

June 13, 2022

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Room on June 13, 2022 at 2:20 p.m.

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 Walker County Water and Sewerage Authority for Expedited Approval of a Special Contract,*
Docket No. 22- 00049

Dear Chairman Hill:

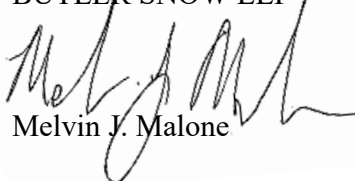
Attached for filing please find the *Joint Petition of Tennessee-American Water Company and Walker County Water and Sewerage Authority for Expedited Approval of a Special Contract*, along with sworn testimony and exhibits.¹ Set forth within the *Joint Petition* is a request for the entry of a protective order.

As required, one (1) hard copy of the *Joint Petition* and supporting documents will be mailed to your office along with a check in the amount of \$25.00 for the required filing fee.

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

Attachments

cc: Tricia Sinopole, TAWC
Shannon Whitfield, WCWSA
Karen H. Stachowski, Consumer Advocate Unit
Vance Broemel, Consumer Advocate Unit

¹ For administrative convenience, two USB drives of the *Joint Petition*, and supporting documentation, are enclosed.

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

**JOINT PETITION OF TENNESSEE-)
AMERICAN WATER COMPANY AND)
WALKER COUNTY WATER AND)
SEWERAGE AUTHORITY FOR)
APPROVAL OF A SPECIAL)
CONTRACT)**

DOCKET NO. 22- 00049

**JOINT PETITION OF TENNESSEE-AMERICAN WATER COMPANY
AND WALKER COUNTY WATER AND SEWERAGE AUTHORITY
FOR EXPEDITED APPROVAL OF A SPECIAL CONTRACT**

Pursuant to Tennessee Public Utility Commission Rule 1220-4-03-.05,¹ Tennessee-American Water Company (“TAWC,” “Tennessee-American” or “Company”) and Walker County Water and Sewerage Authority (“WCWSA” or “Walker County”), hereinafter collectively the Parties, submit this Joint Petition and a copy of the special contract between TAWC and WCWSA (the “Special Contract” or “Agreement”), consistent with the rules of the Tennessee Public Utility Commission (“TPUC” or “Commission”).² In compliance with Rule 1220-4-03-.05, the Parties submit this Special Contract to the Tennessee Public Utility Commission (“TPUC” or “Commission”). For the reasons and support that follow, and to the extent this Special Contract must be approved by the Commission under Commission Rule 1220-4-01-.07, the Parties jointly request expedited consideration and approval by the Commission.

¹ The Commission’s water regulations, specifically Rule 1220-4-03-.05, provides that water public utilities shall file a copy of each special contract for service.

² A copy of the Agreement is attached as **Exhibit A** to this Joint Petition.

I. THE PARTIES

1. WCWSA was established in 1977 by the General Assembly of the State of Georgia and serves a growing population of about 11,000. WCWSA is an independent government entity. WCWSA's priority is to maintain a safe drinking water supply and an adequate amount of fire flow protection to its customers with the least amount of service disruption at the lowest cost possible. WCWSA, a former customer of TAWC, is not a current TAWC customer.

2. As outlined in the pre-filed direct testimony supporting the Joint Petition, WCWSA advised TAWC that it was aware that former TAWC customers have bypassed TAWC and that, absent good faith negotiations towards a special contract between TAWC and WCWSA, WCWSA was positioned and prepared to take a similar path to bypass TAWC. Moreover, WCWSA is in the process of building its own facilities. These negotiations led to the execution of the Agreement in February 2022.

3. TAWC is a Tennessee corporation authorized to conduct a public utility business in the State of Tennessee and provides residential, commercial, industrial and municipal water service, including public and private fire protection service, to the City of Chattanooga, Tennessee and surrounding areas, including certain areas in Georgia. In addition to Whitwell, Tennessee-American currently provides water services for Powell's Crossroads and Suck Creek in Marion County and Jasper Highlands. TAWC provides water service to approximately 83,874 customers.

4. Pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated, TAWC is subject to regulation by the Commission.

5. TAWC's principal place of business is located at 109 Wiehl Street, Chattanooga, TN 37403.

6. All correspondence and communication with respect to this Joint Petition should be sent to the following:

Tricia Sinopole
Tennessee-American Water Company
109 Wiehl Street
Chattanooga, TN 37403
(704) 706-3898 (Office Telephone)
Tricia.Sinopole@amwater.com

Melvin J. Malone
Butler Snow LLP
The Pinnacle at Symphony Place
150 Third Avenue South, Suite 1600
Nashville, TN 37201
(615) 651-6700 (Office Telephone)
Melvin.Malone@butlersnow.com

Shannon Whitfield
Walker County Water and Sewerage Authority
4665 Happy Valley Road
P.O. Box 248
Flintstone, GA 30725
commissioner@walkerga.us

II. DESCRIPTION OF THE SPECIAL CONTRACT

7. As set forth in the Agreement, WCWSA has determined that it is in the best interest of WCWSA and its customers for it to enter into this negotiated, short-term arrangement with TAWC, and TAWC has concluded that it is in the best interest of TAWC and its customers for it to enter into this negotiated arrangement with WCWSA.

8. Pursuant to the Agreement, TAWC will provide potable water to WCWSA at such delivery points and in such quantities as outlined more specifically in the Agreement. The Agreement is a requirements contract, so WCWSA may not reduce its purchases from TAWC during the term of the Agreement.

9. Under the Agreement, the water purchased by WCWSA from TAWC shall be used solely for resale to WCWSA's customers within its service area. Such water may not be sold by WCWSA to any other water utility without the express, prior written consent of TAWC.

10. The initial term of the Agreement is three (3) years, with an extension per the mutual written consent of the Parties.

11. WCWSA shall pay a rate of \$1.75 per 1000 gallons, plus the TCJA impacts and the existing Capital Recovery Riders (and/or other applicable mechanism approved by the Commission).

12. As outlined in the pre-filed direct testimony supporting the Joint Petition, the Agreement will benefit TAWC's existing ratepayers, as the additional water gained by TAWC pursuant to the Agreement will offset certain declining use and contribute to a portion of TAWC's fixed expenses.

13. While the Agreement was executed in February of 2022 for submission to the Commission, it is the intent of the Parties that the three (3) year initial term of the Agreement does not commence until approval of the Agreement by the Commission or a Commission determination that approval is not necessary.

III. TAWC's TECHNICAL, MANAGERIAL AND FINANCIAL ABILITY

14. TAWC has a proud 133-year history of providing safe, reliable drinking water to its customers.

15. TAWC is a wholly-owned subsidiary of American Water Works Company, Inc., which is the largest water holding company in the United States, providing water and wastewater services to fifteen (15) million people in more than thirty (30) states.

16. As noted earlier herein, TAWC is regulated by the Commission. As such, the Commission is intimately familiar with the technical, managerial and financial ability of TAWC. Further, the official records of the Commission support TAWC's technical, managerial and financial ability to provide services within the areas served by the System.

17. The pre-filed testimony in support of this Joint Petition also demonstrates TAWC's technical, managerial and financial ability.

18. TAWC is familiar with and will adhere to all applicable Commission policies, rules and orders governing the provision of water service pursuant to the Agreement that is the subject of this Joint Petition.

IV. THE PUBLIC INTEREST

19. WCWSA believes it is in the best interests of WCWSA, the Walker County community and WCWSA's customers for it to enter into this negotiated, short-term arrangement with TAWC, and TAWC believes it is in the best interests of TAWC and its customers for it to enter into this negotiated arrangement with WCWSA.

20. As outlined in the pre-filed direct testimony supporting the Joint Petition, the Special Contract rates are the highest that could be negotiated between WCWSA and TAWC. Moreover, the proposed rates set forth in the Special Contract are fair, just and reasonable and are not unduly preferential or discriminatory.

V. CONFIDENTIAL INFORMATION AND PROTECTIVE ORDER

Also attached for entry by the Commission in this matter is a proposed Protective Order, which is necessary to facilitate the production of various commercially sensitive and confidential information related to this Joint Petition. *See Exhibit B.*

VI. CONCLUSION

For the foregoing reasons, the Parties, TAWC and WCWSA, respectfully request the Commission to approve the Special Contract on an expedited basis.

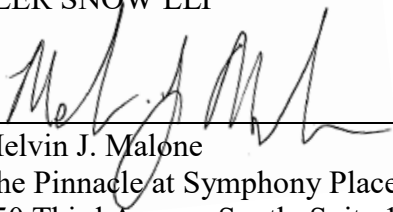
WHEREFORE, the Parties hereby request that the Commission:

- (1) Approve the Special Contract, attached hereto as **Exhibit A**, on an expedited basis;
- and,
- (2) Grant such other relief as may be required, and all on an expedited basis.

Respectfully submitted,

BUTLER SNOW LLP

By: _____


Melvin J. Malone
The Pinnacle at Symphony Place
150 Third Avenue South, Suite 1600
Nashville, TN 37201
(615) 651-6700 (Office Telephone)
melvin.malone@butlersnow.com

*Counsel for Tennessee-American Water
Company*

EXHIBIT A

WATER PURCHASE AGREEMENT

THIS WATER PURCHASE AGREEMENT ("Agreement") is executed this 8th day of February, 2022 by and between **TENNESSEE-AMERICAN WATER COMPANY** ("TAWC") and the **WALKER COUNTY WATER AND SEWERAGE AUTHORITY** ("WCWSA") (collectively, the "**PARTIES**").

WHEREAS, TAWC, a Tennessee corporation, is a public utility which owns and operates a water utility system in and around the City of Chattanooga, Tennessee including the contiguous cities of Red Bank, East Ridge, Ridgeside, and Lookout Mountain, plus the cities of Rossville and Lookout Mountain, Georgia, and areas in the Georgia counties of Dade, Walker and Catoosa; and

WHEREAS, WCWSA, a Georgia government entity, was created by a legislative act by the General Assembly of the State of Georgia and serves residents in Walker County, Georgia; and

WHEREAS, WCWSA desires to supplement its water supply to meet the needs of its residents; and

WHEREAS, TAWC has the capacity and capability to provide the water volume required by WCWSA; and

WHEREAS, WCWSA has explored various available alternatives by which to supplement its water supply to meet the needs of its residents; and

WHEREAS, additional water sales by TAWC will offset certain declining use and contribute to cover a portion of TAWC's fixed expenses; and

WHEREAS, WCWSA and TAWC are desirous of establishing an Agreement for the purchase and sale of water for a fixed period of time; and

WHEREAS, the PARTIES have reached agreement on the quantify of supply, the delivery point, and the rates and charges which they now desire to record in writing; and

WHEREAS, the rate agreed upon by the PARTIES reflects an equitable and reasonable compromise; and

NOW, THEREFORE, in consideration of the following covenants, the parties agree as follows:

1. SUPPLY OF WATER

- a. During the term of this Agreement and any extensions thereof, TAWC agrees to provide to WCWSA, at the Delivery Point, potable water in such quantity as is required in Section 2 herein. "Delivery Point" shall mean the location(s) of metering equipment used to measure the quantity of water delivered to WCWSA.
- b. Water provided by the TAWC shall be available at the Delivery Point at normally available distribution system pressure. Failures of pressure or supply due to causes beyond the reasonable control of TAWC, including but not limited to main supply line breaks, power failure, flood, fire and the use of water to fight fire, earthquake or other catastrophic events, or governmental or

judicial action, shall relieve TAWC of responsibility for providing service for such reasonable time as may be necessary to restore service without liability for loss, damage or injury to WCWSA or its customers. In the event of an extended water shortage resulting from drought restrictions, or if the supply of water available to TAWC is otherwise diminished for reasons beyond the reasonable control of TAWC, the supply of water available to WCWSA may be reduced by TAWC, but the reduction shall be in the same proportion as the reduction of supply to all of TAWC's affected customers, to the extent feasible and within TAWC's power.

- c. TAWC shall not be required by this Agreement to provide, reduce or maintain water pressure within WCWSA's system and it is expressly understood to be the obligation of WCWSA to provide, reduce and maintain such pressure by boosting devices, pressure reducing valves, standpipes, elevated tanks, or by such other means as may be required or necessary to provide and maintain satisfactory pressure in the water mains and pipes within WCWSA's system.

2. PURCHASE OF WATER

- a. It is expressly understood that this is a requirements contract and that WCWSA may not reduce its purchases from TAWC during the term of this Agreement. WCWSA agrees that water purchased under this Agreement is solely for resale to its customers within its service area; and that, without the prior written consent of WCWSA, such water will not be sold to any other water utility. In addition, no water may be used outside the Tennessee-Hiwassee River Basin.
- b. WCWSA shall pay a rate of \$1.75 per 1000 gallons, inclusive of Tax Cuts and Jobs Act ("TCJA") and Capital Riders (the "Purchased Water Rate"). The Purchased Water Rate shall be adjusted, to the extent necessary, to reflect the then applicable Capital Riders approved by the Tennessee Public Utility Commission ("TPUC").
- c. WCWSA agrees to purchase the following minimum amount of potable water from TAWC during the term of this Agreement:
 - i. Year One of the Agreement: 90,000,000 for the year (___ million gallons/day average).
 - ii. Year Two and all of Years of the Agreement: 20,000,000 for the year (___ million gallons/day average).
- d. At the end of each year, if the WCWSA did not purchase the required annual gallons of water specified in 2.c. below, the TAWC shall invoice WCWSA at the then- applicable Purchased Water Rate for the difference between the number of gallons required to be purchased and the number of gallons purchased that year.

3. METERING AND CROSS-CONTAMINATION EQUIPMENT

- a. TAWC shall install, own, and maintain a meter vault directly adjacent to the Delivery Point.
- b. TAWC shall deliver water to WCWSA at a Delivery Point described on Exhibit A (i.e., directly outside of the meter vault).
- c. Metering equipment and appurtenances thereto are provided, installed, owned and maintained by

TAWC, and shall be of standard type for properly measuring the quantity of water delivered. WCWSA shall own and be responsible for the cost, installation, and maintenance of the meter vault, piping, valves and appurtenances thereto necessary for connection to WCWSA's metering equipment. WCWSA shall also be responsible for the cost of connecting its mains to the WCWSA's system at the Delivery Point.

- d. TAWC agrees to calibrate its metering equipment whenever requested by WCWSA, but not more frequently than once every twelve (12) months, unless inaccuracy thereof is made clearly evident by WCWSA to TAWC. A meter registering within the standards set by TPUC regulations and rules shall be deemed to be accurate and acceptable to the parties. If any meter fails to register within such standards, the TPUC regulations and rules shall determine whether a billing adjustment should be made and, if so, how the adjustment will be calculated.
- e. For each Point of Delivery, WCWSA agrees to provide and install at a location approved by TAWC, and own and maintain in good working order, a double check valve and/or other cross contamination protection devices required by TAWC and/or the Tennessee Department of Environment and Conservation or such other body that regulates such matters.

4. EFFECTIVE DATE, TERM AND TERMINATION

- a. The Initial Term of this Agreement shall be three (3) years from the Effective Date. Any extension beyond the Initial Term shall be on mutual written consent of the Parties.

5. MISCELLANEOUS

- a. With the exception of the Purchased Water Rate and other terms detailed in § 2, this Agreement service shall be conducted in accordance with the then-applicable Tariffs. In the event of any conflict between the provisions of this Agreement and the then-applicable Tariffs, the Tariffs shall control.
- b. WCWSA is solely responsible and liable for construction, operation and maintenance of its water system in conformance with all applicable federal, state and local laws, ordinances, regulations and codes.
- c. This Agreement shall be binding upon TAWC and WCWSA, their successors and assigns.
- d. All notices and correspondence regarding this Agreement shall be addressed to:

For WCWSA: Shannon Whitfield, Chairman
Walker County Water and Sewerage WCWSA
4665 Happy Valley Rd
P.O. Box 248
Flintstone, GA 30725

For Utility: President

Tennessee-American Water Company 109 Wiehl Street
Chattanooga, TN 37403

Corporate Counsel

Tennessee-American Water Company 109 Wiehl Street
Chattanooga, TN 37403

Either party may change the person or address to which notices or correspondence to it should be sent by written notice to the other party. Notices provided for hereunder shall be deemed given on the date of receipt unless mailed by certified mail, return receipt requested, in which event the notice shall be deemed given on the date of mailing.

- e. This Agreement contains the entire understanding between the parties and no modification or alteration to this Agreement shall be effective unless reduced to writing and signed by both parties. This Agreement supersedes all prior agreement, representations and proposals, either oral or written, heretofore made by or to or in effect between WCWSA and the TAWC with respect to the subject matter hereof.
- f. The recitals set forth at the beginning of this Agreement are incorporated herein by reference as if set forth fully herein.
- g. Nothing in this Agreement is intended to confer any rights, benefits, or obligations upon any person other than the Parties. No such third-party shall have any right to enforce any of the provisions of this Agreement.
- h. WCWSA hereby agrees to indemnify and hold TAWC, its agents, employees, successors and assigns, harmless from and against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney fees, and against all liability, losses, and damages of any nature whatever, by reason of any of the activities of the WCWSA or its employees in connection with the use of water or facilities of Seller, and further agrees and covenants that TAWC shall not be liable to WCWSA for any failure of service or pressure resulting from occurrences beyond the control of the TAWC.
- i. TAWC hereby agrees to indemnify and hold WCWSA, its agents, employees, successors and assigns, harmless from and against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney fees, and against all liability, losses, and damages of any nature whatever, as a result of any negligence or willful misconduct by the TAWC, its employees, contractors, and agents, arising from TAWC's provision of water service to the WCWSA
- j. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a Party by electronic mail shall be deemed an original signature hereto.
- k. This Agreement is subject to such rules, regulations or laws as may be applicable and the Parties will collaborate to obtain such permits, certifications or the like, as may be required to comply with said rules, regulations or laws as may now be applicable or as the same may be modified, amended or adopted hereinafter.

1. The Parties acknowledge that this Agreement, upon execution by the Parties, shall be filed with the TPUC . TAWC shall file an executed copy of this Agreement with the TPUC. WCWSA pledges its assistance in complying with applicable TPUC rules and regulations. The Effective Date of this Contract shall be the date the Contract is filed with the TPUC. TAWC shall give written notice of the Effective Date to WCWSA.

m. This Agreement shall be governed by and constructed under the laws of the State of Tennessee.

TAWC

TENNESSEE-AMERICAN WATER COMPANY



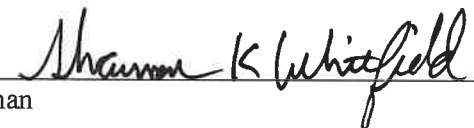
President

24-Feb-2022

Date

WCWSA

WALKER COUNTY WATER AND SEWERAGE WCWSA



Chairman

02/08/2022

Date



1 - 8X6 TAPPING SLEEVE
1 - 6" 90° BEND
1 - 6" MJ GATE VALVE (OR)
1 - VALVE BOX COMPLETE

1 - FIRE HYDRANT
1 - 8X6 ANCHOR TEE
1 - 6" MJ GATE VALVE (OL)
1 - 6X13 ANCHOR COUPLING
1 - VALVE BOX COMPLETE

2 - 45° BENDS
1 - 6" MJ SLEEVE FOR INTERCONNECT
WITH WALKER COUNTY

100 LINEAR FEET 6" DIP

EXHIBIT B

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION NASHVILLE, TENNESSEE

JOINT PETITION OF TENNESSEE-)
AMERICAN WATER COMPANY AND)
WALKER COUNTY WATER AND)
SEWERAGE AUTHORITY FOR)
APPROVAL OF A SPECIAL CONTRACT)

DOCKET NO. 22-_____

PROTECTIVE ORDER

To expedite the flow of filings, discovery, exhibits and other materials, and to facilitate the prompt resolution of disputes regarding confidentiality of the material, adequately protect material entitled to be kept confidential and to ensure that protection is afforded only to material so entitled, the Hearing Officer, as appointed by the Tennessee Public Utilities Commission (“TPUC”), hereby orders the following:

1. For the purpose of this Protective Order (the “Order”), proprietary or confidential information, hereinafter referred to as “CONFIDENTIAL INFORMATION” shall mean documents and information in whatever form which the producing party, in good faith, deems to contain or constitute trade secrets, confidential commercial information, confidential research, development, financial statements, confidential data of third parties, or other commercially sensitive information, and which has been specifically designated by the producing party. A “Producing Party” is defined as the party creating the confidential information as well as the party having actual physical possession of information produced pursuant to this Order. All summaries, notes, extracts, compilations or other direct or indirect reproduction from or of any protected materials shall be entitled to protection under this Order. Documents containing CONFIDENTIAL INFORMATION shall be specifically marked as “CONFIDENTIAL” on the

cover and each page of the document. Any document so designated shall be handled in accordance with this Order. The provisions of any document containing CONFIDENTIAL INFORMATION may be challenged under Paragraph 12 of this Order.

2. Any individual or company subject to this Order, including producing parties or persons reviewing CONFIDENTIAL INFORMATION, shall act in good faith in discharging their obligations hereunder. Parties permitted to intervene in this matter after the date of entry of this Protective Order shall be subject to the terms and conditions of this Protective Order and will be allowed access to CONFIDENTIAL INFORMATION under the conditions prescribed herein.

3. CONFIDENTIAL INFORMATION shall be used only for the purposes of this proceeding, and shall be expressly limited and disclosed only to the following persons:

- (a) Counsel of record for the parties and other legal counsel for the parties in this case and associates, secretaries and paralegals actively engaged in assisting counsel of record in this proceeding;
- (b) TPUC Directors and members of the staff of the TPUC;
- (c) Officers, directors, or employees of the parties, including employees of intervenors and the Office of the Tennessee Attorney General; provided, however, that CONFIDENTIAL INFORMATION shall be shown only to those persons having a need to know;
- (d) Representatives of the parties who need to know because they are actively engaged in assisting counsel of record in preparing for this proceeding; and
- (e) Outside consultants and expert witnesses (and their Staff) employed or retained by the parties or their counsel, who need access to CONFIDENTIAL INFORMATION solely for evaluation, testing, testimony, preparation for trial or other services related to this docket, provided that to the extent that any party seeks to disclose CONFIDENTIAL INFORMATION to any outside consultant or expert witness, the party shall give five (5) days written notice to the Producing Party of intention to disclose CONFIDENTIAL INFORMATION. During such notice period, the Producing Party may move to prevent or limit disclosure for cause, in which case no disclosure shall be made until the TPUC or the Hearing Officer rules on the motion. Any such motion shall be filed within three (3) days after service of the notice. Any response shall be filed within three (3) days after service of the Motion. A Pre-Hearing

Conference may be called to confer with the parties on the Motions to Limit Disclosure. All service shall be by hand delivery, facsimile or email. All filings by email in this docket shall be followed up by delivering a hard copy of the filing to the Docket Manager of the TPUC.

4. Notwithstanding the provisions in Paragraph 3 above, under no circumstances shall any CONFIDENTIAL INFORMATION be disclosed to or discussed with anyone associated with the marketing of products, goods, or services that may be in competition with the products, goods or services of the Producing Party. Counsel for the parties are expressly prohibited from disclosing CONFIDENTIAL INFORMATION produced by another party to their respective clients, except for in-house counsel and persons who need to know in order to assist counsel of record with preparation of this case.

5. (a) Prior to disclosure of CONFIDENTIAL INFORMATION to any employee or associate counsel for a party, the counsel representing the party who is to receive the CONFIDENTIAL INFORMATION shall provide a copy of this Order to the recipient employee or associate counsel, who shall be bound by the terms of this Order. Prior to disclosure of CONFIDENTIAL INFORMATION to any outside consultant or expert witness employed or retained by a party, counsel shall provide a copy of this Order to such outside consultant or expert witness, who shall sign the Nondisclosure Statement in the form of that attached to this Order attesting that he or she has read a copy of this Order, that he or she understands and agrees to be bound by the terms of this Order, and that he or she understands that unauthorized disclosure of documents labeled "CONFIDENTIAL" constitutes a violation of this Order. The Nondisclosure Statement shall be signed in the presence of and be notarized by a notary public. Counsel of record for each party shall provide the Producing Party a copy of each such Nondisclosure Statement and shall keep the Nondisclosure Statements executed by the parties' experts or consultants on file in their respective offices.

(b) Disclosure of CONFIDENTIAL INFORMATION other than as provided for in this Protective Order shall not be made to any person or entity except with the express written consent of the Producing Party or upon further order of the TPUC or of any court of competent jurisdiction.

6. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing the documents this failure shall not constitute a waiver of confidentiality, provided the party or non-party who has produced the document shall notify the recipient of the document in writing within five (5) days of discovery of such inadvertent failure to designate the document as CONFIDENTIAL. At that time, the recipients will immediately treat the subject document as CONFIDENTIAL. In no event shall the TPUC, or any party to this Order, be liable for any claims or damages resulting from the disclosure of a document provided while not so labeled as "CONFIDENTIAL." An inadvertent failure to designate a document as CONFIDENTIAL, shall not, in any way, affect the TPUC's determination as to whether the document is entitled to CONFIDENTIAL status.

7. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing such documents and the failure is not discovered in time to provide a five (5) day notification to the recipient of the confidential nature of the documents referenced in the paragraph above, the failure shall not constitute a waiver of confidentiality and a party by written motion or by oral motion at a Pre-Hearing Conference or at the Hearing on the Merits may request designation of the documents as CONFIDENTIAL, and if the motion is granted by the Hearing Officer or the Commission, the recipients shall immediately treat the subject documents as CONFIDENTIAL.

The Tennessee Public Utilities Commission or the Hearing Officer may also, at his or her discretion, either before or during the Pre-Hearing Conference or Hearing on the Merits of the case, allow information to be designated CONFIDENTIAL and treated as such in accordance with the terms of this Order.

8. Any papers filed in this proceeding that contain, quote, paraphrase, compile or otherwise disclose documents covered by the terms of this Order, or any information contained therein, shall be filed and maintained in the TPUC Docket Room in sealed envelopes marked CONFIDENTIAL and labeled to reflect the style of this proceeding, the docket number, the contents of the envelope sufficient to identify its subject matter and this Protective Order. The envelopes shall be maintained in a locked filing cabinet. The envelopes shall not be opened or their contents reviewed by anyone except upon order of the TPUC or the Hearing Officer after due notice to counsel of record. The filing party shall also include with the filing a public version of the papers with any CONFIDENTIAL INFORMATION redacted. The public version shall reflect the style of the proceeding, the docket number, the contents of the envelope sufficient to identify its subject matter and shall reference this Protective Order. Notwithstanding the foregoing, the Directors and the Staff of the TPUC may review any paper filed as CONFIDENTIAL without obtaining an order of the TPUC or the Hearing Officer provided the Directors and Staff maintain the confidentiality of the paper in accordance with the terms of this Order.

9. Documents, information and testimony designated as CONFIDENTIAL or PROTECTED SECURITY MATERIALS (as defined in Paragraph 20) in accordance with this Order, may be used in testimony at the Hearing of this proceeding and offered into evidence or used in any hearing related to this action in a manner that protects the confidentiality of the

information, subject to the Tennessee Rules of Evidence and to such future orders as the TPUC or the Hearing Officer may enter. Any party intending to use documents, information, or testimony designated CONFIDENTIAL or PROTECTED SECURITY MATERIALS shall inform the Producing Party and the TPUC or the Hearing Officer prior to the Hearing on the Merits of the case, of the proposed use; and shall advise the TPUC or the Hearing Officer and the Producing Party before use of the information during witness examinations so that appropriate measures can be taken by the TPUC or the Hearing Officer to protect the confidential nature of the information.

10. Except for documents filed in the TPUC Docket Room, all documents covered by the terms of this Order that are disclosed to the requesting party shall be maintained separately in files marked CONFIDENTIAL and labeled with reference to this Order at the offices of the requesting party's counsel of record, kept in a secure place and returned to the Producing Party pursuant to Paragraph 17 of this Order.

11. Nothing herein shall be construed as preventing any party from continuing to use and disclose any information (a) that is in the public domain, or (b) that subsequently becomes part of the public domain through no act of the party, or (c) that is disclosed to it by a third party, where said disclosure does not itself violate any contractual or legal obligation, or (d) that is independently developed by a party, or (e) that is known or used by it prior to this proceeding. The burden of establishing the existence of (a) through (e) shall be upon the party attempting to use or disclose the information.

12. Any party may contest the designation of any document or information as CONFIDENTIAL or PROTECTED SECURITY MATERIALS by filing a Motion with the TPUC or Hearing Officer as appropriate, for a ruling that the documents, information or

testimony should not be so treated. Upon the filing of such a motion, the designating party shall bear the burden of supporting its designation of the documents or information at issue as CONFIDENTIAL INFORMATION. All documents, information and testimony designated as CONFIDENTIAL or PROTECTED SECURITY MATERIALS, however, shall be maintained as such until the TPUC or the Hearing Officer orders otherwise. A Motion to contest must be filed not later than fifteen (15) days prior to the Hearing on the Merits. Any Reply seeking to protect the status of CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS must be received not later than ten (10) days prior to the Hearing on the Merits and shall be presented to the Commission at the Hearing on the Merits for a ruling.

13. Nothing in this Order shall prevent any party from asserting any objection to discovery other than an objection based upon grounds of confidentiality.

14. Non-party witnesses shall be entitled to invoke the provisions of this Order by designating information disclosed or documents produced for use in this action as CONFIDENTIAL, in which event the provisions of this Order shall govern the disclosure of information or documents provided by the non-party witness. A designation of information as CONFIDENTIAL by a non-party witness may be challenged under Paragraph 12 of this Order.

15. No person authorized under the terms herein to receive access to documents, information, or testimony designated as CONFIDENTIAL shall be granted access until such person has complied with the requirements set forth in Paragraph 5 of this Order.

16. Any person to whom disclosure or inspection is made in violation of this Order shall be bound by the terms of this Order.

17. Upon entry of a final order in this proceeding and conclusion of any appeals resulting from such an order, except as to the Attorney General and TPUC, all the filings,

exhibits and other materials and information designated CONFIDENTIAL or PROTECTED SECURITY MATERIALS and all copies thereof shall be returned to counsel of the Producing Party within fifteen (15) days. Notwithstanding any provision herein to the contrary, the requirement of this paragraph shall become operative immediately upon any intervenor who withdraws or otherwise ceases to be a party to the case, even though the case itself may continue to be pending. Subject to the requirements of Paragraph 8 above, the TPUC shall retain copies of information designated as CONFIDENTIAL or PROTECTED SECURITY MATERIALS as may be necessary to maintain the record of this case intact. Counsel who received the filings, exhibits and other materials, designated as CONFIDENTIAL or PROTECTED SECURITY MATERIALS shall certify to counsel for the Producing Party that all the filings, exhibits and other materials, plus all copies or extracts, notes or memorandums from the filings, exhibits and other materials, and all copies of the extracts from the filings, exhibits and other materials thereof have been delivered to counsel for the Producing Party or destroyed and that with respect to any electronic copies of CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS received or mentioned by the receiving party, all reasonable efforts have been undertaken to eliminate said information. If any electronic CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS cannot be eliminated through the use of reasonable efforts, any such remaining materials shall be subject to the continuing restrictions contained in paragraph eighteen (18) of this Order.

18. After termination of this proceeding, the provisions of this Order relating to the confidential nature of CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS, information and testimony shall continue to be binding upon parties herein and their officers, employers, employees, agents, and/or others unless this Order is vacated or

modified or is supplanted by an order of the court or courts before which is pending a challenge to any order entered in this proceeding.

19. Nothing herein shall prevent entry of a subsequent order, upon an appropriate showing, requiring that any documents, information or testimony designated as CONFIDENTIAL shall receive protection other than that provided herein.

20. In addition to the other provisions of this Order, Tennessee-American Water Company (“the Company”) may designate and label as “PROTECTED SECURITY MATERIALS” documents and information related to security measures undertaken to protect public health and safety. The Company shall provide access to PROTECTED SECURITY MATERIALS to TPUC Directors and members of the staff of the TPUC and further only to authorized representatives of the Intervenor in this docket.

21. The Company shall provide access to an authorized representative to PROTECTED SECURITY MATERIALS only after such authorized representative has executed a Nondisclosure Statement in the form of that attached to this Order and provided a copy to the Company. Except, with consent of the Company: (i) access shall be at the offices of the Company or its counsel of record and under supervision of the Company; (ii) PROTECTED SECURITY MATERIALS shall not be removed from the offices of the Company or its counsel; (iii) no copies shall be provided to an authorized representative except as provided herein. Authorized representatives may make notes or memoranda from a review of the PROTECTED SECURITY MATERIALS and may remove such notes and memoranda. In all other respects such notes and memoranda shall remain PROTECTED SECURITY MATERIALS and subject to the provisions hereof. PROTECTED SECURITY MATERIALS shall be used only to assist

TPUC staff or any other party to prepare for and to try this proceeding and shall not be used for any other purpose in this or any other jurisdiction.

22. Except as provided in this Order, the contents of PROTECTED SECURITY MATERIALS to which the TPUC staff or other party is given access, and any notes, memoranda, or any form or information or opinions regarding or derived from the PROTECTED SECURITY MATERIALS shall not be disclosed to anyone other than an authorized representative in accordance with the Order, except that an authorized representative may disclose his or her conclusions or findings solely within, and for the purposes of, this proceeding and in accordance with this Order. PROTECTED SECURITY MATERIALS shall not otherwise be published, disclosed or divulged except as expressly provided herein. The TPUC Directors, TPUC staff and any other party shall treat all notes memoranda or opinions regarding or derived from the PROTECTED SECURITY MATERIALS as confidential and shall keep them in a secure location with access limited to an authorized representative, and the contents of PROTECTED SECURITY MATERIALS and any information derived from them shall be considered highly confidential, and shall not be deemed public records. The TPUC staff, any party, Hearing Officer, or the TPUC Directors may discuss any position or conclusion regarding security expenditures and testimony in briefs, orders, pleadings, or hearings in this proceeding without disclosing protected information to the public in accordance with this Order.

23. The Attorney General and his staff have authority to enter into Nondisclosure Agreements pursuant to Tenn. Code Ann. § 65-4-118 which are consistent with state and federal law, regulations and rules.

24. The Attorney General and his staff agree to keep CONFIDENTIAL INFORMATION in a secure place and will not permit them to be seen by any person who is not

an employee of the State of Tennessee, the Office of Attorney General and Reporter, or a person who has not signed a Nondisclosure Agreement.

25. The Attorney General and his staff may make copies of CONFIDENTIAL INFORMATION or any portion thereof. To the extent permitted by state and federal law, regulations and rules, all notes utilizing supporting information shall be subject to the terms of this Order to the extent factual assertions are derived from the supporting information.

26. To the extent permitted by state law, the Attorney General will provide timely notice of filing or disclosure in the discharge of the duties of the Office of the Attorney General and Reporter, pursuant to Tenn. Code Ann. § 10-7-504(a)(5)(C) or any other law, regulation or rule, so that the Company may take action relating to disclosure.

27. CONFIDENTIAL INFORMATION is subject to this Protective Order, which is entered pursuant to the Tennessee Rules of Civil Procedure. If any person or entity subject to this Protective Order receives a request or subpoena seeking the disclosure or production of information labeled as “CONFIDENTIAL INFORMATION” by a party, such person or entity shall give prompt written notice to the TPUC Hearing Officer and the party within not more than five (5) days of receiving such a request, subpoena or order and: (i) shall respond to the request, subpoena or order, in writing, stating that the CONFIDENTIAL INFORMATION is protected pursuant to this Protective Order; and (ii) shall not disclose or produce such CONFIDENTIAL INFORMATION unless and until subsequently ordered to do so by a court of competent jurisdiction. This Protective Order shall operate as an exception to the Tennessee Public Records Act, as set forth in the language of Tenn. Code Ann. § 10-7- 503(a) “. . . unless otherwise provided by state law.” (See, e.g., Ballard v. Herzke, 924 S.W.2d 652 (Tenn. 1996); Arnold v. City of Chattanooga, 19 S.W.3d 779 (Tenn. Ct. App. 1999) (holding that “state law” includes the

Tennessee Rules of Civil Procedure)). Because this Protective Order is issued pursuant to the Tennessee Rules of Civil Procedure, this Order creates an exception to any obligations of the Attorney General, including attorneys and members of theirs, as to the Public Records Act and other open records statutes as to CONFIDENTIAL INFORMATION. In the event that any court of competent jurisdiction determines in the course of a lawsuit brought as a result of a person's or entity's fulfillment of the obligations contained in this paragraph that information designated as "CONFIDENTIAL INFORMATION" by a party is not CONFIDENTIAL INFORMATION as defined in paragraph 1 of this Protective Order, then the party designating the information as "CONFIDENTIAL INFORMATION" shall be responsible for all costs associated with or assessed in the lawsuit. This Protective Order acknowledges the role and responsibilities of the Attorney General and the Attorney General's staff, as set forth in Title 8, Chapter 6 of the Tennessee Statutes, beyond the duties associated with the Consumer Advocate and Protection Division, as prescribed in Tenn. Code Ann. § 65-4-118. This Protective Order is not intended to conflict with the Attorney General's role and responsibilities, especially the investigative functions, as set forth in Title 8, Chapter 6. For there to be compliance with this Protective Order, any CONFIDENTIAL INFORMATION shared outside of the Consumer Advocate and Protection Division must be provided the full and complete protection afforded other confidential or protected information in the control and custody of the Attorney General.

28. The designation of any information, documents or things in accordance with this Order as constituting or containing confidential or proprietary information the Attorney General's, or their respective staff's, treatment of such material as confidential or proprietary in compliance with this Order is not an admission or agreement by the Attorney General, or their respective staff, that the material constitutes or contains confidential commercial information or

trade secret information and shall not be deemed to be either a waiver of the right to challenge such designation or an acceptance of such designation. The Company agrees to designate information, documents or things provided to the Attorney General as confidential commercial information or trade secret if it has a good faith basis for the claim. The Company will upon request of the Attorney General, or their respective staff, provide a written explanation of the details, including statutory authority, that support its confidential commercial information or trade secret claim within five (5) days of a written request. The Company also specifically agrees that it will not designate any documents as CONFIDENTIAL INFORMATION or label such documents as “CONFIDENTIAL” if the documents:

- (a) have been distributed to the public, consumers or others, provided that proprietary customer information provided by the Company to its customers or their marketers may be designated as CONFIDENTIAL INFORMATION; or
- (b) are not maintained by the Company as confidential commercial information or trade secrets or are not maintained by the Company as proprietary customer information.

29. Nothing in this Order shall prevent the Attorney General from using the CONFIDENTIAL INFORMATION received for investigative purposes in the discharge of the duties of the Office of the Attorney General and Reporter. Additionally, nothing in this Order shall prevent the Attorney General from informing state officials and third parties of the fact of an investigation, as needed, to conduct the investigation. Without limiting the scope of this paragraph, nothing in this Order shall prevent the Attorney General from contacting consumers whose names were provided by the Company or from discussing with any consumer any

materials that he or she allegedly received from the Company or confirming that a consumer actually received the materials, to the extent that the Attorney General or his staff does so in a manner that complies with the provisions of this Order.

30. The terms of the foregoing paragraphs 23 through 29 do not apply to PROTECTED SECURITY MATERIALS as set forth in paragraphs 20-22 of this Order. PROTECTED SECURITY MATERIALS shall be treated in accordance with paragraphs 20-22.

31. All information, documents and things designated as CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS and produced in accordance with this Order may be disclosed in testimony or offered into evidence at any TPUC or court hearing, trial, motion or proceeding of this matter, subject to the provisions of this Order, including paragraph 9, and the applicable Rules of Evidence. The party who produced the information, documents and things designated as CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS agrees to stipulate to the authentication of such information, documents and things in any such proceeding.

32. Nothing in this Order is intended to restrict or alter federal or state laws, regulations or rules.

33. Any person who has signed a Nondisclosure Statement or is otherwise bound by the terms of this Order shall continue to be bound by this Order and/or Nondisclosure Statement even if no longer employed or engaged by the TPUC or Intervenors.

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

**JOINT PETITION OF TENNESSEE-)
AMERICAN WATER COMPANY AND)
WALKER COUNTY WATER AND)
SEWERAGE AUTHORITY FOR)
APPROVAL OF A SPECIAL CONTRACT)**

DOCKET NO. 22-_____

NONDISCLOSURE STATEMENT

I have reviewed the Protective Order entered in the above-captioned matter and agree to abide and be bound by its terms. I understand that unauthorized disclosure of information or documents labeled "CONFIDENTIAL" or "PROTECTED SECURITY MATERIALS" will be a violation of the Protective Order.

DATE

NAME

STATE OF _____)

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public,
_____, with whom I am personally acquainted, who
acknowledged that he/she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, 2022.

NOTARY PUBLIC

My Commission Expires:_____

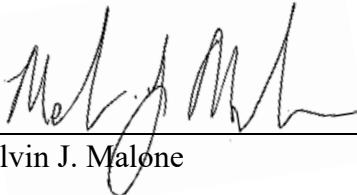
CERTIFICATE OF SERVICE

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

Vance L. Broemel, Esq.
Senior Assistant Attorney General
Office of the Tennessee Attorney General
Financial Division, Consumer Advocate Unit
P.O. Box 20207
Nashville, TN 37202-0207
Vance.Broemel@ag.tn.gov

Karen H. Stachowski, Esq.
Senior Assistant Attorney General
Office of the Tennessee Attorney General
Financial Division, Consumer Advocate Unit
P.O. Box 20207
Nashville, TN 37202-0207
Karen.Stachowski@ag.tn.gov

This the 13th day of June 2022.



Melvin J. Malone