

# BUTLER | SNOW

April 19, 2021

**VIA ELECTRONIC FILING**

Hon. Kenneth C. Hill, Chairman  
c/o Ectory Lawless, Docket Room Manager  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
[TPUC.DocketRoom@tn.gov](mailto:TPUC.DocketRoom@tn.gov)

**RE: *Docket to Collect and Consider Information Relating to Commission Practice and Procedure for Rulemaking on Tenn. R. & Regs. 1220-01-01, 1220-01-02, and Other Sections as Determined Relevant, TPUC Docket No. 21-00018***

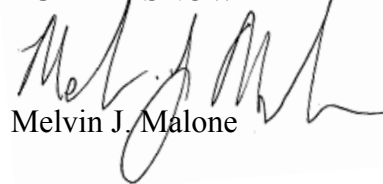
Dear Chairman Hill:

Please find attached for filing *Tennessee-American Water Company's Comments* in the above-captioned docket.

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

clw  
Attachment  
cc: Elaine Chambers, TAWC

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

**DOCKET TO COLLECT AND )  
CONSIDER INFORMATION )  
RELATING TO COMMISSION )  
PRACTICE AND PROCEDURE )  
RULEMAKING ON TENN. R. & REGS. )  
1220-01-01, 1220-01-02, AND OTHER )  
SECTIONS AS DETERMINED )  
RELEVANT )**

**DOCKET NO. 21-00018**

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**COMMENTS OF TENNESSEE-AMERICAN WATER COMPANY**

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Pursuant to the Notice of Deadline for Filing Comments in the above-captioned matter issued by the Tennessee Public Utility Commission (the “Commission”) on March 19, 2021, Tennessee-American Water Company (“Tennessee-American,” “TAWC” or the “Company”) respectfully submits these comments.

**I. INTRODUCTION AND BACKGROUND**

On February 11, 2021, the Commission issued its Notice of Rule Development Workshop on Commission Practice and Procedure, scheduling an informal workshop in this docket for February 25, 2021, and providing the opportunity for written comments, new provisions or proposals to be submitted in advance of the informal workshop. Chattanooga Gas Company (CGC”) and the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate” or “CAU”) filed written comments and/or proposals. A host of interested parties, including Tennessee-American, participated in the informal workshop. At the conclusion of the informal workshop, the interested parties requested the opportunity to

meet informally at a later time to further discuss proposed modifications to the Rules of Practice and Procedure before the date for the submission of further formal written comments in this docket. The Commission kindly granted this request. The interested parties submitted status reports to the Commission on March 19, 2021. TAWC appreciates and values the opportunity provided by the Commission for such informal, good faith and cooperative discussions among the various interested parties, including Commission Staff.

Tennessee-American respectfully submits the following comments for consideration by the Commission.

## **II. DISCUSSION AND COMMENTS**

### *A. Minimum Filing Guidelines (“MFGs”).*

During the informal, cooperative discussions among various interested parties subsequent to the Commission’s February 25<sup>th</sup> informal workshop, there was a consensus that the most effective manner in which to proceed with respect to MFGs is the establishment of an informal working group with technical, subject matter experts from interested parties, including Commission Staff and the CAU. If such a working group is established, Elaine K. Chambers will be the representative for Tennessee-American. Ms. Chamber’s contact information is as follows:

Elaine K. Chambers  
Director of Rates and Regulatory – Tennessee and Kentucky  
Kentucky American Water Company  
2300 Richmond Road  
Lexington, KY 40502  
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(859) 268-6309 (office)

*B. Advance Notice of Anticipated General Rate Case Filing.*

In its proposed modifications (Rule 1220-04-01-.05(1)), the CAU proposed that public utilities provide sixty (60) days written notice to the Commission and CAU of an anticipated general rate case filing.<sup>1</sup> Although the February 23<sup>rd</sup> written comments of the CAU in this docket may be less clear that the requested/proposed advance notice would be limited to general rate cases, at the February 25<sup>th</sup> informal workshop TAWC understood the CAU to limit this proposed notice to general rate cases only. Moreover, it is TAWC's understanding that the CAU's proposed advance notice would, if adopted, require an anticipated date only and that no additional substantive information would accompany such notice.

While Tennessee-American respects the proposal for sixty (60) days advance notice in general rate cases submitted by the CAU, the Company is not aware of any existing issues or shortcomings with the current process. Hence, this proposal is distinguishable from the CAU's proposal to eliminate the existing 40 requests discovery limitation. Although the CAU references workload and resource planning as reasons supporting the sixty (60) days advance notice proposal,<sup>2</sup> it appears that the CAU's staff today is no less than it has been for many years, including during the implementation of the 1995 state telecommunications act and the 1996 federal telecommunications act. In sum, the Company believes this request is unnecessary. Notwithstanding the foregoing, if the Commission is inclined to adopt some notice period, Tennessee-American is persuaded that thirty (30) days' notice of a general rate case filing would be more than sufficient to provide the CAU with reasonable advance notice.

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<sup>1</sup> While the February 23, 2021, Comments of the Consumer Advocate may have referred to other filings with respect to its proposed 60-days' notice, this proposal was clarified at the February 25<sup>th</sup> informal workshop by the CAU to be only intended for general rate cases. In its March 19, 2021 Status Report of the Consumer Advocate, the CAU refers to "any non-scheduled filings requesting a change in rates." Nonetheless, TAWC continues to understand the CAU's 60-days' notice proposal to be directed only towards general rate case filings.

<sup>2</sup> *Comments of the Consumer Advocate*, pp. 5-6, TPUC Docket No. 21-00018 (Feb. 23, 2021).

### *C. Customer Notice of Rate Increases*

In its February 23<sup>rd</sup> written comments and/or proposals, the CAU proposed several revisions to the Commission's existing requirements regarding customer notice of rate increases. TAWC believes, as it always has, that customer notice of proposed rate increases is essential. Therefore, the Company is not opposed to the consideration of revisions to the Commission's existing customer notice rules. That said, some portions of the CAU's proposed customer notice revisions may not result in an improvement in the overall process.

First, the CAU's proposed requirement that future customer notices should be approved by the Commission (Rule 1220-04-01-.05(2)) is well-intentioned but will likely result in unnecessary inefficiencies. An equally effective approach would be to require regulated public utilities to submit a verification of compliance with the Commission's customer notice rule, along with submission of the issued, compliant notice. Such a process would provide an efficient check-and-balance mechanism for timely, proper and sufficient customer. The Commission, if it were so inclined, could include a secondary, triggered provision for pre-approval in the event a public utility is found by the Commission to either repeatedly fail to issue the required customer notice or repeatedly fail to issue a proper, compliant customer notice.

Next, while Tennessee-American does not oppose efforts to revise the Commission's customer notice requirements, the Company believes that many of the well-intended suggestions made by the CAU will result in either cumbersome or potentially customer-confusing language, or both. For instance, in its proposed modifications (Rule 1220-04-01-.05(2)(c)), the CAU proposes that the customer notice contain "A copy of the executive summary filed with the MFRs." Among other things, the Company is of the opinion that such a requirement would make the notice less user-friendly at best and possibly more cumbersome and potentially confusing.

With respect to the CAU's proposed modifications to Rule 1220-04-01-.05, it may be that subsections (2)(a) and (b) could be streamlined into a single subsection and thus made more customer-friendly. Moreover, while the general concepts expressed in the CAU's proposed Rule 1220-04-01-.05(2)(d) – "A description of the ratemaking process" - and (f) – "A statement of what the Commission does, including an explanation of its role in establishing just and reasonable rates" - may not be objectionable, they do require care in order to avoid unintended consequences. In the event the Commission desires to include such concepts, it would appear that subsections (d) and (f) could be collapsed into a single subsection. Notwithstanding the foregoing, the objective of any changes here should be aimed at making the customer notice more user-friendly without increasing the likelihood of customer confusion. It may be that the Commission's website, rather than customer notices, is the more appropriate place for both a description of the ratemaking process and a statement of the Commission's role. Finally, given the language in the CAU's proposed subsections (a) and (b) of Rule 1220-04-01-.05, the Company assumes that subsection (e) – "A statement that a complete copy of the proposed rate changes and the reasons for them" – could be satisfied by referencing the petition and supporting documentation.

If the CAU's proposals are accepted, the revised "modernized" notice may be so cumbersome as to result in no notice at all.

#### *D. Discovery*

Generally, and respectfully, in sum, the CAU has proposed that unlimited discovery be permitted as long as the requests are reasonable and pertain to issues relevant to the proceeding. The Company agrees that the existing 40-request limit on discovery is outdated. Still, Tennessee-American is concerned that totally unlimited discovery, absent any streamlining parameters and guardrails whatsoever, will lead to unintended consequences, including unnecessary delay, the


accumulation and submittance of unnecessary information and unnecessary costs and expenses, including, but not limited to, the delay and expense associated with discovery motions. Among other reasonable parameters, requests seeking the production of information or analyses not prepared in the normal course of business should not be permitted. In the event the Commission determines that discovery should be unlimited and without any narrowing parameters, and TAWC maintains that it should not be, it would be appropriate for the Commission to consider other modifications to the existing rules to make the process more efficient and less fraught with avoidable delay. For example, a public utility should be permitted the ability or option to submit a preliminary proposed procedural schedule along with its initial filing, which schedule may be modified in any respects at the discretion of the Commission, including at the reasonable request of a party granted intervention. The delay of a petition to intervene should not unnecessarily delay the establishment of a procedural schedule in any such proceeding.

### **III. CONCLUSION**

Tennessee-American appreciates the opportunity to comment on the Commission's development and consideration of proposed changes to the Commission's Rules on Practice and Procedure.

This the 19th day of April 2021.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Melvin J. Malone", is written over a light gray rectangular background.

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Company