

STATE OF TENNESSEE

Office of the Attorney General



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October 9, 2017

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Re: Tennessee Public Utility Commission, Docket No. 17-00108, *Petition of Tennessee Water Service for Approval of an Interim Emergency Wildfire Restoration Surcharge, Interim Emergency Water Service Availability Fee, Interim Emergency Make-Whole Surcharge and an Interim Emergency Operational Cost Pass-Through Mechanism*

Dear Mr. Freeman:

We are writing regarding Tennessee Public Utility Commission (TPUC) Docket No. 17-00108, a case in which your client, Tennessee Water Service, petitioned to raise water rates in the Gatlinburg area after the 2016 wildfires. In light of the facts contained in the file to date, we believe that this Docket presents unique legal issues for consideration by the Commission. Given that this matter is set for expedited review on October 23, 2017, we are sending this letter to identify a number of legal and practical concerns for you and your client address without delay. As the hearing on this matter is imminent, we request that you file your response by October 13, 2017.

Incomplete Discovery.

On August 16, 2017, the Consumer Advocate requested copies of all materials provided by Tennessee Water to TPUC staff prior to filing its petition. We have not received those materials. We request that you immediately update the Docket by filing all information previously provided to TPUC Staff, as well as any materials provided to the Consumer Advocate

informally. Additionally, the Consumer Advocate requests that going forward Tennessee Water file in the Docket within three days all documents shared informally with TPUC staff or the Consumer Advocate.

Concerns Regarding Rate Change Notification to Customers.

Despite being advised in August of the required 30-day notice to its customers, Tennessee Water failed to issue the timely notice. Instead, Tennessee Water's parent company, Utility Inc., sent a letter to Tennessee Water's customers dated September 22, 2017. Even this letter, however, was not mailed to customers until at least September 25, 2017.

Please describe the steps that Tennessee Water has taken to ensure that all of its customers received notice of the proposed rate increase consistent with TPUC Rule 1220-04-01-.05, and in doing so please respond to the following questions:

- (1) What was the reason for the delay in issuing the notice to Tennessee Water customers?
- (2) What steps has Tennessee Water taken to confirm the identities and contact information of its current customers so they can be provided notice of the rate change?
- (3) How many people contacted Tennessee Water to inform it that they are no longer the owner? What did Tennessee Water do in response to this information?
- (4) How many customer mailers were returned to Tennessee Water as undeliverable? What steps were taken to reach these customers and when were those steps taken?
- (5) Did Tennessee Water provide notice to its customers of its proposed rate increase by publication in a "newspaper of general circulation located in the utility's service area" as required in TPUC Rule 1220-04-01-.05(1)(a)? If yes, please file a copy in the Docket.
- (6) Did Tennessee Water publish or provide notice that a copy of the proposed tariff changes and the reasons for those changes are on file with TPUC and are open for public inspection under TPUC Rule 1220-04-01-.05(2)? If yes, please file a copy in the Docket.
- (7) Did Tennessee Water inform all of its customers of TPUC's website, e-mail address, or any other contact information so the customers could seek out information about the Docket? If not, why has Tennessee Water not informed its customers? If yes, please file a copy in the Docket.
- (8) Did Tennessee Water provide notice to customers of the date and place when the petition would be heard? If yes, please file a copy in the Docket.

- (9) What steps has Tennessee Water taken to advise its customers of their ability to participate in the upcoming public hearing, including their ability to send emails and letters to TPUC or appear at the hearing?
- (10) What steps has Tennessee Water taken to advise its customers of their options regarding their water service so they may avoid paying charges?
- (11) How has Tennessee Water trained its employees regarding how to inform customers of their options with regard to water service if their property has been destroyed?

Concerns Regarding No Proposed Tariff Being Filed.

Tennessee Water has not filed a proposed tariff. The proposed tariff describes the potential rate changes and other terms and conditions that affect Tennessee Water's customers. A utility must file a full and complete proposed tariff with its petition or shortly thereafter so that the Commission, the Consumer Advocate and the Public can review the details of the Company's proposal. Tennessee Water must file the proposed tariff so that interested parties have sufficient time to review it and participate in an informed manner in this Docket.

Concerns Regarding Unavailability of Witnesses.

Tennessee Water indicated that one of its witnesses will not be available to testify in person at the hearing. This witness has not been identified to the Consumer Advocate. The absence of a witness could deny us the ability to effectively cross examine the witness. In TPUC contested cases, many witnesses are asked to review documents and other materials to respond to questions from the Commission, Commission Staff and the Consumer Advocate, therefore it is vital that we be informed of the witness' identity so we can determine whether we will need to object to his or her absence from the hearing.

Concerns Regarding Legal Standard for an Emergency Petition.

Tennessee Water is seeking "Emergency" relief. Please explain the legal basis that supports your client's request for emergency relief instead of the normal rate case process set forth in state law.

Concerns Regarding Retroactive Ratemaking.

The Consumer Advocate has concerns that a substantial part of the requested increase constitutes impermissible retroactive ratemaking. Please explain the legal basis for distinguishing between the Make-Whole Surcharge and impermissible retroactive rate-making.

The Consumer Advocate is working with Tennessee Water to present this matter to the Commission within the parameters of the Scheduling Order. We are working diligently to move this case forward and resolve this Docket promptly, giving all parties an opportunity to review the necessary documents and have their positions and concerns heard. This process will allow the case to be fully presented to the Commission so that it can make an informed decision

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consistent with state law. We hope this letter assists the process. Please understand we reserve our right to raise additional concerns. If you have any questions, please feel free to reach out to me.

Sincerely,

A handwritten signature in black ink that reads "Karen H Stachowski". The signature is written in a cursive, slightly slanted style.

Karen H. Stachowski
Assistant Attorney General

cc: TPUC Docket No. 17-00108