

October 18, 2022

**VIA ELECTRONIC FILING**

Hon. Herb Hilliard, 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)

Electronically Filed in TPUC Docket  
Room on October 18, 2022 at 1:10 p.m.

**RE: *In Re: Petition of Tennessee-American Water Company Regarding the 2022 Investment and Related Expenses Under the Qualified Infrastructure Investment Program Rider, the Economic Development Investment Rider and the Safety and Environmental Compliance Rider, TPUC Docket No. 22-00072***

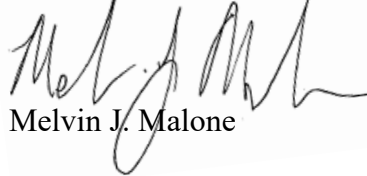
Dear Chairman Hilliard:

Attached for filing please find the *Pre-Filed Rebuttal Testimony of Robert C. Lane* in the above-captioned matter.

As required, the original plus four (4) hard copies 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

Attachments

cc: Bob Lane, TAWC  
Karen H. Stachowski, Consumer Advocate Unit  
Vance Broemel, Consumer Advocate Unit

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

|                                       |   |                            |
|---------------------------------------|---|----------------------------|
| <b>IN RE:</b>                         | ) |                            |
|                                       | ) |                            |
| <b>PETITION OF TENNESSEE-AMERICAN</b> | ) |                            |
| <b>WATER COMPANY REGARDING THE</b>    | ) |                            |
| <b>2022 INVESTMENTS AND RELATED</b>   | ) |                            |
| <b>EXPENSES UNDER THE QUALIFIED</b>   | ) |                            |
| <b>INFRASTRUCTURE INVESTMENT</b>      | ) | <b>DOCKET NO. 22-00072</b> |
| <b>PROGRAM RIDER, THE ECONOMIC</b>    | ) |                            |
| <b>DEVELOPMENT INVESTMENT RIDER</b>   | ) |                            |
| <b>AND THE SAFETY AND</b>             | ) |                            |
| <b>ENVIRONMENTAL COMPLIANCE</b>       | ) |                            |
| <b>RIDER</b>                          | ) |                            |

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**PRE-FILED REBUTTAL TESTIMONY OF ROBERT C. LANE**

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1   **Q.     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.    My name is Robert (Bob) C. Lane, and my business address is 109 Wiehl Street,  
3         Chattanooga, Tennessee 37403.

4   **Q.     BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5   A.    I am employed by American Water Works Service Company (“Service Company”).  
6         Service Company is a wholly owned subsidiary of American Water Works Company, Inc.  
7         (“American Water”) that provides services to Tennessee-American Water Company  
8         (“TAWC” or “Company”) and its affiliates. My current role is Sr. Manager, Rates and  
9         Regulatory for Tennessee and Kentucky.

10  **Q.     HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE**  
11  **TENNESSEE PUBLIC UTILITY COMMISSION?**

12  A.    Yes, I submitted testimony in TPUC Docket No. 22-00021, and I have adopted the Pre-  
13         filed Direct Testimony of TAWC Witness Tricia Sinopole in this case.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

15 A. The purpose of my rebuttal testimony is to respond to and address the Pre-filed Testimony  
16 of Consumer Advocate Unit Witness David N. Dittemoore.

17 **Q. CAN YOU PROVIDE AN OVERVIEW OF THIS CASE AS IT STANDS NOW?**

18 A. Yes. As set forth in the Petition, TAWC is requesting an annual increase in its Capital  
19 Recovery Riders (“CRR” or “CRRs”) of \$2,830,573, representing a total surcharge  
20 percentage of 36.1%, This represents a 6.01 percentage point increase in the current  
21 surcharge. Mr. Dittemoore, on behalf of the Consumer Advocate Unit (“Consumer  
22 Advocate” or “CAU”), has recommended an increase of \$2,781,703,<sup>1</sup> which is \$48,870  
23 below what the Company initially requested.

24 **Q CAN YOU DESCRIBE OR EXPLAIN THE CAUSE OF THE DIFFERENCE IN**  
25 **THE ANNUAL REVENUE INCREASE BETWEEN WHAT THE COMPANY IS**  
26 **REQUESTING AND WHAT MR. DITTEMOORE IS PROPOSING?**

27 A. Yes. The Company applied the Modified Accelerated Cost Recovery System (MACRS)  
28 half-year convention for all its assets placed in service during 2022. The MACRS half year  
29 convention allows taxpayers, like TAWC to assume that the property acquired within a tax  
30 year went into service in July rather than calculating tax depreciation monthly avoiding the  
31 time consuming and difficult process of calculating tax depreciation month by month  
32 through-out the year for each asset based on exactly when that asset was placed in service.

33 The Company also uses a proration factor to adjust ADIT because rates went into  
34 effect before the end of the applicable rate year. Mr. Dittemoore disagrees with this

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<sup>1</sup>*Pre-Filed Testimony of Consumer Advocate Unit Witness David N. Dittemoore*, p. 5, TPUC Docket No. 22-00072 (Sept. 19, 2022).

methodology.<sup>2</sup> Mr. Dittemoore in his calculation of ADIT removes the proration adjustment made by the company arguing they are duplicative.

**Q. MR. DITTEMOORE CONTENDS THAT “THE COMPANY HAS PRO-RATED ITS 2022 TAX DEPRECIATION TWICE, THUS UNDERSTATING TAX DEPRECIATION ON QUALIFYING ASSETS INSTALLED IN 2022 AND RESULTING IN AN UNDERSTATED ADIT BALANCE INCLUDED WITH THE COMPANY’S 2022 FORECASTED RATE BASE.” DO YOU AGREE?**

A. As I will explain further below, no I do not agree

**Q. DOES MR. DITTEMOORE OBJECT TO THE USE OF THE MACRS CONVENTION BY TAWC?**

A. No, he does not object to the use of the MACRS convention and describes how this is an accepted approach to calculating tax depreciation by the IRS.<sup>3</sup>

**Q. WHAT IS THE EFFECT OF THE DEPRECIATION EXPENSE FOR TAX PURPOSES ALLOWED USING MACRS AND THE DEPRECIATION EXPENSE USED FOR RATEMAKING PURPOSES?**

A. The difference between tax depreciation, using MACRS and book depreciation for ratemaking purposes results in a change in the ADIT balances. It is the ADIT that must be prorated when rates are effective before the end of the applicable rate year. The proration step is separate and unrelated to correctly using the MACRS convention to determine the depreciation expense used for tax purposes

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<sup>2</sup> *Id.* at 5-7.

<sup>3</sup> *Id.* at 7.

55 **Q. DO YOU AGREE WITH MR. DITTEMOORE THAT IT IS APPROPRIATE TO**  
56 **REDUCE THE ADIT BALANCE BY \$599,798 BY REMOVING THE**  
57 **“PRORATION ADJUSTMENT?”**

58 A. No I do not. The MACRS convention is used to calculate the Tax depreciation. This is  
59 only the first step in determining the adjustment needed to ADIT. Tax depreciation  
60 calculated using MACRS is different than the book depreciation used in ratemaking. The  
61 difference between tax and book depreciation, times the applicable tax rate, is what is  
62 accounted for in ADIT. The Company is then required by the IRS to prorate the  
63 incremental deferred income tax and adjust ADIT balances. It is at this point when  
64 proration is used in accordance with IRS rules when rates are implemented at the beginning  
65 or during the applicable rate year, as is the case here.<sup>4</sup>

66 The Company appropriately utilized the proration adjustment for calculating the  
67 2022 Riders at issue in this case as required by the IRS as it has historically done so. To  
68 do what Mr. Dittemoore suggests would not be consistent with IRS rules.

69 **Q. YOU STATE THAT “TO DO WHAT MR. DITTEMOORE SUGGEST WOULD**  
70 **NOT BE CONSISTENT WITH IRS RULES.” WHAT IRS RULES ARE YOU**  
71 **REFERRING TO HERE?**

72 A. I am referring to Internal Revenue Code IRC §1.167(l)-1(h)(6); *Exclusions of*  
73 *normalization reserve from rate base*. Section ii of this rule provides in part  
74 “The pro rata portion of any increase to be credited or decrease to be  
75 charged during a future period (or the future portion of a part-historical  
76 and part-future period) shall be determined by multiplying any such

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<sup>4</sup> IRC §1.167(l)-1(h)(6)

increase or decrease by a fraction, the numerator of which is the number of days remaining in the period at the time such increase or decrease is to be accrued, and the denominator of which is the total number of days in the period (or future portion).”

As explained herein, this is what TAWC did in calculating the ADIT that is excluded from rate base in this Capital Recovery Rider petition. To remove this would be inconsistent with the provision stated above and inconsistent with IRC §1.167(l)-1(h)(6).

**Q. WHY IS IT NOT DUPLICATIVE TO USE THE MACRS CONVENTION TO CALCULATE THE TAX DEPRECIATION AND TO USE THE PRORATION METHOD FOR ADJUSTMENTS TO ADIT?**

A. As I pointed out above, they are used to make two different calculations. MACRS is used to determine depreciation recorded for tax purposes as allowed by the IRS. The proration adjustment is not used to calculate the tax depreciation, but rather to make the adjustments to ADIT when rates are implemented before the end of the rate year. The proration amount correctly adjusts the ADIT during the period rates are in effect.

**Q. COULD YOU PLEASE DESCRIBE THE PURPOSE OF THE PRORATION OF ADIT?**

A. The purpose of the proration is to spread, pro-rate, the incremental ADIT across the rate year. The incremental ADIT is the result of the difference between tax depreciation and book depreciation used in ratemaking times the applicable tax rate. This difference results in a change in ADIT. However, this change in ADIT occurs over the course of a year. When rates are in effect before the end of the rate year the IRS requires the use of proration to spread the ADIT across the year as spelled out by IRC §1.167(l)-1(h)(6).

100 **Q. WHAT IS THE IMPACT TO THE COMPANY OF REMOVING THE**  
101 **PRORATION ADJUSTMENT ON THE COMPANY.**

102 A. Removing the proration factor results in the company passing through to ratepayers the  
103 benefits of ADIT before those benefits are realized by the company. The proration  
104 adjustment better aligns the receipt of benefits by the customer to the realization of those  
105 benefits by the company.

106 **Q. IS THIS ISSUE OR CALCULATION DIFFERENT THAN THE ONE THAT**  
107 **AROSE IN THE CRR RECONCILIATION DOCKET NO. 22-00021? IF SO,**  
108 **PLEASE EXPLAIN.**

109 A. Yes. This is a different issue than the one that arose in the CCR reconciliation Docket No.  
110 22-00021. In that petition, since the company was already using the proration method, it  
111 was not necessary to also divide the prorated amount for 12 months by two.<sup>5</sup> In this petition  
112 (TPUC Docket No. 22-00072) TAWC did not divide the prorated amount by two consistent  
113 with what the Company agreed to in the 2021 Reconciliation Docket. In this position,  
114 CAU is challenging the use of the proration adjustment itself.<sup>6</sup>

115 **Q. SO, THE COMPANY'S POSITION HERE IS CONSISTENT WITH THE POSITION THE**  
116 **COMPANY ACCEPTED IN DOCKET NO. 22-00021?**

117 A. Yes.

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<sup>5</sup> *Pre-filed Rebuttal Testimony of Tricia Sinopole*, p. 7, TPUC Docket No. 22-00021, (June 21, 2022)

<sup>6</sup> *Pre-Filed Testimony of Consumer Advocate Unit Witness David N. Dittemoore*, p. 5, TPUC Docket No. 22-00072 (Sept. 19, 2022)

118   **Q.     WHAT DO YOU RECOMMEND IN REGARD TO THE PETITION?**

119   A.     I recommend that the Petition be approved for the adjustment in the 2022 Capital Rider as  
120           initially proposed

121   **Q.     DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

122   A.     Yes.

123   No further questions.



STATE OF Tennessee )  
 )  
COUNTY OF Hamilton )

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Robert C. Lane, being by me first duly sworn deposed and said that:

He is appearing as a witness on behalf of Tennessee-American Water Company before the Tennessee Public Utility Commission, and if present before the Commission and duly sworn, his testimony would be as set forth in his pre-filed testimony in this matter.



Robert C. Lane

Sworn to and subscribed before me  
this 18 day of October, 2022.

Kathryn Robinson  
Notary Public

My Commission Expires: 10/20/2024



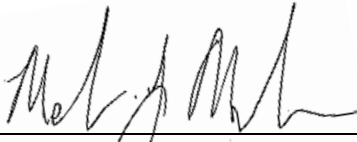
CERTIFICATE OF SERVICE

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  
Consumer Advocate Division  
P.O. Box 20207  
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Karen H. Stachowski, Esq.  
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This the 18<sup>th</sup> day of October 2022.



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Melvin J. Malone