

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:

PETITION OF TENNESSEAMERICAN
WATER COMPANY
REGARDING THE 2020 INVESTMENT
AND RELATED EXPENSES UNDER
THE QUALIFIED INFRASTRUCTURE
INVESTMENT PROGRAM RIDER,
THE ECONOMIC DEVELOPMENT
INVESTMENT RIDER AND THE
SAFETY AND ENVIRONMENTAL
COMPLIANCE RIDER

DOCKET NO. 19-00105

Direct Testimony of David N. Dittmore

March 5, 2020

Docket 19-00105

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.

1 Overall, I have thirty years' experience in the field of public utility regulation. I have
2 presented testimony as an expert witness on many occasions. Attached as Exhibit DND-
3 1 is a detailed overview of my background.

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

6 **A3.** Yes. I have submitted testimony in a number of dockets before TPUC, including several
7 Capital Riders dockets.

8 **Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 **A4.** The purpose of my testimony is to support the recommendations of the Consumer
10 Advocate in response to the Petition of Tennessee American Water Company (TAWC or
11 Company) to implement new Capital Riders rates. The individual riders, the Qualified
12 Infrastructure Investment Program Rider, the Economic Development Investment Rider
13 and the Safety and Environmental Compliance Rider will collectively be referred to as the
14 Capital Riders. For purposes of my testimony in this Docket, there is no need to
15 distinguish between them.

16 **Q5. CAN YOU PLEASE SUMMARIZE YOUR RECOMMENDATIONS?**

17 **A5.** Yes. My recommendations and conclusions are as follows:

- 18 1. The tax savings identified by the Consumer Advocate in Docket No. 18-00039
19 (currently pending) of \$2,858,248 should be included as a credit to the
20 collective Capital Riders proposal, resulting in a composite Capital Riders
21 credit associated with the 2017 Tax Cuts and Jobs Act (TCJA) of (12.69%).
22 This is comprised of the previously approved 6.62% credit associated with Tax

1 Docket – Phase 1 savings and a 6.07% credit associated with Phase 2 savings
2 pursuant to the position of the Consumer Advocate in Docket No. 18-00039
3 (pending as of this testimony);

4 2. I have no other recommended changes to the calculation of the surcharge
5 proposed in this Docket;

6 3. I remain concerned with the validity of the TAWC Capital Rider calculation
7 and recommend Docket No. 19-00103 proceed promptly to address issues
8 identified in Docket No. 18-00120; and

9 4. The Company's system has over six-hundred miles of Mains in excess of fifty
10 years old. Further, less than one percent of these Mains are to be replaced in
11 2020. Thus, the rate of replacement of aging infrastructure is extremely slow.

12 **Q6. BEGIN BY PROVIDING SOME BACKGROUND INFORMATION ON THE**
13 **NATURE OF THE TAX SAVINGS YOU BELIEVE SHOULD BE USED TO**
14 **OFFSET THE COMPANY'S CAPITAL RIDER.**

15 **A6.** The Commission established Docket No. 18-00039 to address the impacts of the TCJA on
16 the Company's revenue requirement. The implications of the TCJA include a reduction in
17 the Company's Income Tax Expense effective January 1, 2018, as well as a permanent
18 write-down of a portion of the Company's deferred tax liability representing funds
19 provided by ratepayers for the future payment of income taxes. The impacts from these
20 two TCJA components were addressed in phases as a result of the Company's assertion
21 that it was required to utilize a particular accounting methodology for computing the excess
22 liability and the property tax records were not in the necessary format to comply with the
23 (asserted) IRS requirements. As a result, the Company spent 2018 and a portion of 2019

1 modifying its records to comply with one of the two possible accounting methods required
2 by the IRS.

3 Due to the delay in the availability of information the Company asserted was necessary to
4 fully implement the TCJA, the Commission indicated that the parties could address the
5 TCJA impacts in different phases within Docket No. 18-00039. In an Order dated October
6 25, 2019, the Commission addressed the Income Tax Expense savings portion of the TCJA
7 (identified as Phase 1) by adopting the terms of the Stipulation and Settlement Agreement
8 of the parties. Under terms of the Settlement, the sum of the ongoing Income Tax Expense
9 savings plus the cumulative Income Tax Expense savings accruing through August 31,
10 2019, amortized over three years, is to be recovered through the reconciliation portion of
11 the Company's Capital Riders. The resulting Capital Rider credit of 6.62% is incorporated
12 into the Company's current tariff and is unaffected by this Docket. The Commission also
13 determined that the appropriate treatment of Excess Accumulated Deferred Income Taxes
14 (EADIT) would be addressed in Phase 2 of the proceedings in Docket No. 18-00039. The
15 Phase Two proceedings in Docket No. 18-00039 are still pending before the Commission
16 as of this writing.

17 **Q7. WHAT IS THE POSITION OF THE CONSUMER ADVOCATE IN THE PHASE 2**
18 **PROCEEDINGS IN DOCKET NO. 18-00039?**

19 **A7.** The Phase 2 proceedings involve the question of the appropriate regulatory treatment of
20 EADIT. There are two categories of EADIT, protected and unprotected. With respect to
21 the protected EADIT, the Consumer Advocate recommends that the sum of the 2018 and
22 2019 amortizations be totaled and returned to TAWC customers through a credit to the
23 Capital Riders. The Consumer Advocate proposes that Unprotected EADIT be amortized

1 over a three-year period, added to the amortization of the Protected EADIT¹, and used to
2 reduce the Company's Capital Riders surcharge. The sum of the Consumer Advocate
3 proposed Protected and Unprotected EADIT amortization totals \$2,858,248.² It is this
4 amount that should be flowed back to customers through a credit to the surcharge.

5 **Q8. ARE YOU SUPPORTING AN EXHIBIT DOCUMENTING YOUR PROPOSAL?**

6 **A8.** Yes. Exhibit DND-2 contains the identical calculation supported in Phase 2 of Docket No.
7 18-00039, supporting the amortization credit of \$2,858,248. Exhibit DND-3 calculates the
8 credit surcharge percentage associated with the amortization credit (6.07%). The total of
9 the Phase 1 and Phase 2 credits is (12.69%).

10 **Q9. DO YOU HAVE ANY OTHER RECOMMENDED CHANGES TO THE**
11 **PROPOSED SURCHARGE?**

12 **A9.** No. I have reviewed the filing and have no other adjustments beyond the recognition of
13 the Phase 2 amortization credits. However, notwithstanding this conclusion as it relates to
14 the calculation of the Company's Capital Riders here, I remain convinced that there are
15 serious flaws in the mechanics of the Capital Riders mechanism to the extent that the
16 current calculation is not in the public interest. I continue to assert, and can demonstrate,
17 that the Rate Base upon which customers pay rates to the Company significantly exceeds
18 the Company's actual Rate Base, resulting in Capital Riders surcharge rates that are not

¹ The amortization of Protected EADIT includes 2018 and 2019 amounts. It does not incorporate the 2020 amortization, which should be reflected as a credit to the Capital Rider surcharge once the appropriate amount is known.

² David Dittmore Supplemental Testimony, Supplemental Exhibit DND-1, Docket 18-00039.

just and reasonable. Simply put, the Company is collecting revenues associated with phantom rate base.

Q10. DO YOU HAVE EVIDENCE TO SUPPORT YOUR OPINION?

A10. Yes. The table below compares the Company's Compensated Rate Base with its actual Rate Base. The Compensated Rate Base is the sum of the Rate Base underlying the current Capital Riders request plus the Rate Base adopted in the Company's last rate case. As shown in Column D, this total is \$224 Million. This compares with the Company's estimate of its average Rate Base in 2020 of \$209.5 Million, resulting in a Compensated Rate Base in excess of its actual rate base by nearly \$15,000,000.

Table 1
Comparison of TAWC Compensated Rate Base vs. Actual Rate Base
Docket 19-00105

Line No.	Item	A	B	C	(B + C) = D	(D - A) = E
		Forecasted Rate Base 19-00105	Settlement 12-00049	Rider Rate Base 19-00105	Compensated Rate Base	Excess Compensated Rate Base
1	Utility Plant in Service	\$365,140,645	\$ 250,455,533	101,854,987	\$ 352,310,520	\$ (12,830,125)
2	Construction Work in Progress	6,559,291	3,581,671	-	\$ 3,581,671	\$ (2,977,620)
3	Accumulated Depreciation	(\$94,463,999)	(81,011,226)	(6,568,374)	\$ (87,579,600)	\$ 6,884,399
4	Accumulated Deferred Income Taxes	(51,959,560)	(26,733,940)	(13,299,697)	\$ (40,033,637)	\$ 11,925,923
5	Customer Advances for Construction	(4,360,427)	(5,173,724)		\$ (5,173,724)	\$ (813,297)
6	Contributions in Aid of Construction	(17,829,684)	(12,466,115)	(\$2,358,677)	\$ (14,824,792)	\$ 3,004,892
7	Other Rate Base Components	6,364,035	3,363,273	12,602,529	\$ 15,965,802	\$ 9,601,767
		\$ 209,450,302	\$ 132,015,472	\$ 92,230,768	\$ 224,246,240	\$ 14,795,938

Source:

Response to CA 2-4

Exhibit 3 TPUC
Order Docket
12-00049

TAWC Sched
I/Total Recon
Tab; Docket 19-
00103

Q11. WHAT IS YOUR RECOMMENDATION TO ALLEVIATE THIS SITUATION?

A11. I urge the Commission to prioritize the processing of Docket No. 19-00103, which was established to review the mechanics of the Capital Riders calculation. This Docket should be completed before the Company's next scheduled Budget filing in order to allow the

Capital Riders to be reviewed and this situation involving an overstated Rate Base to be remedied.

Q12. NOW TURN TO THE ISSUE OF THE COMPANY'S RATE OF REPLACEMENT OF AGING INFRASTRUCTURE. WHAT COMMENTS HAS THE COMPANY MADE CONCERNING REPLACEMENT OF AGING INFRASTRUCTURE?

A12. In this investigation, I felt it was important to obtain additional information concerning the rate of replacement of aging infrastructure. The Company's pleading speaks of aging infrastructure in several places. The testimony of Mr. Stafford states "[b]y replacing aging water main infrastructure on an accelerated basis and on a proactive rate rather than a reactive basis, the distribution system will provide direct Customer benefits in the form of improved and sustained water quality, improved fire protection, fewer service disruptions and lower operating and maintenance costs over time."³

Q13. IS THERE EVIDENCE SUGGESTING THAT THE COMPANY BALANCES THE NEED TO REPLACE AGING INFRASTRUCTURE WITH CUSTOMER IMPACTS FROM THE SURCHARGE?

A13. Yes. On page 6 of his testimony, Mr. Stafford indicates that projects are chosen and scheduled in a prudent manner in order to balance the need for replacing aging infrastructure with system safety and reliability as well as Customer impact.⁴

³ Kurt Stafford, Direct Testimony Docket 19-00105, page 12-13, lines 258 – 261.

⁴ Kurt Stafford, Direct Testimony Docket 19-00105, page 6, lines 126 – 128.

1 **Q14. IS THERE EVIDENCE SUGGESTING THE COMPANY IS REPLACING AGING**
2 **INFRASTRUCTURE ON AN ACCELERATED BASIS AS CLAIMED BY MR.**
3 **STAFFORD?**

4 **A14.** No. The Company has 570.4 miles of Distribution Main in excess of 50 years old, equaling
5 approximately 48% of the Company's total Distribution Mains. During the 2016 – 2018
6 period, the Company averaged 2.8 miles of Distribution Main replacement associated with
7 aging Distribution Main per year for an annual replacement rate of less than one-half of
8 one percent. Further, the Company indicated it planned to replace 5.2 miles of the 570.4
9 miles of aging Distribution Main in 2020, translating to a replacement rate of less than 1%.
10 At the current replacement rate, it will take over 100 years to replace that portion of the
11 existing infrastructure which is in excess of fifty years old.⁵

12 The replacement rate for aging Transmission Main is even less. Of the approximately 82
13 miles of Transmission Main, 57% is in excess of fifty years old. Further, only 0.1 miles of
14 this aging Transmission Main were replaced in the 2016 – 2018 period, while no aging
15 Transmission Main is anticipated to be replaced in 2020. These extended lives of
16 Transmission and Distribution Mains raise the question of whether such long lives were
17 forecast within the Company's most recent depreciation rate study.

18 **Q15. ARE YOU SUGGESTING THE COMPANY SHOULD ACCELERATE ITS**
19 **REPLACEMENT OF AGING INFRASTRUCTURE?**

20 **A15.** No. Instead, I believe it is important to obtain underlying data to confirm the actual
21 replacement rate of the system, rather than simply relying upon general statements by the

⁵ See the response to Consumer Advocate Discovery Request 1-5.

1 Company suggesting they are accelerating the replacement of aging infrastructure. The
2 Consumer Advocate remains concerned about the growing rate increases associated with
3 the Company's Capital Riders. The impact of capital investment on customers coupled
4 with the age of the Company's system (the likely need for future replacement) simply
5 reaffirms the necessity of getting the Capital Riders calculation corrected within Docket
6 No. 19-00103.

7 **Q16. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 **A16.** Yes, but I reserve the right to supplement my testimony if additional information becomes
9 available.

Exhibit DND-1

David Dittmore

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

**TAWC Docket 18-00039 and 19-00105
Determination of Excess ADIT Balances
Protected and Unprotected**

1/15/2020 & 3/5/2020

**Dockets 18-00039
and 19-00105**

Total Federal and State Excess ADIT

Exhibit DND-2

Item	Protected	Unprotected (2)	Attachment 3-5) (1)
Method/Life	\$ 12,869,192		
Cost of Removal	552,564		
Repairs - M/L		\$ 2,457,864	
Repairs Other		2,588,057	
All Other		(49,171)	
Federal NOL	(801,599)		
Plant Customer Advances		(460,203)	
Plant CWIP		11,763	
CIAC WIP		(5,619)	
Plant 481		110,156	
All Other Non Plant (Amortization)		(429,833)	
Totals	12,620,157	4,223,014	16,843,171
2018 ARAM Effective Rate	<u>2.6890%</u>		
2018 EADIT ARAM Amortization	\$ 339,356		
2019 ARAM Effective Rate	<u>2.8860%</u>		
2019 EADIT ARAM Amortization	\$ 364,218		
Unprotected Amortization Period		<u>3</u>	
Amortization Applicable to 2020 Capital Rider	\$ 703,574	(3) \$ 1,407,671	\$ 2,111,245
Tax Gross-up Factor	1.3538	1.3538	1.3538
Gross of Tax Amortization	\$ 952,513	\$ 1,905,735	\$ 2,858,248

- (1) The Consumer Advocate's Office refers to this information as the first set of discovery in Phase 2 of the Tax Docket.
(2) Identified consistent with new information contained in TAWC testimony submitted December 19, 2019.
(3) Includes 2018 and 2019

Tax Gross-Up Calculation

State Tax Rate	6.50%
Income Subject to Federal Tax (1-6.5%)	93.50%
Federal Tax Rate	21.00%
Effective Federal Tax Rate	19.64%
Effective Composite Rate (Effective Federal + State)	26.14%
Reciprocal Gross-up Factor (1-Effective Gross-up Rate)	73.87%
Gross-up Factor (1/Reciprocal Gross-up Factor)	1.3538

TAWC Docket 19-00105
Calculation of Proposed Rates

Exhibit DND-3

	QIIP		EDI		SECP		Capital Rider		Source
							Total	Offsets	
Rider Revenue Requirement	\$	6,723,700	\$	536,171	\$	4,137,860	\$ 11,397,731		Schedule TAW Schl
Service Charge/Volumetric Revenue Docket 12-00049	\$	47,073,724	\$	47,073,724	\$	47,073,724	\$ 47,073,724		" "
TAWC Proposed Rider Rates		14.28%		1.14%		8.79%		24.21%	" "
TCJA Income Tax Expenses Savings - Phase 1									Petitioners Exhibit, -6.62% Approved Tariffs - EKC
Consumer Advocate EADIT Amortizations - Phase 2							\$ (2,858,248)		Supplemental Exhibit DND-1; Docket 18- 00039
Service Charge/Volumetric Revenue Docket 12-00049							\$ 47,073,724		Schedule TAW Schl
TCJA Tax Surcharge Credit - Phase 2								-6.07%	Line 5 / Line 6
Total TCJA Credits								-12.69%	Line 4 + Line 7

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DOCKET NO. 19-00105

AFFIDAVIT

I, David D. Dittemore, 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. Dittemore
DAVID N. DITTEMORE

Sworn to and subscribed before me
this 3rd day of March, 2020.

Tiffany H. Blackman
NOTARY PUBLIC

My commission expires: March 22, 2023

