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September 22, 2020

VIA ELECTRONIC FILING

Hon. Kenneth C. Hill, Chairman
c/o Ectory Lawless, Docket Room Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243
TPUC.DocketRoom@tn.gov

RE: *Joint Petition of Tennessee-American Water Company and Thunder Air, Inc. d/b/a Jasper Highlands Development, Inc. for the Approval of an Asset Purchase Agreement and for the Issuance of a Certificate of Convenience and Necessity; Docket No. 20-00011*

Dear Chairman Hill:

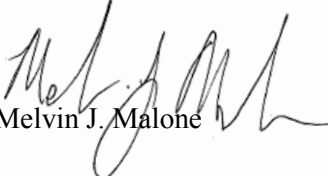
Please find attached for filing the *Rebuttal Testimony of TAWC Witnesses Elaine K. Chambers, Grady Stout, and Brian Queen, and the Rebuttal Testimony of Thunder Air, Inc. Witnesses Dane Bradshaw and John Thornton* in the above-captioned docket. As the Rebuttal Testimony of Witnesses Elaine Chambers, Brian Queen, Grady Stout, John Thornton and Dane Bradshaw contain **CONFIDENTIAL INFORMATION**, Public and Confidential versions of their respective testimony are enclosed.

Also, attached as an exhibit to TAWC Witness Brian Queen's Rebuttal Testimony is **CONFIDENTIAL EXHIBIT BQ – Rebuttal - 1**, which contains **CONFIDENTIAL INFORMATION** and is being submitted **UNDER SEAL** as **CONFIDENTIAL AND PROPRIETARY**. We have attached a CONFIDENTIAL version of this exhibit to Mr. Queen's CONFIDENTIAL Testimony, as well as a Public version of this exhibit to the Public version of Mr. Queen's Testimony.

As required, one (1) hard copy will be mailed to your office. 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

Attachments

cc: Elaine Chambers, TAWC
William H. Horton, Thunder Air, Inc.
Daniel P. Whitaker III, Consumer Advocate Unit

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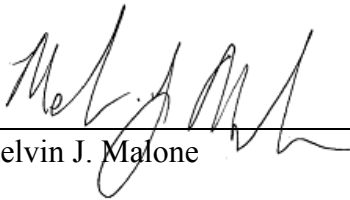
BUTLER SNOW LLP

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Daniel P. Whitaker III
Assistant Attorney General
Economic and Regulatory Section
Financial Division, Consumer Advocate Unit
Office of the Tennessee Attorney General
War Memorial Building, 2nd Floor
301 6th Avenue North
Nashville, TN 37243
Daniel.Whitaker@ag.tn.gov

This the 22nd day of September, 2020.



Melvin J. Malone

PUBLIC VERSION

TENNESSEE-AMERICAN WATER COMPANY, INC.

DOCKET NO. 20-00011

REBUTTAL TESTIMONY

OF

BRIAN QUEEN

ON

**JOINT PETITION OF TENNESSEE-AMERICAN WATER COMPANY AND
THUNDER AIR, INC. D/B/A/JASPER HIGHLANDS DEVELOPMENT, INC. FOR THE
APPROVAL OF AN ASSET PURCHASE AGREEMENT AND FOR THE ISSUANCE OF
A CERTIFICATE OF CONVENIENCE AND NECESSITY**

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1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Brian Queen. My business address is 2300 Richmond Road, Lexington, KY
3 40502.

4
5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by American Water Works Service Company. I am the Divisional Chief
7 Financial Officer for American Water’s Southeast Division (the “Southeast Division”),
8 which consists of regulated companies that serve customers in Tennessee, Kentucky, and
9 Georgia.

10

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

14 A. No.

15

16 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION OR ANY**
17 **OTHER STATE COMMISSION?**

18 A. No.

19

20 **Q. PLEASE STATE YOUR EDUCATIONAL AND PROFESSIONAL**
21 **BACKGROUND.**

22 A. I have bachelor’s degree in accounting and an MBA from Morehead State University. I
23 have been at American Water since February 2019. Prior to American Water, I spent 11

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years at Lexmark International based in Lexington, KY in a variety positions focused mainly on financial planning and analysis, as well as information technology. Prior to Lexmark, I spent almost 2 years at Cintas Corporation in Mason, OH as a staff accountant.

Q. WHAT ARE YOUR DUTIES AND RESPONSIBILITIES AS CFO FOR THE SOUTHEAST DIVISION?

A. I am responsible for all financial aspects for the Southeast Division, including accounting, tax, treasury, and financial planning.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. In support of the Joint Petition, the purpose of my Rebuttal Testimony is to respond to the Pre-filed Testimony of William H. Novak on behalf of the Consumer Advocate Unit of the Financial Division of the Office of the Tennessee Attorney General (the “Consumer Advocate” or the “CA”).

Q. ARE YOU SPONSORING ANY EXHIBITS?

A. Yes, I am. I am sponsoring attached **CONFIDENTIAL EXHIBIT – BQ - Rebuttal – 1**, which is being filed **UNDER SEAL** as **CONFIDENTIAL AND PROPRIETARY**. I will discuss this exhibit further in my Rebuttal Testimony below.

Q. WAS THIS EXHIBIT PREPARED BY YOU OR UNDER YOUR DIRECTION AND SUPERVISION?

A. Yes.

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1 **Q. WHAT WERE THE SOURCES OF DATA USED TO PREPARE THE EXHIBIT**
2 **LISTED ABOVE?**

3 A. The information used to prepare the exhibit was obtained from the books of account and
4 business records of Tennessee-American and other internal sources that I examined during
5 the course of investigating the matters addressed in this testimony and from information in
6 the record in this case.

7 **Q. DO YOU CONSIDER THIS INFORMATION RELIABLE AND OF THE TYPE**
8 **THAT IS NORMALLY USED AND RELIED ON IN YOUR BUSINESS FOR SUCH**
9 **PURPOSES?**

10 A. Yes.

11 **Q. DOES THE EXHIBIT LISTED ABOVE ACCURATELY SUMMARIZE THE**
12 **INFORMATION AND THE RESULTS OF THE ANALYSIS OF THE**
13 **INFORMATION?**

14 A. Yes, it does.

15

16 **Q. WHICH ISSUES RAISED BY MR. NOVAK ARE YOU REBUTTING?**

17 A. Generally, I will address the following issues raised by Mr. Novak: (1) The proposed
18 acquisition structure, including the Purchase Price (Pre-filed Testimony of William H.
19 Novak, pp. 5-8); (2) Mr. Novak's recommendation that \$898,200 be recorded as Other
20 Long-Term Debt (Pre-filed Testimony of Mr. Novak, pp. 9-10); and (3) Mr. Novak's
21 recommendation of an additional negative acquisition adjustment (Pre-filed Testimony of

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Mr. Novak, pp. 10-13). To the extent I address other issues raised by Mr. Novak, I outline below which other issues I am addressing.

Q. WHO WILL ADDRESS OTHER ISSUES RAISED BY MR. NOVAK ON BEHALF OF TAWC?

A. Elaine K. Chambers will be addressing other issues raised by Mr. Novak on behalf of TAWC.

Q. ON PAGE 8, LL 4-8 OF HIS PRE-FILED TESTIMONY, MR. NOVAK MAINTAINS THAT TAWC HAS NOT EXPLAINED WHY THE CURRENT PURCHASE PRICE IS DIFFERENT IN THIS CASE THAN THE PURCHASE PRICE PROPOSED IN TPUC DOCKET NO. 18-00099. DO YOU AGREE? IF NOT, PLEASE EXPLAIN.

A. No, I do not. First, in its response to the Consumer Advocate's First Discovery Request 1-1, submitted on March 13, 2020, TAWC noted that the Joint Petition in this case is separate and different than the petition submitted in Docket No. 18-00099. Among the reasons provided was the ongoing growth and development of the Thunder Air, Inc. community, as reflected in the Joint Petition and supporting documents, including the Pre-filed Direct Testimony of Thunder Air, Inc. Witness Dane Bradshaw and the Pre-filed Direct Testimony of TAWC Witness Grady Stout. *See Pre-filed Direct Testimony of Mr. Stout*, p. 12, ll 251-254; *Pre-filed Direct Testimony of Mr. Bradshaw*, pp. 3-4. TAWC supplemented its response to DR 1-1 on April 23, 2020.

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1 Next, as outlined in the Pre-filed Direct Testimony of Thunder Air, Inc. Witness Dane
2 Bradshaw, the Thunder Air, Inc. development has expanded into its third phase, opening
3 an additional 200 lots for homes. *See Pre-filed Direct Testimony of Dane Bradshaw*,
4 Docket No. 20-00011, p. 2, ll 29-33. As it exists today, the development is much different
5 than when the petition in Docket No. 18-00099 was submitted on September 7, 2018. *See*
6 *Pre-filed Direct Testimony of Bradshaw*, p. 2, ll 33-37. The petition in Docket No. 18-
7 00099 proposed to cover only the first and second phases of the development. Due to the
8 ongoing growth and expansion of the development, the Joint Petition in this case (#20-
9 00011) covers the first, second, and third phases of the development. This is why, as noted
10 by the Joint Petitioners in the Response to DR 1-14(d), the Joint Petition in this case (#20-
11 00011) is new, separate, and different from the petition in Docket No. 18-00099.

12
13 Finally, in cooperatively responding to the Consumer Advocate's discovery requests, the
14 Joint Petitioners provided additional information supporting the growth of the development
15 and customers of the water system that serves the Thunder Air, Inc. Development (the
16 "System") and is the subject acquisition of the Asset Purchase Agreement ("APA" or
17 "Purchase Agreement") attached to the Joint Petition as Exhibit A, including Responses to
18 DRs 2-2(a), 2-3(c) and 2-19 (Supplemental). For instance, the Response to DR 2-2(a)
19 shows the customer count increases from 80 on December 31, 2017 to 166 on December
20 31, 2019. In sum, and as outlined in the Joint Petition, the growth of the development, and
21 the associated increase in System customers, is a basis for the difference in purchase price.
22 *See Pre-filed Direct Testimony of Bradshaw*, p. 3, l 61 ("Recent growth impacted the
23 [purchase] price, as we have consistently met [growth] projections.").

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Q. HOW DOES THE CURRENT PURCHASE PRICE COMPARE TO THE PREVIOUS PURCHASE PRICE IN DOCKET 18-00099?

A. The Purchase Price in this docket is \$2,398,200 versus \$1,500,000, in Docket # 18-00099, which is an increase of \$898,200.

Q. WILL THE INCREASE OF \$898,200, IN PURCHASE PRICE, BE PAID UPFRONT TO THUNDER AIR?

A. No. As discussed above, the increase is based on an additional phase of development and the potential growth Jasper Highlands may experience in the next several years. If, and to the extent, that the development grows and customers are added, additional payments will be made to Thunder Air. Please refer to the testimony of Elaine K. Chambers for a discussion on the APA.

Q. WHAT HAPPENS IF NO GROWTH OCCURS IN THE JASPER HIGHLANDS COMMUNITY?

A. Thunder Air would receive only the Closing Payment of \$1,500,000.

Q. IN YOUR OPINION, DOES THAT PROTECT THE EXISTING CUSTOMERS?

A. Yes, it does.

Q. ON PAGES 9 AND 10 OF HIS PRE-FILED TESTIMONY, MR. NOVAK RECOMMENDS THAT THE AMOUNT OF \$898,200 BE RECORDED ON

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1 **TENNESSEE-AMERICAN’S BOOKS AS OTHER LONG-TERM DEBT. DO YOU**
2 **AGREE WITH MR. NOVAK? IF NOT, PLEASE EXPLAIN.**

3 A. I do not. In fact, in the context of this case, including the APA, I am very surprised about
4 this particular recommendation. The NARUC Uniform System of Accounts (“USOA”)
5 cited for support by Mr. Novak actually provides some guidance as to the type of long-
6 term debt that section is intended to capture, namely “receiver’s certificates, real estate
7 mortgages, executed or assumed assessments for public improvements, notes and
8 unsecured certificates of indebtedness not owned by associated companies, receipts
9 outstanding for long-term debt[.]” Although the phrase “and other obligations maturing
10 more than one year from date of issuance and assumption” appears in this section, Mr.
11 Novak has produced no support for the proposition that this language is intended to
12 encompass “obligations” of the sort resembling the Post-Closing Payments. The
13 interpretation championed by the Consumer Advocate here, if adopted, would result in the
14 Commission superimposing an application not on all fours with the guidance provided by
15 NARUC. The Commission may apply the NARUC USOA to matters before it, but the
16 agency remains free to reject a proposed interpretation, like the one submitted here, that is
17 unsupportable, unreasonable and subject to unwieldy consequences. Assuming for the sake
18 of argument that one could conceivably maintain that the Post-Closing Payments amount
19 of \$898,200 might at least be initially considered for possible classification as Other Long-
20 term Debt, the Company believes, given the characteristics of the Post-Closing Payments,
21 that such a preliminary consideration would yield to reasonably concluding otherwise.

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1 **Q. IN YOUR OPINION, DOES NARUC USOA REQUIRE THAT THE \$898,200**
2 **AMOUNT BE RECORDED AS OTHER LONG-TERM DEBT? IF NOT, PLEASE**
3 **EXPLAIN.**

4 A. No. As described in our APA with Thunder Air, Inc., there are no circumstances in which
5 TAWC would have a legal obligation to pay any more than the Purchase Price. The Post-
6 Closing Payments provision in the APA places the risk of \$898,200 related to projected
7 future growth on Thunder Air, Inc. and the Post-Closing Payments provides protection to
8 TAWC and ultimately our customers. In the event that projected growth of the
9 development community does not occur, TAWC will never make any Post-Closing
10 Payments or have in rates more than the \$1.5M Closing Payment. If the development
11 grows, the acquisition price and associated rate base will increase in relation to the Post-
12 Closing Payments, but will in no event will ever exceed the Purchase Price of \$2,398,200.
13 As such, it would not be appropriate, nor is it required, to characterize or book the \$898,200
14 amount as Other Long-Term Debt. The acquisition and Purchase Price are a “win-win”
15 situation for TAWC and, more importantly, our customers. Further, since no note or debt
16 is associated with the acquisition of the System, classification of these potential future
17 payments as Other Long-Term Debt is neither required nor warranted.

18
19 **Q. IN REVIEWING THE CONSUMER ADVOCATE’S PRE-FILED TESTIMONY,**
20 **INCLUDING MR. NOVAK’S RECOMMENDATION OF RECORDING THE**
21 **AMOUNT OF \$898,200 AS OTHER LONG-TERM DEBT, WHAT APPEARS TO**
22 **BE MR. NOVAK’S UNDERLYING OBJECTIVE HERE?**

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1 A. While it is not clear, our assumption is that Mr. Novak is attempting to manipulate the
2 utility plant acquisition adjustment in order to defer and possibly permanently exclude
3 Post-Closing Payments made to Thunder Air, Inc from rate base.

4
5 **Q. MIGHT THERE BE ANY UNINTENDED REGULATORY CONSEQUENCES OF**
6 **COMPELLING THE COMPANY TO BOOK THE AMOUNT OF \$898,200 AS**
7 **OTHER LONG-TERM DEBT?**

8 A. Yes. For instance, and assuming the Joint Petitioners moved forward with the acquisition,
9 the classification of the \$898,200 as Other Long-Term Debt is the basis for the Rate Base
10 Deduction in Mr. Novak's methodology and would defer recovery of this investment until
11 the next full-blown rate case. As discussed above, the addition of customers projected by
12 Thunder Air, Inc. would increase the utilization of the system being purchased. This will
13 increase net income for the company. By recording as Other Long-Term Debt and not
14 allowing the recognition of the payments made to Thunder Air, Inc. in rate base for the
15 additional connections, the earned rate of return of the Company will ultimately be
16 artificially inflated.

17
18 **Q. IF THE AMOUNT OF \$898,200 IS NOT REQUIRED TO BE BOOKED AS OTHER**
19 **LONG-TERM DEBT, HOW SHOULD IT BE BOOKED?**

20 A. As outlined in the Pre-filed Direct Testimony of TAWC Witness Elaine Chambers, pp. 4-
21 5, the Company is proposing that the Post-Closing Payments of \$898,200 be booked as
22 Customer Advances for Construction ("CAC"). Ms. Chambers will address this more fully
23 in her Pre-filed Rebuttal Testimony.

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1 **Q. ON PAGES 11-13 OF HIS PRE-FILED TESTIMONY, MR. NOVAK OUTLINES**
2 **HIS BASES FOR RECOMMENDING AN ADDITIONAL NEGATIVE**
3 **ACQUISITION ADJUSTMENT. HAVE YOU HAD AN OPPORTUNITY TO**
4 **REVIEW THIS RECOMMENDATION?**

5 A. Yes, I have.
6

7 **Q. BASED UPON THE JOINT PETITION AND SUPPORTING DOCUMENTATION,**
8 **INCLUDING RESPONSES TO DISCOVERY, IS MR. NOVAK'S**
9 **RECOMMENDATION FOR AN ADDITIONAL NEGATIVE ACQUISITION**
10 **ADJUSTMENT REASONABLE? IF NOT, PLEASE EXPLAIN.**

11 A. No. Mr. Novak's recommendation is not reasonable. Given the impact of the proposed
12 negative acquisition adjustment explained above, it could, if adopted, have a dramatic
13 chilling effect on system acquisitions in Tennessee, thereby undermining the public
14 interest. It also has no merit from either a ratemaking or accounting perspective. Mr. Novak
15 has not offered any ratemaking or accounting perspective that requires his proposed
16 calculation methodology to force the Base Year Budget to achieve a [REDACTED] return. In fact,
17 later in my testimony, I will discuss my exhibit, which specifically addresses Mr. Novak's
18 return comments.
19

20 Additionally, Mr. Novak's adjustment actually inverts the ratemaking process. It
21 arbitrarily degrades the value of assets, to allegedly prevent a deficiency in fair return
22 following the acquisition, rather than supporting just and reasonable rates to provide the

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1 opportunity for a fair return on its investment. Mr. Novak's proposal is the opposite of
2 what ratemaking is supposed to accomplish.

3
4 The approval of the Joint Petition is not a formal rate case for TAWC. To specifically
5 disallow rate base value for assets that are "used and useful" for providing service to the
6 customers is simply inappropriate. The proposal to disallow the future recovery of those
7 assets based simply on Base Year customer revenues, is nothing more than an effort to
8 penalize the Company. The Joint Petitioners have provided supporting information for the
9 basis of the negotiated purchase price, which is well below the net book value of the assets.
10 Mr. Novak, on the other hand, has provided no evidence to demonstrate that the projected
11 growth, which was part of the basis of the negotiated purchase price, is unreasonable or
12 speculative at all. TAW stands behind its forecast as reasonable.

13
14 This proposed regulatory treatment simply has no merit and is not in the long-term interest
15 of our customers or the State of Tennessee.

16
17 **Q. CAN YOU ELABORATE ON WHAT YOU MEAN WHEN YOU SAY THAT MR.**
18 **NOVAK'S RECOMMENDATION COULD UNDERMINE THE PUBLIC**
19 **INTEREST?**

20
21 **A.** Yes. I am referring to the Public Interest section of the Joint Petition, along with the Pre-
22 filed Direct Testimony of TAWC Witness Grady Stout. The water industry in the United
23 States is a remarkably fragmented network of more than 50,000 community water

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1 systems.¹ Each of these separate systems must provide the most critical of services to its
2 community. These services include drinking water, fire protection, and sanitation, as well
3 as water for other domestic, commercial and industrial purposes. Without safe, clean,
4 reliable, affordable water service, the public and economic health of our communities can
5 be compromised.

6
7 Even with the most diligent management efforts, small stand-alone systems face significant
8 hurdles that can be effectively addressed through acquisition by larger water providers. As
9 noted by TAWC Witness Grady Stout, consolidation of water and wastewater systems can
10 offer economies of scale, and can provide professional management, long-term planning,
11 and specialized water treatment and operations expertise often not available to smaller
12 systems. It can also provide sustained investment and cost and operational efficiencies that
13 might not otherwise be feasible for small stand-alone systems, as they can't leverage the
14 buying power and capital market access that larger utilities can provide. The capital
15 intensity of the water and wastewater sector, increasing water quality regulations, and the
16 critical nature of water service for both the public and economic health of Tennessee
17 communities all further underscore the need for the efficiencies, economies of scale,
18 resources, and expertise available through consolidation of systems. *See Pre-filed Direct*
19 *Testimony of TAWC Witness Grady Stout*, pp. 15-16.

20
21 With the above firmly in mind, Mr. Novak's recommendation could have a chilling effect
22 on voluntary acquisitions that would, in fact, serve the public interest. The impact of the

¹ U.S. EPA 3rd Quarter 2018 water system inventory.

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1 negative acquisition adjustment proposed by Mr. Novak – intended or not – could have a
2 chilling effect that discourages negotiations between willing buyers and willing sellers,
3 which could, under certain circumstances, negatively impact the provision of safe, clean,
4 reliable, affordable water service and compromise the economic health of Tennessee
5 communities.

6
7 **Q. ARE YOU SUGGESTING THAT MR. NOVAK’S PROPOSAL COULD HAVE**
8 **SUCH A NEGATIVE IMPACT UPON THE THUNDER AIR, INC.**
9 **DEVELOPMENT COMMUNITY AS WELL?**

10 A. Thunder Air, Inc.’s witness, Dane Bradshaw, noted in his Pre-filed Direct Testimony that
11 there was no practical and affordable safe drinking water source for the Thunder Air, Inc.
12 development community. *See Pre-filed Direct Testimony of Dane Bradshaw*, p. 1, ll 17-
13 21. So, Thunder Air, Inc., along with the Jasper Highlands Property Owners Association,
14 developed a solution. Even still, Mr. Bradshaw further stated that the core business of
15 Thunder Air, Inc. is real estate development. Thunder Air, Inc. recognized that a well-
16 established water utility, like TAWC, is better suited to own, professionally operate,
17 maintain and make the necessary capital investments, while keeping rates reasonably low
18 to support the development community for years to come. *See Pre-filed Direct Testimony*
19 *of Dane Bradshaw*, p. 3, ll 46-52.

20
21 **Q. CAN YOU ELABORATE FURTHER ON THE NEGATIVE EFFECT OF MR.**
22 **NOVAK’S ADDITIONAL NEGATIVE ACQUISITION ADJUSTMENT IN**
23 **TENNESSEE?**

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1 A. Certainly. Again, Mr. Novak's proposal would establish an extremely unfavorable
2 precedent in Tennessee and undermine acquisition policy. If Mr. Novak's recommendation
3 is adopted, TAWC will be required to record the value of the System below the arm's-
4 length negotiated price of \$2,398,200, which is already substantially below the book value
5 of approximately \$4.5 million. Such a decision would substantially curtail TAWC's ability
6 to earn a fair return on its actual investment in the System and would turn the arms-length
7 negotiated purchase price and the associated regulatory treatment sought upside down.
8 Beyond this transaction, such a decision would severely limit utilities that would benefit
9 from being acquired because potential buyers, utilities like TAWC, would be so restricted
10 in the purchase amount they will be allowed to offer.

11
12 **Q. HAVING REVIEWED MR. NOVAK'S RECOMMENDATION FOR AN**
13 **ADDITIONAL NEGATIVE ACQUISITION ADJUSTMENT, DO YOU AGREE**
14 **WITH HIS UNDERLYING METHODOLOGY? IF NOT, PLEASE EXPLAIN.**

15 A. I do not agree with Mr. Novak's proposed application of his methodology for several
16 reasons. By way of example, based on the growth forecast for the Thunder Air, Inc.
17 development community, coupled with Mr. Novak's own calculations, the Company
18 would be at or above authorized in Year 1. Please see attached **CONFIDENTIAL**
19 **EXHIBIT – BQ Rebuttal – 1.**

20
21 Also, it is noteworthy here that Mr. Novak appears to have generally accepted the forecast
22 that the Company produced during the discovery process (except for his [REDACTED] QIIP
23 adjustment). Mr. Novak's conclusions rest in no small part on his Base Year earned rate of

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1 return calculation of [REDACTED]. His methodology relies on a Base Year customer count of 139.
2 Mr. Novak's calculations do not account for or recognize that the Base Year customer
3 count of 139 has already been exceeded. As I noted earlier, the Response to DR 2-2(a)
4 shows a customer count of 166 as of December 31, 2019. So, the Base Year projections,
5 and indeed the projections for every year thereafter, will be positively impacted. One result
6 of such positive impact that Mr. Novak failed to recognize is that his calculated Base Year
7 earned rate of return of [REDACTED] will necessarily be higher than that. Moreover, as shown in
8 the Pre-filed Rebuttal Testimony of Thunder Air, Inc. Witness Dane Bradshaw, the current
9 customer count exceeds 166, further undermining the application of Mr. Novak's
10 methodology to support a negative acquisition adjustment.

11
12 **Q. CAN YOU PLEASE EXPLAIN YOUR EXHIBIT – BQ – Rebuttal – 1?**

13 A. Certainly. In Table 4 on page 12 of Mr. Novak's Pre-filed Testimony, he calculated the
14 forecast Earned Rate of Return for the Base Year at [REDACTED]. Using the same methodology
15 that Mr. Novak employed to develop his Table 4, I referred to TAWC's **Confidential**
16 Supplemental Response DR 1-4, and calculated the forecast Earned Rate of Return -
17 beyond the Base Year - for Years 1-5. This calculation reveals that had Mr. Novak
18 expanded his Table 4 beyond just the Base Year, it would have shown that the projected
19 Earned Rate of Return increases to [REDACTED] for Year 1 and rises to [REDACTED] by Year 5.

20
21 **Q. ON PAGES 10-11 OF HIS PRE-FILED TESTIMONY, MR. NOVAK MAINTAINS**
22 **THAT THE PURCHASE PRICE OF \$2,398,200 IS NOT AN APPROPRIATE**

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REGULATORY VALUE FOR THE SYSTEM? DO YOU AGREE WITH MR. NOVAK'S ASSERTION? IF NOT, PLEASE EXPLAIN WHY NOT.

A. No. Based upon the past and projected growth of the Thunder Air, Inc. community development, in a ten (10) year period, TAWC will have acquired the System at nearly a 47% discount (\$4.5M book value v \$2.4M Purchase Price). The record supports the Purchase Price.

Q. IS THERE ANY ACCOUNTING MERIT TO MR. NOVAK'S PROPOSAL?

A. No. In addition to proposing inappropriate ratemaking treatment that can have a negative impact on consolidation in the State of Tennessee, Mr. Novak's proposal also lacks accounting merit. TPUC recognizes the NARUC USOA, which specifies accounting instructions for the purchase of assets. These accounting instructions, if applied to the Thunder Air, Inc. acquisition, would produce a utility plant in service value of approximately [REDACTED], an accumulated depreciation value of approximately a negative [REDACTED] and a negative Utility Plant Acquisition Adjustment of approximately [REDACTED], leaving a net rate base of approximately \$2.4 million if TAWC's negative acquisition adjustment amount were included in rates. The Company's proposal is to simply record the value of the plant and depreciation at the \$2.4 million purchase price, resulting in the same rate base value. However, Mr. Novak recommends a significantly lower rate base, creating an additional [REDACTED] negative acquisition adjustment on top of the [REDACTED] acquisition adjustment already proposed by TAWC, for which there is simply no accounting basis.

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1 **Q. ON PAGE 13, LL 9-10, AS PART OF HIS RECOMMENDATION FOR AN**
2 **ADDITIONAL NEGATIVE ACQUISITION ADJUSTMENT, MR. NOVAK**
3 **RECOMMENDS THAT THE COMMISSION ORDER HIS NEGATIVE**
4 **ADJUSTMENT NOW BUT “RECONSIDER” THIS ADJUSTMENT IN THE**
5 **COMPANY’S NEXT RATE CASE. HOW DOES THE COMPANY RESPOND TO**
6 **MR. NOVAK’S RECOMMENDATION HERE?**

7 A. In addition to what I have already noted, this approach is not supported by the record in
8 this case. By Mr. Novak’s own calculation methodology, the Company will be at
9 authorized in Year 1. There is no reasonable ratemaking principle that would support his
10 negative adjustment for the Base Year on the mere possibility that revenues would be more
11 deficient in one area than another, particularly given the return – by his own calculations -
12 in Year 1. *See* **CONFIDENTIAL EXHIBIT - BQ - Rebuttal – 1**. As noted above, this
13 recommendation is further compromised by Mr. Novak’s failure to recognize that his
14 calculated Base Year earned rate of return of [REDACTED] is no longer representative.

15
16 Under such circumstances, waiting for a “reconsideration” to capitalize on its investment
17 until the next formal rate case is simply not reasonable from a regulatory perspective.

18
19 **Q. ON PAGE 11, LL 8-12 OF HIS PRE-FILED TESTIMONY MR. NOVAK**
20 **CONTENDS THAT HIS ADDITIONAL NEGATIVE ACQUISITION**
21 **ADJUSTMENT IS NECESSARY TO AVOID A DILUTIVE IMPACT FROM THE**
22 **ACQUISITION UPON THE COMPANY’S RATE OF RETURN? DO YOU**
23 **AGREE? IF NOT, PLEASE EXPLAIN.**

PUBLIC VERSION

1 A. No, I do not agree. As I noted earlier, there is no requirement that the Company must
2 achieve a [REDACTED] return. However, Year 1 will exceed the [REDACTED] return, as shown on
3 **Exhibit - BQ - Rebuttal – 1.** The System’s customer rate schedules were set prior to this
4 acquisition. Further, Mr. Novak’s “dilutive impact” assertion is undermined by the increase
5 in customer count, as I outlined above.

6
7 **Q. ON PAGE 11, LL 12-15 OF HIS PRE-FILED TESTIMONY, MR. NOVAK**
8 **ASSERTS THAT FAILURE TO ACCEPT HIS ADDITIONAL NEGATIVE**
9 **ACQUISITION ADJUSTMENT “COULD POTENTIALLY” MEAN THAT**
10 **TAWC’S EXISTING CUSTOMERS MAY BE SUBSIDIZING A PORTION OF**
11 **THE ACQUISITION. WHAT IS THE COMPANY’S RESPONSE TO MR.**
12 **NOVAK’S CLAIM?**

13 A. As noted in pages 6-7 of TAWC Witness Grady Stout’s Pre-filed Direct Testimony in this
14 case, it is not the intent of the Company to have its existing customers subsidize the rates
15 of the customers served by the System. Further, Mr. Stout provided a comprehensive
16 analysis of how the customers of the System will benefit from TAWC’s economies of scale.
17 *See Pre-filed Direct Testimony of TAWC Witness Grady Stout*, pp. 13-14. Further, and also
18 as noted by Mr. Stout, the System will be kept separate and apart from TAWC’s existing
19 system for purposes of accounting and ratemaking. *See Pre-filed Direct Testimony of*
20 *Witness Stout*, p. 9, ll 184-192. *See also Joint Petition*, p. 4, ¶ 11.

21
22 **Q. WILL THE ACQUISITION PROVIDE BENEFITS TO TAWC’S EXISTING**
23 **CUSTOMERS?**

PUBLIC VERSION

1 A. Yes. As outlined by TAWC Witness Mr. Stout, the acquisition will provide opportunities
2 for efficiencies through reduced costs, increased revenues or otherwise enhance business
3 to keep ratepayer costs low and minimize rate increases. *See Pre-filed Direct Testimony of*
4 *TAWC Witness Grady Stout*, p. 6, ll 130-134.

5
6 **Q. ON PAGE 12, LL 5-11 OF HIS PRE-FILED TESTIMONY, MR. NOVAK NOTES**
7 **THAT THE CONSUMER ADVOCATE IS NOT OPPOSING THE ACQUISITION.**
8 **AFTER REVIEWING THE PRE-FILED TESTIMONY SUBMITTED ON BEHALF**
9 **OF THE CONSUMER ADVOCATE AND CONSIDERING THE IMPACT OF MR.**
10 **NOVAK'S RECOMMENDATIONS IF ADOPTED, DO YOU AGREE?**

11 A. By any fair reading of Mr. Novak's Pre-filed Testimony, the Consumer Advocate opposes
12 the Joint Petition and the APA. Mr. Novak's proposal with respect to the Post-Closing
13 Payments amount of \$898,200, coupled with the additional negative acquisition adjustment
14 of [REDACTED], turn the arms-length negotiated purchase price and the associated regulatory
15 treatment sought upside down. With this, it is difficult for me to see how Mr. Novak and
16 the Consumer Advocate support the acquisition.

17
18 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

19 A. Yes. I reserve the ability to submit further testimony as is appropriate.

PUBLIC
EXHIBIT BQ – REBUTTAL – 1

STATE OF Kentucky)
)
COUNTY OF Fayette)


BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Brian Queen, 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.



Brian Queen

Sworn to and subscribed before me
this 22nd day of September, 2020.



Notary Public ID# KYNP9273

My Commission Expires: 7/25/24