible for the overall management and processing of base rate cases (2012 and 2016). I also played an active role, including leading negotiations on behalf of ONE Gas in its Separation application from its former parent, ONEOK, before the Kansas Corporation Commission. I have monitored regulatory earnings, and continually determine potential ratemaking outcomes in the event of a rate case filing. I ensure that all required regulatory filings, including surcharges are submitted on a timely and accurate basis. I also am responsible for monitoring all electric utility rate filings to evaluate competitive impacts from rate design proposals.

Strategic Regulatory Solutions; 2003 -2007

**Principal;** Serving clients regarding revenue requirement and regulatory policy issues in the natural gas, electric and telecommunication sectors

Williams Energy Marketing and Trading; 2000-2003

**Manager Regulatory Affairs;** Monitored and researched a variety of state and federal electric regulatory issues. Participated in due diligence efforts in targeting investor owned electric utilities for full requirement power contracts. Researched key state and federal rules to identify potential advantages/disadvantages of entering a given market.

MCI WorldCom; 1999 - 2000

**Manager, Wholesale Billing Resolution;** Manage a group of professionals responsible for resolving Wholesale Billing Disputes greater than \$50K. During my tenure, completed disputes increased by over 100%, rising to \$150M per year.

Kansas Corporation Commission; 1984- 1999

**Utilities Division Director** - 1997 - 1999; Responsible for managing employees with the goal of providing timely, quality recommendations to the Commission covering all aspects of natural gas, telecommunications and electric utility regulation; respond to legislative inquiries as requested; sponsor expert witness testimony before the Commission on selected key regulatory issues; provide testimony before the Kansas legislature on behalf of the KCC regarding proposed utility legislation; manage a budget in excess of \$2 Million; recruit professional staff; monitor trends, current issues and new legislation in all three major industries; address personnel issues as necessary to ensure that the goals of the agency are being met; negotiate and reach agreement where possible with utility personnel on major issues pending before the Commission including mergers and acquisitions; consult with attorneys on a daily basis to ensure that Utilities Division objectives are being met.

**Asst. Division Director** - 1996 - 1997; Perform duties as assigned by Division Director.

**Chief of Accounting** 1990 - 1995; Responsible for the direct supervision of 9 employees within the accounting section; areas of responsibility included providing expert witness testimony on a variety of revenue requirement topics; hired and provided hands-on training for new employees; coordinated and managed consulting contracts on major staff projects such as merger requests and rate increase proposals;

**Managing Regulatory Auditor, Senior Auditor, Regulatory Auditor** 1984 - 1990; Performed audits and analysis as directed; provided expert witness testimony on numerous occasions before the KCC; trained and directed less experienced auditors on-site during regulatory reviews.

Amoco Production Company 1982 - 1984

**Accountant** Responsible for revenue reporting and royalty payments for natural gas liquids at several large processing plants.

### **Education**

- B.S.B.A. (Accounting) Central Missouri State University
- Passed CPA exam; (Oklahoma certificate # 7562) – Not a license to practice

Exhibit DND-2

## Utilities, Inc.

Founded in 1965, Utilities, Inc. (UI), a wholly owned subsidiary of Corix Utilities, is committed to providing safe, reliable, and cost-effective water and wastewater service to their customers while protecting the environment and enhancing the communities they serve.

UI serves primarily residential customers across 15 states and is one of the largest privately owned water and wastewater utilities in the United States.

Please visit [www.uiwater.com](http://www.uiwater.com) or contact us for more information.



## Exhibit DND-3

## Corix Utilities

Corix Utilities helps communities build, manage, and operate water, wastewater, and sustainable energy systems as well as provide field metering services. Our clients include municipalities, military installations, universities, resort properties, gas, water, and electric utilities, and developers. We deliver comprehensive, flexible, and innovative solutions to our customers' most complex utility infrastructure challenges.

Corix brings experience, stability, and a cost-effective approach to operating and maintaining utility infrastructure. Our expertise is integrating traditional and non-traditional infrastructure systems, incorporating technological advancements, and providing a highly skilled team to deliver the best solution. We have widespread experience designing, constructing, operating, and owning water, wastewater, and energy systems.

Explore our comprehensive range of multi-utility services:

- Utility Operations
- Metering Services
- Energy Systems
- Operations & Maintenance
- Customer Care & Utility Billing
- Public Information Programs
- Regulatory & Rate Design

Contact us to learn more about our multi-utility services.







September 22, 2017

Re: Notice of Petition for Emergency Interim Relief

Dear Tennessee Water Service Customer:

On September 22, 2017, Tennessee Water Service, Inc. ("TWS" or "Company"), has petitioned the Tennessee Public Utility Commission ("TPUC" or "Commission") for emergency interim relief ("Petition") for TWS.

The purpose of the Petition is to allow TWS to recover the costs of providing drinking water service to its customers during the period of recovery from the devastating, wind-driven wildfires of 2016 ("2016 Wildfires") that destroyed and/or severely damaged most of the homes connected to TWS' drinking water system.

The last TWS rate increase was approved by TPUC on September 15, 2009.

As you may recall, to alleviate the pressure felt by customers affected by the 2016 Wildfires, TWS put a hold on all bills for affected homes. TWS extended the due date on all outstanding balances until March 31, 2017, for services rendered prior to the 2016 Wildfires, and it informed customers that after March 31, 2017, normal billing would resume for those customers for whom water service had been restored.

Currently, capital improvements are needed to address the damage to the drinking water system caused by the 2016 Wildfires and to provide for system reliability, efficiency, and integrity.

As noted, the Company proposes the following emergency interim relief measures:

- a. Interim Emergency Wildfire Restoration Surcharge - a public utility may request and the Commission may authorize a mechanism to recover the operational expenses, capital costs, or both, if such expenses or costs are found to be in the public interest and are related to weather-related natural disasters. TWS proposes that the Commission approve an Interim Emergency Wildfire Restoration Surcharge to be applied to both active and inactive customer bills for capital costs incurred prior to and after the 2016 Wildfires as these costs are directly in line with the public interest in rebuilding the Chalet Village drinking water system. The Restoration Surcharge would be an additional \$3.78 each month for all customers.
- b. Interim Emergency Water Service Availability Surcharge - Currently, TWS is not charging those customers who have not reconnected to the drinking water system since the 2016 Wildfires and are thus inactive customers. TWS proposes that the

Commission approve an Interim Emergency Water Service Availability Surcharge to these inactive customers along with active customers. The Water Service Surcharge would only apply to all TWS customers and would total \$6.77.

c. Interim Emergency Make-Whole Surcharge

TWS proposes that the Commission approve an Interim Emergency Make-Whole Surcharge to be applied to the bills of its inactive customers to offset the O&M expenses that are not being met due to the projected revenue shortfall. The Make-Whole Surcharge would be \$14.26.

A comparison of active and inactive customer monthly bills under the proposed surcharges is shown below:

Changes to Monthly Bills from Surcharges		
Customer Status	Average Monthly Bill Prior to Proposed Surcharges	Average Monthly Bill After Proposed Surcharges
Active	\$58.60	\$69.15
Inactive	\$0.00	\$24.81

- d. Interim Emergency Operational Costs Pass-Through Mechanism - TWS proposes that in the event of an increase or decrease to TWS' non-discretionary operational costs to obtain and distribute water to its customers, which includes at least water purchase costs from Gatlinburg and electricity, the Company may adjust its charges to pass the increase or decrease through to active customers without the need for prior approval from TPUC. TWS will provide Commission and Staff notice of any increase prior to implementing the pass-through.

The four proposed changes to TWS' charges and rates are specifically and narrowly tailored to the needs that have arisen because of the 2016 Wildfires. These proposals are intended to have a limited timeframe of effect. TWS proposes that the interim period for which they are applicable be no more than eighteen (18) months from the date of the Commission's approval of this Petition.

If you have any questions, please feel free to contact Customer Service at (800) 525-7990 or [customerservice@uiwater.com](mailto:customerservice@uiwater.com).

Sincerely,

Tennessee Water Service, Inc.

**INTERIM EMERGENCY OPERATIONAL COSTS PASS-THROUGH MECHANISM****1. Applicability**

In addition to the other charges provided for in this Tariff, the The Interim Emergency Operational Costs Pass-Through Mechanism ("IEOCPTM") will apply to active customers of TWS.

The IEOCPTM will be calculated on a semi-annual basis with the resulting surcharge being filed with notice of any pass-through costs being reported to the Tennessee Public Utility Commission Staff within Docket No. 17-00108 fifteen days prior to applying the pass-through costs to active customer bills.

**2. Definitions**

- **"Active Customer"** - a customer that has access to the water distribution system with an active account and is currently being billed for water consumption at the time of the assessment of any increase/decrease of TWS' pass-through costs.
- **"Adjusted Review Period IEOCPTM Costs"** - means the Review Period IEOCPTM Costs net of the Over-Under Collection Adjustment.
- **"Base Period"** - means the six month period of January 1, 2017 to June 30, 2017.
- **"Base Period IEOCPTM Costs"** - means the amount of expenses of TWS for purchased power expense and purchased water expense during the Base Period.
- **"Consumer Advocate"** - means the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General.
- **"IEOCPTM Surcharge Rate"** - means the total amount per Active Customer bills to be recovered through the IEOCPTM.
- **"Over-Under Collection Adjustment"** - means the adjustment to the IEOCPTM Surcharge Rate applicable to the coming Review Period for the net amount of over or under collections for the prior Review Period.
- **"Review Period IEOCPTM Costs"** - means the amount of actual annual expenses of TWS for purchased power expenses and purchased water expenses during the applicable Review Period.
- **"Review Period"** - means the six month period on which the Review Period IEOCPTM Costs are calculated.

**3. General Description**

The IEOCPTM requires the collection of actual purchased water and purchased power costs from TWS customers, subject to water loss caps adopted by the TPUC. The objective of this mechanism

is to collect rates reflecting actual costs incurred such that increases or decreases in costs are reflected in the surcharge. allows TWS to recover outside of a rate case its incremental cost for purchased power expenses and purchased water expenses.

Review Period IEOPTM Costs are to separately identifiable on TWS' books and segregated into the following general accounts:

Accounts 610 for - Purchased Water Expense;  
Accounts 615 for - Purchased Power Expense.

The costs recorded in these accounts, and eligible for recovery in the IEOPTM surcharge, shall be limited to third-party invoiced costs for purchased water and purchased power costs.

#### **4. Determination of Pass-Through Cost Percentage**

- (A) The IEOPTM Surcharge Rate shall be expressed as a dollar figure to be applied to TWS' Active Customers bills, as a distinct line item on the bill, for a period of six months following an IEOPTM Surcharge Rate calculations.
- (B) The IEOPTM Surcharge Rate shall be calculated on a semi-annual historical basis as follows:

Base Period IEOPTM Costs  
Divided by Base Period Sales Volume in 100 Gallons  
= Base Period IEOPTM Costs per 100 Gallons

Review Period IEOPTM Costs Subject to TPUC's Water Loss Limits Policies  
Plus/Minus Over-Under Collection Adjustment  
= Review Period IEOPTM Costs Adjusted for Over-Under Collections  
Divided by Review Period Sales Volume In 100 Gallons  
= Adjusted Review Period IEOPTM Costs per 100 Gallons

~~Incremental~~ Change in IEOPTM Costs per 100 Gallons  
Multiplied by Review Period Sales Volume per 100 Gallons  
= Net Deferred IEOPTM Costs  
Divided by Average Monthly Total Gallons Sold (100 Gallons) of Active Customers  
During Review Period  
= Net Deferred IEOPTM Costs per Active Customer  
~~Divided by Six (6)~~  
= IEOPTM Surcharge Rate per 100 Gallons ~~Active Customer bill per Month~~

- (C) The IEOPTM Surcharge Rate shall apply to Active Customer bills for the six months following the submission of the above calculation to TPUC and the Consumer Advocate.

**5. Computation of the Over-Under Collection Adjustment**

TWS will identify and record the total amount of the IEOCPTM Surcharge Rate collected from Active Customer during the six month period following the calculation as defined in Section 4. The difference between total IEOCPTM Surcharge Rate collected and the total Net Deferred IEOCPTM Costs authorized for the Review Period, as adjusted for Interest, shall constitute the Over-Under Collection Adjustment.

- (A) The Over-Under Adjustment shall be computed as follows:

Total IEOCPTM Costs Collected from Customers for the Review Period  
Less Total Deferred IEOCPTM Costs Authorized for Review Period  
 = Subtotal of Over-Under Collection Adjustment  
Plus Interest Adjustment  
 = Total Over-Under Collection Adjustment

- (B) Computation of Interest Adjustment.

Interest shall be computed as follows:

Subtotal of Over-Under Collection Adjustment  
Multiplied by (Interest Rate Multiplied by 50%) Interest Adjustment  
 = Interest Adjustment

Where "Interest Rate" equals the prime rate value published in the Federal Reserve Bulletin or in the Federal Reserve's "Selected Interest Rates" for the most recent preceding month.

**6. New Base Rates**

The IEOCPTM Surcharge Rate will be reset at zero upon the establishment of new base rates to customer billings that provide for the prospective recovery of the semi-annual costs that had theretofore been recovered under the IEOCPTM Surcharge Rate or after a period of six months from the submission of the calculation in Section 4 to TPUC and the Consumer Advocate.

**7. Semi-Annual Filing**

TWS will file its first IEOCPTM Calculation following the six month period of January 1, 2018, through June 30, 2018 (the "First Review Period"). The filing shall be verified by an officer of TWS. The IEOCPTM Surcharge Rate will become effective 30 days after the semi-annual filing is submitted to TPUC and shall be applied as an adjustment to Active Customers' bills for the six month period following the effective date of the IEOCPTM Surcharge Rate. TWS shall file one adjustment each six months to include both the new IEOCPTM Surcharge Rate based on the semi-annual production expense and the reconciliation of the Over-Under Collections Adjustment.

TWS will include in its semi-annual filing the following information at a minimum: (a) a schedule of all Review Period IEOCPTM Costs, including any related general ledger support; (b) actual billing determinants by month as used in the computation of the IEOCPTM Surcharge Rate Collected from Customers; (c) a computation of the IEOCPTM Surcharge Rate, including the detailed calculation of each component; (d) a schedule of any proposed prior period adjustments; (e) an affirmative statement of whether TWS is aware of any changes in market conditions that may affect whether the IEOCPTM Surcharge Rate is still in the public interest, including the identification of such factors if they exist; (f) the cumulative amount of IEOCPTM Surcharge Rate Costs collected from Customers under this mechanism; (g) the actual invoices received from TWS' wholesale water and power suppliers, respectively, and (gh) such other information as TPUC may direct.

TWS will simultaneously copy the Consumer Advocate on this semi-annual filing.

**8. Notice Requirements**

TWS will file revised tariffs for TPUC approval upon 30 days' notice to implement a decrement or an increment to the IEOCPTM Surcharge Rate. Along with the tariff filing, TWS will include a copy of the computation of the new IEOCPTM Surcharge Rate. TWS will simultaneously copy the Consumer Advocate on this tariff filing.

**9. Public Interest Review**

Nothing herein shall be construed to eliminate or otherwise restrict the opportunity of the Consumer Advocate or any other interested party from seeking a review of this cost pass-through mechanism, as permitted by law and the rules and regulations of TPUC, for a reconsideration of whether it remains in the public interest.