IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:	)	
	)	
TENNESSEE WATER SERVICE, INC.	)	
PETITION TO ADOPT ANNUAL REVIEW	)	**Docket No. 23-00046**
MECHANISM AND TARIFF PURSUANT	)	
TO TENN. CODE ANN. § 65-5-103(d)(6)	)	
	)	

TESTIMONY OF

DAVID N. DITTEMORE

August 25, 2023

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I. WORK EXPERIENCE

Q1. PLEASE STATE YOUR NAME AND OCCUPATION FOR THE RECORD.

A1. My name is David N. Dittemore. I am a self-employed consultant working in the utility regulatory sector.

Q2. PLEASE PROVIDE A SUMMARY OF YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE.

A2. I received a Bachelor of Science Degree in Business Administration from the University of Central Missouri in 1982. I am a Certified Public Accountant licensed in Oklahoma (#7562). I was previously employed by the Kansas Corporation Commission ("KCC") in various capacities, including Managing Auditor, Chief Auditor, and Director of the Utilities Division. I was self-employed as a Utility Regulatory Consultant for approximately four years, representing primarily the KCC Staff in regulatory issues. I also participated in proceedings in Georgia and Vermont, evaluating issues involving electricity and telecommunications regulatory matters.

Additionally, during this time frame, I performed a consulting engagement for Kansas Gas Service ("KGS"), my subsequent employer. For eleven years, I served as Manager and subsequently Director of Regulatory Affairs for KGS, Kansas's largest natural gas utility, serving approximately 625,000 customers. KGS is a division of One Gas, a natural gas utility serving about two million customers in Kansas, Oklahoma, and Texas. I joined the Tennessee Attorney General's Office in September 2017 as a Financial Analyst. In July 2021, I began my consulting practice.

I am a past Board Member of the Financial Research Institute (University of Missouri). I have also been a member of the NARUC Subcommittee on Accounting, the Vice-Chair of the Accounting Committee of the National Association of State of Utility Consumer Advocates ("NASUCA"), and an active participant in NASUCAs' Natural Gas and Water Committees.

Overall, I have thirty years of experience in public utility regulation. I have presented testimony as an expert witness on many occasions. Attached as Exhibit DND-1 is a detailed overview of my background.

Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION ("TPUC" OR THE "COMMISSION")?

A3. Yes. I have submitted testimony in many TPUC dockets.

Q4. ON WHOSE BEHALF ARE YOU APPEARING?

A4. I am appearing on behalf of the Consumer Advocate Division of the Tennessee Attorney General's Office ("Consumer Advocate").

II. PURPOSE OF TESTIMONY

Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A5. The purpose of my testimony is to address the request of Tennessee Water Service Inc ("TWS" or the "Company") to implement an Annual Review Mechanism ("ARM"). I will sponsor the position of the Consumer Advocate and offer an alternative recommendation if my primary recommendation is not adopted.

III. EXECUTIVE SUMMARY

Q6. WHAT IS YOUR RECOMMENDATION IN THIS PROCEEDING?

A6. I recommend the Commission reject the Company's ARM proposal. There are significant regulatory costs incurred in each ARM filing. These annual costs spread over the Company's tiny customer base will result in excessive and unnecessary costs. I will discuss the rationale for this recommendation in greater detail later in my testimony. I will also offer an alternative solution in the event the Commission believes another form of an ARM should be adopted. If an ARM mechanism is adopted in this proceeding, I recommend the Commission clarify that the provisions of such a mechanism are not transferrable to another utility. I also recommend that a Non-Revenue Water ("NRW") calculation of 15% be applied to the Historic Base Period ("HBP") and that the Company be required to eliminate any hard-coded calculations from its filing other than the insertion of Trial Balance data into the Company's workpapers.

IV. STATUTORY AUTHORITY

Q7. CAN YOU IDENTIFY THE STATUTE UNDER WHICH THE COMPANY SEEKS APPROVAL FOR AN ARM?

A7. The Company cites Tenn. Code Ann. § 65-5-103(d)(6) as the basis for its ARM proposal. The applicable statutory language is as follows:

> *(A) A public utility may opt to file for an annual review of its rates based upon the methodology adopted in its most recent rate case pursuant to §65-5-101 and subsection (a) if applicable. (B) In order for a public utility to be eligible to make an election to opt into an annual rate review, the public utility must have engaged in a general rate case pursuant to §65-5-101 and subsection (a) within the last five (5) years; provided, however, that the Commission may waive such requirement or increase the eligibility period upon a finding that doing such would be in the public interest.*

Q8. CAN YOU DISCUSS REASONABLENESS AND PUBLIC INTEREST WITH REGARD TO THIS ARM FILING AND THE STATUTE DESCRIBED ABOVE?

A8. Yes. Even if the Company is eligible for the ARM mechanism, the Commission must also find the mechanism to be "just and reasonable" and in the public interest.[1] Simply because a utility is qualified to enter into an ARM mechanism does not mandate that the Commission adopt that mechanism. I believe the Commission should focus on the reasonableness of the request given the small size of the Company. The actual future costs of ARM filings are unknown; however, it is entirely possible that the cost of the ARM may be greater than the underlying revenue deficiency required. Implementing such a yearly proceeding that may cost more to prepare and process than is sought in revenue deficiency requirement is not reasonable and thus not aligned with the public interest for consumers.

V. <u>COMPANY OVERVIEW</u>

Q9. PLEASE PROVIDE AN OVERVIEW OF THE COMPANY.

A9. TWS is owned by Corix Infrastructures, Inc., ("Corix"). Through discovery, it was determined that TWS had 408 customers out of a total affiliate customer count of 295,933. This customer total was derived from summing the customer counts provided in response to Consumer Advocate DR No. 1-17, attached as Exhibit DND-2. Thus, the ratio of TWS customers to total affiliate customers is .14%.

VI. <u>COMPANY ARM PROPOSAL</u>

Q10. PLEASE SUMMARIZE THE COMPANY'S PROPOSAL.

A10. The Company's ARM proposal is set forth in Exhibit 1, attached to the testimony of Mr. DeStefano. TWS will submit one annual filing on or before April 30, 2023. The Company's proposal incorporates an earnings review of the immediately preceding calendar period,

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[1] *See* § 65-5-103(a).

the HBP. The earnings in the HBP will be determined and compared with the Company's authorized rate of return, resulting in either an earnings deficiency or an earnings excess. The earnings deficiency or excess will be deferred, and rates will be modified accordingly in the subsequent ARM filing. In addition to the rate impact from the HBP review, rates will also be adjusted to reflect the results of the Attrition Period Rate Review ("APRR"). The calculation of the appropriate APRR revenue requirement adds a level of complexity to the ARM filing. For example, revenues will be annualized in the attrition period to reflect the annualized impact of the current tariff rates. As subsequent ARM filings are made, the tariff rates will become effective around September 1. Thus, the following HBP will include eight months of the previously effective rates and four months of the new rates. The attrition period revenue then looks forward and presents revenue as if the September 1 rates had been in effect the entire calendar year to accurately account for the impact of the rate increase granted in the prior ARM filing.

Q11. WHAT IS THE PRACTICAL IMPACT OF THIS TWO-PART ARM FILING INCORPORATING A HBP AND AN APRR CALCULATION?

A11. The practical impact is the HBP measures the actual financial results for the most recent historical period. The APRR represents a forecast of the subsequent years' results, added to the HBP deferral to arrive at the total revenue requirement. The APRR forecast is then trued up the following year within the measurement of HBP results. Essentially, results forecasted within the APRR represent estimated results that are subsequently reconciled in the HBP. This general process is similar to that used in other ARMs adopted by the Commission; however, establishing APRR costs for the Company is unique.

Q12. DOES THIS METHODOLOGY INCENTIVIZE THE COMPANY TO MINIMIZE ITS COSTS?

A12. No. As I discussed in the testimony submitted in TPUC Docket No. 21-00135,[2] companies operating under the current ARM mechanisms in Tennessee are not incentivized to manage costs. I am not asserting that Tennessee utilities have not managed costs; rather, I am asserting that through these mechanisms companies have no financial incentive to do so.

Q13. IS THE TWO-PART ARM PROPOSED BY THE COMPANY SIMILAR TO ONES PREVIOUSLY ADOPTED BY THE COMMISSION FOR THE THREE LARGE NATURAL GAS INVESTOR-OWNED UTILITIES?

A13. Yes. The Company's proposed ARM evaluates the reasonableness of earnings in the HBP, and also forecasts financial results in the APRR in a similar manner as the other Commission-approved ARMS.

Q14. CAN YOU DISTINGUISH WHY A SIMILAR ARM PROCEEDING MIGHT BE APPROPRIATE FOR THE PREVIOUS COMPANIES AND NOT APPROPRIATE FOR TWS?

A14. Yes. TWS has a very small customer base compared to the other large investor-owned utilities with existing, approved ARMs. The regulatory costs associated with an ARM must be spread over the 408 customers of the Company and therefore this is a distinguishing concern contrasted with the significant customer base of the three natural gas utilities with ARM mechanisms.

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[2] Direct Testimony of David N. Dittemore at 34:13-35-19., TPUC Docket No. 21-00135 (January 26, 2022).

Q15. DO YOU AGREE WITH THE COMPANY'S STATEMENT THAT "…WE HAVE ATTEMPTED TO SIMPLIFY AND STREAMLINE THE FILING PROCESS AS MUCH AS CAN BE REASONABLY SUPPORTED TO ENSURE AN EFFICIENT AND EFFECTIVE ARM."[3]

A15. I believe the Company has attempted to strike a balance between simplifying its proposed ARM process and, at the same time, generally following the methodologies outlined in its last rate case as prescribed in the ARM statute. However, under the Company's proposal, extensive discovery will be required in each ARM proceeding to ensure the mechanism is calculated properly, adjustments are accurate and properly documented, and that affiliate transactions incurred by the Company are reasonable and non-discriminatory.

Q16. IDENTIFY THE UNIQUE ASPECTS OF THE COMPANY'S PROPOSAL YOU REFERENCED ABOVE.

A16. For a number of costs,[4] the APRR is defined as the actual costs per customer for the past three years, multiplied by a Consumer Price Index ("CPI") – Water and Maintenance at the end of the HBP, compounded for twenty months to account for the period in which these costs will be recovered in rates, then multiplied by the forecasted attrition period customer count.

Q17. IS THE COMPANY'S PROPOSED METHODOLOGY FOR DETERMINING OPERATING EXPENSES IN THE ATTRITION PERIOD GENERALLY

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[3] Direct Testimony of Dante M. DeStefano at 5:13-15, TPUC Docket No. 23-00046 (June 20, 2023).

[4] Expenses included in this classification include the following: Purchased Power, Maintenance Testing, Transportation, Office Supplies, Benefits, Insurance, Maintenance and Repair, Chemicals, Office Utilities, outside Services, Rent, and Miscellaneous, Purchased Water and Bad Debt Expenses. *See* Exhibit 1, Item II(F).

CONSISTENT WITH THE COMPANY'S MOST RECENT RATE CASE ORDER IN TPUC DOCKET NO. 19-00028?

A17. Yes.

Q18. DO YOU BELIEVE THE FINDINGS BY THE COMMISSION IN THE LAST RATE PROCEEDING WERE AFFECTED BY THE LOSSES SUSTAINED BY THE UTILITY IN THE LAST PROCEEDING?

A18. Yes. I believe the findings of the Commission were in some measure related to the fact that the Company lost most of its customers due to extensive wildfire damage incurred in 2017. The results and methodologies adopted in the Company's last rate case were unusual and driven by that case's unique facts.

VII. <u>OBSERVATIONS ON THE COMPANY'S PROPOSAL</u>

Q19. CAN YOU IDENTIFY YOUR CONCERNS WITH THE COMPANY'S PROPOSAL?

A19. The Company's proposal places its customers at risk for the recovery of significant regulatory costs, which will be spread over a minuscule customer base. I'm defining regulatory costs as outside service costs, travel and any incremental internal labor costs charged to the Company's Tennessee operations. These regulatory costs likely will be a substantial portion of the overall expenses included in the ARM mechanism each year.

Q20. WHAT IS THE MOST RECENT CUSTOMER COUNT FOR TWS?

A20. The customer count of TWS as of May 31, 2023, is 408 customers, as identified in Exhibit DND-2.[5]

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[5] *See* Response to Consumer Advocate DR No. 1-17.

Q21. WHAT ARE THE ESTIMATED REGULATORY COSTS ASSOCIATED WITH THIS FILING?

A21. The Company has estimated $35,000 in legal and related filing costs in this case. This estimate is limited to estimated legal costs associated with this filing and understates the actual regulatory costs based upon the Company's response to Consumer Advocate DR No. 2-8. The Company has narrowly defined regulatory costs only to include those external costs associated with this or future ARM filings.[6] The Consumer Advocate has attempted to determine how the Company's internal costs associated with the ARM filing will be accounted for. From the response to Consumer Advocate DR No. 2-8, it appears that the internal costs incurred associated with the annual ARM filing would be charged to expense as well, resulting in additional costs to be incurred by the Company's ratepayers in addition to whatever annual legal costs are incurred.[7] The incremental internal labor costs charged to TWS have not been estimated or quantified by the Company. Therefore, it's possible that future ARM filing costs will exceed $35,000 annually when incremental internal labor costs are added to external legal costs.

Q22. IF TOTAL INTERNAL LABOR AND EXTERNAL LEGAL COSTS ASSOCIATED WITH ARM FILINGS WERE $35,000 ANNUALLY, IDENTIFY THE ANNUAL IMPACT ON THE AVERAGE TWS CUSTOMER.

A22. The average annual impact just from the regulatory costs associated with the ARM filing would be nearly $86 per year. I'm defining regulatory costs as the incremental costs related to the ARM filing, including internal labor costs and outside legal expenditures. The actual

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6 *See* Responses to Consumer Advocate DR Nos. 2-1 and 2-2, attached as Exhibit DND-3.
7 *See* Response to Consumer Advocate DR No. 2-8, attached as Exhibit DND-4.

costs could vary significantly from this $35,000 estimate. The $86 estimated annual increase is exclusively related to costs to make the ARM filing and does not cover any incremental costs to provide service.

Q23. IS THE COMPANY WILLING TO PLACE A CAP ON ITS ANNUAL REGULATORY COSTS ASSOCIATED WITH ITS ARM FILING?

A23. No. The Company indicated in response to Consumer Advocate DR No. 2-4 that such a cap was unnecessary and other utilities did not have a cap on recovery of regulatory costs.

Q24. IS THERE ANY PRECEDENT THAT YOU ARE AWARE OF WHEREBY THE COMMISSION REDUCED OR PLACED A CAP ON REGULATORY COST RECOVERY?

A24. No. I am aware of the Commission's decision in TPUC Docket No. 18-00017, which rejected the Consumer Advocate's adjustment to reduce the proposed recovery of $1.2 million of Chattanooga Gas Company's rate case expenses. It's reasonable then to assume that whatever regulatory costs are incurred by TWS annually would be spread over its current 408 customers. As such, the mere adoption of an ARM mechanism will result in a substantial increase in customer bills before consideration of any cost increases the Company may incur.

Q25. DOES THE COMPANY AGREE WITH YOUR PREMISE THAT ANNUAL ARM COSTS MAY BE AS HIGH (OR HIGHER) THAN $35,000?

A25. No. In response to Consumer Advocate DR No. 2-4, attached as Exhibit DND-5, the Company indicates that annual ARM filing costs should not be assumed to be at the $35,000 level. However, the Company has failed to count the incremental labor costs within its estimated incremental cost. Nonetheless, it argues that each filing would be relatively routine. The Company is not willing to commit to any cap on its incremental costs, leaving its current 408 ratepayers to bear the total cost of the ARM filing, regardless of the actual cost. The Company's ratepayers, not the Company, are at risk if the Company's assertion that rate case costs will likely be less than $35,000 annually are incorrect. Moreover, even if incremental costs are $25,000, this would still represent an annual cost per customer of $65 merely to make and support the filing.

Q26. HOW DO THE POTENTIAL RATE CASE COSTS ASSOCIATED WITH THIS AND SUBSEQUENT ARM FILINGS COMPARE WITH THE COMPANY'S ESTIMATED IMPACT FROM ITS INITIAL ARM FILING?

A26. The Company's hypothetical calculations of how the mechanism would work calculate an APRR of $23,466. I do not believe this amount includes any estimated regulatory costs. Nonetheless, the estimated regulatory costs of $35,000 are more than the $23,466 deficiency, suggesting that preparing and supporting the filing costs more than the actual revenue requirement deficiency.

Q27. WHAT ATTRIBUTES OF AN ARM FILING TEND TO INCREASE REGULATORY COSTS?

A27. Items that may increase regulatory review of a filing include hard-coded cell references within schedules that are otherwise not supported, errors within the schedules, volatility in monthly/yearly account activity that require investigation, affiliate transactions, corporate transactions, and the overall complexity of utility operations, among other factors. Some of these characteristics are present in the current application.

Q28. IF THE COMPANY DOES NOT RECEIVE APPROVAL TO IMPLEMENT AN ARM, COULD IT FILE A BASE RATE CASE?

A28. Theoretically, it could file a base rate case if the ARM request is denied. In response to Consumer Advocate DR No. 2-3, it provides data assuming it would file a base rate case every other year at a total cost of over $100,000. It concludes that the annual ARM proposal would be a less costly regulatory option.

Q29. DO YOU BELIEVE THE COMPANY WOULD FILE A RATE CASE EVERY OTHER YEAR IN THE ABSENCE OF AN APPROVED ARM IN THIS PROCEEDING AS THIS COMPANY WOULD HAVE THE COMMISSION BELIEVE?

A29. No, I do not.

Q30. IN YOUR PREVIOUS POSITION AS DIRECTOR OF REGULATORY AFFAIRS, WERE YOU RESPONSIBLE FOR DEVELOPING REGULATORY STRATEGY FOR A UTILITY?

A30. Yes.

Q31. BASED UPON YOUR EXPERIENCE AND EVIDENCE WITHIN THIS CASE, DO YOU BELIEVE THE ASSUMPTION THAT IN THE ABSENCE OF AN ARM THE COMPANY WOULD SEEK RATE RELIEF EVERY OTHER YEAR TO BE REASONABLE?

A31. No. Responding to Consumer Advocate DR No. 1-17, the Company identifies 22 jurisdictional utilities operating in eighteen states. As mentioned earlier, its Tennessee operations represent 0.14% of its total customer base. The response to Consumer Advocate

DR No. 2-12 indicates it has two regulatory employees assigned to 21 of the 22 utilities across 17 state jurisdictions. In my opinion, with such limited regulatory resources, the Company's regulatory focus will be on the thirteen utilities that have more than 5,000 customers. In other words, thirteen other utilities are ten times as large as TWS. The goal of a regulatory department is to maximize utility operating income. This objective requires a heightened focus on the larger Corix utilities, not TWS's 0.14% of the total customer base.

VIII. ALTERNATIVE PROPOSAL

Q32. ARE ARMS LIMITED TO THOSE DESCRIBED IN § 65-5-103(d)(6)?

A32. No. If the Commission believes it would be appropriate for the Company to have an ARM mechanism, the Consumer Advocate recommends an alternative to the traditional mechanism proposed by the Company. Other alternative ratemaking methods are permitted under § 65-5-103(d)(7). This section indicates that a utility may opt to file for other alternative regulatory methods. The statute indicates that this alternative to the other methods described in § 65-5-103(d) has the goal to streamline the regulatory process and reduce the cost and time associated with ratemaking processes.

Given the unique situation of TWS and the goal of § 65-5-103(d)(7), I recommend that the Company withdraw the current application under § 65-5-103(d)(6) and refile under § 65-5-103(d)(7).

Q33. DESCRIBE AN ARM METHODOLOGY THAT YOU COULD SUPPORT IF THE COMPANY WERE TO REFILE UNDER § 65-5-103(d)(7) GIVEN THE UNIQUE SET OF FACTS PRESENTED IN THIS DOCKET?

A33. Due to the limited customer base of the Company coupled with the expense of a traditional ARM, I would support the application of an annual CPI rate associated with water operations that would be applied to the existing rates of the Company on a yearly basis.

Q34. HOW WOULD THIS MECHANISM WORK?

A34. The annual change in the selected CPI rate would simply be applied to the existing base rates of the Company on a pro-rata basis.

Q35. WHAT ARE THE BENEFITS OF SUCH A SIMPLIFIED APPROACH?

A35. The most important benefit of such an approach is avoiding any regulatory costs. The costs associated with ensuring the reasonableness of a comprehensive ARM as proposed by the Company are virtually unlimited, and whatever those costs are will be spread over a tiny customer base. If this proposal is adopted, the Company will provide annual support for the CPI mechanism, one spreadsheet demonstrating the application of the CPI calculation on customer rates, and a red-lined tariff page incorporating the changes. The Staff of the Commission could quickly review the support and calculations and prepare a short recommendation for the Commission's consideration.

A secondary benefit is that this mechanism incentivizes the Company to control costs, a characteristic missing from the Company's current, traditional ARM proposal.

Q36. WILL THE MECHANISM YOU DESCRIBED PROVIDE A PRECISE CALCULATION OF THE COMPANY'S REVENUE REQUIREMENT?

A36. No. However, the expense of presenting, reviewing, and litigating such a filing is greater than the benefit to be derived from such a determination. Simply put, the cost of the review is greater than the resulting benefit.

If the Commission adopts this alternative proposal in a subsequent filing, it should be made clear that this simplified ARM calculation should be exclusively applied to the Company and is not transferrable to another utility in the event the Company sells its utility assets to another utility.

Q37. IF THIS MECHANISM IS APPROVED SHOULD THE COMPANY BE REQUIRED TO SUBMIT A FORMAL RATE INCREASE IN THE FUTURE TO RESET ITS RATES?

A37. Yes. Given the significant impact the costs of a rate case have on a utility, I recommend this mechanism be in place for a number of years. Nonetheless I believe the Company should be required to submit a traditional rate case filing in six years such that new rates would be effective seven years from initiation of this mechanism.

I also recommend the Company have the flexibility to submit a revenue-neutral rate design application to the Commission if it chooses.

IX. RECOMMENDATIONS IN THE EVENT THE COMMISSION ADOPTS A TRADITIONAL ARM MECHANISM

Q38. DO YOU HAVE RECOMMENDATIONS IF THE COMMISSION IS INCLINED TO ADOPT A TRADITIONAL ARM-TYPE CALCULATION?

A38. Yes. I have four recommendations for future ARM filings if the Commission adopts the Company's request to implement the current, traditional ARM calculation.

1. The Company should eliminate any hard-coded data within its calculations. All data used to quantify adjustments should be presented in the ARM template schedules and provide the necessary links for transparency within the adjustment calculations.
2. The Company proposes to implement a 20% threshold of water loss to apply to the attrition period recovery of Purchased Water, Chemicals and

Purchased Power expense. This calculation is referred to as the NRW rate. However, under the Company's proposal, the NWR only impacts the APRR. Conversely, the Company proposes incorporating actual costs within the HBP to determine the appropriate deferral.[8] Since there is no NWR impact within the calculation of the Historic Base Period results, the ratepayers are at risk for water and related costs in excess of the proposed 20% threshold. The APRR results are incorporated in the subsequent years' HBP results. The NWR calculation should apply to both the HBP results and the attrition period calculation. If this adjustment is not made, the Company's ratepayers will incur the actual costs for these items, regardless of the level of unaccounted-for water. If the Commission adopts the Company's ARM framework, it should require that the NWR calculation apply to both the HBP and the APRR.

3. The Company application of a 20% NWR rate should be rejected. Instead the NWR rate should be set at 15%. There are two reasons supporting this recommendation. First, the 15% rate has consistently been applied in Tennessee American Company Water (TAWC) regulatory filings. Second, the Commission addressed this issue in the Company's last rate case proceeding as follows:

> C.5. *Purchased Water*
>
> *With respect to Purchased Water, in projecting Attrition Year expense the Company computed the average per-customer purchased water for the year ended September 30, 2018, inflated by 7 .5 8%, and multiplied by an annual customer count of 311 to arrive at an Attrition Year forecast of $116,937. Embedded in this amount is a lost and unaccounted for water rate of71.52%. The Consumer Advocate computed the average per-customer purchased water for the three years ended September 30, 2016, inflated that amount by 5.85%, and applied the projected customer count of 311 to arrive at $60,295 of purchased water expense for the Attrition Year.41 Embedded in the Consumer Advocate's forecast is an average lost and unaccounted for water rate of 14.83%. The Company's purchased water forecast is 94% greater than the Consumer Advocate's. The primary difference is the much higher water loss rate included in the Company's forecast. The Company's use of the test year ended September 30, 2018, likely explains the higher water loss rate than the pre-fire rate assumed by the Consumer Advocate. During the Company's test year, the system was still undergoing major fire damage repairs and recovery. Since those recovery efforts are largely completed, water loss rates during the*

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[8] *See* the Company's Exhibit 1, Section II(F). Specifically, this Section includes the methodology for determining a number of expense types, including Purchased Power, Chemicals, and Purchased Water. The methodology states: "For the Historic Period Excess or Deficiency Calculation, actual expenses for these line items shall be used."

Attrition Year should normalize to pre-fire levels. Indeed, since much of the system has been replaced with new plant, it is reasonable to assume that future water loss rates should decline over historic levels. For these reasons, the Hearing Panel accepted the Consumer Advocate's methodology for computing purchased water with the application of an inflation factor of 7.58% to the pre-fire average. Thus, the Hearing Panel voted unanimously to adopt Purchased Water of $61,301 for the Attrition Year.[9]

It is clear from the passage above that the Commission adopted the Consumer Advocate's unaccounted for water percentage of 14.83%, and that new plant investment incorporated into base rates should positively impact the water loss ratio going forward. The Commission concluded by stating that percentage of unaccounted for water should be representative of going forward operations. For these reasons I recommend the Commission reject the Company's proposal to move to a 20% unaccounted for water ratio, and instead should establish the ratio at 15%, in close proximity to the referenced ratio in the Company's last rate proceeding.

4. The Commission should make clear that the mechanism is not transferrable to a potential acquirer of TWS. The ARM is specific to the current operations of TWS and shall not apply to any future acquiring utility.

Q39. DOES THIS CONCLUDE YOUR TESTIMONY?

A39. Yes.

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[9] *See* Amended Order, pp. 16-17, TPUC Docket No. 19-00028 (March 9, 2020).

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AT NASHVILLE, TENNESSEE

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TENNESSEE WATER SERVICE, INC. PETITION TO ADOPT ANNUAL REVIEW MECHANISM AND TARIFF PURSUANT TO TENN. CODE ANN. § 65-5-103(d)(6)	)))))	**DOCKET NO. 23-00046**

AFFIDAVIT

I, David Dittemore, on behalf of the Consumer Advocate Division of the Attorney General's Office hereby certify that the attached Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate Division.

David N. Dittemore
DAVID N. DITTEMORE

TERRA ALLEN
STATE OF TENNESSEE NOTARY PUBLIC
HICKMAN COUNTY
My Commission Expires JAN. 31, 2027

Sworn to and subscribed before me

This 25th day of August, 2023

Terra Allen
NOTARY PUBLIC

My Commission Expires: January 31, 2027

Exhibit DND-1

David Dittemore

Experience

Areas of Specialization
Approximately thirty-years experience in evaluating and preparing regulatory analysis, including revenue requirements, mergers and acquisitions, utility accounting and finance issues and public policy aspects of utility regulation. Presented testimony on behalf of my employers and clients in natural gas, electric, telecommunication and transportation matters covering a variety of issues.

Self-Employed; **Consultant July 1 - Current**; Responsible for providing evaluation of utility ratemaking issues on behalf of clients. Prepare analysis and expert witness testimony.

Tennessee Attorney General's Office; **Financial Analyst September, 2017 – June 2021;** Responsible for evaluation of utility proposals on behalf of the Attorney General's office including water, wastewater and natural gas utility filings. Prepare analysis and expert witness testimony documenting findings and recommendations.

Kansas Gas Service; **Director Regulatory Affairs 2014 - 2017; Manager Regulatory Affairs, 2007 - 2014**
Responsible for directing the regulatory activity of Kansas Gas Service (KOS), a division of ONE Gas, serving approximately 625,000 customers throughout central and eastern Kansas. In this capacity I have formulated strategic regulatory objectives for KOS, formulated strategic legislative options for KOS and led a Kansas inter-utility task force to discuss those options, participated in ONE Gas financial planning meetings, hired and trained new employees and provided recommendations on operational procedures designed to reduce regulatory risk. Responsible for the overall management and processing of base rate cases (2012 and 2016). I also played an active role, including leading negotiations on behalf of ONE Gas in its Separation application from its former parent, ONEOK, before the Kansas Corporation Commission. I have monitored regulatory earnings, and continually determine potential ratemaking outcomes in the event of a rate case filing. I ensure that all required regulatory filings, including surcharges are submitted on a timely and accurate basis, I also am responsible for monitoring all electric utility rate filings to evaluate competitive impacts from rate design proposals.

Strategic Regulatory Solutions; 2003 -2007
Principal; Serving clients regarding revenue requirement and regulatory policy issues in the natural gas, electric and telecommunication sectors

Williams Energy Marketing and Trading; 2000-2003
Manager Regulatory Affairs; Monitored and researched a variety of state and federal electric regulatory issues. Participated in due diligence efforts in targeting investor owned electric utilities for full requirement power contracts. Researched key state and federal rules to identify potential advantages/disadvantages of entering a given market.

MCI WorldCom; 1999 - 2000

Manager, Wholesale Billing Resolution; Manage a group of professionals responsible for resolving Wholesale Billing Disputes greater than $SOK. During my tenure, completed disputes increased by over 100%, rising to $150M per year.

Kansas Corporation Commission; 1984- 1999

Utilities Division Director - 1997 - 1999; Responsible for managing employees with the goal of providing timely, quality recommendations to the Commission covering all aspects of natural gas, telecommunications and electric utility regulation; respond to legislative inquiries as requested; sponsor expert witness testimony before the Commission on selected key regulatory issues; provide testimony before the Kansas legislature on behalf of the KCC regarding proposed utility legislation; manage a budget in excess of $2 Million; recruit professional staff; monitor trends, current issues and new legislation in all three major industries; address personnel issues as necessary to ensure that the goals of the agency are being met; negotiate and reach agreement where possible with utility personnel on major issues pending before the Commission including mergers and acquisitions; consult with attorneys on a daily basis to ensure that Utilities Division objectives are being met.

Asst. Division Director - 1996 - 1997; Perform duties as assigned by Division Director.

Chief of Accounting 1990 - 1995; Responsible for the direct supervision of9 employees within the accounting section; areas of responsibility included providing expert witness testimony on a variety of revenue requirement topics; hired and provided hands-on training for new employees; coordinated and managed consulting contracts on major staff projects such as merger requests and rate increase proposals;

Managing Regulatory Auditor, Senior Auditor, Regulatory Auditor 1984 - 1990; Performed audits and analysis as directed; provided expert witness testimony on numerous occasions before the KCC; trained and directed less experienced auditors on-site during regulatory reviews.

Amoco Production Company 1982 - 1984

Accountant Responsible for revenue reporting and royalty payments for natural gas liquids at several large processing plants.

<u>Education</u>

- B.S.B.A. (Accounting) Central Missouri State University
- Passed CPA exam; (Oklahoma certificate # 7562) - Not a license to practice

TENNESSEE WATER SERVICE, INC.
DOCKET NO. 22-00046
FIRST DISCOVERY REQUEST OF THE CONSUMER ADVOCATE

RESPONSIBLE WITNESS: Dante DeStefano, Director of Regulatory Affairs

1-17. Identify the affiliates of TWS, the states in which Corix subsidiaries operate, and the approximate number of customers served by each.

RESPONSE: Please see below table of Corix subsidiaries delineated by State, and customer count as of 5/31/2023.

State	Entity	Total Customer Count
Alaska	Fairbanks Sewer and Water	27,728
Alabama	Community Utilities of AL	2,620
Arizona	Bermuda Water Company	9,652
Florida	Sunshine Water Services	60,779
Florida	ACME Water Supply and Management	667
Georgia	Utilities, Inc. of GA	14,882
Georgia	Water Service Co. of GA	2,461
Illinois	Prairie Path Water Company	16,231
Indiana	Community Utilities of IN	8,650
Kentucky	Water Service Corporation of KY	6,074
Louisiana	Utilities, Inc. of LA	26,121
Maryland	Maryland Water Service	4,335
Nevada	Great Basin Water Company	20,658
New Jersey	Montague Water Company	774
New Jersey	Montague Sewer Company	268
North Carolina	Carolina Water Service, Inc. of NC	56,988
Pennsylvania	Community Utilities of PA	7,142
South Carolina	Blue Granite Water Company	18,281
Tennessee	Tennessee Water Service	408
Texas	Corix Utilities (Texas)	6,470
Virginia	Massanutten Public Service Corporation	4,575
Virginia	Colchester Utilities	169

TENNESSEE WATER SERVICE, INC.
DOCKET NO. 22-00046
SECOND DISCOVERY REQUEST OF THE CONSUMER ADVOCATE

RESPONSIBLE WITNESS: Dante DeStefano, Director of Regulatory Affairs

2-1. Refer to the Company's Response to Consumer Advocate DR No. 1-15. Provide a reconciliation of the estimated $35,000 in ARM filing expenditures for this proceeding. This response should identify the source of each cost component comprising the estimate. If any such costs include outside attorney costs, include the estimated hours and billing rate comprising that portion of the estimate.

RESPONSE: The $35,000 listed in response to DR No. 1-15 included the filing and travel related fees and legal expenses related to this proceeding. For attorney fees, this estimate was based on an assumption of approximately 80-100 hours of time at a rate of $375/hr. for the Company's outside counsel. As well, this estimate included anticipated costs of printing, filing fees, and travel for hearing of approximately $2,000-$3,000.

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SECOND DISCOVERY REQUEST OF THE CONSUMER ADVOCATE

RESPONSIBLE WITNESS: Dante DeStefano, Director of Regulatory Affairs

2-2. Identify the ARM filing expenditures incurred through July 31, 2023, by individual. This response should identify whether the individual is an employee or external contractor.

RESPONSE: Please see below the expenses incurred for this filing through 7/31/2023.

Baker Donelson (Outside Counsel) - $10,575.50

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RESPONSIBLE WITNESS: Dante DeStefano, Director of Regulatory Affairs

2-8. Refer to the Company's Response to Consumer Advocate DR No. 1-8 indicating that internal costs associated with this Docket would be accounted for in the same manner as they would be posted in the normal course. Define how internal costs associated with this filing, and hypothetically future ARM filings, would be quantified. State whether the Company utilizes timesheet reporting to track such costs.

RESPONSE: The Company does not typically capitalize internal costs (i.e., labor, benefits, other overhead) for regulatory filings for TWS. TWS generally will expense internal costs related to regulatory filings to the appropriate expense account (e.g., Salaries recorded to Salaries Expense, Travel recorded to Travel Expense accounts, Legal recorded to Regulatory Commission Expense accounts). TWS's response to CA DR #1-8 means that because ARM filings are annual, deferral of the costs is not necessary, and they will be expensed as noted above. TWS's timesheet processes do not typically track internal labor and overhead related to regulatory filings where the costs are not capitalized or deferred.

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RESPONSIBLE WITNESS: Dante DeStefano, Director of Regulatory Affairs

2-4. State whether the Company is willing to place a cap on its regulatory costs associated with an ARM filing for purposes of determining the annual revenue requirement.

RESPONSE: The Company does not believe a cap on filing costs for annual ARM filings is necessary. The Company is unaware of any precedent for caps being set for recovery of filing costs for other approved ARMs.