

**BEFORE
THE TENNESSEE PUBLIC UTILITY COMMISSION**

Joint Petition of Tennessee-American Water Company and Catoosa Utility District Authority for Approval of a Special Contract

Docket No. 23-00066

DIRECT TESTIMONY
of
WILLIAM H. NOVAK

ON BEHALF OF

**THE CONSUMER ADVOCATE DIVISION
OF THE
OFFICE OF THE TENNESSEE ATTORNEY GENERAL**

November 3, 2023

1 ***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND***
2 ***OCCUPATION FOR THE RECORD.***

3 A1. My name is William H. Novak. My business address is 19 Morning Arbor Place,
4 The Woodlands, TX, 77381. I am the President of WHN Consulting, a utility
5 consulting and expert witness services company.¹

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

9 A2. I have both a Bachelor's degree in Business Administration with a major in
10 Accounting, and a Master's degree in Business Administration from Middle
11 Tennessee State University. I am a Certified Management Accountant, and am
12 also licensed to practice as a Certified Public Accountant.

14 My work experience has centered on regulated utilities for over 40 years. Before
15 establishing WHN Consulting, I was Chief of the Energy & Water Division of the
16 Tennessee Public Utility Commission ("TPUC" or "the Commission") where I
17 had either presented testimony or advised the Commission on a host of regulatory
18 issues for over 19 years. In addition, I was previously the Director of Rates &
19 Regulatory Analysis for two years with Atlanta Gas Light Company, a natural gas
20 distribution utility with operations in Georgia and Tennessee. I also served for
21 two years as the Vice President of Regulatory Compliance for Sequent Energy
22 Management, a natural gas trading and optimization entity in Texas, where I was

¹ State of Tennessee, Registered Accounting Firm ID 3682.

1 responsible for ensuring the firm's compliance with state and federal regulatory
2 requirements.

3

4 In 2004, I established WHN Consulting as a utility consulting and expert witness
5 services company. Since 2004 WHN Consulting has provided testimony or
6 consulting services to state public utility commissions and state consumer
7 advocates in at least ten state jurisdictions.

8

9 ***Q3. ON WHOSE BEHALF ARE YOU TESTIFYING?***

10 A3. I am testifying on behalf of the Consumer Advocate Division ("Consumer
11 Advocate") of the Office of the Tennessee Attorney General.

12

13 ***Q4. HAVE YOU PRESENTED TESTIMONY IN ANY PREVIOUS CASES***
14 ***CONCERNING TENNESSEE-AMERICAN WATER COMPANY?***

15 A4. Yes. I presented rate case testimony in Docket Nos. U-86-7402, U-87-7534, 89-
16 15388, 91-05224, 93-06946, 10-00189, and 12-00049 concerning Tennessee-
17 American Water Company ("Tennessee-American" or "Company" or "TAWC")
18 as well as testimony concerning Tennessee-American in other generic tariff and
19 rulemaking matters. I have also previously presented testimony concerning the
20 Company's alternative regulatory mechanisms in Docket Nos. 13-00130, 14-
21 00121, 15-00001, 15-00029, 15-00111, 16-00022, 16-00126, 16-00148, 17-00020
22 and 17-00124. Finally, I presented testimony concerning the Company's special

1 contract with Walker County in Docket No. 22-00049 which contains much of the
2 same subject matter as this current docket.

3

4 ***Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***
5 ***PROCEEDING?***

6 A5. My testimony will support and address the Consumer Advocate's positions and
7 concerns with respect to the Company's Petition. Specifically, I will address the
8 terms of the Company's proposed Special Contract with Catoosa Utility District
9 Authority ("CUDA").

10

11 ***Q6. WHAT DOCUMENTS HAVE YOU REVIEWED IN PREPARATION OF***
12 ***YOUR TESTIMONY?***

13 A6. I have reviewed the Company's Petition filed on September 5, 2023, along with
14 the accompanying testimony and exhibits. I have also reviewed TAWC's
15 responses to the data requests submitted by the Consumer Advocate in this
16 Docket.

17

18 ***Q7. PLEASE DESCRIBE THE RELIEF THAT TENNESSEE-AMERICAN IS***
19 ***ASKING FROM THE COMMISSION IN ITS PETITION.***

20 A7. The Company is asking the Commission to approve its proposed Water Purchase
21 Agreement with CUDA at the current base tariff rate of \$1.624598 per 1000
22 gallons plus TAWC's Capital, Expense, Tax and Reconciliation Rider

1 surcharges.² The Water Purchase Agreement anticipates sales to CUDA of 93
2 million gallons per year for the initial five-year term of the contract along with a
3 provision for a five-year extension.³ Further, because the Water Purchase
4 Agreement represents a requirements contract, CUDA will not be able to reduce
5 its purchases from TAWC during the term of this Agreement.⁴
6

7 ***Q8. MR. NOVAK, PLEASE PROVIDE A TIMELINE OF THE COMPANY'S***
8 ***PREVIOUS SPECIAL CONTRACTS WITH CUDA.***

9 A8. A history of the Special Contracts between TAWC and CUDA is presented below
10 in Table 1.

Table 1 – Special Contract Timeline between TAWC and CUDA⁵	
Year/Docket	Term
97-07503	December 1, 1997 to May 31, 1998
97-07503	Extension to December 31, 1998
98-00885	January 1, 1999 to January 1, 2009
No Contract in Place	January 1, 2009 to August 27, 2013
2013 - No TPUC Approval	August 27, 2013 to August 27, 2018
2013 Extension - No TPUC Approval	August 27, 2018 to August 27, 2023
23-00066 {Pending}	July 14, 2023 to July 14, 2028
23-00066 {Pending}	Extension to July 14, 2033

11
12 As can be seen in Table 1, there are several gaps in the contract timeline between
13 TAWC and CUDA. At different points, water sales to CUDA appear to have

² Direct Testimony of Company Witness Grady Stout at 8:157-166. In addition, the base rate of \$1.624598 per 1,000 gallons is equivalent to the \$1.21152 rate per CCF that is stated in the Company's tariff.

³ Joint Petition, Exhibit A, Paragraph 2c.

⁴ Direct testimony of Company witness Stout at 7:139-141.

⁵ *Order Approving Special Contract*, TRA Docket No. 98-00885, pp. 1-2, (May 18, 1999). See also Company response to Consumer Advocate Discovery Request 1-13, "Attachment August 2013 Contract"; *Petition* at Exhibit A, and *Clarification of Joint Petition* at Supplemental Exhibit C.

1 ceased entirely. At other times, water sales continued at the existing rate but
2 without any Commission approved contract in place.

3

4 ***Q9. DOES TAWC HAVE THE AVAILABLE RESOURCES TO PROVIDE***
5 ***SERVICE TO CUDA?***

6 A9. Yes. The Company states that it has the available capacity to provide service to
7 CUDA without causing any supply hardship for TAWC's existing customers.⁶

8

9 ***Q10. HOW DOES THE PROPOSED WATER RATE OF \$1.624598 PER 1000***
10 ***GALLONS FOR CUDA COMPARE WITH OTHER SPECIAL***
11 ***CONTRACTS THAT THE COMMISSION HAS PREVIOUSLY***
12 ***APPROVED FOR TAWC?***

13 A10. A comparison of the special contract billing rates between TAWC's special
14 contract customers is presented below in Table 2.

Table 2 – Comparison of Commission Approved Special Contracts for Tennessee-American Water Company per 1000 Gallons⁷				
Tariff Charge	Walker County	Signal Mountain	Fort Oglethorpe	Catoosa County
Base Rate	\$1.307922	\$1.382887	\$1.409492	\$1.624598
Capital Rider	0.472160	0.499222	0.508827	0.586480
PCOP Expense Rider	0.027859	0.029455	0.030022	0.034604
Tax Rider	-0.059510	-0.062921	-0.064132	-0.073919
Reconciliation Rider	-0.036360	-0.038444	-0.039184	-0.045164
Total Billing Rate	\$1.712071	\$1.810199	\$1.845025	\$2.126599

⁶ Company response to Consumer Advocate Discovery Request 1-11.

⁷ Company response to Consumer Advocate Discovery Requests 1-7, "CAD Set 1 – DR 07 Attachment". In addition, the rider surcharge rates used in this table are 36.10% for the Capital Rider Surcharge, 2.13% for the PCOP Expense Rider Surcharge, -4.55% for the Tax Rider Surcharge, and -2.78% for the Reconciliation Rider Surcharge.

1 As can be seen from Table 2, the current and proposed billing rate for CUDA
2 represents the highest charge for TAWC's Special Contract customers.

3

4 ***Q11. DOES THE EXISTING BASE RATE OF \$1.624598 PER 1,000 GALLONS***
5 ***STILL ALLOW TAWC TO RECOVER ITS CURRENT COST OF***
6 ***SERVICE FROM CUDA?***

7 A11. Yes. The current base rate was set at the Company's last rate case in 2013.⁸

8 However, since this Special Contract includes all Rider surcharges shown in

9 Table 2, CUDA continues to pay its portion of TAWC's current cost of service.⁹

10

11 ***Q12. HOW MUCH REVENUE WOULD THE PROPOSED CUDA SPECIAL***
12 ***CONTRACT PROVIDE FOR TAWC?***

13 A12. As mentioned earlier, the contract anticipates water sales of 93 million gallons per
14 year. Based upon this level of usage, the expected base revenue (before any Rider
15 surcharges) would be \$12,591 per month or approximately \$756,000 over the 5-
16 year contract.¹⁰ This pro forma monthly revenue of \$12,591 represents a discount
17 of approximately \$7,000 from the Company regular tariff rates.¹¹

18

19 ***Q13. PLEASE SUMMARIZE YOUR RECOMMENDATION TO THE***
20 ***COMMISSION.***

⁸ *Order Approving Settlement Agreement*, TRA Docket No. 12-00049, Exhibit A, Attachment A, Page "CAPD Proposed Special Contract Rate Design Calculation", (November 20, 2012).

⁹ Note that this treatment contrasts with Special Contracts for gas utilities that do not contribute to Alternative Rate Mechanism surcharges.

¹⁰ Company response to Consumer Advocate Discovery Request 2-1.

¹¹ Company response to Consumer Advocate Discovery Request 2-4.

1 A13. The proposed contract between TAWC and CUDA represents the continuation of
2 a rate structure that was first established by the Commission in 1997. Because the
3 proposed contract includes both the existing base rate and the various Rider
4 surcharges, it continues to provide a fair contribution towards the recovery of
5 fixed costs which is a benefit for TAWC's other customers. I therefore
6 recommend to the Commission that the proposed contract between TAWC and
7 CUDA be approved.

8

9 ***Q14. DOES THIS COMPLETE YOUR TESTIMONY?***

10 A14. Yes, it does. However, I reserve the right to incorporate any new information that
11 may subsequently become available.

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

**JOINT PETITION OF TENNESSEE-
AMERICAN WATER COMPANY AND
CATOOSA UTILITY DISTRICT
AUTHORITY FOR APPROVAL OF
SPECIAL CONTRACT**

Docket No. 23-00066

AFFIDVAIT OF WILLIAM H. NOVAK

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



WILLIAM H. NOVAK

Sworn to and subscribed before me

This 2nd day of November, 2023.



NOTARY PUBLIC

My Commission Expires:

January 31, 2027.

