

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

September 15, 2021

IN RE:)	
)	
PETITION OF TENNESSEE-AMERICAN WATER)	DOCKET NO.
COMPANY FOR APPROVAL OF CHANGES)	20-00128
REGARDING THE 2021 INVESTMENT)	
AND RELATED EXPENSES UNDER THE QUALIFIED)	
INFRASTRUCTURE INVESTMENT PROGRAM)	
RIDER, THE ECONOMIC DEVELOPMENT)	
INVESTMENT RIDER, AND THE SAFETY AND)	
ENVIRONMENTAL COMPLIANCE RIDER)	

ORDER APPROVING PETITION

This matter came before Chairman Kenneth C. Hill, Vice Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner John Hie, and Commissioner David F. Jones of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on August 9, 2021 for consideration of the *Petition* filed by Tennessee-American Water Company (“TAWC”, “Tennessee-American” or the “Company”) on November 25, 2020.

BACKGROUND

TAWC provides residential, commercial, industrial, and municipal water service to customers in Tennessee and North Georgia. TAWC is a wholly-owned subsidiary of American Water Works Company, Inc. On November 25, 2020, TAWC filed a *Petition* requesting Commission approval to change the tariff percentage rates for the Qualified Infrastructure Investment Program Rider (“QIIP” or “QIIP Rider”), the Economic Development Investment Program Rider (“EDI” or “EDI Rider”),

and the Safety and Environmental Compliance Rider (“Safety Rider” or “SEC”).¹ The QIIP, EDI, and SEC (collectively, “Capital Riders”) were previously approved by the Commission on April 14, 2014 in Docket No. 13-00130.²

On December 21, 2020, the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) filed its *Petition to Intervene*. On January 8, 2021, the Hearing Officer granted the Consumer Advocate’s intervention.

On January 6, 2021, the Consumer Advocate filed a *Motion to Terminate or Suspend Current Capital Riders Mechanism* (“*Motion*”) along with a Memorandum of Law with argument in support of the *Motion*.³ TAWC filed its response to the Consumer Advocate’s *Motion* on January 20, 2021.⁴ The City of Chattanooga filed a letter to the Commission stating its support for the Consumer Advocate’s *Motion*.⁵ The Commission held a hearing on the *Motion* during the regularly scheduled Commission Conference scheduled on April 12, 2021. Following the hearing on the *Motion*, the Commission denied the *Motion* and found that it was not in the public interest to suspend or terminate the Capital Rider Mechanism.⁶

PETITION

In accordance with the tariffs approved in TPUC Docket No. 13-00130, on or before December 1 of each year, the Company shall submit to the Commission an annual filing that

¹ *Petition*, pp. 1-3 (November 24, 2020).

² See *In re: Petition of Tennessee-American Water Company for Approval of a Qualified Infrastructure Investment Program, an Economic Development Investment Rider, a Safety and Environmental Compliance Rider and Pass-Throughs for Purchased Power, Chemicals, Purchased Water, Wheeling Water Costs, Waste Disposal, and TRA Inspection Fee*, Docket No. 13-00130, *Order Approving Amended Petition* (January 27, 2016).

³ *Consumer Advocate’s Motion to Terminate or Suspend Current Capital Riders Mechanism* (January 6, 2021); *Memorandum of Law in Support of Consumer Advocate’s Motion to Terminate or Suspend Current Capital Riders Mechanism* (January 6, 2021).

⁴ *Tennessee-American Water Company’s Response to the Consumer Advocate’s Motion to Terminate or Suspend Current Capital Riders Mechanism* (January 20, 2021).

⁵ Letter to Chairman Kenneth Hill from the City of Chattanooga (February 10, 2021).

⁶ *Order Denying Consumer Advocate’s Motion to Terminate or Suspend Current Capital Riders Mechanism* (June 2, 2021).

calculates the tariff Rider percentage rates for the upcoming calendar year.⁷ In Pre-Filed Testimony in support of the *Petition*, Todd P. Wright asserted the Capital Riders were calculated consistent with the modifications and adjustments ordered in TPUC Docket Nos. 14-00121, 15-00111, 16-00022, 17-00020 and 18-00022.⁸ Mr. Wright also noted and described the changes made in the Company's filing and workpapers included in the *Petition*.⁹

According to Ms. Chambers, the EDI Rider is an extremely valuable tool allowing developers to expand into surrounding communities and enhancing the community's economic development opportunities, while the SEC rider expressly highlights the reason for the investment becoming more transparent to the customers. In addition to these benefits, the Capital Riders reduce the need for a general rate case, minimize rate shock, spur economic growth and job creation, ensure safety and reliability of service, provide a timely recovery of investments, and ensure the company earns a fair rate of return.¹⁰

The Company proposed to begin the attrition period for the Capital Riders on January 1, 2021 and end on December 31, 2021. Approved Capital Riders are cumulative and remain in effect until reset back to zero in a rate case. Ms. Chambers asserts no operating expenses have been included in this filing. Further, no Production Costs and Other Pass-Throughs ("PCOP") are included in this filing. PCOP is different from the Capital Riders because it allows for the recovery or refund of changes in production costs from those authorized in the previous rate case.¹¹

Ms. Chambers testified the proposed QIIP Rider surcharge of 19.14% should produce \$9,010,519 annual revenue for the 2021 calendar year; the EDI Rider surcharge of 1.25% should

⁷ *Petition*, pp. 6-7 (November 24, 2020).

⁸ Elaine K. Chambers, Pre-Filed Direct Testimony, pp. 2-3 (November 24, 2020). *See also* Todd P. Wright, Pre-Filed Direct Testimony (June 28, 2021).

⁹ *Id.* at 8-11.

¹⁰ *Id.* at 11-13.

¹¹ *Id.* at 15, 24-25.

produce \$587,183 annual revenue for the 2021 calendar year; and the SEC Rider surcharge of 9.70% should produce \$4,564,309 for the 2021 calendar year.¹² The proposed surcharges would result in a typical residential customer living in the City of Chattanooga and using an average 4,154 gallons of water per month to realize a \$1.27 increase in their monthly bill or \$15.24 per year.¹³

Ms. Chambers testifies TAWC is continuing to recommend using Excess Accumulated Deferred Income Tax (“EADIT”) normalization resulting from the Federal 2017 Tax Cuts and Jobs Act (“TCJA”) to offset the Capital Recovery Riders increase. She states the EADIT credit percentage effective January 1, 2021 is 4.54%.¹⁴

Ms. Chambers asserts the Capital Riders remain in the public interest because they reduce the need for a general rate increase; lessen consumer rate shock; support the maintenance of infrastructure; promote economic development; ensure safety and reliability and provide for more efficient regulation. Further, Ms. Chambers asserts there have not been any changes in market conditions affecting whether the riders remain in the public interest.¹⁵ On behalf of the Company and as part of the *Petition*, Kurt A. Stafford submitted Pre-Filed Testimony, later adopted by Grady Stout, detailing the proposed investment plans for the EDI and SEC Riders.¹⁶ In addition, the Company filed the testimony of Grady Stout along with its *Petition*. Mr. Stout provided specific plans concerning the proposed budget for the QIIP Rider.¹⁷

POSITION OF THE CONSUMER ADVOCATE

Following discovery and exchanges of information with TAWC, Alex Bradley submitted Pre-Filed Testimony on June 1, 2021, on behalf of the Consumer Advocate which addressed the

¹² *Id.* at 25-27.

¹³ *Id.* at 27.

¹⁴ *Id.* at 27.

¹⁵ *Id.* at 28-31.

¹⁶ Kurt A. Stafford, P.E., Pre-filed Direct Testimony (November 24, 2020). *See also* Grady Stout, Pre-Filed Direct Testimony (June 28, 2021).

¹⁷ Grady Stout, P.E., Pre-Filed Direct Testimony (November 24, 2020).

calculations of TAWC's proposed Capital Riders. Mr. Bradley testified that TAWC's sale of Walden's Ridge along with the Company's acquisitions of Whitwell and Jasper Highlands has shifted the projected revenues by customer class from Industrial and Other Public Authority classes to Residential and Private Fire Service classes. He states that this shift results in more of the Capital Riders being collected from residential rate payers.¹⁸ Mr. Bradley expresses concern regarding the structure of the TAWC Capital Rider mechanism because the average proposed Capital Rider amount varies greatly in each service class and the service territories acquired after the rate case is not appropriately considered. He asserts that the current structure results in customers with higher rates paying proportionally higher surcharge rates than peer customers with lower rates.¹⁹

JOINT LETTER OF JULY 1, 2021

On July 1, 2021, the Consumer Advocate submitted a letter representing that both parties agree that there are no outstanding disputes between the parties. In the letter, the parties jointly support the approval of a QIIP Rider surcharge of 19.14%, and EDI Rider surcharge of 1.25%, and an SEC Rider surcharge of 9.70% for a total Capital Rider Surcharge of 30.09%, as set forth in the Pre-Filed Testimony.²⁰

AUGUST 9, 2021 HEARING AND APPEARANCES

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on August 9, 2021, as noticed by the Commission on July 30, 2021. Making appearances were the following:

Tennessee-American Water Company – Melvin J. Malone, Esq. Butler Snow LLP, 150 3rd Avenue South, Suite 1600, TN 37201; Todd P. Wright, Senior Manager of Regulatory Services, 1 Water Street, Camden, NJ 08102; Grady Stout, Engineering Manager, 1500 Riverside Drive, Chattanooga, TN 37406.

¹⁸ Alex Bradley, Pre-Filed Direct Testimony, pp. 3-6 (June 1, 2021).

¹⁹ *Id.* at 6-7.

²⁰ Letter to Chairman Kenneth Hill from Rachel C. Bowen, Consumer Advocate (July 1, 2021).

Consumer Advocate – Rachel C. Bowen, Esq. Office of the Tennessee Attorney
General and Reporter, Post Office Box 20207, Nashville, Tennessee, 37219

Todd P. Wright appeared and gave testimony adopting and summarizing his Pre-Filed Testimony in support of the *Petition*. In addition, Grady Stout appeared and gave testimony to offer corrections on two typographical errors in his Pre-Filed Testimony. Both Mr. Wright and Mr. Stout were subject to questions of the Commissioners and Commission Staff. The Commissioners opened the floor for public comment, but no member of the public sought recognition to give comment.

FINDINGS AND CONCLUSIONS

Upon review of the entire evidentiary record in this matter, the panel found that the capital expenditures as filed by the Company are reasonable and consistent with previously approved methodologies. Specifically, for the Qualified Infrastructure Investment Program, the panel voted unanimously to approve a bill surcharge of 19.14%, up from last year's surcharge of 14.28%. The new surcharge will generate \$9,010,519 in annual revenues and represents a \$2,286,818 increase from the previous year.

For the Safety and Environmental Compliance Program, the panel voted unanimously to approve a bill surcharge of 9.7%, up from last year's surcharge of 8.79%. The new surcharge will generate \$4,564,309 in annual revenues and represents a \$426,449 increase from the previous year.

For the Economic Development Investment Rider, the panel voted unanimously to approve a bill surcharge of 1.25%, up from last year's surcharge of 1.14%. The new surcharge will generate \$587,183 in annual revenues and represents an increase of \$51,011 from the previous year.

The panel further unanimously found that the Capital Riders continue to benefit both consumers and Tennessee-American. These Capital Riders allow the utility timely recovery of investment related expenses to ensure safe and reliable drinking water and the promotion of economic

development, while benefitting consumers through reduced rate case and legal expenses that would otherwise result through expensive rate case proceedings.

Approval of the Capital Riders results in a total cumulative surcharge of 30.09% since inception of the mechanisms. However, consistent with the Commission's decision in Phase I of Docket No. 18-00039, this amount is currently being offset by 6.62% in tax savings resulting from the 2017 Tax Cuts and Jobs Act. Based on Commission's decision in Phase Two of Docket No. 18-00039, the Capital Riders Surcharge shall be further offset by 4.54% in tax savings. In total, the bill surcharge credit resulting from the Company's tax savings is currently 11.16%. Therefore, the panel voted unanimously to approve a Capital Recovery Rider Surcharge of 30.09%, offset by an 11.16% tax credit, resulting in a net Capital Rider Surcharge of 18.93%. The panel directed the Company to file a revised tariff to reflect the final 2021 Capital Riders Surcharge including all offsets resulting from these tax savings. Calculations supporting the final 2021 surcharge rider amount shall also be submitted with the tariff.

IT IS THEREFORE ORDERED THAT:

1. The *Petition* filed by Tennessee-American Water Company on November 25, 2020 is approved.
2. A Qualified Infrastructure Investment Rider of 19.14% is adopted.
3. A Safety and Environmental Compliance Rider of 9.7% is adopted.
4. An Economic Development Investment Rider of 1.25% is adopted.
5. An additional surcharge credit of 11.16% representing tax savings from the 2017 Tax Cuts and Jobs Act is approved.
6. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

7. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Kenneth C. Hill,
Vice Chairman Herbert H. Hilliard,
Commissioner Robin L. Morrison,
Commissioner John Hie, and
Commissioner David F. Jones concurring.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director