

BUTLER | SNOW

November 29, 2018

VIA ELECTRONIC FILING

Hon. David Jones, Chairman
c/o Sharla Dillon
Tennessee Public Utilities Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243

RE: *Joint Petition of Tennessee-American Water Company, and Thunder Air, Inc. d/b/a Jasper Highlands Development, Inc. for Approval of a Purchase Agreement and for the Issuance of a Certificate of Convenience and Necessity*
TPUC Docket No. 18-00099

Dear Chairman Jones:

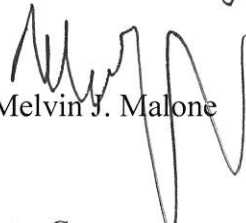
Attached for filing please find *Joint Petitioners' Supplemental Responses to TPUC Staff Data Request #1*, which were issued on November 9, 2018, in the above-captioned matter. The attachments to Staff Data Request #1, Response Nos. 2 and 13 were inadvertently omitted from our filing on November 27, 2018.

Also attached are Excel files for the attachments to Staff Data Request #1, Response Nos. 11, 14, 16 and 22.

As required, an original of this filing, along with four (4) hard copies, will follow. Should you have any questions concerning this filing, or require additional information, please do not hesitate to contact me.

Very truly yours,

BUTLER SNOW LLP


Melvin J. Malone

clw

Attachments

cc: Linda Bridwell, Tennessee-American Water Company
Daniel Whitaker, Consumer Protection and Advocate Division
William H. Horton, Counsel for Thunder Air, Inc.

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

MELVIN J. MALONE
615.651.6705
melvin.malone@butlersnow.com

T 615.651.6700
F 615.651.6701
www.butlersnow.com

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BUTLER SNOW LLP

**TENNESSEE AMERICAN WATER COMPANY/THUNDER AIR, INC.
DOCKET NO. 18-00099
FIRST DATA REQUEST OF THE
TENNESSEE PUBLIC UTILITY COMMISSION**

Responsible Witness: Dane Bradshaw

Question:

2. Provide a copy of all contracts between Thunder Air Inc. and Jasper Highlands Property Owners Association.

Response:

Please see the attached.

LEASE

THIS LEASE, made as of the 1st day of January, 2015, by and between **Thunder Air, Inc., d/b/a Jasper Highlands Development, Inc.**, a Tennessee corporation, hereinafter called the "Lessor", and **Jasper Highlands Property Owners' Association, Inc.**, a Tennessee not-for-profit corporation, hereinafter called the "Lessee".

W I T N E S S E T H:

WHEREAS, the Lessee has agreed to purchase water from South Pittsburg Board of Water Works and Sewers ("Water Board") for use of the Jasper Highlands subdivision in Marion County, Tennessee; and

WHEREAS, the water will be conveyed by piping, a pump house and other equipment installed and owned by Lessor to the lots of individual property owners (the "Equipment"); and

WHEREAS, the Lessee desires to lease the Equipment upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the promises and the agreements contained herein, the parties agree as follows:

1. Lease. Lessor hereby leases to Lessee all piping, machinery, equipment and other property described in the attached Schedule A (the "Equipment").
2. Term. The term of this lease shall continue until the Lessee is deeded all common elements and piping infrastructure for one dollar (\$1.00).
3. Rent. The rent for the Equipment shall be one dollar (\$1.00) per year.
4. Use. Lessee shall use the Equipment in a careful and proper manner and shall comply with and conform to all national, state, municipal, and other laws, ordinances and regulations in anywise relating to the possession, use or maintenance of the Equipment, including all requirements of the Water Board.
5. Repairs. Lessee, at its own cost and expense, shall keep the Equipment in good repair, condition and working order and shall furnish any and all parts, mechanisms and devices required to keep the Equipment in good mechanical and working order.
6. Loss and Damage. Lessee hereby assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause whatsoever. Lessee shall keep the Equipment insured against all risks of loss or damage by fire and theft. The Lessee may effect such coverages under its blanket policies.

7. Taxes. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances, other than those being contested in good faith, and shall pay when due all license fees, registration fees, assessments, charges and taxes (municipal, state and federal) which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession or use of the Equipment, excluding, however, all taxes on or measured by Lessor's income.

8. Lessor's Payment. In case of failure of Lessee to procure or maintain said insurance or to pay said fees, assessments, charges and taxes, Lessor shall have the right, but shall not be obligated, to effect such insurance or pay said fees, assessments, charges and taxes, as the case may be. In that event, the cost thereof shall be repayable to Lessor with the next installment of rent.

9. Default. If Lessee, with regard to any item or items of Equipment, fails to observe, keep or perform any provision of this lease required to be observed, kept or performed by Lessee, and if Lessee fails to remedy, cure or remove such failure in payment or such other failure in observing, keeping or performing the provisions of this lease within thirty (30) days after receipt of written notice thereof from Lessor, Lessor shall have the right to take possession of any or all items of Equipment, without demand or notice, without any court order or other process of law. This remedy shall be in addition to, and not in lieu of, any other legal or equitable remedy of the Lessor.

10. Assignment. Without the prior written consent of Lessor, which may be withheld in Lessor's sole discretion, Lessee shall not (a) assign, transfer, pledge or hypothecate this lease, the Equipment, or any part thereof, or any interest therein; or (b) sublet or lend the Equipment, or any part thereof, or permit the Equipment, or any part thereof, to be used by anyone other than Lessee or Lessee's employees.

11. Entire Agreement. This instrument constitutes the entire agreement between Lessor and Lessee, and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

12. Notices. Service of all notices under this agreement shall be sufficient if given personally or mailed via certified mail to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with postage prepaid.

Thunder Air, Inc.
P.O. Box 4737
Chattanooga, TN 37405

Jasper Highlands Property Owners' Association, Inc.
P.O. Box 4737
Chattanooga, TN 37405


13. Titles. The titles to the paragraphs of this lease are solely for the convenience of the parties and are not an aid in the interpretation of the instrument.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

THUNDER AIR, INC.

By: 
Its: Chairman

JASPER HIGHLANDS PROPERTY
OWNERS' ASSOCIATION, INC.

By: 
Its: Chairman

SCHEDULE A

1. Meter and Meter Vault across Timber Ridge Road and adjacent to the large tank owned by the Water Board.
2. Pump Station 1, located adjacent to Meter and Vault
3. Ductile piping connecting Pump Station 1 and Pump Station 2
4. 8,000 gallon underground tank, located adjacent to Pump Station 2
5. Pump Station 2
6. All piping connecting pump station 2 to the inhabited subdivision within the road right-of-way, including ductile pipe, and PVC pipe of various sizes.
7. Any equipment added in the future to further support the water system
8. Lease does not include water lines from Lot Owners' homes to the main lines in the road right-of-way. These lines are owned and paid for by the Lot Owners, and are the responsibility of Lot Owners to maintain.

MANAGEMENT AGREEMENT

THIS AGREEMENT made and entered into on this 1st of January, 2015, by and between **Thunder Air, Inc., d/b/a Jasper Highlands Development, Inc.**, a Tennessee corporation, hereinafter called "Thunder", and **Jasper Highlands Property Owners' Association, Inc.**, a Tennessee not-for-profit corporation, hereinafter called the "Association".

WITNESSETH:

WHEREAS, the Association, through its agent Thunder, has agreed to purchase water from South Pittsburg Board of Water Works and Sewers ("Water Board") for use of the Jasper Highlands subdivision in Marion County, Tennessee; and

WHEREAS, the water will be conveyed by piping, a pump house and other equipment owned by Thunder and leased by the Association (the "Water Equipment") to piping connecting the lots of individual property owners in the Association; and

WHEREAS, the Association desires to contract with Thunder to furnish billing services to lot owners and maintenance and repairs to the Water Equipment, and Thunder is willing to perform such services upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the promises and the agreements contained herein, the Association and Thunder, intending to be legally bound, agree as follows:

1. Duties of Thunder. The Association hereby retains Thunder to furnish certain services with respect to the Water Equipment listed on the attached Schedule A, including billing and collection of water charges and assessments from property owners, handling payment of bills to the Water Board, supervision of maintenance and repairs to the Water Equipment, and supervision of improvements to the Water Equipment requested by the Association. Thunder shall make such reports as requested by the Association regarding the Water Equipment and perform such additional duties agreed to by the parties.

2. Compensation. The Association agrees to pay Thunder fees for management services in accordance with the attached Schedule B. In addition, Thunder shall be reimbursed for all expenses incurred by it in performing its duties hereunder.

3. Term of Agreement. The term of this Agreement shall continue on a year to year basis until the Association takes title to all Water Equipment and common elements, unless one party terminates on six (6) months' written notice prior to the end of the year. Failure by either party to substantially perform its duties and obligations under this Agreement for a continuous period of thirty (30) days after written notice of default specifying the default complained of, shall be grounds for the other party's cancellation of this Agreement.

4. Hold Harmless. Association agrees to indemnify, defend, and hold harmless Thunder and its officers, directors, and employees for errors in judgment or any acts or omissions in connection therewith, provided, however, that nothing herein contained will be

construed to protect Thunder against liability to the Association by reason of willful misconduct, bad faith, gross negligence, or negligence in the performance of its duties or by reason of its reckless disregard of its obligations and duties under this Agreement, and Thunder agrees to indemnify and hold the Association harmless from any cost, expense, or loss occasioned by or arising out of such conduct of Thunder.

5. Miscellaneous.

- A. The Association claims exemption from qualifying as a water utility district under the provisions of Tenn. Code Ann. § 65-4-101(6)(B)(i). If the exemption is lost, the Association shall be responsible for any compliance.
- B. In the event legal action is instituted to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and actual costs incurred in connection with such action.
- C. Thunder is an independent contractor and is not and shall not be deemed as employee of the Association for any purpose and as such has no authority to bind the Association.
- D. This Agreement reflects the entire agreement of the parties hereto and is intended to be the complete and exclusive statement of the terms hereof. It may not be added to or changed orally and may not be modified or rescinded except in writing and approved by the parties.
- E. This Agreement, the relative rights and obligations of the parties hereunder, and all performance hereunder shall be governed by and construed in accordance with the laws of the State of Tennessee.
- F. All notices given hereunder shall be in writing or if oral shall be confirmed in writing and shall be deemed given when delivered to the parties at the following addresses:


Thunder: Thunder Air, Inc.
P.O. Box 4737
Chattanooga, TN 37405

Association: Jasper Highlands Property Owners' Association, Inc.
P.O. Box 4737
Chattanooga, TN 37405
- G. This Agreement may not be assigned without the prior written approval of the non-assigning party. This Agreement shall inure to the benefit of, and be binding upon the parties, their successors, and assigns.
- H. Thunder makes no warranty or representation to the Association and its members


as to the supply of water, water quality, or the Association's exempt status.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

THUNDER AIR, INC.

By: 
Its: Chairman

JASPER HIGHLANDS PROPERTY
OWNERS' ASSOCIATION, INC.

By: 
Its: Chairman

Schedule A

1. Process payment of bills from Sequachee Valley Electric Co-Operative to the Association for electric service to Pump Station #1 and Pump Station #2
2. Process payment of bills from the Water Board to the Association for water service to Jasper Highlands Subdivision
3. Take monthly readings of all Lot Owner water meters
4. Process all billing to Lot Owners for use of water service
5. Provide connection of all Lot Owners' meters on the Jasper Highlands Water System, upon request, including provision of all standard parts and labor for meter installation
6. Determine all rates and fees to be paid by Lot Owners using the water service
7. Remit all sales tax to the Tennessee Department of Revenue as required by Tennessee State Law
8. Enforce guidelines and requirements for proper use of water system, including proper use of backflow prevention systems and cross-connection prevention systems
9. Provide customer service, including availability by telephone during normal business hours, to Lot Owners using the water service
10. Supervise any necessary maintenance and repairs to the Water Equipment
11. Supervise any improvements to the Water Equipment requested by the Association
12. Make all reports regarding the Water Equipment as requested by the Association

Schedule B

1. All expenses incurred by Thunder in connection with this Management Agreement
2. 100% of meter fees billed by the Association
3. 15% of total billing collected from Lot Owners for water service before sales tax

**TENNESSEE AMERICAN WATER COMPANY/THUNDER AIR, INC.
DOCKET NO. 18-00099
FIRST DATA REQUEST OF THE
TENNESSEE PUBLIC UTILITY COMMISSION**

Responsible Witness: Dane Bradshaw

Question:

13. Provide financial statements, including balance sheets, income statements and statements of cash flows for the past three years of the water system being transferred to TAWC.

Response:

Please see the attached.

ASSETS

Current Assets		
Pinnacle Bank	\$	45,671.38
Petty Cash		297.50
Accounts Receivable		3,276.98
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Total Current Assets		49,245.86
Property and Equipment		<hr/>
Total Property and Equipment		0.00
Other Assets		
Inventory - Water Repair Stock		236.38
		<hr/>
Total Other Assets		236.38
Total Assets	\$	<u>49,482.24</u>

LIABILITIES AND CAPITAL

Current Liabilities		
I/C JHPOA	\$	2,114.43
Account Payable		11,687.59
Accrued Sales Tax		1,939.00
		<hr/>
Total Current Liabilities		15,741.02
Long-Term Liabilities		<hr/>
Total Long-Term Liabilities		0.00
Total Liabilities		15,741.02
Capital		
Retained Earnings		(12,441.90)
Net Income		46,183.12
		<hr/>
Total Capital		33,741.22
Total Liabilities & Capital	\$	<u>49,482.24</u>

TAWJH_R-TPUCDR1_112718_Attachment
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Jasper Highlands Water System
Income Statement
For the Ten Months Ending October 31, 2018

	Year to Date
Revenues	
Water Meter/Tap Fee Revenue	\$ 83,850.00
Water Sales Revenue	<u>141,974.55</u>
Total Revenues	<u>225,824.55</u>
Cost of Sales	
Water Meter Expense	83,850.00
Water Usage Expense	41,002.73
Pump House Utilities	13,955.00
Back Flow Preventer	500.00
Water Line Maintenance Expense	<u>16,350.00</u>
Total Cost of Sales	<u>155,657.73</u>
Gross Profit	<u>70,166.82</u>
Expenses	
Water Administration Expense	20,747.57
Maintenance Expense	2,526.97
TDEC Annual Fee	300.00
Water Sales Taxes	(36.77)
Supplies	<u>445.93</u>
Total Expenses	<u>23,983.70</u>
Net Income	<u><u>\$ 46,183.12</u></u>

TAWJH_R-TPUCDR1_112718_Attachment
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Jasper Highlands Water System
Income Statement
For the Twelve Months Ending December 31, 2017

	Year to Date
Revenues	
Water Meter/Tap Fee Revenue	\$ 96,175.21
Water Sales Revenue	<u>82,474.88</u>
Total Revenues	<u>178,650.09</u>
Cost of Sales	
Water Meter Expense	96,175.21
Water Usage Expense	16,361.78
Pump House Utilities	5,240.80
Water Line Maintenance Expense	<u>19,500.00</u>
Total Cost of Sales	<u>137,277.79</u>
Gross Profit	<u>41,372.30</u>
Expenses	
Water Administration Expense	12,814.01
Water Lease Expense	1.00
Advertising-Public Notice	684.48
Maintenance Expense	301.00
TDEC Annual Fee	300.00
Water Sales Taxes	71.63
Pump House Parts	<u>1,229.39</u>
Total Expenses	<u>15,401.51</u>
Net Income	<u><u>\$ 25,970.79</u></u>

TAWJH_R-TPUCDR1_112718_Attachment
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Jasper Highlands Water System
Income Statement
For the Twelve Months Ending December 31, 2016

	Year to Date
Revenues	
Other Income	\$ 1,638.10
Water Meter/Tap Fee Revenue	27,950.00
Water Sales Revenue	<u>51,061.32</u>
Total Revenues	<u>80,649.42</u>
Cost of Sales	
Water Meter Expense	27,950.00
Water Usage Expense	20,893.10
Pump House Utilities	8,225.29
Water Line Maintenance Expense	<u>19,500.00</u>
Total Cost of Sales	<u>76,568.39</u>
Gross Profit	<u>4,081.03</u>
Expenses	
Water Lease Expense	2.00
Water Line Repair Expense	2,602.32
TDEC Annual Fee	300.00
Water Sales Taxes	1.20
Supplies	<u>179.51</u>
Total Expenses	<u>3,085.03</u>
Net Income	<u><u>\$ 996.00</u></u>