

IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE: )  
)  
JOINT PETITION OF TENNESSEE- )  
AMERICAN WATER COMPANY AND )  
THUNDER AIR, INC. D/B/A JASPER )  
HIGHLANDS DEVELOPMENT, INC. FOR ) Docket No. 20-00011  
APPROVAL OF AN ASSET PURCHASE )  
AGREEMENT AND FOR THE ISSUANCE )  
OF A CERTIFICATE OF CONVENIENCE )  
AND NECESSITY )

---

CONSUMER ADVOCATE'S FIRST DISCOVERY REQUEST TO  
TENNESSEE- AMERICAN WATER COMPANY AND THUNDER AIR, INC.

---

To: Tennessee-American Water Company  
Thunder Air, Inc., d/b/a Jasper Highlands Development, Inc.

Melvin J. Malone, Esq.  
Butler, Snow, O'Mara, Stevens & Cannada, PLLC  
The Pinnacle at Symphony Place  
150 3rd Avenue South, Suite 1600  
Nashville, TN 37201  
[Melvin.Malone@butlersnow.com](mailto:Melvin.Malone@butlersnow.com)

Elaine K. Chambers  
Director of Rates and Regulation – Tennessee and Kentucky  
Kentucky American Water Company  
2300 Richmond Road  
Lexington, KY 40502  
[Elaine.K.Chambers@amwater.com](mailto:Elaine.K.Chambers@amwater.com)

William H. Horton, Esq.  
735 Broad Street, Suite 306  
Chattanooga, TN 37402  
[whorton@whorton-law.com](mailto:whorton@whorton-law.com)

This First Discovery Request is hereby served upon Tennessee-American Water Company ("TAWC") and Thunder Air, Inc., d/b/a Jasper Highlands Development, Inc. ("Thunder Air"), pursuant to Rules 26, 33, 34, and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp.

R. & Reg. 1220-1-2-.11. The Consumer Advocate Unit in the Financial Division of the Attorney General's Office ("Consumer Advocate") requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Financial Division, Consumer Advocate Unit, 315 Deaderick Street, 20<sup>th</sup> Floor, Nashville, Tennessee 37243, c/o Daniel P. Whitaker III, on or before 2:00 p.m. (CDT), March 13, 2020.

### **PRELIMINARY MATTERS AND DEFINITIONS**

1. **Continuing Request.** These discovery requests are to be considered continuing in nature and are to be supplemented from time to time as information is received by the Producing Party and any of its affiliates which would make a prior response inaccurate, incomplete, or incorrect.
2. **Clear References.** To the extent that the data or information requested is incorporated or contained in a document, identify the document including page/line number if applicable.
3. **Format of Responses.** Provide all responses in the format in which they were created or maintained, for example, Microsoft Word or Microsoft Excel format with all cells and formulas intact and in working order. If a document (including without limitation a financial or other spreadsheet or work paper) is not created or maintained in Microsoft Excel format, convert the document to Microsoft Excel format or provide the document in a format that enables or permits functionality like or similar to Microsoft Excel (including without limitation the functionality of working cells and formulas), or provide the software program(s) that will enable the Consumer Advocate to analyze the data and information in the same manner as would be enabled or permitted if the document were provided in Microsoft Excel format.

4. **Objections.** If any objections to this discovery are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege or immunity asserted. If you claim a document is privileged, identify the document and state the basis for the privilege or immunity asserted. If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.
5. The singular includes the plural, and vice-versa, where appropriate.
6. **Definitions.** As used in this Request:
  - (a) "Company," "Tennessee-American," and "TAWC," shall mean Tennessee-American Water Company, Inc. and all employees, agents, attorneys, representatives or any other person acting or purporting to act on its behalf.
  - (b) "Thunder Air" shall mean Thunder Air, Inc. as well as Jasper Highlands Development, Inc. and all employees, agents, attorneys, representatives or any other person acting or purporting to act on its behalf.
  - (c) "Affiliate" shall mean any entity who, directly or indirectly, is in control of, is controlled by, or is under common control with the Company. For greater clarification, "control" is the ownership of 20% or more of the shares of stock entitled to vote for the election of directors in the case of a corporation, or 20% or more of the equity interest in the case of any other type of entity, or status as a director or officer of a corporation or limited liability company, or status as a partner of a partnership, or status as an owner of a sole proprietorship, or any other arrangement whereby a person has the power to choose, direct, or manage the board of directors or equivalent governing body, officers, managers, employees, proxies, or agents of another person. In addition, the term "Affiliate" shall mean any entity that directly or indirectly provides management or operational services to the Company or any affiliate (as defined in the preceding sentence) of the Company, or to which the Company provides management or operational services. Further, the payment of money to the Company or receipt by the Company of money from an entity with which the Company has any relationship, other than such payment or receipt, shall include the payor or recipient of such money as an "Affiliate".
  - (d) "Communication" shall mean any transmission of information by oral, graphic, written, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, meetings and personal conversations, or otherwise.

- (e) "Document" shall have the broadest possible meaning under applicable law. "Document" shall mean any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, letter, note, report, electronic mail, memorandum (including memoranda, electronic mail, report, or note of a meeting or communication), work paper, spreadsheet, photograph, videotape, audio tape, computer disk or record, or any other data compilation in any form without limitation, which is in your possession, custody or control. If any such document was, but no longer is, in your possession, custody or control, state what disposition was made of the document and when it was made?
- (f) "Person" shall mean any natural person, corporation, firm, company, proprietorship, partnership, business, unincorporated association, or other business or legal entity of any sort whatsoever.
- (g) "Identify" with respect to:
- i. Any natural person, means to state the full name, telephone number, email address and the current or last known business address of the person (if no business address or email address is available provide any address known to you) and that person's relationship, whether business, commercial, professional, or personal with you;
  - ii. Any legal person, business entity or association, means to state the full name, the name of your contact person with the entity, all trade name(s), doing business as name(s), telephone number(s), email address(es), and current or last known business address of such person or entity (if no business address is available provide any address known to you);
  - iii. Any document, means to state the type of document (e.g., letter), the title, identify the author, the subject matter, the date the document bears and the date it was written; and
  - iv. Any oral communication, means to state the date when and the place where it was made, identify the person who made it, identify the person or persons who were present or who heard it, and the substance of it.
- (h) "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the discovery request inclusive rather than exclusive.
- (i) "Including" shall be construed to mean including but not limited to.

### **FIRST DISCOVERY REQUESTS**

- 1-1. Refer to the Company's February 14, 2019 voluntary withdrawal of the *Joint Petition* in Docket No. 18-00099 and provide the following information:
- a. Provide a comprehensive explanation of the Company's voluntary withdrawal in Docket No. 18-00099; and
  - b. Provide an explanation of how the reasons for the Company's voluntary withdrawal in Docket No. 18-00099 are no longer relevant in this Docket No. 20-00011.

#### **RESPONSE:**

- 1-2. Refer to the Asset Purchase Agreement included as Exhibit A to the Company's *Joint Petition*. Provide a side-by-side comparison of this Agreement with the Purchase Agreement included in Docket No. 18-00099 highlighting the differences between the two documents.

#### **RESPONSE:**

- 1-3. Refer to Paragraph No. 8 of the *Joint Petition* in Docket No. 20-00011 that identifies a purchase price for the water system of \$2,398,200. In addition, refer to Paragraph No. 8 of the *Joint Petition* in Docket No. 18-00099 that identifies a purchase price for the water system of \$1,500,000. Provide a comprehensive explanation of for the differences between the two purchase price amounts.

#### **RESPONSE:**

- 1-4. Provide annual pro forma budgeted financial statements (income statements, balance sheets and projected monthly customer counts by tariff rate) for the first ten years (2020 –

2029) of operations for the water system being acquired by TAWC. Please describe in detail all budget assumptions and documents utilized to support these calculations.

**RESPONSE:**

- 1-5. Refer to Page 2 of the *Joint Petition* where it states the following:

*Under the terms of the Purchase Agreement, a condition precedent to the closing of the sale of Thunder Air Inc. 's water system is TAWC obtaining a Certificate of Convenience and Necessity, along with acceptable accounting, ratemaking and regulatory approvals from the Commission.*

In addition, refer to Page 8, Lines 171-173 of the direct testimony of Elaine Chambers that was included with the *Joint Petition*, describing the acquisition contingencies. Is it the intent of TAWC or Thunder Air to withdraw from the acquisition if the Commission approves the *Joint Petition* but includes accounting and ratemaking treatment that differs from the Companies' proposal?

**RESPONSE:**

- 1-6. Refer to Paragraph 24a of the *Joint Petition* where it states the following:

*TAWC proposes to utilize the financial statements, records and reports provided by Thunder Air Inc. and its accountant to support the original cost value of utility plant in service ("UPIS") as of the Closing Date.*

Provide a copy of the annual financial statements, records, and reports provided by Thunder Air and its accountant for the past three years (2017 – 2019).

**RESPONSE:**

- 1-7. Refer to Paragraph 24b of the *Joint Petition* where it states the following:

*TAWC proposes to adopt the current TPUC-approved TAWC depreciation rates for Thunder Air Inc. upon Closing.*

Provide a side-by-side comparison of the current depreciation rates used by Thunder Air with the current depreciation rates used by TAWC.

**RESPONSE:**

- 1-8. Refer to Page 6, Lines 131-132 of the direct testimony of Dane Bradshaw that was included with the *Joint Petition* where it states the following:

*Yes, the customers of the System have been made aware of the transaction that is the subject of the Purchase Agreement.*

Provide a copy of all communication with the customers of Jasper Highlands making them aware of the proposed sale of the water system. In addition, reconcile this statement with Page 10, Lines 197-202 of the direct testimony of Elaine Chambers which appear to indicate that the existing customers have yet to be specifically notified of the sale except through the posting of the *Joint Petition* with TPUC.

**RESPONSE:**

- 1-9. Refer to the proposed tariff included as Exhibit D to the Company's *Joint Petition*. Provide the source and support for the proposed tariff rates in Excel format with all formulas intact. In addition, provide a copy of the existing tariff for Thunder Air customers.

**RESPONSE:**

- 1-10. Refer to Page 4, Lines 70-79 of the direct testimony of Elaine Chambers that was included with the *Joint Petition*, describing the proposed accounting for the acquisition. Provide a

pro forma copy of the journal entries to acquire the water system with all assets and liabilities designated by TAWC subaccount. In addition, include a comparison of the current book value for each asset and the value that TAWC intends to record on its books.

**RESPONSE:**

- 1-11. Refer to Page 4, Lines 89-90 of the direct testimony of Elaine Chambers that was included with the *Joint Petition*, describing the “developer model precedence” that is included in TAWC’s existing tariffs. In addition, refer to Pages 10-11, Lines 214-235 of the direct testimony of Grady Stout further describing this same model. Provide the following information related to this developer model:
- a. Provide a copy of TAWC’s tariff that includes language for a “developer model precedence”; and
  - b. If the “developer model precedence” described by the Company’s witnesses refers to a Customer Advance whereby TAWC is willing to extend its mains to provide service to an area that is not otherwise currently economically viable in exchange for a customer paying for some or all of the construction costs that may be refunded subject to future connections and usage, then explain how such a Customer Advance is akin to an entire utility acquisition such as Thunder Air.

**RESPONSE:**

- 1-12. Refer to Page 5, Lines 94-95 of the direct testimony of Elaine Chambers that was included with the *Joint Petition*, describing the existing book value of the water system of \$4.5 million. Provide a copy of the financial statements showing the \$4.5 book value of the water system. In addition, reconcile this statement with Page 12, Lines 249-250 of the direct testimony of Grady Stout that describes a book value of over \$5.2 million.

**RESPONSE:**

- 1-13. Refer to Page 5, Lines 93-95 of the direct testimony of Grady Stout that was included with the *Joint Petition*, describing the existing customers on the water system. Identify each of the Other Public Authority (OPA) and Commercial account customers. In addition, provide the historic monthly usage for the past three years (2017-2019) for each OPA and commercial customer account.

**RESPONSE:**

- 1-14. Refer to Page 9, Lines 201-203 of the direct testimony of Grady Stout that was included with the *Joint Petition*, describing the purchase price and stating the following:

*After several discussions and meetings representing arms-length negotiations, we arrived at a purchase price of \$2,398,200.00. The purchase price is supported by the current water rates and is less than the depreciated book value of the System.*

Provide the following information related to these statements:

- a. The dates of each meeting and the specific attendees;
- b. A copy of all data supporting the purchase price of \$2,398,200 that was considered by the Parties;
- c. The source and support for the statement that the purchase price is supported by the current water rates in Excel format with all formulas intact; and
- d. A comprehensive description of the reasons for the difference in the purchase price currently proposed by the Companies compared to the purchase price originally proposed in Docket No. 18-00099.

**RESPONSE:**

- 1-15. Refer to CA 3-8 in Docket No. 18-00099 regarding a side-by-side comparison of net plant per customer between TAWC and Thunder Air for 2017. Provide this same analysis for 2018 and 2019.

**RESPONSE:**

- 1-16. Provide a copy of all workpapers of the Parties in support of the acquisition that have not already been placed in the record.

**RESPONSE:**

- 1-17. Provide a copy of the general ledger for the water system being transferred from Thunder Air to TAWC from inception through December 31, 2019.

**RESPONSE:**

- 1-18. Provide copies of the water bills from South Pittsburg to Thunder Air for each month of 2018 and 2019.

**RESPONSE:**

- 1-19. Provide the total usage (gallons) billed to Thunder Air customers, total metered usage (gallons) of Thunder Air customers, total purchased water (gallons) from South Pittsburg, and the lost and unaccounted-for water usage (gallons) by month from January 2017 through December 2019.

**RESPONSE:**

RESPECTFULLY SUBMITTED,



---

**DANIEL P. WHITAKER III**

BPR No. 035410

Assistant Attorney General

Office of the Tennessee Attorney General

Financial Division, Consumer Advocate Unit

P.O. Box 20207

Nashville, Tennessee 37202-0207

(615) 532-9299

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:

Melvin J. Malone  
Butler Snow LLP  
The Pinnacle at Symphony Place  
150 3rd Avenue South, Suite 1600  
Nashville, TN 37201  
Melvin.Malone@butlersnow.com

Elaine K. Chambers  
Director, Rates and Regulatory – Tennessee and Kentucky  
2300 Richmond Road  
Lexington, KY 40502  
Elaine.K.Chambers@amwater.com

William H. Horton, Esq.  
735 Broad Street, Suite 306  
Chattanooga, TN 37402  
whorton@whorton-law.com

This the 28<sup>th</sup> day of February, 2020.

  
\_\_\_\_\_  
DANIEL P. WHITAKER III  
Assistant Attorney General