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May 10, 2024

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VIA ELECTRONIC FILING

Hon. Herbert H. Hilliard, 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: *Tennessee-American Water Company's 2024 Incremental Capital Recovery
Rider Tariff Petition, Docket No. 24-00011***

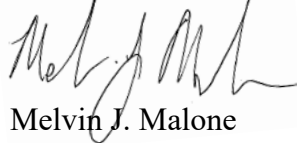
Dear Chairman Hilliard:

Attached for filing please find the *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
Victoria Glover, Consumer Advocate Division
Vance Broemel, Consumer Advocate Division

*The Pinnacle at Symphony Place
150 3rd Avenue South, Suite 1600
Nashville, TN 37201*

MELVIN J. MALONE
615.651.6705
melvin.malone@butlersnow.com

*T 615.651.6700
F 615.651.6701
www.butlersnow.com*

BUTLER SNOW LLP

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TENNESSEE-AMERICAN WATER COMPANY, INC.

DOCKET NO. 24-00011

REBUTTAL TESTIMONY

OF

ROBERT C. LANE

ON

**2024 ANNUAL INCREMENTAL CAPITAL RECOVERY RIDER TARIFF FILING,
CHANGES TO THE QUALIFIED INFRASTRUCTURE INVESTMENT PROGRAM
RIDER, THE ECONOMIC DEVELOPMENT INVESTMENT RIDER AND THE
SAFETY AND ENVIRONMENTAL COMPLIANCE RIDER AND IN SUPPORT OF
THE CALCULATION OF THE INCREMENTAL CAPITAL RIDER REVENUE
REQUIREMENT**

SPONSORING PETITIONER’S EXHIBITS:

Amended Petitioner’s Exhibit – Annual Approved Tariffs

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. DID YOU PREVIOUSLY SUBMIT PRE-FILED DIRECT TESTIMONY IN**
5 **SUPPORT OF THIS PETITION BEFORE THE TENNESSEE PUBLIC UTILITY**
6 **COMMISSION?**

7 A. Yes.

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. The purpose of my Rebuttal Testimony is to address and respond to the Pre-filed Testimony
10 of David Dittemore filed on behalf of the Consumer Advocate Division of the Tennessee
11 Attorney General's Office.

12 **Q. ARE YOU SPONSORING ANY EXHIBITS WITH YOUR REBUTTAL**
13 **TESTIMONY?**

14 A. Yes. I am sponsoring Amended Petitioner's Exhibit – Annual Approved Tariffs.

15 **Q. PLEASE IDENTIFY THE RECOMMENDATIONS MADE BY MR. DITTEMORE**
16 **THAT YOU ARE RESPONDING TO.**

17 A. Mr. Dittemore made the five following recommendations in his testimony:¹ 1) that the
18 commission should continue to monitor the earnings of TAWC to determine whether it
19 may require a show-cause proceeding in the future; 2) that the commission should accept
20 TAWC's calculation of any ICRR over-collections and the collection of ICRR under-
21 collections, irrespective of the results of the ICRR calculation; 3) that the Commission
22 should explicitly confirm that the appropriate TCJA credit is -3.82%; and, 4) that the

¹ *Pre-filed Testimony of Consumer Advocate Division Witness David N. Dittemore*, p. 3, TPUC Docket No. 24-00011 (April 26, 2024).

1 commission should require the Company to submit its Balance Sheet and Income
2 Statement supporting its ICRR and Return on Equity Test calculations in future ICRR
3 filings. I will address each of these recommendations in turn.

4 **Q. TURNING TO THE FIRST RECOMMENDATION OF MR. DITTEMORE, DOES**
5 **THE COMPANY HAVE A RESPONSE REGARDING THE**
6 **RECOMMENDATION THAT THE COMMISSION SHOULD CONTINUE TO**
7 **MONITOR TAWC'S EARNINGS TO DETERMINE WHETHER A SHOW CAUSE**
8 **PROCEEDING IS REQUIRED IN THE FUTURE?**

9 A. Yes. The Commission has long monitored the earnings of regulated public utilities,
10 including TAWC. Further, the Commission has the discretion to consider a show-cause
11 proceeding when it believes such an action is warranted. So, this recommendation merely
12 restates what the Commission already does and what the Commission has the authority to
13 do. The Company files "ROE Test" calculations as part of its annual ICRR filing as
14 outlined in the Incremental Capital Rider Tariff approved by the Commission on
15 December 10, 2023, in TPUC Docket No. 19-00103, and the Company has not proposed
16 to discontinue or modify this filing. Finally, Mr. Dittimore's recommendation here appears
17 less likely an issue for the Company to formally respond to and more likely is merely a
18 statement outlining the going forward opinion of the CAD. This is consistent with the
19 statement in Mr. Dittimore's testimony on page 5, lines 22-23, "I recommend that the
20 commission continue to monitor the Companies earnings for reasonableness."

21 **Q. DOES THE COMPANY AGREE WITH MR. DITTEMORE'S SECOND**
22 **RECOMMENDATION THAT THE COMMISSION SHOULD ACCEPT THE**

1 **COMPANY’S PROPOSED VALUE OF ZERO FOR THE ICRR WITHIN THIS**
2 **PROCEEDING?**

3 A. Yes. The Company supports Mr. Dittimore’s recommendation that the Commission should
4 accept the Company’s proposed value of zero for the ICRR.² This amount was calculated
5 in accordance with the Company’s tariffs and is supported by the record in this case. As
6 discussed below, the zero value is the result of the tariff-mandated ROE Test.

7 **Q. DOES THE COMPANY AGREE WITH MR. DITTEMORE’S THIRD**
8 **RECOMMENDATION THAT THE COMMISSION SHOULD REQUIRE A**
9 **MODIFICATION TO THE COMPANY’S TARIFF TO EXPLICITLY REQUIRE A**
10 **REFUND OF ANY ICRR OVER-COLLECTIONS AND THE COLLECTION OF**
11 **ICRR UNDER-COLLECTIONS, IRRESPECTIVE OF THE RESULTS OF THE**
12 **ICRR CALCULATION?**³

13 A. No. TAWC does not believe it is necessary to change the ICR tariff at this time. There are
14 two tariff provisions at issue here. First, the over- or under-collection reconciliation. The
15 tariff adopted in TPUC Docket No. 19-00103 requires the reduction of the ICRRR by the
16 amount of any over collection of revenues during the year in question, in this instance 2023,
17 at line 43 of the Calculation. (*See*, Petitioner’s Exhibit TAWC 2024 Incremental Capital
18 Rider, submitted in TPUC Docket No. 24-00011 as an exhibit to my Direct Testimony.) In
19 2023, TAWC over-collected Legacy Rider authorized revenue by \$362,155. That amount
20 is subtracted from the after-tax revenue requirement, \$862,936, leaving the remaining after
21 tax revenue requirement to be \$500,782. The second tariff provision at issue here is the
22 ROE Test. Notwithstanding the over collection adjustment, because the ROE Test yielded

² *Dittimore* at p. 6.

³ *Dittimore* at pp. 7-9.

1 an Adjusted ROE above authorized, the Company is also not permitted to seek any ICRRR
2 recovery. Conversely, if there had been an under collection of revenues during 2023, the
3 operation of the ICR Tariff adopted in Docket No. 19-00103 would have increased the
4 ICRRR but still, because of the ROE Test outcome referenced above, the Company would
5 not be able to seek recovery of that increased ICRRR either. In sum, the ICR Tariff governs
6 this result. The ICR Tariff works to reduce the ICRRR by any overcollections, reducing
7 the amount of ICRRR the Company can request. (*See*, line 42 of the ICRRR Calculation -
8 TPUC No. 19 Original Sheet No. 12-ICR-8.) Conversely, under the Tariff, any under
9 collection has the effect of increasing the ICRRR. The over- or under-collection provision
10 is secondary and because the Company's Adjusted ROE as calculated under the Tariff
11 exceeds the currently authorized ROE of 10%, that makes this issue moot. Under the Tariff,
12 there will be "no ICRRR for that single year." Absent earnings above authorized as
13 measured in the earnings test, the Company would have submitted an ICRRR of \$500,782,
14 reduced from \$862,936 by the adjustment for the over-collection. However, due to the
15 earnings above authorized defined by the ROE Test, none of the \$500,782 is eligible for
16 recovery by TAWC. Hence, the ICRRR amount is zero rather than \$500,782.

17 When the ICRR is calculated it was \$832,936. The over collection was then applied,
18 reducing the amount of the ICRR to \$500,782. The results of the earnings test then further
19 reduced the amount eligible for recovery to zero. This is the way the Commission-
20 authorized Tariff functions. Further, as the Tariff functions symmetrically to both over and
21 under collections, this outcome is fair and reasonable.

22 **Q. DOES MR. DITTEMORE MAKE A PROPOSAL ABOUT HOW THE TARIFF**
23 **SHOULD BE CHANGED TO REQUIRE A REFUND OF ANY ICRR OVER-**

1 **COLLECTIONS AND THE COLLECTION OF ICRR UNDER-COLLECTIONS,**
2 **IRRESPECTIVE OF THE RESULTS OF THE ICRR CALCULATION?**

3 A. No. Mr. Dittemore does not propose specific adjustments to the existing ICR tariff or the
4 ROE Test for the Commission, the Company and Parties to TPUC Docket No. 19-00103
5 to review and consider.⁴

6 **Q. DOES TAWC BELIEVE THAT IT IS NECESSARY FOR THE COMMISSION TO**
7 **CONSIDER MAKING SUCH A CHANGE AT THIS TIME?**

8 A. No. The Company thinks that the Commission should not make any changes at this time
9 to see if the issue raised by CAD is systematic to the new tariff or more an issue related to
10 the transition from the old Capital Riders to the new Incremental Capital Riders tariff
11 adopted by the Commission just 5 months ago. Since the Company does not anticipate a
12 recurrence of these circumstances, any reaction at this stage would be premature. The
13 Company recommends that the Commission review this issue at a later time, which will be
14 based on investment and earnings in 2024 and thereafter, before considering whether this
15 tariff recently agreed to by the parties to TPUC Docket No. 19-00103 needs to be modified.
16 The Company will continue to make significant capital investment in needed infrastructure
17 in 2024 without any incremental revenues associated with that investment under the
18 ICRRR. The Company did not increase its Capital Riders in 2023 and is not seeking to in
19 2024, despite making significant investment both years. The Company believes this will
20 align the ROE calculated by the earning test for 2024 and beyond. Furthermore, the Legacy
21 Riders, referenced by Mr. Dittemore that must be reconciled, will be rolled into base rates
22 at the conclusion of TPUC Docket No. 24-00032, the TAWC's General Rate Case filed

⁴ *Dittemore* at p. 9, l. 1-9.

1 May, 1 2024. At the conclusion of the rate case, there will be no Legacy Rider revenues
2 authorized of collected so over and under collection of these revenues compared to
3 authorized no longer exists.

4 **Q. CAN YOU RESPOND TO MR. DITTEMORE’S TESTIMONY ON WHETHER**
5 **THE SETTLEMENT AGREEMENT ADDRESSED THIS TOPIC OF OVER AND**
6 **UNDER-COLLECTION OF, A RECONCILIATION, OF THE LEGACY CAPITAL**
7 **RIDER” IS AN ISSUE THAT THE COMMISSION NEEDS TO ADDRESS?**⁵

8 A. First, on May 1, 2024 (six days after Mr. Dittemore filed his testimony in this proceeding)
9 the Company filed a General Rate Case with the Commission. (*See*, TPUC Docket No. 24-
10 00032.) As a result, with the adopting of new rates in Docket No. 24-00032 legacy rates
11 will cease to exist, as new base rates will be established that include all of the Capital Rider
12 investments into rate base and the cost of that investment into base rates. any change made
13 to the ICR tariff would only apply to the 2025 Capital Riders case filed in March of 2025.
14 As noted above, the issue identified by Mr. Dittemore only exists if there is an over or
15 under collection of legacy rider review and the Company earnings as measured by the ROE
16 set for TAWC by the Commission. Moving forward, as Mr. Dittemore’s recommendation
17 would require the expenditure of significant resources by the Commission, CAD and the
18 Company for a temporary fix to a speculative issue, as the Company believes a re-
19 occurrence of this issue is unlikely. Second, the new ICR tariff, which was jointly filed by
20 the parties to TPUC Docket No. 19-00103, currently addresses the topic of the over
21 collection or under collection. The tariff on line 43 of the Calculation of the ICRR
22 specifically calls for an adjustment to the ICRRR. TAWC correctly made that adjustment

⁵ *Dittemore* at pp. 7-8.

1 per the tariffs. Thus, Mr. Dittemore is not correct that the tariff does not address the over
2 and under collection of legacy riders.

3 **Q. IF THE COMMISSION DECIDES TO CONSIDER ANY SUCH PROPOSED**
4 **TARIFF CHANGES, SHOULD THE COMMISSION HAVE SPECIFIC**
5 **PRINCIPLES IN MIND?**

6 A. Yes. First the adjustment must remain symmetrical with the Company allowed to collect
7 from customers an under-collection as well as reduce rates to customers in the case of an
8 over-collection. Second, the Commission should ensure that the adjustment made to
9 account for an over collection or under collection be properly taken into consideration in
10 the Calculation of the earning test. This is why it is necessary for the Commission and the
11 Parties to have a specific proposal as to how the tariff is proposed to be changed in order
12 to ensure that these two principles are maintained. The current tariff, as approved by the
13 Commission just last December is symmetrical for the treatment of both under-collections
14 and over-collections. The current tariff does not require any adjustment to how the ROE
15 Test is calculated and applied but the proposal of Mr. Dittemore would need to make
16 adjustments to the ROE Test to account for Revenues included in the earnings test for one
17 year, that must be returned to ratepayers in the second year. The needed modifications to
18 the ROE Test are not included in Mr. Dittemore's proposal.

19 **Q. DOES THE COMPANY AGREE WITH MR. DITTEMORE'S FOURTH**
20 **RECOMMENDATION THAT THE COMMISSION EXPLICITLY CONFIRM**
21 **THAT THE APPROPRIATE TCJA CREDIT IS - 3.82%?**⁶

⁶ *Dittemore* at p. 9, l. 11-16.

1 A. Yes, as set forth in its response to CAD's discovery requests the appropriate TCJA
2 adjustment is -3.82%. inclusive of the adjustment for ADIT. Attached is a correction to
3 Petitioner's Exhibit – Annual Approved Tariffs (*see*, Amended Petitioner's Exhibit –
4 Annual Approved Tariffs) clarifying that the correct TCJA credit is -3.82%. TAWC has no
5 objection to the Commission explicitly confirming this.

6 **Q. FINALLY, DOES THE COMPANY AGREE WITH MR. DITTEMORE**
7 **RECOMMENDATION THAT THE COMMISSION SHOULD REQUIRE THE**
8 **COMPANY'S BALANCE SHEET AND INCOME STATEMENT SUPPORTING**
9 **THE ICRR TO BE SUBMITTED WITH THE ICR FILING EACH YEAR?⁷**

10 A. The Company does not object to the Commission requiring the Company to submit this
11 supporting Balance Sheet and Income statement when the Company files for ICRR in the
12 future.

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes, it does.

⁷ *Dittemore* at pp. 9-10.

**Amended Petitioner's Exhibit –
Annual Approved Tariffs**

Authorization of Tennessee American Water Capital Recovery Riders
Since Last Rate Case (Docket No. 12-00049)

TPUC Docket No.	Effective Date	Rider	Authorized Annual Change	Total Cumulative Rider	Reconciliation Authorized	Individual Authorized Rider Total	Capital Riders Cumulative Total	TCJA Offset	Impact to Bill
13-00130	4/15/2014	QIIP	0.790%	0.790%	0.000%	0.790%			
		EDI	0.180%	0.180%	0.000%	0.180%			
		SEC	0.110%	0.110%	0.000%	0.110%			
		Total	1.080%		0.000%		1.080%	0.00%	1.080%
14-00121	6/30/2015	QIIP	1.340%	2.130%	0.000%	2.130%			
		EDI	-0.130%	0.050%	0.000%	0.050%			
		SEC	3.430%	3.540%	0.000%	3.540%			
		Total	4.640%		0.000%		5.720%	0.00%	5.720%
15-00029*	11/1/2015	QIIP	0.000%	2.130%	0.254%	2.384%			
		EDI	0.000%	0.050%	-0.150%	-0.100%			
		SEC	0.000%	3.540%	0.064%	3.604%			
		Total	0.000%	5.720%	0.168%		5.888%	0.00%	5.888%
15-00111	3/15/2016	QIIP	2.430%	4.560%	0.000%	4.560%			
		EDI	0.050%	0.100%	0.000%	0.100%			
		SEC	2.180%	5.720%	0.000%	5.720%			
		Total	4.660%		0.000%		10.380%	0.00%	10.380%
16-00022*	10/11/2016	QIIP	0.000%	4.560%	1.166%	5.726%			
		EDI	0.000%	0.100%	-0.178%	-0.078%			
		SEC	0.000%	5.720%	-0.118%	5.602%			
		Total	0.000%		0.870%		11.250%	0.00%	11.250%
16-00126	3/14/2017	QIIP	2.960%	7.520%	0.000%	7.520%			
		EDI	0.240%	0.340%	0.000%	0.340%			
		SEC	0.370%	6.090%	0.000%	6.090%			
		Total	3.570%		0.000%		13.950%	0.00%	13.950%
17-00020*	8/16/2017	QIIP	0.000%	7.520%	1.763%	9.283%			
		EDI	0.000%	0.340%	-0.031%	0.309%			
		SEC	0.000%	6.090%	-0.826%	5.264%			
		Total	0.000%		0.906%		14.856%	0.00%	14.856%
17-00124	4/10/2018	QIIP	2.530%	10.050%	0.000%	10.050%			
		EDI	0.070%	0.410%	0.000%	0.410%			
		SEC	-0.120%	5.970%	0.000%	5.970%			
		Total	2.480%		0.000%		16.430%	0.00%	16.430%
18-00022*	12/17/2018	QIIP	0.000%	10.050%	1.542%	11.592%			
		EDI	0.000%	0.410%	-0.081%	0.329%			
		SEC	0.000%	5.970%	-0.628%	5.342%			
		Total	0.000%		0.833%		17.263%	0.00%	17.263%
18-00120	9/1/2019	QIIP	1.600%	11.650%	0.000%	11.650%			
		EDI	0.240%	0.650%	0.000%	0.650%			
		SEC	0.910%	6.880%	0.000%	6.880%			
		Total	2.750%		0.000%		19.180%	-6.62%	12.560%
19-00031*	12/9/2019	QIIP	0.000%	11.650%	-1.140%	10.510%			
		EDI	0.000%	0.650%	-0.320%	0.330%			
		SEC	0.000%	6.880%	-0.920%	5.960%			
		Total	0.000%		-2.380%		16.800%	-6.62%	10.180%
19-00105	1/1/2020	QIIP	2.630%	14.280%	0.000%	14.280%			
		EDI	0.490%	1.140%	0.000%	1.140%			
		SEC	1.910%	8.790%	0.000%	8.790%			
		Total	5.030%		0.000%		24.210%	-6.62%	17.590%
20-00028*	4/1/2020	QIIP	0.000%	14.280%	-2.310%	11.970%			
		EDI	0.000%	1.140%	-0.510%	0.630%			
		SEC	0.000%	8.790%	-1.260%	7.530%			
		Total	0.000%		-4.080%		20.130%	-6.62%	13.510%
20-00128	1/1/2021	QIIP	4.860%	19.140%	0.000%	19.140%			
		EDI	0.110%	1.250%	0.000%	1.250%			
		SEC	0.910%	9.700%	0.000%	9.700%			
		Total	5.880%		0.000%		30.090%	-11.16%	18.930%
21-00030*	4/1/2021	QIIP	0.000%	19.140%	2.650%	21.790%			
		EDI	0.000%	1.250%	-0.500%	0.750%			
		SEC	0.000%	9.700%	0.790%	10.490%			
		Total	0.000%		2.940%		33.030%	-11.16%	21.870%
21-00030*	8/9/2021	QIIP	0.000%	19.140%	2.390%	21.530%			
		EDI	0.000%	1.250%	-0.510%	0.740%			
		SEC	0.000%	9.700%	0.620%	10.320%			
		Total	0.000%		2.500%		32.590%	-11.16%	21.430%
21-00030	2/1/2022	QIIP	0.000%	19.140%	0.000%	19.140%			
		EDI	0.000%	1.250%	0.000%	1.250%			
		SEC	0.000%	9.700%	0.000%	9.700%			
		Total	0.000%		0.000%		30.090%	-11.16%	18.930%
22-00021*	4/1/2022	QIIP	0.000%	19.140%	-0.250%	18.890%			
		EDI	0.000%	1.250%	0.560%	1.810%			
		SEC	0.000%	9.700%	-1.250%	8.450%			
		Total	0.000%		-0.940%		29.150%	-11.16%	17.990%
22-00072*	8/1/2022	QIIP	5.080%	24.220%	-0.250%	23.970%			
		EDI	0.660%	1.910%	0.560%	2.470%			
		SEC	0.270%	9.970%	-1.250%	8.720%			
		Total	6.010%		-0.940%		35.160%	-11.16%	24.000%
22-00072*	9/1/2023	QIIP	0.000%	24.220%	-0.250%	23.970%			
		EDI	0.000%	1.910%	0.560%	2.470%			
		SEC	0.000%	9.970%	-1.250%	8.720%			
		Total	0.000%		-0.940%		35.160%	-4.55%	30.610%
23-00018*	10/6/2023	QIIP	0.000%	24.280%	0.840%	25.120%			
		EDI	0.000%	1.930%	0.550%	2.480%			
		SEC	0.000%	10.090%	-1.420%	8.670%			
		Total	0.000%				36.270%	-4.55%	31.720%
23-00018*	1/1/2024	QIIP	0.000%	24.280%	0.000%	24.280%			
		EDI	0.000%	1.930%	0.000%	1.930%			
		SEC	0.000%	10.090%	0.000%	10.090%			
		Total	0.000%		0.000%	36.300%	36.300%	-3.82%	32.480%

* Reconciliations are only effective until December 31 of the year authorized by the TPUC.

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

IN RE:

**TENNESSEE-AMERICAN WATER
COMPANY'S 2024 INCREMENTAL
CAPITAL RECOVERY RIDER TARIFF
PETITION**

DOCKET NO. 24-00011

VERIFICATION

STATE OF Tennessee)
)
COUNTY OF Hamilton)

I, ROBERT C. LANE, being duly sworn, state that I am authorized to testify on behalf of Tennessee-American Water Company in the above-referenced docket, that if present before the Commission and duly sworn, my testimony would be as set forth in my pre-filed testimony in this matter, and that my testimony herein is true and correct to the best of my knowledge, information, and belief.



ROBERT C. LANE

Sworn to and subscribed before me
this 8th day of May, 2024.



Notary Public

My Commission Expires: 2-28-28




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:

Victoria B. Glover, Esq.
Assistant Attorney General
Office of the Tennessee Attorney General
Consumer Advocate Division
P.O. Box 20207
Nashville, TN 37202-0207
Victoria.Glover@ag.tn.gov

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

This the 10th day of May 2024.



Melvin Malone