

IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE:	)	
	)	
PETITION OF TENNESSEE-AMERICAN	)	
WATER COMPANY REGARDING	)	
CHANGES TO THE QUALIFIED	)	
INFRASTRUCTURE INVESTMENT	)	Docket No. 20-00028
PROGRAM RIDER, THE ECONOMIC	)	
DEVELOPMENT INVESTMENT RIDER,	)	
AND THE SAFETY AND	)	
ENVIRONMENTAL COMPLIANCE RIDER	)	
AND IN SUPPORT OF THE CALCULATION	)	
OF THE 2020 CAPITAL RECOVERY	)	
RIDERS RECONCILIATION	)	

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DIRECT TESTIMONY OF

DAVID N. DITTEMORE

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JUNE 30, 2020



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RIDERS RECONCILIATION

Docket No. 20-00028

AFFIDVAIT OF DAVID N. DITTEMORE

I, David N. Dittimore 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. Dittimore

DAVID N. DITTEMORE

Sworn to and subscribed before me

This 06/29/2020 day of June, 2020

Tiffany H. Blackman

NOTARY PUBLIC

My Commission Expires: March 23, 2023





**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 6<sup>th</sup> Ave. North, Nashville, TN 37243. I am a Financial Analyst employed by the Consumer Advocate Unit 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.



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

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

**A3.** Yes. I have submitted testimony in a number of TPUC Dockets since joining the Attorney General's Office.

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

**A4.** The purpose of my testimony is to present the position of the Consumer Advocate in the present matter, Docket No. 20-00028, the Tennessee American Water Company ("TAWC" or "Company") 2020 Capital Riders Reconciliation calculation.

**Q5. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

**A5.** I recommend the total reconciliation factor be set at (5.53%) rather than the (3.69%) proposed by the Company in its *Petition*. This reflects a proposed reconciliation amount of (\$1,952,489) rather than the target reconciliation amount proposed by the Company of (\$1,303,124), for a total adjustment to the proposed revenue requirement of (\$649,364). I am supporting three adjustments which comprise the difference identified above, all of which relate to the identification of TAWC's overearnings during 2019. These adjustments include the elimination of Construction Work in Progress ("CWIP") and the related Allowance for Funds Used During Construction ("AFUDC"), the elimination of lobbying expenses, and the removal of all costs associated with the September 2019 Main break. All such impacts of the items referenced above were removed from the Earnings Test



Adjustment, resulting in an increase in over-earnings constituting \$649,364, inclusive of interest on the reconciliation of \$15,766.

**Q6. PLEASE IDENTIFY THE SCHEDULES YOU ARE SUPPORTING.**

**A6.** The calculations supporting my recommendations are contained in Exhibits DND 2 through 5. Exhibit DND-2 calculates the reconciliation factors for each of the individual Capital Riders. As shown on line 14, the rider percentages are (3.20%), (.55%), and (1.78%) respectfully for the QIIP, EDI, and SEC riders, for a total reconciliation factor of (5.53%). Exhibit DND-3 sets out the Earnings Test calculation I am supporting in my testimony, including the three adjustments identified above. Exhibit DND-4 sets out the calculation of lobbying costs I am proposing to exclude from the Earnings Test, while Exhibit DND-5 quantifies the costs of the September 2019 Main Break and excludes such costs from the Earnings Test calculation. I am also sponsoring supporting Exhibits DND-6 through DND-8, which I will explain during the course of my testimony.

**Q7. NOW TURN TO THE ISSUE OF CWIP AND AFUDC AND BEGIN BY DEFINING THESE ACCOUNTS.**

**A7.** CWIP refers to plant that is under construction (in fact, that phrase is the title used by the Company in its Earnings Test exhibit to describe these expenditures). CWIP represents the accumulation of costs during the construction of an asset at a given point in time. AFUDC is the application of carrying charges while construction expenditures are being incurred. These carrying charges terminate at such time as the asset is closed and deemed to be providing service to ratepayers.



**Q8. EXPLAIN WHY YOU ARE SUPPORTING AN ADJUSTMENT TO EXCLUDE BOTH CWIP AS WELL AS AFUDC FROM THE EARNINGS TEST CALCULATION.**

**A8.** The Company's inclusion of both CWIP as a rate base component and AFUDC as income negates the accounting requirement underlying how AFUDC is applied to CWIP. Including these balances within the Earnings Test calculation ensures that the CWIP portion earns the Company's overall rate of return. This is inconsistent with the appropriate accounting for these funds, as explained in more detail below.

**Q9. WHAT IS THE EXISTING BALANCE OF CWIP AND AFUDC INCLUDED BY THE COMPANY WITHIN ITS EARNINGS TEST CALCULATION?**

**A9.** The balance of plant under construction (CWIP) included by the Company is \$12,038,372, while the balance of AFUDC recorded as income is \$527,207.

**Q10. WHAT IS THE EFFECTIVE RETURN GENERATED BY THE APPLICATION OF AFUDC DURING 2019?**

**A10.** The resulting return is 4.38%, (calculated as  $\$527,207 / \$12,038,372$ ).

**Q11. HOW DOES THAT RETURN COMPARE WITH THE AUTHORIZED RETURN UPON WHICH THE EARNINGS TEST IS CALCULATED?**

**A11.** The return on these funds is 4.38%, while the authorized return benchmark upon which excess earnings is calculated is 7.23%.

**Q12. GIVEN THAT THE AFUDC RETURN ON CWIP IS LESS THAN THE OVERALL AUTHORIZED RATE OF RETURN, WHAT CONCLUSIONS CAN BE DRAWN?**



1 **A12.** This disparity in returns means that the Company's AFUDC calculation results in a  
2 significant revenue deficiency on plant that is not providing service to ratepayers and thus  
3 reduces excess earnings that otherwise should flow to ratepayers.

4 **Q13. IS THE ACCOUNTING UNDERLYING THE CALCULATION OF AFUDC SET**  
5 **FORTH IN THE NARUC UNIFORM SYSTEM OF ACCOUNTS (USoA) FOR**  
6 **WATER UTILITIES?**

7 **A13.** Yes. NARUC's USoA contains the following reference to Allowance for Funds Used  
8 During Construction:

9 *"Allowance for funds used during construction includes the net cost for the*  
10 *period of construction of borrowed funds used for construction purposes*  
11 *and a reasonable rate on other funds when so used."*

12 This same information is contained in Exhibit DND-6.

13 Thus, the AFUDC requirement calls for first attributing the cost of short-term debt with  
14 any remaining financing to be determined from the composite return of the combination of  
15 long-term debt and equity. This definition is also consistent with the definition of AFUDC  
16 as set forth in the FERC USoA applicable for electric utilities.<sup>1</sup>

17 The complete instruction supporting the appropriate accounting for AFUDC for water  
18 utilities is attached as Exhibit DND-6 and is consistent with the AFUDC accounting  
19 instructions contained in the FERC USoA.

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<sup>1</sup> See 18 CFR Part 101 Uniform System of Accounts Prescribed for Public Utilities and licensees subject to the provisions of the Federal Power Act; Electric Plant Instructions, Part 3 Components of Construction Costs, Item 17 (a) Formula for Allowance for Funds Used During Construction. See also Uniform System of Accounts, adopted by the Illinois Commerce Commission: <https://www.icc.illinois.gov/programs/uniform-system-of-accounts>, Item 17. An affiliate of TAWC, Illinois-American Water is subject to the Illinois Commerce Commission USoA.



1 **Q14. DOES THE COMPANY'S INCLUSION OF CWIP AND AFUDC WITHIN THE**  
2 **EARNINGS TEST CALCULATION ESSENTIALLY REVERSE THE**  
3 **ACCOUNTING REQUIREMENTS AS SET FORTH IN THE USOA?**

4 **A14.** Yes. The inclusion of these items essentially eliminates the underlying AFUDC accounting  
5 results in favor of producing an after-tax return equal to the Commission-authorized return.  
6 This regulatory treatment contradicts the accounting treatment otherwise required in the  
7 USoA.

8 **Q15. DO YOU BELIEVE THAT UTILITY PLANT SHOULD BE PROVIDING SERVICE**  
9 **TO CUSTOMERS PRIOR TO BEING INCLUDED AS A RATE BASE**  
10 **COMPONENT FOR PURPOSES OF DETERMINING THE RESULTS OF THE**  
11 **EARNINGS TEST?**

12 **A15.** Yes. In general, ratepayers should not be required to compensate the utility at its overall  
13 rate of return on an after-tax basis within a historic review of operating results associated  
14 with plant that is not providing service to ratepayers.<sup>2</sup> The Company's proposal to include  
15 CWIP in an evaluation of historic operating results provides an excessive return on such  
16 expenditures which have not provided value or service to ratepayers.

17 **Q16. HOW HAS CWIP TRADITIONALLY BEEN TREATED BY THIS COMMISSION**  
18 **IN FORWARD-LOOKING BASE RATE CASES?**

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<sup>2</sup> This follows the well-known requirement in utility regulation that plant be used and useful prior to its incorporation into rates. In certain instances where a utility's financial health is at issue, or when an electric utility is constructing a large scale generating or transmission facility, the public interest may warrant the inclusion of CWIP in Rate Base in order to avoid rate shock. Neither of these situations are an issue in the present case.



1 **A16.** I understand that a projection of CWIP has normally been included by the Commission in  
2 Rate Base in establishing a forward-looking test period.

3 **Q17. DO YOU BELIEVE THERE IS A DISTINCTION BETWEEN ESTABLISHING**  
4 **RATES IN A FORWARD-LOOKING TEST PERIOD AND EVALUATING**  
5 **WHETHER A HISTORIC PERIOD HAS PRODUCED EXCESSIVE RETURNS?**

6 **A17.** Yes. A historic review, the subject of this docket, should be based upon adherence to  
7 established accounting principles.

8 **Q18. ARE YOU AWARE OF ANY COMMISSION PRONOUNCEMENTS WHICH**  
9 **OVERULE THE USOA REQUIREMENTS FOR ACCOUNTING FOR AFUDC?**

10 **A18.** No.

11 **Q19. DO YOU BELIEVE THE EXCLUSION OF CWIP AND AFUDC INCOME FROM**  
12 **THE CALCULATION OF THE EARNINGS TEST REFLECTS AN**  
13 **ADJUSTMENT CONSISTENT WITH THE REQUIREMENTS SET FORTH IN**  
14 **THE USOA AS WELL AS FUNDAMENTAL RATEMAKING PRINCIPLES?**

15 **A19.** Yes. The inclusion of these items within the earnings test calculation is inconsistent with  
16 the NARUC USoA and not aligned with basic ratemaking principles, and thus should be  
17 excluded as illustrated in Exhibit DND-3.

18 **Q20. TURN TO THE NEXT ADJUSTMENT TO THE EARNINGS TEST, THE**  
19 **REMOVAL OF LOBBYING COSTS. HAS THE COMPANY EXCLUDED**  
20 **CERTAIN LOBBYING COSTS WITHIN THE EARNINGS TEST?**



1 **A20.** Yes. The Company has removed \$85,920 in lobbying costs, including [REDACTED] which the  
2 Company has indicated were inadvertently charged to lobbying expense.<sup>3</sup> Of this amount,  
3 costs totaling [REDACTED] were incurred by third-party vendors, while [REDACTED] was incurred by  
4 TAWC employees through travel costs and lobbyist registration fees, and [REDACTED] represents  
5 an immaterial allocation of costs from a TAWC affiliate.

6 **Q21. HAVE YOU PREVIOUSLY TESTIFIED THAT YOU BELIEVED THE**  
7 **COMPANY HAS UNDERSTATED ITS LOBBYING COSTS AS EXCLUDED**  
8 **FROM THE EARNINGS TEST?**

9 **A21.** Yes. In Docket No. 19-00031, I questioned whether the Company's identification of  
10 lobbying costs incurred in 2018 were accurately identified.<sup>4</sup>

11 **Q22. HAS THE COMPANY REMOVED ANY INTERNAL LABOR ASSOCIATED**  
12 **WITH LOBBYING EFFORTS WITHIN ITS EARNINGS TEST CALCULATION**  
13 **IN THIS DOCKET?**

14 **A22.** No.

15 **Q23. DID THE COMPANY IDENTIFY ANY INTERNAL LABOR COSTS AS**  
16 **LOBBYING IN DOCKET NO. 19-00031?**

17 **A23.** Yes. The Company identified \$16,090 of total internal labor costs as lobbying in Docket  
18 No. 19-00031.<sup>5</sup>

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<sup>3</sup> See TAWC Response to Consumer Advocate Discovery Response No. 1-2 (a).

<sup>4</sup> See Testimony of David N. Dittmore, p. 6, TPUC Docket No. 19-00031, (September 26, 2019).

<sup>5</sup> See TAWC Response to Consumer Advocate Discovery Response No. 2-8(a)



**Q24. HOW SHOULD LOBBYING BE DEFINED FOR PURPOSES OF CALCULATING THE EARNINGS TEST CALCULATION?**

**A24.** Lobbying costs should be defined in this Docket and going forward as the costs associated with any work performed, whether directly or indirectly, related to legislation or any attempts to influence or sway public policy or achieve a particular outcome with elected or appointed officials, whether initiated by the Company or any third-party. These activities would include fully distributed costs associated with the following:

1. All executive and/or non-executive time, whether internal or third-party, spent formulating, discussing, proposing, or advocating for draft or proposed legislation;
2. Developing and approving messages, talking points, or similar documents to legislators and/or staff members;
3. Reporting on the status or progress of legislation and/or public policy initiatives; and
4. Managing the efforts of contracted lobbyists or attorneys tasked with assisting in legislation and/or public policy initiatives.

**Q25. CAN YOU DEFINE THE PHRASE “FULLY DISTRIBUTED COSTS” AND EXPLAIN HOW IT RELATES TO QUANTIFYING LOBBYING COSTS?**

**A25.** Yes. The term “fully distributed costs” in this context simply refers to assigning costs on a pro-rata basis based on a logical allocator, such as in this case the percentage of time spent on lobbying activities (direct or indirect). If an employee were to spend 20% of his or her total annual time on these activities, then 20% of the employees’ total labor cost, including all benefits and taxes, should be charged to lobbying. This contrasts with an incremental cost approach where only those additional costs associated with a specific function are charged to lobbying.



1 **Q26. DID THE COMPANY HAVE AN EMPLOYEE WHO REGISTERED AS A**  
2 **LOBBYIST ON ITS BEHALF IN 2019 WITH THE TENNESSEE ETHICS**  
3 **COMMISSION?**

4 **A26.** Yes. The Tennessee Ethics Commission (“TEC”) maintains a database of registered  
5 lobbyists and the firms which they are representing. Exhibit DND-7 includes the listing of  
6 2019 TEC registered lobbyists associated with the Company and includes TAWC  
7 employee Daphne Kirksey.

8 **Q27. HOW HAS THE COMPANY IDENTIFIED THE LOBBYING COSTS THAT**  
9 **SHOULD BE EXCLUDED FROM THE EARNINGS TEST CALCULATION?**

10 **A27.** The Company has adopted an incremental cost approach in this case, limiting the  
11 identification of such costs to third-party contract lobbyists, travel costs incurred to travel  
12 to Nashville, and lobbyists registration fees.<sup>6</sup> This incremental cost approach ignores the  
13 pro-rata labor charges associated with the lobbying function. This method further contrasts  
14 with last year’s earnings test results which included a modest assignment of labor costs to  
15 the lobbying function.

16 **Q28. WHY DO YOU BELIEVE A FULLY DISTRIBUTED COST METHOD IS**  
17 **APPROPRIATE RATHER THAN THE COMPANY’S PROPOSED**  
18 **INCREMENTAL COST APPROACH?**

19 **A28.** The fully distributed cost methodology underlies the USoA’s accounting methodology  
20 adopted by NARUC and FERC. Employee time charged to construction activities, which

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<sup>6</sup> See also TAWC Response to Consumer Advocate Discovery Request No. 2-10 (Confidential), TPUC Docket No. 20-00028 (June 9, 2020).



1 in turn results in plant in service, is premised upon this pro-rata approach based upon the  
2 time spent on specific work orders. Employee costs are charged to various Operating and  
3 Maintenance ("O&M") accounts based upon the relative time that employee spends  
4 between the differing O&M functions. I am recommending an identical process to identify  
5 both 2019 lobbying costs in this Docket as well as future lobbying charges.

6 **Q29. CAN YOU EXPLAIN HOW YOUR RECOMMENDATION THAT THE SPECIFIC**  
7 **TIME ASSOCIATED WITH LOBBYING ACTIVITIES BE IDENTIFIED IN A**  
8 **CONSISTENT MANNER WITH COSTING PRINCIPLES IDENTIFIED IN THE**  
9 **NARUC USOA?**

10 **A29.** Yes. NARUC'S USOA Accounting Instructions Nos. 10 and 11 contains the following:

11 **10. General - Allocation of Salaries and Expenses of Employees**

12 Charges to utility plant or to a salaries expense account shall be based upon  
13 the actual time engaged in either plant construction or providing operation  
14 services. In the event actual time spent in the various activities is not  
15 available or practicable, salaries should be allocated upon the basis of a  
16 study of the time engaged during a representative period. Charges should  
17 not be made to the accounts based upon estimates or in an arbitrary fashion.

18  
19 **11. General - Payroll Distribution**

20 Underlying accounting data shall be maintained so that the distribution of  
21 the costs of labor charged to the various accounts will be available. The  
22 utility may utilize clearing accounts in its accounting process; however, the  
23 use of clearing accounts does not relieve the utility from the responsibility  
24 of providing a distribution of the costs of labor or from being able to  
25 substantiate its labor charged with sufficient source documents.



1 **Q30. DOES THIS DEFINITION COUPLED WITH THE FACTS OF THIS CASE**  
2 **DEMONSTRATE THAT THE COMPANY HAS NOT COMPLIED WITH THE**  
3 **USOA?**

4 **A30.** Yes. The Company has devoted internal resources to the lobbyist function through its  
5 employment of contract lobbyists, through its travel to Nashville to attend legislative  
6 functions, and through the registration of an employee as a lobbyist.

7 **Q31. DO YOU BELIEVE THE COMPANY'S FAILURE TO APPLY A FULLY**  
8 **DISTRIBUTED COST METHODOLOGY TO DEFINING LOBBYING COSTS**  
9 **REPRESENTS A LACK OF COMPLIANCE WITH THE USOA?**

10 **A31.** Yes. My adjustment should be adopted to prevent the Company from benefiting from its  
11 understatement of lobbying costs and non-compliance with the USoA.

12 **Q32. TO WHAT ACCOUNT SHOULD LOBBYING COSTS INSTEAD BE CHARGED?**

13 **A32.** Lobbying charges are properly recorded in Account 426, which is a non-operating expense  
14 account. One of the elements of this account is referenced as "Expenses disallowed in a  
15 proceeding before the Commission," which would certainly include Lobbying costs.

16 **Q33. HOW DID YOU QUANTIFY LOBBYING COSTS FOR PURPOSES OF THIS**  
17 **ADJUSTMENT?**

18 **A33.** I estimated the TAWC employee who was a registered lobbyist during 2019 to have spent  
19 20% of her time associated with lobbying, while I estimated her supervisor spent 10% of  
20 her time associated with this function. The application of these percentages results in an  
21 adjustment to remove lobbying costs of [REDACTED] (net of tax) from Net Operating Income



1 as reflected in Exhibit DND-4. The after-tax impact on the revenue requirement resulting  
2 from this adjustment is [REDACTED].

3 **Q34. HAS THE COMMISSION PREVIOUSLY RULED ON THE METHOD TO BE**  
4 **USED TO IDENTIFY LOBBYING EFFORTS?**

5 **A34.** Yes. In an order dated April 27, 2012 the Commissions' findings concerning lobbying  
6 included the following:

7 *The Authority agrees that the calculation of Salaries and Wages*  
8 *Expense appropriately begins with 110 employees, but deducts the portion*  
9 *of the current salary of the Government Affairs Specialist that correlates to*  
10 *time spent performing the job function of political lobbying or*  
11 *legislative/governmental actions advocacy. The Company's witness, Mr.*  
12 *Watson, TAWC President, testified that the Government Affairs Specialist*  
13 *position was a newly created position, which replaced a previously*  
14 *contracted service position, filled by the Company on August 30, 2010. The*  
15 *duties of the Government Affairs Specialist include working closely with*  
16 *municipal officials, customers, and constituents on local issues, building*  
17 *relationships with state officials concerning activities, plans, and projects*  
18 *of interest to the Company, improving the Company's management of local*  
19 *and state issue, and monitoring changes in municipal, county, state and*  
20 *federal laws and regulations. Mr. Watson estimated that 20% of the*  
21 *Government Affairs Specialist time would be spent lobbying on behalf of*  
22 *TAWC and its customers.*



1                    *It is a well-established and long-standing policy of the TRA to*  
2                    *disallow expenses related to lobbying when setting utility rates. Consistent*  
3                    *with its own policy and precedent, and that of most other state regulatory*  
4                    *commissions throughout this country, the majority finds that expense*  
5                    *related to lobbying are expended for the benefit of the Company first and*  
6                    *foremost, and are not necessary for the provision of safe and adequate*  
7                    *service. Therefore, the majority concludes that insofar as 20% of the*  
8                    *Government Affairs Specialist's time will be spent lobbying, it is reasonable*  
9                    *for ratemaking purposes to deduct a proportional percentage of the current*  
10                   *salary allocated to that position (20%).*

11    **Q35. IS YOUR ADJUSTMENT CONSISTENT WITH PRIOR COMMISSION**  
12    **DECISIONS REGARDING THE QUANTIFICATION OF LOBBYING COSTS?**

13    **A35.** My recommendation with respect to the direct lobbying efforts of the TAWC employee  
14    performing lobbying is consistent with the prior Commission decision cited above. In  
15    addition, I have allocated a portion of the TAWC supervisor's time to the lobbying function  
16    at the 10% rate in arriving at the total lobbying adjustment.

17    **Q36. DO YOU HAVE ADDITIONAL EVIDENCE INDICATING THE PRIORITY THE**  
18    **COMPANY HAS PLACED ON LEGISLATION WITHIN ITS ORGANIZATION?**

19    **A36.** Yes. Exhibit DND-8 is an excerpt from a January 2019 American Water investor  
20    presentation. As reflected on slide 14, the passage of so-called "fair market value"  
21    legislation is identified as a growth opportunity for the Company. A closer review of this



slide indicates that “fair market value” legislation has been a dominant theme in terms of legislative priority in 2019.

**Q37. GIVEN THE EVIDENCE THAT THE PASSAGE OF LEGISLATION WAS TOUTED TO INVESTORS AS A COMPANY PRIORITY, DOES THIS LEAD YOU TO BELIEVE THAT AT LEAST SOME FOCUS WAS PLACED ON THIS EFFORT BY TAWC’S EXECUTIVE LEADERSHIP?**

**A37.** Yes. I have participated in the development of investor slides in my previous employment, while also interacting with executive leadership of a utility. From my experience, goals and strategies identified to the investment community are aligned with goals of upper management of the utility. It is reasonable to conclude that some portion of the time of the TAWC president and other Company officials was devoted to working on this legislative initiative as well as through the supervisory role of the registered TAWC lobbyist.

**Q38. DO YOU BELIEVE THE ATTRIBUTION OF 10% OF THE REGISTERED LOBBYIST’S SUPERVISOR’S TIME AND ASSOCIATED COSTS TO BE A CONSERVATIVE ESTIMATE?**

**A38.** Yes.

**Q39. DO YOU HAVE AN ACCOUNTING RECOMMENDATION THAT THE COMPANY SHOULD BE REQUIRED TO FOLLOW REGARDING THE IDENTIFICATION OF LOBBYING COSTS GOING FORWARD?**

**A39.** Yes. I recommend that all employees working on lobbying tasks, as described above, accurately track such time spent on lobbying activities and that their loaded hourly rate (including all benefits and taxes) be charged to Account 426, Miscellaneous Nonutility



1 Expenses and thus excluded from Net Operating Income. This accounting would then  
2 exclude such costs from the identification of excess earnings.<sup>7</sup>

3 **Q40. NOW TURN TO THE ADJUSTMENT TO REMOVE COSTS ASSOCIATED**  
4 **WITH THE SEPTEMBER 2019 MAIN BREAK. FIRST, EXPLAIN WHAT**  
5 **OCCURRED.**

6 **A40.** The Company suffered a water main break, which resulted in a significant outage on its  
7 system, reportedly affecting 35,000 customers in September 2019. Regarding the event,  
8 the Company has simply indicated in a publicly available message crafted in September  
9 2019 that “on the evening of September 12, TAWC and its contractors were working on a  
10 planned project to install a valve on a 36-inch transmission main, which is a large pipe for  
11 moving water. While the valve work was being performed, workers noticed a large amount  
12 of water beginning to surface from a meter vault that was located near but was not part of  
13 the planned project. We have not identified the cause of the main break and concluding  
14 this evaluation is a priority.”<sup>8</sup>

15 Despite our best efforts through discovery, the Company has provided little information  
16 regarding the cause of the outage. And despite its assurance that concluding the evaluation  
17 of the water main break was a priority, no further information has been provided by the  
18 Company concerning the nature or cause of the service interruption.

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<sup>7</sup> While the Consumer Advocate attempted to question the Company for information concerning an appropriate allocation of internal time spent on lobbying activities, TAWC was unable or unwilling to provide such an allocation. See TAWC Responses to Consumer Advocate Discovery Request Nos. 2-9 and 2-10.

<sup>8</sup> See TAWC Response to Consumer Advocate Discovery Request No. 1-7.



1 **Q41. HAS THE COMPANY PROVIDED EVIDENCE THAT THIS EVENT WAS**  
2 **EITHER OUTSIDE ITS CONTROL OR THAT IT ACTED PRUDENTLY**  
3 **LEADING UP TO THE EVENT?**

4 **Q41.** No.

5 **Q42. IS THERE PENDING LITIGATION REGARDING THIS EVENT?**

6 **A42.** It is the Consumer Advocate's understanding that there is pending litigation concerning  
7 this event, but the Company has refused to inform the Consumer Advocate or the  
8 Commission (to our knowledge) of the status of this litigation.

9 **Q43. DOES THE FACT THAT THERE IS PENDING CIVIL LITIGATION**  
10 **SURROUNDING THIS EVENT MEAN THAT REGULATORS SHOULD NOT**  
11 **HAVE ACCESS TO INFORMATION NECESSARY TO EVALUATE THE**  
12 **REGULATORY IMPLICATIONS OF THE EVENT?**

13 **A43.** No. Sensitive information may be provided to regulators under seal for appropriate  
14 consideration in regulatory proceedings. Moreover, given this Commission's statutory  
15 duty to oversee public utilities in Tennessee, the utility should be forthcoming with this  
16 information and candid about the cause and status of events such as the water main break.

17 **Q44. WHAT HAS BEEN THE COMPANY'S STANCE REGARDING PROVIDING**  
18 **SUBSTANTIVE INFORMATION CONCERNING THE OUTAGE?**

19 **A44.** The Company has objected to a request for information, indicating instead that such  
20 information is not relevant and the analysis of the event is being conducted under  
21 attorney/client privilege.



1 **Q45. WHAT ARE THE REGULATORY IMPLICATIONS OF THE WATER MAIN**  
2 **BREAK EVENT IN THE PRESENT DOCKET?**

3 **A45.** The information regarding the water main break is extremely relevant in this case as the  
4 Company, by its own admission, continues to be in an excess earning situation. Pursuant  
5 to the terms of its Capital Riders mechanism, excess earnings reduce the surcharges that  
6 would otherwise be imposed on ratepayers. The Company has incurred costs during 2019  
7 that otherwise reduce the excess earnings credited to ratepayers. Within the Company's  
8 filing, the ratepayers would reimburse the Company for the costs of the September water  
9 main break.

10 **Q46. SHOULD RATEPAYERS BEAR THE COSTS OF THE WATER MAIN BREAK**  
11 **SIMPLY BECAUSE THE NATURE AND CAUSE OF THE OUTAGE IS**  
12 **SENSITIVE INFORMATION?**

13 **A46.** No. The Company has the burden to demonstrate that it was not at fault for the water main  
14 break, and it has simply failed to meet its burden in this regard.

15 **Q47. HAS THE COMPANY IDENTIFIED THE SCOPE OF COSTS ASSOCIATED**  
16 **WITH THE MAIN BREAK?**

17 **A47.** Yes. Exhibit 5 details the impacts on Rate Base, O&M costs, and Depreciation Expense  
18 associated with the September water main break. Most of the revenue requirement  
19 associated with this event is comprised of the provision of drinking water, through bottled  
20 water and water trucks. However, the capital expenditures incurred throughout the final  
21 quarter of the year will have future revenue requirement impacts as well.



1 **Q48. WHAT HAS BEEN THE COMPANY'S MESSAGING REGARDING THE**  
2 **PROVISION OF DRINKING WATER DURING THE OUTAGE?**

3 **A48.** Information provided by the Company (and available to the public) in response to  
4 Consumer Advocate Request No. 1-7 contains the following information concerning  
5 efforts of the Company:

6 ***WHAT DID TENNESSEE AMERICAN WATER DO TO HELP***  
7 ***CUSTOMERS DURING THE OUTAGES?***

8 *Tennessee American Water deployed multiple water tankers after the main*  
9 *break and provided the majority of the bottled water supplied to the*  
10 *distribution sites....*

11 I suspect TAWC customers would be surprised to learn of the Company's underlying  
12 accounting in this case, which would have them, rather than the Company, incur the cost  
13 of the water provisions instigated by the water main break.

14 **Q49. WHAT IS YOUR RECOMMENDATION REGARDING THE REGULATORY**  
15 **TREATMENT OF THESE COSTS?**

16 **A49.** I recommend that all costs associated with the September water main break be deferred as  
17 a regulatory asset. If in a later proceeding the Company sufficiently demonstrates it was  
18 not at fault for the event, it could then flow the associated costs appropriately through its  
19 Income Statement within the context of an Earnings Test or other revenue-requirement  
20 determination. Separate deferred assets should be established to account for the capital  
21 expenditures and O&M costs.



1    **Q50. DOES THIS CONCLUDE YOUR TESTIMONY?**

2    **A50. Yes.**



David Dittimore

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 for resolving Wholesale Billing Disputes greater than \$50K. During my tenure, completed disputes increased by over 100%, rising to \$150M per year.

Kansas Corporation Commission; 1984- 1999

**Utilities Division Director** - 1997 - 1999; Responsible for managing employees with the goal of providing timely, quality recommendations to the Commission covering all aspects of natural gas, telecommunications and electric utility regulation; respond to legislative inquiries as requested; sponsor expert witness testimony before the Commission on selected key regulatory issues; provide testimony before the Kansas legislature on behalf of the KCC regarding proposed utility legislation; manage a budget in excess of \$2 Million; recruit professional staff; monitor trends, current issues and new legislation in all three major industries; address personnel issues as necessary to ensure that the goals of the agency are being met; negotiate and reach agreement where possible with utility personnel on major issues pending before the Commission including mergers and acquisitions; consult with attorneys on a daily basis to ensure that Utilities Division objectives are being met.

**Asst. Division Director** - 1996 - 1997; Perform duties as assigned by Division Director.

**Chief of Accounting** 1990 - 1995; Responsible for the direct supervision of 9 employees within the accounting section; areas of responsibility included providing expert witness testimony on a variety of revenue requirement topics; hired and provided hands-on training for new employees; coordinated and managed consulting contracts on major staff projects such as merger requests and rate increase proposals;

**Managing Regulatory Auditor, Senior Auditor, Regulatory Auditor** 1984 - 1990; Performed audits and analysis as directed; provided expert witness testimony on numerous occasions before the KCC; trained and directed less experienced auditors on-site during regulatory reviews.

Amoco Production Company 1982 - 1984

**Accountant** Responsible for revenue reporting and royalty payments for natural gas liquids at several large processing plants.

#### **Education**

- B.S.B.A. (Accounting) Central Missouri State University
- Passed CPA exam; (Oklahoma certificate # 7562) – Not a license to practice



Consumer Advocate Unit  
Docket 20-00028  
Tennessee American Water Company  
2019 Reconciliation of Capital Riders  
Earnings Test - As Adjusted

Exhibit DND-2

Amount per TAWC	QHP	EDI	SEC	Total	
Actual Capital Riders Revenues Billed	\$4,953,694	\$224,334	\$2,942,001	\$8,120,029	A/
(Over)/Under Capital Riders Revenue Billings	529,217	82,214	294,635	906,066	A/
Budget to Actual Adjustment	(71,967)	(106,387)	101,484	(76,869)	A/
2018 Reconciliation Amount	(403,036)	(112,806)	(324,484)	(840,326)	A/
Earnings Test Adjustment	(769,750)	(34,859)	(457,155)	(1,261,764)	A/
Interest (Prime - 4.75%)	(16,994)	(4,081)	(9,156)	(30,231)	A/
Reconciliation Amount	(\$732,529)	(\$175,919)	(\$394,676)	(\$1,303,124)	
Authorized Capital Riders Revenues (9/12th)	\$35,305,293	\$35,305,293	\$35,305,293	\$35,305,293	
Current Reconciliation Factor Percentage	-2.07%	-0.50%	-1.12%	-3.69%	
Adjustment Per Consumer Advocate					
Additional Revenue Requirement Excess	\$ (386,532)	\$ (17,505)	\$ (229,561)	(\$633,598)	B/
Additional Interest	\$ (9,584)	\$ (513)	\$ (5,670)	(\$15,766)	
Total Reconciliation Amount	(\$1,128,645)	(\$193,937)	(\$629,907)	(\$1,952,489)	
Authorized Capital Riders Revenues (9/12th)	\$35,305,293	\$35,305,293	\$35,305,293	\$35,305,293	
Reconciliation Factor Percentages per Consumer Advocate	-3.20%	-0.55%	-1.78%	-5.53%	

A/ TAW 2019\_Capital\_Rider\_Recon.xlsx, tab Exhibit Reconciliation  
B/ Exhibit DND-3



Consumer Advocate Unit  
Docket 20-00028  
Tennessee American Water Company  
2019 Reconciliation of Capital Riders  
Earnings Test - As Adjusted

Exhibit DND-3

Summary of Consumer Advocate Unit Adjustments

Line #	Item	13Mth Average Per TAWC	To Remove CWIP and AFUDC	B/ To Remove Lobbying Costs	C/ To Remove Main Break Costs	Total
1	Additions:					
2	Plant in Service	\$334,700,027			\$ (17,948)	\$334,682,079
3	Plant Under Construction	12,038,372	(12,038,372)			\$0
4	Property Held For Future Use	0				\$0
5	Materials and Supplies	848,996				\$848,996
6	Other Additions:					
7	Leased Utility Plant	0				\$0
8	Unamortized Painting - net	0				\$0
9	Working Capital C/	3,409,884				\$3,409,884
10						
11	Total Additions	\$350,997,279				\$338,940,959
12						
13						
14	Deductions:					
15	Accumulated Depreciation and Amortization	90,462,627			\$ (34)	\$90,462,593
16	Accumulated Deferred Income Taxes	48,210,242				\$48,210,242
17	Unamortized Investment Credit - Pre 1971	2,131				\$2,131
18	Customer Deposits	0				\$0
19	Other Deductions:					
20	Contributions in Aid of Construction	17,849,847				\$17,849,847
21	Customer Advances for Construction	3,882,604				\$3,882,604
22	All Other A/	(1,090,174)				(\$1,090,174)
23						
24	Total Deductions	\$159,317,278	(\$12,038,372)			\$159,317,244
25						
26	Rate Base	\$191,680,001				\$179,623,715
27						
28	Net Operating Income	\$13,288,428			81,543	\$13,411,648
29	Adjustments to NOI	0				
30	Allowance for funds used during construction	527,207	(527,207)			\$0
31	Adjustment to reflect effective federal	0				\$0
32	Income tax rate (debt assigned to parent)	296,853				\$296,853
33	Interest on customer deposits	0				\$0
34	Incentive Compensation	592,058				\$592,058
35	Lobbying Expenses	85,920				\$85,920
36	Depreciation Expense Main Break Plant (net of Tax)				\$ 325	\$325
37	Adjusted Net Operating Income	\$14,790,466	(527,207)		81,868	\$14,386,804
38						
39						
40	Rate of return B/	7.72%				8.01%
41	Rate of Return - 2019	7.72%				8.01%
42	Authorized Rate of Return	7.23%				7.23%
43	Authorized Adjusted Net Operating Income	\$13,858,464				\$12,986,795
44	Actual 2019 Adjusted Net Operating Income	\$14,790,466				\$14,386,804
45	Above or (Below) Earnings	\$932,002				\$1,400,009
46	Gross-up Income Tax Rate	1.3538212				1.3538212
47	Revenue Requirement Excess	\$1,261,764				\$1,895,362
48	Additional Revenue Requirement Excess					\$633,598

A/ TAWC Monthly Reports  
B/ DND-Exhibit 4 - After Tax  
C/ DND-Exhibit 5 - After Tax



Consumer Advocate Unit  
Docket 20-00028  
Tennessee American Water Company  
2019 Reconciliation of Capital Riders  
Calculation of Lobbying Expenses

Exhibit DND-4

CONFIDENTIAL

Line No.	Item	Amount	Source
	<b>Direct Lobbying</b>	<b>Amounts are Confidential</b>	
1	Total Compensation of TAWC Registered Lobbyist		A/
2	Less: Portion of Incentive Compensation Removed		A/
3	Adjusted Compensation of TAWC Registered Lobbyist		
4	Imputed Lobbying Percentage	20%	B/
5	Direct Lobbying Costs - Internal TAWC Labor		
6	<b>Indirect Lobbying</b>		
7	Total Compensation of Supervisor TAWC Lobbyist		C/
8	Less: Portion of Incentive Compensation Removed		C/
9	Adjusted Compensation of Lobbyist Supervisor		
10	Imputed Lobbying Percentage	10%	
11	Indirect Lobbying		
12	Less: Inadvertent Legal costs TAWC recorded to Lobbying		D/
13	Total Lobbying Costs		
14	Lobbying Costs - Net of Tax		

A/ Confidential Response to CA Request 1-2 c

B/ TPUC Order Docket 10-00189

C/ Confidential Response to CA Request 1-2 d

D/ Response to CA DR 1-4



**Consumer Advocate Unit**  
**Docket 20-00028**  
**Tennessee American Water Company**  
**2019 Reconciliation of Capital Riders**  
**Impact of Main Break on Excess Earning Calculation**

**Exhibit DND-5**

Impact of Main Break on Plant in Service A/			
	Gross Plant	Depreciation Expense	
	Main Break	(Assume December in Service Date)	Net Plant In Service
2018 December	\$ -	\$ -	\$ -
2019 January	0	0	0
February	0	0	0
March	0	0	0
April	0	0	0
May	0	0	0
June	0	0	0
July	0	0	0
August	0	0	0
September	146,043	0	146,043
October	30,544	0	30,544
November	52,922	0	52,922
December	3,813	\$ 440	3,373
Total	\$ 233,322	\$ 440	\$ 232,882
13 Month Average	\$ 17,948	\$ 34	\$ 17,914
		Accumulated Depreciation	

Operating and Maintenance Costs Associated with Main Break		
		Source:
Bottled Water	\$ 41,605	B/
Drinking Water	\$ 63,430	B/
Legal Services	\$ 5,360	C/
Total	\$ 110,395	

D/ Composite Depreciation Rate	
Total QIIP Depreciation	1,075,715
Total QIIP Plant	\$47,530,740
Composite Depreciation Expense	2.26%

A/Response to CA DR 1-6  
 B/ Response to CA DR 1-8  
 C/ Response to CA DR 2-13(v)  
 D/ TAW\_2019\_Capital Rider\_Recon.xlsx, tab Exhibit Reconciliation



NATIONAL ASSOCIATION  
OF  
REGULATORY UTILITY COMMISSIONERS

UNIFORM SYSTEM OF ACCOUNTS  
FOR  
CLASS A/B  
WATER COMPANIES

Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

The 1996 version of the NARUC USoA for Water Utilities was modified and adopted by the Kentucky Public Service Commission in 2002.



**ACCOUNTING INSTRUCTIONS**

includible in construction costs before the facilities become available for service.

(17) "Allowance for funds used during construction" includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used. No allowance for funds used during construction shall be included in these accounts upon expenditures for construction projects which have been abandoned.

**Note:**--When only a part of a plant or project is placed in operation or is completed and ready for service but the construction work as a whole is incomplete, that part of the cost of the property placed in operation, or ready for service, shall be treated as "Utility Plant in Service" and allowance for funds used during construction thereon as a charge to construction shall cease. Allowance for funds used during construction on that part of the cost of the plant which is incomplete may be continued as a charge to construction until such time as it is placed in operation or is ready for service, except as limited in item 17, above.

(18) "Earnings and expenses during construction." The earnings and expenses during construction shall constitute a component of construction costs.

(a) The earnings shall include revenues received or earned for water produced by plants during the construction period and sold or used by the utility. Where such water is sold to an independent purchaser before intermingling with water from other plants, the credit shall consist of the selling price of the water. Where the water from a plant under construction is delivered to the utility's water system for distribution and sale, or is delivered to an associated company, or is delivered to and used by the utility for purposes other than distribution and sale (for manufacturing or industrial use, for example), the credit shall be the fair value of the water so delivered. The revenues shall also include rentals for lands, buildings, etc., and miscellaneous receipts not properly includible in other accounts.

(b) The expenses shall consist of the cost of operating the water plant, and other costs incident to the production and delivery of water for which construction is credited under paragraph (a), above, including the cost of repairs and other expenses of operating and maintaining lands, buildings, and other property, and other miscellaneous and like expenses not properly includible in other accounts.



# Tennessee Bureau of Ethics and Campaign Finance



## Detail - Employer of Lobbyist(s)

### Contact Information

**Tennessee American Water**  
 109 Wiehl Street  
 Chattanooga, TN 37403  
 423-771-4723  
[kathryn.robinson@amwater.com](mailto:kathryn.robinson@amwater.com)

### Registrations

[Past Registrations](#)

### 2020

Lobbyist	Address	Registrations
<a href="#">David Braam</a>	109 Wiehl Street	<a href="#">2020-03-12</a>
<a href="#">Clayton Byrd</a>	424 Church St., Ste. 2700	<a href="#">2020-01-07</a>
<a href="#">Brad Lampley</a>	424 Church Street	<a href="#">2020-01-06</a>

### 2019

Lobbyist	Address	Registrations
<a href="#">Clayton Byrd</a>	424 Church St., Ste. 2700	<a href="#">2018-12-21</a>
<a href="#">Daphne Kirksey</a>	109 Wiehl Street	<a href="#">2019-03-01</a>
<a href="#">Brad Lampley</a>	424 Church Street	<a href="#">2018-12-14</a>

### Lobbying Expenditure Reports (ss-8011)

Current: [2020-02-04](#) ;

Archived: Select. . .


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AMERICAN WATER

# Investor Presentation

January 2019

*We keep life flowing®*





# State Legislation Across our Footprint *Further Enables Opportunities*

Exhibit DND-8

