

STATE OF TENNESSEE

Office of the Attorney General



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October 30, 2019

Chairperson Robin L. Morrison  
c/o Ms. Tory Lawless, Docket Manager  
Tennessee Public Utility Commission  
600 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, Tennessee 37242-0001

In RE: *Petition of Tennessee-American Water Company regarding changes to the Qualified Infrastructure Investment Program Rider, The Economic Development Investment Rider, and The Safety and Environmental Compliance Rider and in support of the calculation of the 2019 Capital Recovery Riders Reconciliation.*, TPUC Docket No. 19-00031.

Dear Chairperson Morrison:

After discussions with Tennessee-American Water Company, both parties agree that the submission of supplemental testimony is appropriate. To that end, we are attaching for filing the *Supplemental Testimony of David N. Dittmore* in the above-captioned docket. An original of this filing along with four hard copies is being sent pursuant to TPUC rules.

The Consumer Advocate requests that this letter and the attached testimony be filed in this Docket.

Sincerely,

A handwritten signature in blue ink that reads "Daniel P. Whitaker, III".

Daniel P. Whitaker, III  
Assistant Attorney General

cc: Melvin J. Malone, Esq.  
Elaine Chambers

**IN RE:**

**DOCKET NO. 19-00031**

## DAVID N. DITTEMORE

October 30, 2019

IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE:

PETITION OF TENNESSEE-  
AMERICAN WATER COMPANY  
REGARDING CHANGES TO THE  
QUALIFIED INFRASTRUCTURE  
INVESTMENT PROGRAM RIDER,  
THE ECONOMIC DEVELOPMENT  
INVESTMENT RIDER, AND THE  
SAFETY AND ENVIRONMENTAL  
COMPLIANCE RIDER AND IN  
SUPPORT OF THE CALCULATION  
OF THE 2019 CAPITAL RECOVERY  
RIDERS RECONCILIATION

DOCKET NO. 19-00031

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AFFIDAVIT

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I, David N. 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 30th day of October, 2019.

Tiffany H. Blackman  
NOTARY PUBLIC



My commission expires: March 22, 2023

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, War Memorial Building, 301 6<sup>th</sup> Ave. North, Nashville, TN 37243. I  
5 am a Financial Analyst employed by the Consumer Advocate Unit in the Financial  
6 Division of the Tennessee Attorney General's Office (Consumer Advocate).

7 **Q2. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?**

8 **A2.** The purpose of this supplemental testimony is to slightly modify my recommended  
9 TAWC Capital Riders Reconciliation factors. This modification results from adopting  
10 the adjustment to eliminate lobbying as a component of operating expenses for purposes  
11 of determining excess TAWC earnings as quantified by Ms. Chambers in her Rebuttal  
12 Testimony<sup>1</sup> in the amount of \$95,456, rather than the original adjustment I sponsored of  
13 \$100,355. The difference in these two amounts of \$4,879 was appropriately recorded  
14 as a non-operating expense and thus did not otherwise reduce the calculated amount of  
15 excess earnings. In addition, I agree with Ms. Chambers' overall earnings test  
16 adjustment of \$1,138,019 as revised in her Supplemental Testimony. Within her  
17 Supplemental Testimony, Ms. Chambers has agreed with the tax-gross up adjustment  
18 proposed in my direct testimony (modified to eliminate the \$4,879 from the tax  
19 calculation). I agree with Ms. Chambers' calculation that the \$4,879 amount should be  
20 eliminated when calculating the tax gross-up on excess earnings.

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<sup>1</sup> See Earnings Test Adjustment – Revised – Exhibit EKC-3. It is important to note that the Company's stated amount of lobbying expenses first arose in rebuttal testimony in response to the Consumer Advocate's testimony that such costs should not be reflected as an operating expense when determining the appropriate amount of excess earnings under the Earnings Test.

1 **Q3. DO YOU BELIEVE THAT THE \$95,456 IS AN ACCURATE REFLECTION OF**  
2 **THE TOTAL COSTS ASSOCIATED WITH LOBBYING ACTIVITY?**

3 **A3.** No, I continue to believe this amount does not reflect the fully allocated costs associated  
4 with TAWC lobbying efforts as referenced in my direct testimony. However, I accept  
5 the \$95,456 adjustment for purposes of computing the TAWC Capital Riders surcharge  
6 in this Docket.

7 **Q4. HAVE YOU PREPARED SUPPLEMENTAL EXHIBITS TO REFLECT THIS**  
8 **CHANGE TO YOUR ADJUSTMENT TO REMOVE LOBBYING COSTS**  
9 **FROM THE EARNINGS TEST ADJUSTMENT?**

10 **A4.** Yes. Supplemental Exhibit DND-1 modifies the original Exhibit DND-3 substituting  
11 the corrected level of lobbying costs for the original lobbying adjustment. Supplemental  
12 Exhibit DND-2 calculates the individual Capital Riders surcharges reflecting the  
13 modified level of lobbying costs. As referenced on Supplemental Exhibit DND-2, the  
14 revised surcharge is (2.38%), compared with the initial surcharge recommendation of  
15 (2.40%). This recommendation is consistent with that contained in Ms. Chambers'  
16 Supplemental Testimony. Supplemental Exhibit DND-3 computes the modification to  
17 the tax gross-up issue to take into account the elimination of the \$4,879 of lobbying  
18 costs that were recorded as a non-operating expense as discussed earlier in my  
19 testimony.

20 **Q5. WITH THE CHANGES IN THE COMPANIES POSITION OUTLINED IN**  
21 **BOTH THE REBUTTAL AND SUPPLEMENTAL TESTIMONY OF MS.**

1 CHAMBERS, DO YOU HAVE ANY CHANGES TO THE  
2 RECOMMENDATIONS CONTAINED IN YOUR DIRECT TESTIMONY?

3 A5. Yes. With the modifications contained in the Company's position in this case, I am no  
4 longer supporting the suspension of the Capital Rider surcharge at this time.

5 Q6. IS THERE ANYTHING ELSE YOU WISH TO HIGHLIGHT CONCERNING  
6 THE POSITION OF THE COMPANY RELATIVE TO YOUR DIRECT  
7 TESTIMONY?

8 A6. Yes. I would note that the Company has agreed to identify the costs associated with the  
9 Main Break,<sup>2</sup> which is consistent with my recommendation that the Commission require  
10 TAWC to track such costs.

11 Q7. WITH THE ISSUES MENTIONED ABOVE, DO YOU BELIEVE THERE ARE  
12 ANY UNRESOLVED ISSUES REMAINING AT THIS TIME?

13 A7. No. I believe all issues within this Capital Riders Docket have been resolved.

14 Q8. DOES THIS COMPLETE YOUR TESTIMONY?

15 A8. Yes.

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<sup>2</sup> *Rebuttal Testimony of Elaine S. Chambers*, p. 4, October 15, 2019.

Line Number	Description	2018 Capital Rider Proposed by TAWC	To Remove Lobbying Costs from Operating Expenses	To Reflect the Income Tax Effect on the Earnings Test	Sum of CA Proposed Capital Rider Reconciliation
1	Additions Subject to Rider:	\$64,105,148			\$64,105,148
2	Plus: Cost of Removal less Salvage	7,500,278			\$7,500,278
3	Less: Contributions in Aid to Construction (CIAC)	2,325,198			\$2,325,198
4	Less: Deferred Income Taxes	9,843,878			\$9,843,878
5	Less: Accumulated Depreciation	3,128,569			\$3,128,569
6	Less: Retirements	0			\$0
7	Net Investment Supplied Additions:	\$56,307,782			\$56,307,782
8					
9	Pre-Tax Authorized Rate of Return:	8.45%			8.45%
10	Pre-Tax Return on Additions:	\$4,758,825			\$4,758,825
11					
12	Depreciation Expense on Additions:	1,478,097			\$1,478,097
13					
14	Property and Franchise Taxes Associated:	787,662			\$787,662
15					
16	Revenues:	7,024,585			\$7,024,585
17					
18	Revenue Taxes	3.19%			3.19%
19	Capital Riders Revenues with Revenue Taxes	7,256,128			7,256,128
20					
21	APP Revenue Reduction	(20,425)			(20,425)
22					
23	Total Capital Riders Revenues with Revenue Taxes & APP	\$7,235,703			7,235,703
24					
25					
26	Actual Capital Riders Revenues Billed	\$7,214,701			
27					
28	(Over)/Under Capital Riders Revenue Billings	519,868			519,868
29	Budget to Actual Adjustment	(498,866)			(498,866)
30	2017 Reconciliation Amount	299,181			299,181
31	Earnings Test Adjustment	(745,142)	(95,456)	(297,421)	(1,138,019)
32	Interest (Prime - 5.50%)	(11,687)			(22,491)
33					
34	Reconciliation Amount	(\$436,646)			(840,328)
35					
36	Authorized Capital Riders Revenues (9/12th)	\$35,305,293			\$35,305,293
37					
38	Current Reconciliation Factor Percentage	-1.237%			-2.38%

Source:

TAWC Capital Rider  
Reconciliation File

CA Response 2-8

Exhibit DND-4

Tennessee Attorney General's Office - Consumer Advocate  
 Calculation of Consumer Advocate Proposed Rider Reconciliations (Supplemental)  
 Docket 19-00031  
 As of 12/31/2018

Supplemental  
 Exhibit DND-2

	QIIP	EDI	SEC	Total
TAWC Proposed Surcharge Reconciliation Factors	-0.4630%	-0.2910%	-0.4830%	-1.2370%
Percentage of Each Rider to Total	37.43%	23.52%	39.05%	100.00%
Consumer Advocate Proposed Reconciliation Factor (Supplemental)				-2.380%
Calculated Consumer Advocate Rider Factors	-0.891%	-0.560%	-0.929%	-2.380%



**Tennessee Attorney General's Office - Consumer Advocate**  
**Calculation of Income Tax Effect on Earnings Test Adjustment**  
**Docket 19-00031**  
**As of 12/31/2018**

**Supplemental  
Exhibit DND-3**

<u>Line No.</u>	<u>item</u>	<u>Amount</u>	<u>Source</u>
1	Excess Earnings Per Company	(745,142)	Rider Reconciliation File
2	Plus: Lobbying Charged recorded as an Operating Expense	<u>(95,456)</u>	CA Response 2-8
3	Subtotal: Excess Earnings	(840,598)	Lines 1+2
4	Divided by Reciprocal Tax Rate (See Below)	<u>73.865%</u>	Line 12
5	Excess Earnings - Pre-Tax	(1,138,019)	Line 3/ Line 4
6	Additional Excess Earnings - Tax Gross-Up Calculation	(297,421)	Line 5 - Line 3

**Calculation of Tax Gross-Up Factor**

7	Tennessee State Tax	6.50%	
8	Reciprocal: Income Subject to Federal Tax (1-6.5%)	93.50%	1 - Line 7
9	New Federal Tax Rate	21.00%	
10	Effective Federal Tax Rate	19.635%	Line 8 * Line 9
11	Composite Income Tax Rate	26.135%	Line 7 + Line 10
12	Reciprocal Tax Rate	73.865%	1 - Line 11