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October 15, 2019

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Hon. Robin L. Morrison, Chairman  
c/o Ectory Lawless, Docket Room Manager  
Tennessee Public Utilities Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

**RE: *Petition of Tennessee-American Water Company in Support of the Calculation of the 2019 Capital Recovery Riders Reconciliation, Docket No. 19-00031***

Dear Chairman Morrison:

Please find attached for filing the *Rebuttal Testimonies of TAWC Witnesses Elaine K. Chambers, John R. Wilde and Kurt A. Stafford* in the above-captioned docket.

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: Elaine Chambers, Tennessee-American Water Company  
Daniel Whitaker, Assistant Attorney General , Financial Division, Consumer Advocate Unit

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PETITIONER'S EXHIBIT JRW-1

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T.P.U.C. DOCKET ROOM

TENNESSEE-AMERICAN WATER COMPANY, INC.

DOCKET NO. 19-00031

REBUTTAL TESTIMONY

OF

JOHN R. WILDE

ON

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 (RECONCILIATION FOR CALENDAR YEAR 2018)

SPONSORING PETITIONER'S EXHIBITS:

Petitioner's Exhibit – TAW R CPADDR2 NUM018 090919 – JRW-1

1   **Q.     PLEASE STATE YOUR NAME.**

2   **A.**My name is John R. Wilde.

3   **Q.     BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

4   **A.**I am employed by American Water Works Service Company, Inc. (“Service Company”)  
5         as Senior Director - Tax. The Service Company is a subsidiary of American Water  
6         Works Company, Inc. (“American Water”) that provides services to American Water’s  
7         subsidiaries, including Tennessee-American Water Company (“Tennessee-American,”  
8         “TAWC” or the “Company”).

9   **Q.     DID YOU PREVIOUSLY SUBMIT TESTIMONY IN THIS PROCEEDING ON**  
10       **BEHALF OF TENNESSEE-AMERICAN WATER COMPANY (“TENNESSEE-**  
11       **AMERICAN”, “TAWC” OR THE “COMPANY”)?**

12  **A.**No.

13  **Q.     HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

14  **A.**Yes. In Docket No. 18-00039, regarding Tennessee-American Water Company’s  
15         calculations of impacts of the Federal Tax Cuts and Jobs Act of 2017 on its cost of  
16         service and revenue requirement. I also testified in Docket 18-00022, regarding the  
17         calculation and inclusion of Accumulated Deferred Income Taxes (ADIT) in TAWC  
18         capital riders.

19  **Q.     WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20  **A.**The purpose of this testimony is to respond to the tax matters regarding the calculation  
21         and inclusion of ADIT related to tax repairs addressed in the testimony of Consumer  
22         Advocate Witness David N. Dittimore.

1 Q. ARE YOU SPONSORING ANY EXHIBITS?

2 A. Yes. I am sponsoring the following exhibits:

3 **Petitioner's Exhibit – TAW R CPADDR2 NUM018 090919 – JRW-1**

4 Q. DO YOU AGREE WITH MR. DITTEMORE'S EXPLANATION OF WHAT THE  
5 REPAIR DEDUCTION IS AND HOW IT IMPACTS THE CAPITAL RIDER  
6 CALCULATION BEGINNING ON LINE 20 OF PAGE 14 AND CONCLUDING  
7 ON LINE 8 OF PAGE 15?

8 A. No, it is incomplete and therefore in my opinion does not provide the Commission with  
9 enough information to address the concerns related to tax repairs that Mr. Dittemore  
10 raises through his testimony.

11 First, Mr. Dittemore use of the term "write-off" [Page 14, Line 20], but a tax repair does  
12 not result in a write-off, it results in a current deduction for tax purposes of an investment  
13 in Utility Plant in Service (UPIS), which is an investment that will be financed for both  
14 book and tax purpose over the useful life of the underlying assets. The investment or cost  
15 that gave rise to the tax benefit will be recovered from customers through the recovery of  
16 book depreciation from customers over the useful life of the underlying asset. Recording  
17 of book depreciation is also the means that the ADIT or timing difference will reverse  
18 and be paid to the government. The investment in UPIS remains part of the book and tax  
19 record, the book to tax timing differences that result when the repair is deducted for tax  
20 purposes and then reverses as book depreciation is claimed forms the basis of  
21 Accumulated Deferred Income Taxes.

22 Second, Mr. Dittemore, in explaining the repair deduction beginning on page 14, does not  
23 explain the fundamental reason there is a repair deduction for tax purposes and not book

1 purposes. The unit of property for tax purposes is made up of many book units of  
2 property, so replacing a book unit of property is viewed as repairing part of a tax unit of  
3 property. A simple example is for book and financial accounting purpose the  
4 replacement of several feet of pipe might be considered a book unit(s) of property and  
5 thus an addition to UPIS with an offsetting retirement of pipe that had been replaced.  
6 However, for tax purpose the tax unit of property would consist of the total segment of  
7 pipe that several feet of pipe is part of, so for tax purpose the replacement of only a small  
8 part of the tax unit of property is a current tax deduction. Therefore, the reason for the  
9 book to tax timing difference is inherent in the definition of what is a unit of property  
10 pursuant to the tax code, versus what is a unit of property pursuant to financial and  
11 regulatory rules.

12 Third, while Mr. Dittemore does make mention of the fact elsewhere in his testimony  
13 [Page 15, Line 20], it is important to understand that claiming tax repair also eliminates  
14 the opportunity to claim other tax deductions that would have otherwise been available,  
15 such as accelerated tax depreciation including any available bonus depreciation. Having  
16 claimed a tax repair deduction also can cause offsetting book to tax timing differences to  
17 accrue, such as increasing or delaying the use of the balance of net operating loss  
18 carryforwards. Book to tax timing differences related to gains and losses on the  
19 disposition of assets, can also be impacted, as a result of having claimed a tax repair  
20 deduction. In this docketed case, the Company has estimated the repair deduction and for  
21 all years has accounted for these complexities and interdependencies.

22 Lastly, Mr. Dittemore classifies Accumulated Deferred Income Taxes as “funds provided  
23 by rate payers” [Page 15, Line 4], I would classify Accumulated Deferred Income Taxes

1 as an interest free loan or cost free source of funds provided by the government. Both are  
2 positions taken by others. My reasons for classifying ADIT as an interest free loan  
3 provided by the government is as follows:

- 4 • The ADIT liability is payable to the government, and unless there is a change in  
5 law that changes that obligation, it is ultimately paid to the government and is not  
6 returned to customers.
- 7 • Pursuant to the TPUC practice of fully normalizing the benefits of plant related  
8 ADIT balances over the life of the underlying assets, the tax cost collected from  
9 customers is what would have been due from utility operations had the investment  
10 in UPIS not have been made or the tax incentive to accelerate the deduction had  
11 not been available by the government. Therefore, the taxes collected are not  
12 related to future operations, but instead are to pay the taxes on prior operations  
13 and use of UPIS.
- 14 • The investment in UPIS that makes up the balance of the book to tax timing  
15 difference for the tax repair deduction has not yet been funded by customers. It is  
16 that investment that gave rise to the accelerated tax deduction and the cumulative  
17 book to tax difference that plant related ADIT is based on. Those UPIS  
18 investments will be funded over time as a matter of collecting for book  
19 depreciation in rates.

20 Mr. Dittmore states ADIT related to tax repairs will be paid to the IRS at some future  
21 (often) distant date [Page 14, Line 4-5]. Actually, that is not true. A portion of the ADIT  
22 is paid (reversed) in each year as the investment in UPIS that gave rise to the repair  
23 deduction is recovered for in rates as book depreciation is recorded. The reversal or

1 payment actually begins in the year the UPIS is place in service, which is most often the  
2 same year the tax repair occurs. If a sale of the underlying assets is executed, the ADIT  
3 would be immediately payable by the Company.

4 Mr. Dittmore is correct in stating that plant related ADIT is typically treated as a  
5 reduction to rate base [Page 15, Line 6-7], but the point I feel should be made clear is that  
6 as a result of this rate base reduction that it is the customer and not the company that  
7 receives the benefit of the zero cost capital being available as it reduces rate base and thus  
8 the debt and equity costs that are collected from customers.

9 **Q: MR. DITTEMORE STATES THAT THE COMPANY FIRST ACCOUNTED FOR**  
10 **THE ADIT RELATED TO TAX REPAIRS IN DOCKET NO. 18-00022 [Page 15,**  
11 **Line 12-13]. DO YOU AGREE WITH THAT STATEMENT?**

12 **A:** No, again that is only a partially true statement. In computing the earnings test the  
13 Company in prior docketed rider reconciliation cases has used the total Company actual  
14 ADIT balance from its books and records, an amount that would have included ADIT  
15 related to tax repairs. In this case the Company has provided for ADIT balances related to  
16 rider property consistent with the Commission order and inclusion in the above mentioned  
17 Docketed Case No. 18-00022. The Company's position in not including the ADIT related  
18 to tax repairs and bonus in the computation of the rate base specific to the Capital Rider  
19 property was comprehensively discussed in Docketed Case No. 18-00022, and was not  
20 limited to a "de minimis" standard as Mr. Dittmore implies in his footnote. [See Order  
21 filed 03/06/19 page 6-10, and 13]. The Companies position was based on a concern that  
22 if the complexity of doing so was undertaken, then to achieve the appropriate economics  
23 the offsetting impact on other tax deductions including net operating loss carryover

1 balances should be accounted for in the process. The Companies position was also that the  
2 riders were meant to be discrete in terms of the ADIT included, and the earnings test  
3 calculation an adjustment that is executed as part of the reconciliation portion of the  
4 capital rider was in part intended to protect customers from any earnings above authorized  
5 that resulted limiting the calculation of ADIT.

6 **Q: MR. DITTEMORE RAISES A CONCERN THAT THE COMPANY HAS NOT**  
7 **BEEN CONSISTENT IN ESTIMATING THE TAX REPAIR DEDUCTION**  
8 **WITHIN THE CAPITAL RIDER MECHANISM OVER TIME [Page 15, Line 12-**  
9 **14]. CAN YOU ADDRESS THOSE CONCERNS?**

10 **A:** Yes. First, the Consumer Advocate raised this concern and the Company responded to  
11 these concerns in the attached data request. Petitioner's Exhibit –  
12 TAW R CPADDR2 NUM018 090919 - JRW-1. As stated above, the earnings test  
13 adjustment portion of the rider calculation has consistently used total company ADIT  
14 amount including ADIT related to tax repair deductions, which is an estimate that is  
15 reconciled to actual amounts claimed through the latest filed tax return. I find no  
16 inconsistency in that approach. Mr. Dittemore acknowledges [Page 15, Line 20-21] the  
17 Company is entitled to tax repair deductions not only on qualified rider property, but non-  
18 rider property as well. He goes on to characterize the Company's estimate of the repair  
19 deduction in the context of rider property to be an assignment or allocation [Page 16, Line  
20 1]. Instead, I would clarify that the Company estimates for the tax deduction (including  
21 tax repairs) used for capital rider investments property in this docketed case were intended  
22 to be consistent with methods used to estimate the total Company tax deductions and  
23 resulting ADIT amounts used for financial accounting purposes, and the reason for any



1 perceived inconsistency in the assumptions was explained and quantified for the purpose  
2 of gaining an understanding of what impact would have been on the estimate provided in  
3 this case. Therefore, I do not see any variation in how these estimates were calculated on  
4 a year over year basis that would result in a significant difference in the rider calculation,  
5 and the Company has provided its reasoning for why the variation occurred.

6 **Q: MR. DITTEMORE INDICATES THOSE REPRESENTING THE CA HAVE NOT**  
7 **HAD AMPLE TIME TO REVIEW THE COMPANY'S CALCULATION OF ITS**  
8 **TAX REPAIR DEDUCTION, AND IT IS AN ISSUE THAT REQUIRES FURTHER**  
9 **STUDY [Page 16, Line 7-13]. CAN YOU COMMENT?**

10 **A:** Mr. Dittemore representing the CA used the same method to estimate tax deductions and  
11 propose the resulting ADIT balances in Docketed Case No. 18-00022. [See Direct  
12 Testimony of David Dittemore filed July 6, 2018 and related attachment DND-3] In the  
13 discovery phase of this docketed case and Docketed Case No. 18-00022 the CA made and  
14 the Company responded to over 10 data requests related to how it estimates tax repair  
15 deduction and more broadly Capital Rider related tax deduction. The Company's  
16 response to the DR cited above explaining the Company's estimate and addressing the  
17 inconsistencies raised by the CA were provided on September 9, 2019, 18 days before Mr.  
18 Dittemore's testimony was submitted on September 26, 2019. In addition, the Company,  
19 for the CA's benefit, provided the change in the Company's estimate that would result if  
20 the same method were to be used for each year to compute the tax repair deduction,  
21 including an estimate of the offset that would then occur in the amount of tax depreciation.  
22 It appears to me that Mr. Dittemore and the CA as an organization have devoted  
23 significant resources to reviewing these estimates, and has had a significant amount of

1 time to complete its review. I do not find the Company estimates for the tax repair  
2 deduction related to Capital Rider investments to be inconsistent with how the Company  
3 estimates tax repair deductions for plant investment in general for tax accounting, financial  
4 accounting, or regulatory accounting purposes, and the Company explained and quantified  
5 any perceived inconsistency in assumptions it made in computing these estimates on a  
6 year over year basis. These estimates also seem to be consistent with the methods used by  
7 Mr. Dittemore and the CA to include these amounts in a previous Docketed Case No. 18-  
8 00022.

9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 **A.** Yes.

**TENNESSEE AMERICAN WATER COMPANY  
DOCKET NO. 19-00031  
SECOND DISCOVERY REQUEST OF THE  
CONSUMER ADVOCATE AND PROTECTION DIVISION**

**Responsible Witness: John R. Wilde**

**Question:**

18. Refer to the following:

- a. Attachment provided in response to CA Request No. 1-4 in the current docket;
- b. "WKP 2018 ADIT Summary" tab, within the Capital Rider Reconciliation file - Revised 5 16 19; and
- c. Exhibit RT-EKC-1, provided in Docket No. 18-00120.

The total Repair deductions found within Attachment 1-4 is \$15,726,113 for the period 2014 – 2018, calculated by the Company and determined to be associated with the Capital Riders. This contrasts with total Repair Deductions (presumably) for all TAWC property of \$23,898,474 during this period, calculated from data shown on Attachment 1-4. Thus, during this period, the calculated Repair Deductions associated with Capital Rider expenditures as a percentage of total Repair Deductions was 65.8%.

1. Provide a narrative explanation of the types of Non-(Capital Rider) Eligible Plant identified within Exhibit RT-EKC-1 that was eligible for the Repair Deduction.
2. Provide the Amount, Project Title, Account Number, and Account Description of all Non-Eligible Plant, by year, as shown on Exhibit RT-EKC-1. The information provided should be consistent in form with that provided within the "WKP 2018 Tax Depreciation Balances" tab, columns G, I and K.
3. Confirm that the majority of plant eligible for the Repair Deduction is comprised of Service lines, Distribution lines, Main installation, and Main replacements.

4. Given that the ratio of Repairs used within the Capital Rider calculation for the period 2014 – 2016 uses a denominator of Total Plant, provide a comprehensive explanation why the resulting ratio should not be applied to all Capital Rider expenditures.
5. Referring to the Company's Response to CA Request No. 1-4, provide a complete explanation justifying the various methods used to determine the Repair Deduction over the five-year period. What is the rationale for the use of four different methodologies over this six-year period, rather than the consistent use of one methodology?
6. Identify the annual Repair Deduction claimed on TAWC property within the appropriate entities' federal tax return for the period 2014 – 2018.

**Response:**

1. Any utility plant in service addition that would involve the replacement of something less than a tax unit of property or a major component thereof.
2. See attachment "TAW\_R\_CPADDR2\_NUM018\_090919\_Attachment1".
3. Generally, a majority of the Plant eligible for the Repairs Deduction is comprised of service lines, distribution lines, main installations and main replacements but also includes the non-network property located in the Company's plants and buildings.
4. As explained in 1 above not all property additions are eligible for a tax repair, and rider eligible property additions could have included a disproportionate percentage of addition not eligible for a tax repair deduction. In addition, the tax repairs method being used was modified in 2015 to exclude meters, so 2014 percentage and prior repair deductions would overstate the deduction actually claimed inclusive of the 2015 481(a) adjustment. Therefore, as a refinement the percentage was applied to property that would have been most likely to have resulted in a tax repair deduction. In addition, to the extent a tax repair was not estimated, the calculation would have considered if the property was bonus eligible. Therefore, if the repair estimate was to be modified, then the bonus and depreciation estimate has to be modified accordingly. For 2014-2016, see the following table indicating what the change in tax repair deduction would be, however, that number would need to be adjusted for tax depreciation and bonus, and would result insignificant change in the estimate.

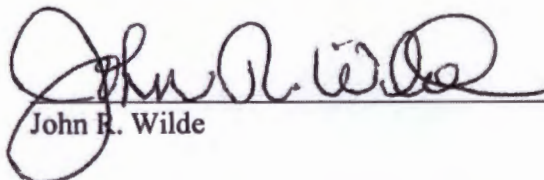
	2014	2015	2016
Rider Property	6,823,293	24,365,106	13,575,732
Repair % used	22.93%	17.71%	35.94%
Rider Property * Repairs % used	1,564,581	4,315,060	4,879,118
Rider Repair calculated	1,348,263	3,975,280	4,413,887
Difference	216,318	339,780	465,231

5. The question inquires about a 6 year period, but the Company's estimate only covers 2014-2018 a five year period. In addition, the Company is aware of using only two methods, for 2014-2016 it applied the ratio of total repairs claimed over total utility plant additions to rider property that was eligible for a tax repair deduction. In 2017-2018 it used ratio of tax repairs over total replacement property. In an attempt to address all the complexities of making a repairs determination on a portion of the plant additions in any given year, the Company may have made the determination overly complex for 2014-2018 period. However, those complexities do exist, and an oversimplified method will not account for them either. As a matter of simplicity the Company could have used a single method for all 4 years, using the ratio of actual repair deductions claimed to total Utility Plant Additions. The Company will provide this alternative calculation with the corresponding adjustments to tax depreciation and bonus depreciation. See "TAW\_R\_CPADDR2\_NUM018\_090919\_Attachment2".
6. The Company took the following as a tax repairs deduction - Year 2017 - \$6,917,812; Year 2016 - \$6,375,298; Year 2015 - \$5,108,100; Year 2014 - \$3,545,498. In addition, in 2015, the company filed a section 481(a) adjustment related to repairs, specifically reversing the deductions taken in prior years related to meters. This adjustment was spread over the 2015-2018 tax returns. The net adjustment was \$3,304,563.

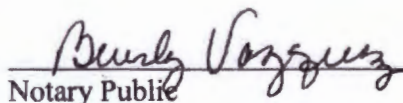
STATE OF NJ )  
 )  
COUNTY OF Camden )

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared John R. Wilde, being by me first duly sworn deposed and said that:

He is appearing as a witness on behalf of Tennessee-American Water Company before the Tennessee Public Utility Commission, and if present before the Commission and duly sworn, his testimony would be as set forth in his pre-filed testimony in this matter.

  
John R. Wilde

Sworn to and subscribed before me  
this 14 day of October, 2019.

  
Notary Public

My Commission Expires: 4/20/20

BEVERLY A. VAZQUEZ  
NOTARY PUBLIC OF NEW JERSEY  
ID # 50014203  
My Commission Expires 4/20/2020