

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)	
TENNESSEE AMERICAN WATER)	
COMPANY'S RESPONSE TO)	
COMMISSION'S INVESTIGATION OF)	DOCKET NO. 18-00039
IMPACTS OF FEDERAL TAX REFORM)	
ON THE PUBLIC UTILITY REVENUE)	
REQUIREMENTS)	

DIRECT TESTIMONY

OF

DAVID N. DITTEMORE

April 17 , 2019

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

TENNESSEE AMERICAN WATER
COMPANY'S RESPONSE TO
COMMISSION'S INVESTIGATION OF
IMPACTS OF FEDERAL TAX
REFORM ON THE PUBLIC UTILITY
REVENUE REQUIREMENTS

DOCKET NO. 18-00039

AFFIDAVIT

I, David Dittmore on behalf of the Consumer Advocate Unit 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 Unit.



David N. Dittmore
DAVID N. DITTEMORE

Sworn to and subscribed before me
this 17 day of April, 2019.

Terra Allen

NOTARY PUBLIC

My commission expires: September 26, 2022.

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

A1. My name is David N. Dittmore. My business address is Office of the Tennessee Attorney General, War Memorial Building, 301 6th Ave. North, Nashville, TN 37243. I am a Financial Analyst employed by the Consumer Advocate Unit in the Financial Division of the Tennessee Attorney General's Office (Consumer Advocate).

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

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

Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION (TPUC)?

A3. Yes. I have submitted testimony in a number of dockets before TPUC, including those addressing the impact of the Tax Cut and Jobs Act (TCJA), specifically Docket Nos. 18-00017, 18-00034, 18-00038, and 18-00040.

1 **Q4. WHAT IS THE PURPOSE OF THIS DOCKET?**

2 **A4.** The purpose of this Docket is to address the appropriate regulatory treatment associated
3 with; a) Ongoing Income Tax Expense savings associated with Tennessee American Water
4 Company's (TAWC or Company) base rates, and b) the balance of Income Tax Expense
5 Savings accruing from January 1, 2018, associated with base rates and recorded to a
6 regulatory liability account pursuant to the Commission's Order in Docket No. 18-00001.

7 **Q5. WILL THIS DOCKET RESOLVE ALL OF THE OUTSTANDING TAX ISSUES**
8 **OF TAWC RESULTING FROM THE TCJA?**

9 **A5.** No. The Parties agreed to a bifurcated process whereby there will be two distinct
10 proceedings related to effects of the TCJA on TAWC's cost of service. The first phase of
11 this Docket, which this testimony addresses, concerns the appropriate regulatory treatment
12 of ongoing Income Tax Expense savings as well as accrued Income Tax Expense savings,
13 both associated with TAWC's base rates.¹ The second phase of this Docket will address
14 the identification and appropriate regulatory treatment associated with both protected and
15 unprotected excess accumulated deferred income tax liability (ADIT). This bifurcated
16 approach is necessary as TAWC contends it will not have sufficient data to address the
17 second phase of this Docket until later this year.² Addressing these issues separately will
18 allow the funds associated with phase one to flow back to ratepayers promptly while
19 allowing the Company additional time to gather data concerning phase two as it has
20 requested.

21 **Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 **A6.** The purpose of my testimony is to present the Consumer Advocate's position regarding
23 the regulatory treatment of; a) Ongoing Income Tax Expense savings associated with
24 TAWC's base rates, and b) the accrued balance of the regulatory deferral associated with
25 Income Tax Expense savings accruing from January 1, 2018.

26

¹ The Income Tax Expense impact of the lower federal tax rate of 21% associated with the TAWC Capital Riders has been reflected within the Capital Riders Docket No. 17-00124.

² Direct Testimony of John Wilde, page 8, lines 3-7, Docket No. 18-00039; Direct Testimony of Linda Bridwell, page 9, lines 10-12, Docket No. 18-00039.

1
2 **Q7. PROVIDE AN EXECUTIVE SUMMARY OF YOUR RECOMMENDATIONS.**

3 **A7.** I recommend that the annual level of Income Tax Expense savings associated with existing
4 TAWC base rates be flowed back to ratepayers through the existing Capital Riders
5 mechanism as proposed by the Company. The benefits from the TCJA reflected as a credit
6 to the Capital Riders should be identified on a one-time basis either on the customer bill or
7 included as a reference in a bill insert. I also recommend that the Commission require the
8 application of carrying charges to the outstanding balance of Income Tax Expense savings
9 accruing from January 1, 2018.

10 **Q8. HAS THE COMPANY RETURNED THE INCOME TAX EXPENSE BENEFITS**
11 **OF THE REDUCED TAX RATE ASSOCIATED WITH ITS CAPITAL RIDERS TO**
12 **ITS RATEPAYERS?**

13 **A8.** Yes. The purpose of this Docket is to address Income Tax Expense impacts resulting from
14 the TCJA on existing base rates. Income Tax Expense savings associated with the Capital
15 Riders have been passed through by means of that mechanism to ratepayers.

16 **Q9. WHAT IS THE ANNUAL LEVEL OF TAX SAVINGS ASSOCIATED WITH BASE**
17 **RATES?**

18 **A9.** The Company has identified annual Income Tax Expense savings associated with the TCJA
19 to be \$2,035,031.³

20 **Q10. DO YOU AGREE WITH THE COMPANY'S COMPUTATION OF ITS ANNUAL**
21 **REDUCTION IN INCOME TAX EXPENSE?**

22 **A10.** Yes. The amount calculated by TAWC appropriately reflects the tax "gross-up" effect of
23 the Income Tax Expense savings.

24 **Q11. WHAT IS THE COMPANY'S PROPOSAL WITH RESPECT TO THE**
25 **FLOWBACK OF THE ONGOING INCOME TAX EXPENSE SAVINGS**
26 **RESULTING FROM THE TCJA ASSOCIATED WITH BASE RATES?**

27 **A11.** The Company proposes to offset the incremental Capital Riders Surcharge costs with
28 Income Tax Expense savings, both within the Capital Riders Budget and True-up

³ Direct Testimony of Linda C. Bridwell, page 5, line 18, Docket No. 18-00039.

1 Reconciliation filings.⁴ The Company asserts that customers would not experience an
2 increase in rates in the near term due to the offsetting application of ongoing and accrued
3 TCJA savings.⁵ The flowback of TCJA cost reductions would be limited to the amount
4 necessary to exactly offset the increased rates that would otherwise be charged to customers
5 through the Capital Riders surcharge.

6 **Q12. WHAT IS THE COMPANY'S PROPOSAL WITH RESPECT TO ACCRUED**
7 **SAVINGS ASSOCIATED WITH INCOME TAX EXPENSE IN BASE RATES**
8 **FROM THE DATE OF TCJA IMPLEMENTATION THROUGH THE CURRENT**
9 **PERIOD?**

10 **A12.** The Company's proposal would use accrued Income Tax Expense savings – that is those
11 savings accruing from January 1, 2018 through the date new infrastructure rider rates
12 become effective in Docket 18-00120 – as an offset to Capital Rider surcharge costs, in the
13 same manner as ongoing Income Tax Expense savings.⁶

14 **Q13. FIRST TURN TO THE ONGOING INCOME TAX EXPENSE SAVINGS. WHAT**
15 **IS YOUR POSITION WITH RESPECT TO THE COMPANY'S PROPOSAL**
16 **RECOGNIZING INCOME TAX SAVINGS AS AN OFFSET TO THE CAPITAL**
17 **RIDERS?**

18 **A13.** As a general matter, I believe the Company's proposal to use Income Tax Expense Savings
19 from the TCJA as an offset the Capital Riders surcharge to be reasonable. This approach
20 would ensure the rapid flow-back of Income Tax Expense savings to customers.

21 **Q14. DO YOU AGREE WITH THE COMPANY'S POSITION TO LIMIT THE TAX**
22 **SAVINGS OFFSET TO THE AMOUNT OF CAPITAL RIDER SURCHARGE?**

23 **A14.** No. I believe the entire amount of annual Income Tax Expense Savings should be credited
24 to the Capital Riders Surcharge and not be limited to offsetting the incremental surcharge
25 proposed in that period. Further, I believe the deferred regulatory liability representing
26 accrued Income Tax Expense savings from January 1, 2018 should be returned to
27 ratepayers over a three-year period.

⁴ See TAWC Response to Consumer Advocate Request 1-10, Docket No. 18-00039.

⁵ Direct Testimony of Melissa Schwarzell, page 30, lines 4-5, Docket No. 18-00120.

⁶ *Id.*, at page 29, lines 13-22.

1 **Q15. WHAT IS YOUR RECOMMENDATION REGARDING THE APPROPRIATE**
2 **AMOUNT THAT SHOULD BE CREDITED TO THE CAPITAL RIDER**
3 **SURCHARGE MECHANISM?**

4 **A15.** The appropriate credit to the surcharge mechanism is the sum of the annual level of expense
5 savings (\$2,035,031) plus one-third of the outstanding balance of deferred savings through
6 the date at which new Capital Riders rates becomes effective. The Company estimates this
7 deferred balance will be \$2.7 Million as of May 31, 2019.⁷ One-third of the deferred
8 liability should be returned to ratepayers each year for a three-year period. The sum of the
9 annual savings and the annual amortization of deferred savings totals an annual level of
10 ratepayer credits of \$2,937,070 as reflected on Exhibit DND-2.

11 **Q16. WHY DO YOU BELIEVE TAWC RATEPAYERS SHOULD RECOVER THE**
12 **ANNUAL VALUE OF INCOME TAX SAVINGS, NOTWITHSTANDING THE**
13 **LEVEL OF CAPITAL RIDERS SURCHARGE?**

14 **A16.** Ratepayer credits associated with the Capital Riders should not be limited to the amount
15 of Capital Riders surcharge that would otherwise be owing. Ratepayers should receive the
16 timely benefit of tax savings that the Company has accrued since January 1, 2018,
17 regardless of the potential for future increases in the Capital Riders surcharge.

18 **Q17. ARE THERE OTHER REASONS WHY LIMITS SHOULD NOT BE PLACED ON**
19 **FLOW-BACK OF INCOME TAX EXPENSE SAVINGS?**

20 **A17.** Yes. The Commission should not assume continued sizeable increases in the Capital
21 Riders will occur that precisely offset the benefits of Income Tax Expense savings. The
22 Consumer Advocate takes issue with the manner in which the Capital Riders surcharge is
23 currently calculated, which in our view results in rates that are not just and reasonable. The
24 Consumer Advocate is not willing to accept that Capital Riders rates should be increased
25 in the future to the extent suggested by the Company in its response to Consumer Advocate
26 Response No. 2-3. If the Capital Riders surcharge increases do not materialize as expected
27 by the Company, and the Company's proposal to limit refunds of ongoing Income Tax

⁷ See TAWC Response (Attachment) to Consumer Advocate Request No. 2-3.

Expense savings are adopted, ratepayer benefits associated with the TCJA will be unfairly delayed.

Q18. HAS THE COMPANY IDENTIFIED REASONS IT BELIEVES JUSTIFY PLACING LIMITS ON THE AMOUNT OF TCJA BENEFITS THAT ACCRUE TO RATEPAYERS?

A18. The Company's goal appears to be to maintain rate stability within the Capital Riders surcharge mechanism. Ms. Chambers indicates that the Company is still proposing a 0% rate increase as a result of the 2019 Capital Rider infrastructure investment.⁸

Q19. WHY DO YOU BELIEVE A TIMELY RETURN OF THESE FUNDS IS APPROPRIATE?

A19. Ratepayers have paid for a level of Income Tax Expense that is no longer in effect and as such are paying rates in excess of the costs to provide service. The funds at question are ratepayer funds, and ratepayers deserve to have such excess payments returned to them as soon as reasonably possible.

Q20. HAVE YOU REVIEWED THE COMPANY'S METHOD OF ACCOUNTING FOR CONTINUING INCREASES AND DECREASES TO THE DEFERRED REGULATORY LIABILITY BALANCE?

A20. Yes. I agree with the process outlined by Company witness Bridwell, whereby the Company will continue to track the difference between Income Tax Expense collected in base rates at the 35% level and incurred at the 21% level by increasing the balance of its deferred liability account.⁹ The balance in this tracking account will be reduced as such funds are returned to customers through credits to the Capital Rider.

Q21. DOES THE COMPANY PLAN TO NOTIFY CUSTOMERS THAT THEY ARE RECEIVING BENEFITS FROM THE REDUCED TAX RATE ADOPTED WITHIN THE TCJA?

A21. Yes. The Company has indicated that it would include a notice on customer bills informing them that their Capital Riders surcharge is being offset by the reduction in Income Tax

⁸ Direct Testimony of Elaine Chambers, page 8, lines 13-15, Docket No. 18-00120.

⁹ Direct Testimony of Linda Bridwell, page 5, lines 5-13, Docket No. 18-00039.

1 Expense.¹⁰ I strongly support this notice and believe it's important to notify customers of
2 this benefit as it enhances customer bill transparency.

3 **Q22. DOES THIS COMPLETE YOUR TESTIMONY?**

4 **A22.** Yes.

¹⁰ Direct Testimony of Melissa L. Schwarzell, page 30, lines 1-2, Docket No. 18-00120.

David Dittimore

Experience

Areas of Specialization

Approximately thirty-years 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

Calculation of Annual TCJA Income Tax Expense Savings
Accruing to TAWC Ratepayers
Docket No 18-00039

Exhibit DND-2

	Amount	Source
Annual Income Tax Expense Savings - Gross of Tax	\$ 2,035,031	Bridwell Testimony 18-00039; p 5
Estimated Balance of Deferred Income Tax Expense Savings - May 31, 2019	\$ 2,706,118	TAWC Response to CA Request 2-3
Three-Year Amortization	<u>3</u>	
Annual Amortization	<u>\$ 902,039</u>	
Annual Flow-back to TAWC Ratepayers due to Income Tax Expense Savings	<u><u>\$ 2,937,070</u></u>	