BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 6, 2023

IN RE:	)	
	)	
PETITION OF TENNESSEE-AMERICAN WATER COMPANY IN SUPPORT OF THE CALCULATION OF THE 2023 CAPITAL RECOVERY RIDERS RECONCILIATION	))))	**DOCKET NO. 23-00018**

ORDER GRANTING *PETITION* AS AMENDED BY AGREEMENT OF THE PARTIES

This matter came before Vice Chair David F. Jones, Commissioner Robin L. Morrison, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner John Hie 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 14, 2023, to consider the *Petition in Support of the Calculation of the 2023 Capital Recovery Riders Reconciliation* ("*Petition*") filed on March 1, 2023, as modified by the *Supplemental Pre-Filed Testimony of Robert C. Lane* filed on July 21, 2023, by Tennessee-American Water Company ("TAWC," "Tennessee-American" or the "Company"). In summary, the *Petition* as modified and with the agreement of the Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") was approved.

BACKGROUND AND *PETITION*

TAWC filed and gained approval to implement a Qualified Infrastructure Investment Program ("QIIP") Rider; Economic Development Investment ("EDI") Rider; Safety and Environmental Compliance ("SEC") Rider (collectively "Investment Riders" or "Capital Riders"); and a Pass-Through Mechanism for Purchased Power, Chemicals, Purchased Water, and Wheeling Water in

TPUC Docket No. 13-00130.[1] In accordance with its tariff, TAWC is required to submit a reconciliation of the Capital Riders no later than March 1st of every year.

On March 1, 2023, the Company filed the *Petition*. On March 20, 2023, the Consumer Advocate filed a *Petition to Intervene*, which was granted by the Hearing Officer in an Order dated April 18, 2023. On March 28, 2023, the parties submitted a *Joint Proposed Procedural Schedule* and engaged in discovery pursuant to that schedule.

<u>POSITIONS OF THE PARTIES</u>

TAWC's *Petition*

In support of the *Petition*, Robert C. Lane filed pre-filed direct testimony for the reconciliation period of January 1, 2022, through December 31, 2022. Mr. Lane affirmed that the data used in the calculations and to prepare his exhibits was acquired from the books and records of TAWC and that previous adjustments ordered by the Commission had been incorporated into the filing, with any changes from previous methodologies identified in the *Petition* or supporting documentation.[2] Mr. Lane indicated that new services and new meters and alternative fuel vehicles were removed from the EDI Rider calculations. Also, workpapers were provided in a manner that does not use array formulas, and the Company removed carrying costs for capitalized Annual Performance Compensation.[3]

Mr. Lane testified that TAWC is requesting approval of a QIIP factor of 0.84%, an EDI factor of 0.55%, and an SEC factor of (1.42%), collectively (0.03%), resulting in a reduction in revenues of $9,694.[4] In a comparison of actual revenues collected under the rider mechanism in 2022 with the

---

[1] *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).
[2] Robert C. Lane, Pre-Filed Direct Testimony, pp. 2-4 (March 1, 2023).
[3] *Id.* at 10-12.
[4] *Id.* at 7.

projected revenue requirement utilized in Commission Docket No. 22-00072, Mr. Lane observed that there was an under-recovery of capital rider revenue in 2022 of $1,964,705.[5] According to Mr. Lane, the actual costs were $93,102 higher than what was projected in Docket No. 22-00072 in determining the 2022 Capital Riders. Revenues associated with the 2021 reconciliation adjustments were accounted for and produced an adjustment of $892,000 to reflect the 2021 reconciliation. With respect to the earnings test, TAWC's authorized Rate of Return ("ROR") is 7.23%, and the Company earned 7.58% in 2022 requiring an Earnings Test Adjustment of $1,175,140.[6]

Based upon the above calculations, Mr. Lane proposed a QIIP reconciliation amount of $297,467, an EDI rider reconciliation amount of $194,523, and a reduction of $501,684 for the SEC rider. This results in an overall reconciliation reduction of $9,694.[7] Mr. Lane testified the cost of capital, depreciation rates, and property tax rate utilized in calculating the Capital Riders is the one established and approved in the Company's immediate rate case in Commission Docket 12-00049.[8]

Mr. Lane testified that the Capital Riders provide benefits to both the Company and consumers. The EDI Rider encourages economic growth while the SEC Rider provides transparency to consumers. Additionally, the Capital Riders provide the Company with the opportunity to timely recover costs and earn a fair rate of return.[9] According to Mr. Lane, the Company's *Petition* complies with the Capital Rider tariff and the Commission's findings in previous Capital Rider dockets.[10] Mr. Lane testified that while TAWC has not provided invoices for all of the capital expenditures included in the capital recovery riders, the Company has provided detailed general ledger information for all transactions on all projects in the workpapers and summarized the type of expenses for each rider.[11]

---

[5] *Id.* at 8.
[6] *Id.* at 8-9.
[7] *Id.* at 7-9.
[8] *Id.* at 19-20.
[9] *Id.* at 12-14.
[10] *Id.* at 24-25.
[11] *Id.* at 26.

In closing, Mr. Lane opined the QIIP, EDI and SEC Riders remain in the public interest and continue to benefit both TAWC and its customers.

Mr. Grady Stout, P.E., submitted testimony in support of TAWC's capital investment plan, the oversight for expenditures, changes to the plan, and the level of expenditures for 2022 and variances from the projected amounts.[12] Mr. Stout provided an overview of the Company's planning process, asserting that planning needs are addressed in both the short-term for a year and longer term for up to five years. The projects are prioritized using objective criteria based on the need and risk of the project. TAWC's Engineering Department develops a proposed capital budget which is shared with Supervisors, Managers, TAWC President and Vice President of Operations for their review and approval. This budget is also shared with the Service Company for input on the reasonableness of projects and their forecasted costs.[13]

According to Mr. Stout, the Capital Investment Plan is continually monitored during the year by a regional Capital Program Management Committee ("CPMC") to ensure the plan is meeting the goals and strategic intent of the business. This CPMC also reviews variances and makes suggestions to bring the expenditures back in line with the budget. In the event changes in the budget become necessary, the CPMC reappropriates money to offset the changes in capital needs. Mr. Stout testified there is a Functional Review Meeting ("FRM") Committee that meets monthly to review spending and approve projects. Both of these committees provide a continuous review of capital expenditures and reallocation of capital as needed.[14]

Mr. Stout testified that the CPMC and FRM oversee the progress of projects and ensure these projects are meeting the business needs of the Company.[15] The process includes a comprehensive

---

[12] Grady Stout P.E., Pre-Filed Direct Testimony, p. 2 (March 1, 2023).
[13] *Id.* at 3.
[14] *Id.* at 4-5.
[15] *Id.* at 6.

review to ensure TAWC provides safe, adequate, and reliable service to its customers. According to Mr. Stout, TAWC uses engineering standards and practices that provide adequate capacity and appropriate levels of reliability to satisfy the needs of TAWC's customers.[16] Mr. Stout provided the following amounts related to budgeted and actual expenditures for each rider:

	2022 Budget	2022 Actual	Over (Under) Budget
QIIP	$ 13,078,106	$ 13,549,953	$ 471,847[17]
EDI	743,210	758,996	15,786[18]
SEC	6,603,801	5,290,334	(1,313,316)[19]
Total	$ 20,425,117	$ 19,599,434	$ 825,683[20]

Mr. Stout indicated the underspend in the SEC rider was primarily due to the Whitwell Raw Water Intake Improvement Project. This project has two components: 1) an intake structural improvement which was completed and put in service in 2022; and 2) a pumping and electric improvement project that was moved to 2023.[21] In totality, Mr. Stout concluded that the Company was able to effectively manage Capital Recovery Rider spend.

Consumer Advocate's Direct Testimony

On behalf of the Consumer Advocate, Mr. David Dittemore provided his assessment of the *Petition*. The Consumer Advocate recommended a QIIP surcharge reduction of 0.32%, EDI surcharge of .45%, and an SEC reduction of 1.90% for a total reduction in the surcharge of 1.77%. According to Mr. Dittemore this is a $596,577 greater reduction than the Company's revised reconciliation amount.[22]

The Consumer Advocate proposed four adjustments to the Earnings Test Calculation. Mr. Dittemore testified that the first adjustment reduces Rate Base by $1,093,109 in order to eliminate the

---

[16] *Id.* at 7.
[17] *Id.* at 8.
[18] *Id.*
[19] *Id.*
[20] *Id.* at 7.
[21] *Id.* at 7-9.
[22] David N. Dittemore, Pre-Filed Direct Testimony, pp. 3-4 (May 26, 2023).

amount for Materials and Supplies requested by TAWC in excess of what was included in Rate Base in its most recent rate case in Commission Docket No. 12-00049. According to Mr. Dittemore, the adjustment is necessary because Materials and Supplies is one component of overall Working Capital, and the Company is singling out its 2022 balance of Materials and Supplies for unique treatment. Mr. Dittemore indicated he supported an update of TAWC's Working Capital Balance in its next filing if it includes all components of Working Capital, including its lead-lag study.[23]

Based upon information provided by the Company in its Production Costs and Other Pass-Throughs Rider ("PCOP") filing covering the twelve months ending November 30, 2022, the unaccounted-for water loss percentage was 26%. Mr. Dittemore's second adjustment eliminates $497,024 of purchased power and chemical costs associated with the water loss over 15% of sales volume.[24]

Mr. Dittemore's third adjustment combined three corrections identified by the Company in its response to the Consumer Advocate's discovery requests, for a total adjustment of $17,126. Based upon the Company's indication that it had relied upon 2021 data rather than 2022 data for adjusting Accumulated Deferred Income Tax ("ADIT") balances for excluded operating expense items, he increased the earnings test excess by $729. Next, consistent with Commission Docket No. 12-00049, Mr. Dittemore eliminated the revenue requirement impact from the capitalized Annual Performance Plan ("APP") resulting in an increase in the revenue requirement to an excess of $5,454. This also necessitated an adjustment to the APP portion of the reconciliation rider of $10,933, as explained by the Company during discovery in DR No. 1-23.[25]

Mr. Dittemore's fourth adjustment was based upon the actual authorized ROR of 7.2345% rather than the mathematically truncated ROR of 7.23% which reduces the excess earnings calculation

---

[23] *Id.* at 5-9.
[24] *Id.* at 9-12.
[25] *Id.* at 12-13.

by $15,021.[26] Mr. Dittemore also proposed an interest component which applies to the adjustments. The interest component of the Capital Rider reconciliation applies one-half of a year's interest to the total reconciliation amount at the annual rate of 7.75%. The interest applied to the adjusted reconciliation amount supported by the Consumer Advocate is $23,280, which is $22,219 more than contained in the Company's original reconciliation amount.[27]

Mr. Dittemore recommended expanding the reporting requirements in future Capital Rider filings. Because main breaks result in significant expenditures of capital to repair or replace, Mr. Dittemore reasoned the reporting was necessary in order to determine the extent and impact of main breaks on the Company's operations. Mr. Dittemore's concern is due to the cost of the 235 main breaks the Company identified in discovery. Additionally, Mr. Dittemore is concerned the short length of the replacement does nothing to extend the life of the surrounding pipe and does not reduce future costs when the adjacent pipe is replaced. Mr. Dittemore recommended the Company provide the number of main breaks classified as repairs and the number classified as replacements that occurred during the review period and the year-end main mileage in service split by material type and vintage categories with the amount spent on repairing and replacing main breaks with amounts spent on each.[28]

TAWC's Rebuttal Testimony

In response to the adjustments proposed by the Consumer Advocate, the Company submitted the pre-filed rebuttal testimony of Mr. Lane. The Company agreed to the Consumer Advocate's adjustment to reduce the level of materials and supplies by $1,093,109.[29] The Company committed to update all of the components of Working Capital, including its lead lag study. According to Mr.

[26] *Id*. at 13.
[27] *Id*.
[28] *Id*. at 14-17.
[29] Robert C. Lane, Pre-Filed Rebuttal Testimony, p. 3 (June 13, 2023).

Lane, it is not cost efficient to develop a new lead lag study in a Capital Rider filing. As such, the Company stated it would utilize the lead lag study from its most recent rate case.[30]

Mr. Lane disagreed with the Consumer Advocate's second adjustment removing $497,024 from actual expenses. Mr. Dittemore calculated the proposed adjustment amount by comparing the system delivered volumes to the sales volumes arriving at a 26% non-revenue water which exceeds the 15% allowed for unaccounted water loss. Mr. Lane testified that 26% is consistent with the Company's non-revenue water calculation presented in its most recent PCOP Rider filing, which was 25.9%, and then clarifies non-revenue water is not synonymous with lost water or unaccounted water.[31] Non-revenue water includes water used for firefighting, flushing pipes, flow tests used by developers, hydraulic modeling, fire hydrant testing and water that is metered and used by customers but not billed. [32]

Additionally, Mr. Lane claimed that removing some water production costs from expenses in the earnings test results in a double counting of an excess water loss adjustment and undermines the purpose of the earnings test by excluding actual expenses incurred by the Company from its expenses used to calculate the utility's earnings. This occurs because TAWC's base rates already exclude costs associated with unaccounted for water in excess of 15%. Further, $497,024 was removed in the PCOP rider mechanism. Therefore, Mr. Lane attested removing those same costs in the earnings test in this proceeding would result in these costs being returned to customers despite the costs not being in rates.[33]

Mr. Lane stated the Company agrees with the Consumer Advocate's third adjustment of $17,126 which corrects three errors identified by TAWC in response to discovery.[34] However,

[30] *Id.* at 3-4.
[31] *Id.* at 4-6.
[32] *Id.* at 5.
[33] *Id.* at 6-7 (June 13, 2023).
[34] Robert C. Lane, Pre-Filed Rebuttal Testimony, pp. 8-9 (June 13, 2023).

TAWC disagreed with the Consumer Advocate's recommendation to use an authorized ROR of 7.2345%, rather than the 7.23% authorized by the Commission in the Company's last rate case. Mr. Lane testified that the settlement agreement in the Company's last rate case established an ROR of 7.23% which the parties knew was rounding the ROR to two decimal places, and it is not appropriate in this instance to reinterpret what the settling parties intended and what the Commission approved over eleven years ago.[35] Mr. Lane did agree to the Consumer Advocate's recommendation to file additional information regarding main break repair and replacement.[36]

In summary, with the adjustments agreed to by the Company, Mr. Lane testified the QIIP rider should be a surcharge of 0.60%, the SEC rider should be a surcharge 0.53%, and the EDI rider should be a reduction of 1.52% for a composite reduction of 0.39%.

SUPPLEMENTAL TESTIMONY OF THE COMPANY AND RESOLUTION OF DISPUTED ISSUES

On July 21, 2023, TAWC submitted supplemental testimony by Mr. Lane that indicated the Consumer Advocate and TAWC had reached a negotiated settlement resolving the remaining issues. Mr. Lane provided an overview of the negotiated settlement. Using the books and records of the Company, Mr. Lane presented a QIIP reduction of 0.16%, an EDI surcharge of 0.90% and an SEC reduction of 3.52% for a composite reduction of 2.78%.[37] Mr. Lane testified that the parties settled on an overall reconciliation amount of a reduction of $500,000. The agreed upon adjustment was calculated to flow through $500,000 to customers during the 139 remaining days of the year beginning on August 14, 2023.[38]

The Consumer Advocate and the Company jointly represented in a letter on July 21, 2023, that there were no longer any contested issues remaining in the docket.[39]

---

[35] *Id.* at 9-10.
[36] *Id.* at 10.
[37] Robert C. Lane, Pre-Filed Supplemental Testimony, pp. 1-3 (July 21, 2023).
[38] *Id.* at pp. 3-4.
[39] *Joint Letter to Chairman Herbert H. Hilliard* (July 21, 2023).

THE HEARING

The hearing in this matter was noticed by the Commission on August 3, 2023, and held during the regularly scheduled Commission Conference on August 14, 2023. Making appearances were the following:

> Tennessee-American Water Company – Melvin J. Malone, Esq., Butler Snow LLP, 150 3rd Avenue South, Suite 1600, Nashville, Tennessee 37201.
>
> Consumer Advocate Division – Victoria Glover, Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015.

Mr. Robert C. Lane provided testimony telephonically on behalf of the Company in support of the of adjustments to the *Petition*. Mr. David Dittemore was present on behalf of the Consumer Advocate to answer questions of the Commissioners. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

STANDARD FOR COMMISSION APPROVAL

Tenn. Code Ann. § 65-5-103(d)(5) states:

> (A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both related to other programs that are in the public interest.
>
> (B) A utility may request and the commission may authorize a mechanism to allow for and permit a more timely adjustment of rates resulting from changes in essential, nondiscretionary expenses, such as fuel and power and chemical expenses.
>
> (C) Upon a finding that such programs are in the public interest, the commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in other programs, including the rate of return approved by the commission at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a).

FINDINGS AND CONCLUSIONS

Based on the evidentiary record, the hearing panel found the overall terms, rates and conditions of the Supplemental Testimony submitted by Tennessee-American witness Robert C. Lane on July 21, 2023, to be reasonable and should be approved. Specifically, the panel voted unanimously to approve a 2022 Capital Rider reconciliation reduction in the existing capital rider of 2.78%, consisting of a 0.16% reduction for the Qualified Infrastructure Investment Program Rider, a 0.90% increase for the Economic Development Investment Rider, and a 3.52% reduction for the Safety and Environmental Compliance Rider.

The panel further required Tennessee-American to provide additional information relating to main break repair and replacement in the Capital Rider filing as recommended by the Consumer Advocate. Finally, the panel found that these three programs continue to benefit both consumers and Tennessee-American. The programs allow the utility timely recovery of investment related expenses to ensure safe and reliable drinking water and the promotion of economic development, while also benefitting consumers through reduced rate case and legal expenses which might otherwise result absent these rider mechanisms.

IT IS THEREFORE ORDERED THAT:

1. The *Petition in Support of the Calculation of the 2023 Capital Recovery Riders Reconciliation* filed on March 1, 2023, by Tennessee-American Water Company and amended by the *Supplemental Testimony of Robert C. Lane* filed on July 21, 2023, is APPROVED.

2. The Capital Rider surcharges are adopted as follows:

- A Qualified Infrastructure Investment Rider surcharge of -0.16%;
- An Economic Development Investment Rider surcharge of 0.90%; and
- A Safety and Environmental Compliance Rider surcharge of -3.52%.

3. Tennessee-American Water Company shall file additional information relating to main break repair and replacement in future Capital Rider filings as recommended in this docket by the Consumer Advocate Division of the Office of the Tennessee Attorney General.

4. 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.

5. 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:

Vice Chairman David F. Jones,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good,
Commissioner Kenneth C. Hill, and
Commissioner John Hie concurring.

None dissenting.

ATTEST:

Earl Taylor abh

____
Earl R. Taylor, Executive Director