

June 4, 2024

VIA ELECTRONIC FILING

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Room on June 4, 2024 at 1:47 p.m.

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:

On behalf of Tennessee-American Water Company ("Tennessee-American" or "Company"), attached for filing please find the *Supplemental Rebuttal Testimony of Robert C. Lane* in the above-captioned matter. As opposed to submitting its Supplemental Rebuttal, Tennessee-American considered submitting a formal objection and motion to strike to the *Consumer Advocate's Motion for Leave to File Supplemental Testimony of David N. Dittimore*, particularly since the Consumer Advocate Division ("Consumer Advocate" or "CAD") submitted the Pre-filed Supplemental Testimony of Mr. Dittimore to the Commission prior to any action by the Commission on its motion. Under the circumstances presented, and in light of the CAD and the Company's many previous successful efforts at finding common ground in contested matters, Tennessee-American respectfully submits its Supplemental Rebuttal Testimony. The Company will leave the pending motion to the discretion of the Commission.

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

cb

Hon. Herbert H. Hilliard, Chairman

June 4, 2024

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Attachments

cc: Bob Lane, TAWC

Victoria Glover, Consumer Advocate Division

Vance Broemel, Consumer Advocate Division

TENNESSEE-AMERICAN WATER COMPANY, INC.

DOCKET NO. 24-00011

SUPPLEMENTAL 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**

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 AND REBUTTAL**
5 **TESTIMONY IN SUPPORT OF THIS PETITION BEFORE THE TENNESSEE**
6 **PUBLIC UTILITY COMMISSION?**

7 A. Yes.

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

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

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

15 A. No, I am not sponsoring any new exhibits with my Supplemental Rebuttal Testimony. For
16 clarity going forward, however, and to address and resolve some unintended formatting
17 issues and other related non-material or inadvertent changes with Exhibit BL-2 as
18 originally submitted with the Company's general rate case filing on May 1, 2024, in TPUC
19 Docket No. 24-00032, I will timely submit a Revised Exhibit BL-2, which will replace in
20 the entirety Exhibit BL-2 originally submitted in TPUC Docket No. 14-00032.

21 **Q. ON PAGE 2, LINES 3-8, OF HIS SUPPLEMENTAL TESTIMONY, WHAT DOES**
22 **MR. DITTEMORE STATE AS THE PURPOSE OF HIS SUPPLEMENTAL**
23 **TESTIMONY?**

1 A. Mr. Dittemore outlines that the purpose of his Supplemental Testimony is to recommend
2 that the Tennessee Public Utility Commission (“TPUC” or “Commission”) address all
3 Incremental Capital Rider (“ICR”) issues in a separate stand-alone docket and thus remove
4 any ICR Tariff issues from the Company’s general rate case in TPUC Docket No. 24-
5 00032.

6 **Q. DO YOU HAVE AN OVERALL COMMENT UPON THE CONSUMER**
7 **ADVOCATE DIVISION’S SUPPLEMENTAL TESTIMONY?**

8 A. Yes. Generally, and aside from the formatting and related issues that I address below, Mr.
9 Dittemore raises two types of issues in his Supplemental Testimony. First, Mr. Dittemore
10 raises issues that are solely related to Docket No. 24-00011 in response to the Company’s
11 Rebuttal Testimony in Docket No. 24-00011. Second, Mr. Dittemore raises issues that the
12 Consumer Advocate Division asserts have arisen due to the Company’s general rate case
13 filing in Docket No. 24-00032, and it is the Company’s position that those issues may be
14 appropriately argued and resolved in Docket No. 24-00032, as opposed to Docket No. 24-
15 00011.

16 Notwithstanding the foregoing, and under the circumstances presented, I will address the
17 issues raised in Mr. Dittemore’s Supplemental Testimony.

18 **Q. DOES MR. DITTEMORE’S SUPPLEMENTAL TESTIMONY DISAGREE WITH**
19 **THE COMPANY’S CONCLUSION THAT THE INCREMENTAL CAPITAL**
20 **RECOVERY RIDER (“ICRR”) FOR 2024 SHOULD BE SET AT ZERO**
21 **PERCENT?**

1 A. No, it does not. In his April 26th Pre-filed Testimony (p. 3 lines 14-15), Mr. Dittemore
2 recommends that “the Commission accept the Company’s proposed value of zero for the
3 ICRR within this proceeding.” Nothing in his Supplemental Testimony alters this position.

4 **Q. PLEASE OUTLINE THE SPECIFIC ISSUES OR CONCERNS UNDERLYING**
5 **MR. DITTEMORE’S SUPPLEMENTAL TESTIMONY.**

6 A. Underlying his overall recommendation of a stand-alone docket, Mr. Dittemore raised a
7 number of specific issues or concerns, primarily the following:

- 8 1. That TAWC (Direct Testimony of Robert Lane) submitted proposals to modify the ICR
9 Tariff in Docket No. 24-00032 (*Dittemore*, p. 1, l 12-15).
- 10 2. That TAWC (Direct Testimony of Grady Stout) submitted a proposal to modify the scope
11 of ICR-qualifying investments (*Dittemore*, p. 1, l 15-16).
- 12 3. That TAWC has failed to address key components of the ICR Tariff, including how the
13 ICR Tariff is implemented for the 2025 ICR filing and beyond (*Dittemore*, p. 2, l 13-15).
- 14 4. That if the amounts in the ICR adopted in 2025 associated with the 2024 capital
15 expenditures are collected beyond one year, it would represent a double collection of the
16 Company’s costs (*Dittemore*, p. 4, l 1-19).
- 17 5. That any legal fees in Docket No. 24-00032 related solely to the proposals to modify the
18 ICR Tariff should be addressed in his recommended stand-alone docket and not deferred
19 as a rate case cost in Docket No. 24-00032 (*Dittemore*, p. 2, l 23-27).
- 20 6. Whether the Company’s proposed rate design in Docket No. 24-00032 is appropriate for
21 the distribution of the ICR revenue requirement (*Dittemore*, p. 8, l 12-14).
- 22 7. What is the proper rate base to use in preparing the 2025 ICR filing reviewing 2024
23 investments and costs. (*Dittemore*, p. 6, l 6-11).

1 8. Whether the general rate case in Docket No. 24-00032 will resolve the over/under
2 collection pending in Docket No. 24-00011. (*Dittemore*, pp. 9-10).

3 9. That the Commission should require TAWC to defer over/under collections in a regulatory
4 liability/asset account for future disposition by the Commission (*Dittemore*, p. 10, 18-15).

5 10. That the Commission should require the Company to provide justification for its letter of
6 April 1, 2024, submitted in TPUC Docket No. 19-00103 (*Dittemore*, pp. 10-11).

7 I will address each of these issues or concerns below.

8 **Q. DID TAWC INTEND TO MAKE ANY MATERIAL CHANGES TO THE ICR**
9 **TARIFF IN YOUR DIRECT TESTIMONY IN TPUC DOCKET 24-00032,**
10 **(DITTEMORE, P. 1, 12-15)?**

11 A. TAWC is not seeking any material changes to the ICR Tariff in Docket No. 24-00032. Due
12 to some formatting issues in the administratively complicated process of developing the
13 original Exhibit BL-2, the Company unintentionally included some redlines or related
14 formatting issues that gave the impression that the Company is seeking modifications to
15 the ICR Tariff in Docket No. 24-00032. For instance, the redlined language in Exhibit BL-
16 2 that was identified by Mr. Dittemore as being “added” or “new” is in fact not new or
17 added, but rather is the exact same language approved by the Commission in Docket No.
18 19-00103. To address these formatting issues and other changes, discussed below, and to
19 remove this inaccurate impression and clarify the Company’s intentions, the Company will
20 timely submit Revised Exhibit BL-2 in Docket No. 24-00032.

21 **Q. CAN YOU ADDRESS THE PROPOSED MODIFICATIONS IN THE ICR TARIFF**
22 **IN EXHIBIT BL-2 SUBMITTED IN TPUC DOCKET NO. 24-00032 RELATED TO**
23 **THE LEGACY CAPITAL RECOVERY RIDERS?**

1
2 A. Yes. Pursuant to the terms of the ICR Tariff, at the conclusion of the Company's general
3 rate case in Docket No. 24-00032, the Legacy Capital Recovery Riders rates will be reset
4 to zero and no longer exist. Hence, the Company saw the rate case filing as an opportunity
5 to demonstrate how the ICR Tariff would read at the conclusion of the general rate case in
6 Docket No. 24-00032 and therefore removed that language as outdated or obsolete. It is
7 important to note that this change reflected in Exhibit BL-2 would not have taken effect
8 prior to a decision in the rate case.

9 **Q. ON PAGE 5, LINES 9-11, MR. DITTEMORE REFERRED TO THE COMPANY'S**
10 **PROPOSED MODIFICATIONS TO THE ICR TARIFF, SPECIFICALLY TO THE**
11 **CALCULATION IN EXHIBIT BL-2, TPUC NO. 20, ORIGINAL SHEET NO. 12-**
12 **ICR-9. CAN YOU ADDRESS MR. DITTEMORE'S ISSUE?**

13 A. Yes. The changes referred to here by Mr. Dittmore were well intended and not considered
14 a material change by the Company. Again, from the Company's perspective, the proposed
15 revision was meant to simply update the ICR Tariff to reflect how the ICR Tariff would
16 read at the conclusion of the general rate case in Docket No. 24-00032. Notwithstanding
17 the Company's intent, this good faith attempt has apparently lessened the intended clarity
18 of the tariff. Therefore, the above-referenced changes raised by Mr. Dittmore will be
19 reversed to address his concern in the Revised Exhibit BL-2 to be filed in TPUC Docket
20 24-00032.

21 **Q. ON PAGE 5, LINES 17-22, MR. DITTEMORE REFERENCED LANGUAGE**
22 **FROM EXHIBIT BL-2, TPUC NO. 20, ORIGINAL SHEET NO. 12-ICR-2. CAN**
23 **YOU ADDRESS MR. DITTEMORE'S CONCERN?**

24 A. Certainly. The language that Mr. Dittmore referenced is as follows:

1 “Starting with the 2024 filing for investments made through December 31,
2 2023, the annual Incremental Capital Rider Revenue Requirement (ICRRR)
3 will be calculated using the Eligible Rate Base less the amount recovered in
4 the Legacy Capital Rider rates.”
5

6 Mr. Dittmore is correct in that the above language was shown as stricken in Exhibit BL
7 Again, this redline or strike-through represents an inadvertent proposed modification to
8 the ICR Tariff. This deletion was an attempt to remove an unneeded reference to “Legacy
9 Capital Rider rates[,]” which will not exist once the rate case is concluded, and keep the
10 tariff free of no longer relevant, obsolete language. However, in the interest of clarity, this
11 proposed change will be reversed in Revised Exhibit BL-2.

12 **Q. DOES MR. DITTEMORE REFERENCE ANY OTHER PROPOSED CHANGES**
13 **TO THE ICR TARIFF BY THE COMPANY IN EXHIBIT BL-2 IN DOCKET NO.**
14 **24-00032?**

15 A. Yes. As I noted earlier, on page 1, lines 15-16 of his Supplemental Testimony, Mr.
16 Dittmore raises a concern regarding “a proposal to expand the scope of ICRRR-qualifying
17 investments sponsored by Mr. Grady Stout.” I believe Mr. Dittmore is referring to the
18 proposal in TAWC Witness Stout’s Pre-filed Direct Testimony in Docket No. 24-00032,
19 starting on page 18.

20 Mr. Dittmore appears to propose that the issue of the recovery mechanism for investments
21 related to customer-owned lead and galvanized steel services lines is more appropriate for
22 a separate proceeding concerning only the ICR Tariff. I disagree.

23 The lead service line replacement proposal made by Mr. Stout in his testimony in Docket
24 No. 24-00032 (Pre-filed Direct Testimony of TAWC Witness Grady Stout p. 18, lines 11-
25 16) has three components; (1) the policy regarding customer-owned lead service line
26 replacements; (2) the means of the cost recovery associated with that investment; and (3)

1 the proper accounting treatment for the capital associated with the replacement of
2 customer-owned lead service lines (Pre-filed Direct Testimony of Robert Lane, pp. 26-28,
3 TPUC Docket No. 24-00032).

4 First, the broad policy issues with respect to replacement of customer-owned lead service
5 lines are precisely the type of policy discussions and decisions that are germane to a rate
6 case. Further, while TAWC does propose in Docket No. 24-00032 that the investments
7 related to the replacement of customer-owned lead service lines be recovered via the
8 Qualified Infrastructure Investment Program (QIIP) portion of the ICR Tariff, this recovery
9 method is not the only potential cost recovery method for costs related to the replacement
10 of customer-owned lead service lines. No change to the ICR Tariff language is required
11 because the proposed accounting treatment would record these costs in Account 333 –
12 Services, which are already allowed recovery under the existing ICR Tariff. The parties
13 may agree upon, and/or the Commission may favor, the Company’s lead service line
14 proposal and yet prefer the consideration of an alternative accounting treatment and
15 recovery method than that proposed by the Company. For these and other reasons, I do not
16 believe that the Consumer Advocate Division has asserted sufficient grounds for this item
17 to only be considered in a stand-alone ICR proceeding rather than within a broad policy
18 setting proceeding like a general rate case, with its accompanying full plethora of
19 regulatory tools available to the Commission. Finally, it must be acknowledged that it is
20 highly possible that if the Company were to have raised the lead service line proposal in
21 an ICR-only case, a party would maintain that doing so was inappropriate in an ICR docket
22 but more appropriate for a general rate case.

1 **Q. ARE THERE OTHER PROBLEMS WITH MR. DITTEMORE'S REQUEST**
2 **REGARDING THE CONSIDERATION OF THE LEAD SERVICE LINE**
3 **REPLACEMENT PROPOSAL IN A SEPARATE PROCEEDING?**

4 A. Yes. Mr. Dittemore is making this procedural proposal and otherwise expressing this
5 concern in TPUC Docket 24-00011. The Company's proposal to recover costs to replace
6 customer-owned lead service lines is not an issue in this proceeding but rather is a proposal
7 in TPUC Docket No. 24-00032. If the Consumer Advocate Division believes that the
8 Company's lead service line replacement proposal should not be permitted through the ICR
9 Tariff, the Consumer Advocate Division is free to argue that position in Docket No. 24-
10 00032. (I note again here that there is no language in Exhibit BL-2 relative to the lead
11 service line proposal.) Lifting an argument related to an issue in Docket No. 24-00032 and
12 asserting it in a different case after all pre-filed testimony has been submitted, here Docket
13 No. 24-00011, is, at best, inappropriate. The proper place to raise and address an issue
14 created in Docket No. 24-00032 is in Docket No. 24-00032.

15 As demonstrated in my Rebuttal and Supplemental Rebuttal Testimony, the only proposed
16 changes to the ICR Tariff were either non-substantive and immaterial or inadvertent, and
17 the Company will be filing a revised Exhibit BL-2 in TPUC Docket No. 24-00032 to
18 reverse the changes to the ICR Tariff.

19 **Q. HOW DO YOU RESPOND TO MR. DITTEMORE'S STATEMENT (PAGE 2,**
20 **LINES 13 - 15 OF HIS SUPPLEMENTAL TESTIMONY), THAT THE COMPANY**
21 **HAS FAILED TO ADDRESS KEY COMPONENTS OF A WELL-FUNCTIONING**
22 **ICR TARIFF, AND THAT THE TARIFF PROPOSED IN THE COMPANY'S**

1 **GENERAL RATE CASE FILING IS NOT VIABLE FOR THE 2025 ICR TARIFF**
2 **FILING AND BEYOND?**

3 A. As stated previously, the Company did not propose a new or materially revised ICR Tariff
4 in its general rate case. Since Mr. Dittemore does not specify which language in the tariff
5 is problematic from his point of view, it is difficult, if not impossible, to determine if these
6 problems exist (1) in the current ICR Tariff adopted in December of 2023 (TPUC Docket
7 No. 19-00103 or (2) arose due to some proposed change in Exhibit BL-2 that Mr. Dittemore
8 has not specifically identified. If it is the former, Mr. Dittemore must have issues with the
9 tariff agreed to by the parties and adopted by the Commission in TPUC Docket No. 19-
10 00103. If it is the latter, Mr. Dittemore and/or the CAD should specifically identify such
11 language differences so the Company can assure that Exhibit BL-2 in TPUC Docket No.
12 24-00032 is corrected and should do so in that docket, not here.

13 **Q. ON PAGE 2, LINES 20 - 22, MR. DITTEMORE ALSO GIVES AS A REASON FOR**
14 **A SEPARATE STAND-ALONE PROCEEDING FOR ICRR ISSUES IS THAT THE**
15 **COMPANY'S NEW RATE CASE FILING CONTAINS MAJOR POLICY**
16 **CHANGES (NOT RELATED TO THE ICR) IN ADDITION TO THE**
17 **COMPLEXITY OF A BASIC RATE FILING, WHICH IS ALSO THE FIRST RATE**
18 **CASE MADE BY THE COMPANY IN THE PAST TWELVE YEARS. DO YOU**
19 **AGREE?**

20 A. No, the Company does not believe a stand-alone proceeding is necessary. It was not the
21 Company's intention to raise proposed changes to the ICR Tariff in the rate case
22 proceeding. Since the Company intends to make it clear that it is not proposing changes to
23 the ICR Tariff by filing Revised Exhibit BL-2 in the rate case, there are not any proposed

1 changes to be considered in a stand-alone proceeding. The Company reiterates that once
2 any marked changes in Exhibit BL-2 are addressed in a corrected, revised exhibit, the only
3 proposal to change the ICR Tariff that will remain is the Consumer Advocate's proposal
4 with regard to over- and under- collection of rider revenue. That proposal was made in this
5 proceeding and not in the rate case TPUC Docket No. 24-00032 and thus is already separate
6 from the rate case. Regardless, this case, TPUC Docket No. 24-00011, is not the proper
7 place to raise issues regarding the scope of issues to be decided in TPUC Docket No. 24-
8 00032, the Company's general rate case filed on May 1, 2024.

9 **Q. MR. DITTEMORE PROPOSES (PAGE 2, LINES 23 - 27) THAT LEGAL FEES**
10 **RELATED TO A PROPOSAL RELATED TO THE ICR TARIFF SHOULD BE**
11 **ATTACHED TO AN ICR-SPECIFIC DOCKET AND NOT BE DEFERRED AS A**
12 **"RATE CASE COST" TO BE RECOVERED FROM RATEPAYERS. DO YOU**
13 **HAVE A RESPONSE TO THIS?**

14 A. The fees should be recovered in the rate case proceeding. The upcoming submission of
15 Revised Exhibit BL-2 should resolve this concern from a regulatory standpoint. Further,
16 legal expenses incurred by the Company in relation to its pending general rate case in
17 Docket No. 24-00032 are recoverable, as determined by the Commission in Docket No.
18 24-00032. If the Consumer Advocate Division desires to raise an argument in relation to
19 the Company's legal expenses in Docket No. 24-00032, the proper place to do so is in
20 Docket No. 24-00032.

21 **Q. MR. DITTEMORE REACHES THE CONCLUSION THAT THE PROPOSED**
22 **TARIFFS ARE INCOMPLETE (PAGE 3, LINES 10-14). DO YOU AGREE WITH**
23 **HIM?**

1 A. No. Generally speaking, it is very difficult to develop a tariff that can anticipate every
2 single potential future development. Utilities, consumer advocates, other intervenors and
3 Commissions strive for perfection in utility regulation and aim to address present, known
4 and anticipated issues. Still, it is challenging, if not impossible, to anticipate every single
5 possible future issue that may arise. Absent the Company proposing changes in the future
6 to the ICR Tariff, the Company's 2025, 2026 and 2027 ICR Tariff filings will be filed in a
7 manner to comply with the ICR Tariff, will only seek recovery permitted pursuant to the
8 ICR Tariff, and will not seek recovery of costs associated with investments already being
9 recovered in base rates. The CAD and other parties will be afforded the opportunity in
10 those cases to evaluate, respond, and where necessary correct the Company's filing to
11 ensure it is in compliance with the ICR Tariff. The language marked as inserted in Exhibit
12 BL-2 was not intended to be a proposal for changes to the existing tariff adopted in TPUC
13 Docket NO. 19-00103. As stated previously, the Company did not intend to propose
14 changes to the ICR Tariff in the general rate case. The language in Exhibit BL-2 contains
15 the already existing language approved in TPUC Docket No. 19-00103. Since Mr.
16 Dittemore does not articulate specifically what language in Exhibit BL-2 is problematic for
17 him, it is difficult to know whether the issues he sees are a result of unintentionally marked
18 changes in Exhibit BL-2 or result from issues that Mr. Dittemore has with the tariff adopted
19 in TPUC Docket No. 19-00103 on December 10, 2023.

20 **Q. IS THERE SOME LEVEL OF UNCERTAINTY ABOUT HOW THE EXISTING**
21 **ICR TARIFF WILL APPLY IN THE YEAR THAT NEW RATES TAKE PLACE,**
22 **THE YEAR AFTER THAT, AND THE YEAR AFTER THAT?**

1 A. Mr. Dittmore appears concerned that the existing ICR Tariff may not provide as clear a
2 roadmap as the Consumer Advocate Division would prefer of how to apply the ICR Tariff
3 in the event of a rate case. Nonetheless, as I have outlined herein, there is a reasonable
4 roadmap and established parameters that will serve and safeguard the public interest.
5 Rather than being held captive to a host of potential hypotheticals that may or may not
6 actually develop, I believe that the best way to move forward is to address the application
7 of the tariff each year in the relevant ICRR filing. At this point, it would be premature to
8 try and address hypothetical issues that may or may not arise subsequent to the conclusion
9 of the rate case.

10 **Q. PLEASE DESCRIBE THE OPERATION OF THE ICR TARIFF IN THE YEAR**
11 **NEW RATES WILL TAKE EFFECT.**

12 A. The ICR Tariff requires the Company to file under the ICR Tariff by March 1st of every
13 year. Absent a rate case, the ICRR filed in March of 2025 would examine the costs
14 associated with incremental capital placed in service through December 31, 2024. A
15 revenue requirement for that investment would be calculated and an ICR Rider established
16 to recover that revenue requirement over one year. However, because rates developed in
17 the rate case will cover the 2025 attrition year and the planned investment for that year are
18 included in the rate base, this will necessarily impact the ICRR filed in March of 2025.
19 While the ICR Tariff may not be perfect in addressing every hypothetical, and may not
20 anticipate every scenario that could possibly develop, the Company believes it is
21 reasonably clear: (1) that the Company may recover, as permitted, eligible investment costs
22 for the previous year; (2) that the Company may not recover for investment costs for which
23 the Company is already recovering; and (3) that the Company remains subject to the

1 safeguards within the ICR Tariff. In other words, the ICR Tariff, coupled with general
2 regulatory principles and the Commission's plenary authority, provide a clear path. The
3 tariff does not explicitly say how it shall be applied in a year in which new rates from a
4 rate case go into effect. As noted above, though it is the aim and goal to do so, it is often
5 nearly impossible to develop tariffs that perfectly address every possible future
6 circumstance or scenario. Utilities, consumer advocates, other intervenors and regulators
7 strive to develop tariffs that work well over time but understand that it is challenging, if
8 not impractical, to anticipate every single possible future issue that may arise and craft
9 tariffs, rules, or regulations that perfectly address each changing circumstance or
10 unanticipated outcome. The best that can be hoped for is to aim initially to address all
11 potential scenarios at the outset and thereafter to also address issues as they arise in a
12 reasonable, balanced and fair approach.

13 **Q. MR. DITTEMORE STATES (PAGE 6, LINE 6) THAT BASED ON THE CURRENT**
14 **TIMELINE OF THE RATE CASE, THE PROPOSED TARIFF WOULD BECOME**
15 **EFFECTIVE PRIOR TO THE MARCH 2025 ICR TARIFF FILING AND AS**
16 **PROPOSED BY THE COMPANY, THE 2025 FILING USING THE 2024 ICR**
17 **RATE BASE WILL BE LIMITED TO AN INCREMENTAL RATE BASE ABOVE**
18 **THAT DETERMINED IN TPUC DOCKET NO. 24-00032. WHAT IS YOUR**
19 **RESPONSE?**

20 A. The transition from the CRRs Tariff (Legacy Riders) to the ICR Tariff, coupled with a
21 general rate case, necessarily comes with issues that must be appropriately and carefully
22 addressed. Issues that arise from this transition and the rate case are issues for the rate case
23 and the 2025 ICRR filing. The best way to deal with issues related to which rate base

1 should be used in determining incremental rate base is best left to the rate case and to the
2 filing to be made in March of 2025, rather than in a separate proceeding or in this
3 proceeding, which concerns the 2023 investments and earnings. Mr. Dittimore's point is
4 that the proper rate base to use for 2024 would be the base from the Company's 2012 rate
5 base, as that year is the year prior to the rate base established in the rate case in TPUC
6 Docket 24-00032. However, that is not an issue for today. At this point the Company has
7 not determined the specific contents of what it will file in the March 1, 2025 filing under
8 the ICR Tariff, but it will endeavor to be in compliance with the ICR Tariff, will only seek
9 recovery permitted pursuant to the ICR tariff, and will not seek recovery for investments
10 already being recovered in base rates. Rather than engage in general, hypothetical
11 speculation about the Company's future ICR Tariff filings, the Commission should instead
12 let the parties address this issue in 2025 when there is a specific proposal and filing that is
13 informed by the general rate case. The Company is hopeful that the parties could work
14 together to address issues that arise in determining the appropriate rate base in that future
15 proceeding.

16 **Q. IN LIGHT OF THE CONCERNS RAISED BY THE CONSUMER ADVOCATE**
17 **DIVISION IN ITS SUPPLEMENTAL TESTIMONY, PLEASE EXPLAIN YOUR**
18 **VIEW ON HOW THE ICR TARIFF WILL FUNCTION IN THE YEAR AFTER**
19 **NEW BASE RATES TAKE EFFECT.**

20 A. While the best approach is to address these cases in sequence and when filed, because Mr.
21 Dittimore discusses 2026 and 2027, I will explain the Company's view, subject to revision
22 when it files these future cases, so the Commission can see that these alleged issues have
23 solutions, but that they are not ripe for determination now. For the year after new rates

1 take effect, in this case 2026, the ICR Tariff filing submitted in March of 2026 would look
2 back at 2025 and determine what incremental capital projects were placed into service in
3 2025. Incremental capital could be defined as capital placed into rate base that was
4 incremental to that included when the Commission adopted base rates for the GRC
5 Attrition year of 2025 – something unknown now but that will be known at the time of the
6 2026 filing. An ICRR would be calculated, adjusted for over and under collection and then
7 subjected to the ROE test and its limitations on recover of the ICRR. As regarding the
8 Consumer Advocate’s concern that the tariff does not provide sufficient guidance about
9 these future filings, any such concerns or issues are best resolved with the parties informed
10 about the outcome of the general rate case, and so it’s probably an overstatement by Mr.
11 Dittemore that the tariff is “missing key components.” The parties do not have a crystal
12 ball and while Mr. Dittemore’s desire to address future issues is admirable, how the tariff
13 works for a filing made in 2026, looking back at 2025 historic year, is best dealt with in
14 the ICRR filing to be made in 2026.

15 **Q. IN LIGHT OF THE CONCERNS RAISED BY THE CONSUMER ADVOCATE**
16 **DIVISION IN ITS SUPPLEMENTAL TESTIMONY, PLEASE EXPLAIN YOUR**
17 **VIEW ON HOW THE ICRR TARIFF WILL FUNCTION IN SUBSEQUENT**
18 **YEARS?**

19 A. For subsequent year 2027 until the year of a new rate case, the application of the ICR Tariff
20 is straightforward – assuming the Company does not file another general rate case in the
21 interim. In March of 2027, the ICR would be based on incremental capital in 2026. The
22 existing ICR Tariff language reflects this situation with clarity as it reflects the pre-general
23 rate case filing status that existed in 2023 and before.

1 **Q. MR. DITTEMORE ASSERTS AT PAGE 7 LINES 3-4, THAT THE COMPANY IS**
2 **REQUESTING THE ADOPTION OF TARIFF LANGUAGE THAT REQUIRES**
3 **AN ANNUAL ICRR FILING AFTER THE APPROVAL OF THAT DOCKET. IS**
4 **MR DITTEMORE CORRECT?**

5 A. No, Mr. Dittemore is not correct, though it is difficult to tell because he does not cite or
6 reference the specific language he is relying upon here. The Company is not requesting
7 new tariff language that requires an annual ICRR filing after the approval of the rate case.
8 The language in the tariff submitted in Exhibit BL-2 in TPUC Docket No. 24-00032 is not
9 new language. The language already exists in the current tariff adopted in TPUC Docket
10 No. 19-00103. The material was inadvertently marked as new language. The current ICR
11 Tariff approved by the Commission calls for annual ICRR filings.

12 **Q. MR. DITTEMORE PROPOSES THAT GOING FORWARD OVER/UNDER**
13 **RECOVERIES SHOULD BE RECONCILED OUTSIDE THE ICRR**
14 **MECHANISM. DOES THE COMPANY SUPPORT THIS?**

15 A. No. I addressed this issue in my Rebuttal Testimony (p. 3, line 8; p. 7 line 9). As set forth
16 in his previous pre-filed testimony in Docket No. 24-00011, Mr. Dittemore does not like
17 the way the current tariff is applied but has not yet made any specific recommendation to
18 how the tariff should be modified. He seeks to have the Commission disregard that part of
19 the tariff until some point in the future. The Company believes a reconciliation component
20 to the ICRR is important, a best practice, and consistent with the ICR Tariff as well as the
21 previous Capital Rider Tariff. As outlined in my Rebuttal Testimony, such a reconciliation
22 component is already included in the current ICRR tariff and the appropriate adjustment

1 for an over collection was made reducing the amount of revenue increase the Company
2 could have requested but for the ROE test.

3 **Q. DO YOU AGREE WITH MR. DITTEMORE'S RECOMMENDATION THAT THE**
4 **COMMISSION REQUIRE THE COMPANY TO DEFER OVER/UNDER**
5 **COLLECTIONS IN A REGULATORY LIABILITY/ASSET ACCOUNT FOR**
6 **FUTURE DISPOSITION BY THE COMMISSION (PAGES 9-10)?**

7 The Consumer Advocate Division had the opportunity to make this assertion in its April
8 26th pre-filed testimony in this case in response to the Company's pre-filed testimony and
9 did not do so. This is not a new issue that is being raised now solely due to the now pending
10 general rate case. That noted, the under collection in 2023 should continue to be addressed
11 in the manner prescribed by the tariff and it has been so in this case.

12 **Q. DO YOU OBJECT TO MR. DITTEMORE'S RECOMMENDATION (PAGE 10**
13 **LINE 20 - PAGE 11, LINE 2) THAT THE COMMISSION REQUIRE THE**
14 **COMPANY TO PROVIDE JUSTIFICATION FOR ITS LETTER OF APRIL 1,**
15 **2024, SUBMITTED IN TPUC DOCKET NO. 19-00103, WHEREIN IT NOTIFIED**
16 **THE COMMISSION OF ITS INTENT TO UTILIZE DEFERRED ACCOUNTING**
17 **IN LIGHT OF (I) ITS ICRR TARIFF PROPOSAL IN TPUC DOCKET NO. 24-**
18 **00032, AND (II) ITS OVER-EARNING SITUATION?**

19 A. Yes, I do object. First, the letter was filed weeks prior to the time that the Consumer
20 Advocate Division's submitted Mr. Dittimore's April 26th testimony in Docket No. 24-
21 00011. So, the Consumer Advocate could have raised this issue in Docket No. 19-00103
22 and should have raised this issue in its April 26th pre-filed testimony in this case, Docket
23 No. 24-00011. Next, the Commission in TPUC Docket No. 19-00103 allowed the company

1 to defer some property tax, depreciation expenses and the debt cost associated with ICR
2 eligible investments. The Tariff required notification from the Company, and the Company
3 complied with this requirement. The Company did not defer costs in 2023 but may do so
4 in 2024 under the tariff. Any earning above the authorized ROE in 2023 is specific to the
5 net book income in 2024, which is dependent on costs and revenue in 2024 and the equity
6 component of rate base or 2024. As stated above, the company did not make an ICR Tariff
7 proposal in TPUC docket No. 24-00032 and will modify its exhibit in that case to make
8 that clear. However, since Mr. Dittmore did not specify which language he claims is new,
9 it is difficult for the Company to fully comprehend what Mr. Dittmore sees as a “new”
10 proposal and to appropriately address any misunderstanding or inadvertent change. The
11 Consumer Advocate agreed to the allowing the Company to utilize deferred accounting for
12 certain costs as part of the settlement in TPUC Docket No 19-00109, but now seeks to undo
13 that part of the bargain in addition to trying to undo the over- and under-collection issue
14 which was also agreed to by the parties.

15 **Q. ON PAGE 11, LINE 3 OF HIS SUPPLEMENTAL TESTIMONY, MR.**
16 **DITTEMORE RECOMMENDS THAT THE COMMISSION REQUIRE THE**
17 **PARTIES TO COLLABORATE IN TPUC DOCKET NO. 19-00103 OR A**
18 **SEPARATE DOCKET TO DETERMINE WHETHER A RESOLUTION CAN BE**
19 **REACHED REGARDING AN ICR TARIFF THAT WOULD BE IN EFFECT AS**
20 **OF THE DATE NEW BASE RATES ARE DETERMINED. WHAT IS YOUR**
21 **RESPONSE TO THIS RECOMMENDATION?**

22 A. It is surprising to see the Consumer Advocate Division raise this issue so quickly after the
23 agreement reached on the ICR Tariff in Docket No. 19-00103. Both the original Capital

1 Recovery Riders Tariffs and the ICR Tariff expressly recognized and acknowledged that
2 at some point the Company would submit a general rate case. It appears Mr. Dittmore is
3 seeking to use the inadvertent changes to the ICR Tariff in Docket No. 24-00032 as an
4 opportunity to quickly revisit the approved ICR Tariff in TPUC Docket No. 19-00103
5 again. Mr. Dittmore did not identify the problematic language that differed from the
6 approved tariff in that case. The Company did not intend to make any changes to the tariff
7 – honoring the agreement in 19-00103 - and if Mr. Dittmore can show what new or
8 additional language the company inadvertently changed the company would be happy to
9 address that correcting it, as it was not the Company's intent to change it. And those
10 corrections should occur in the rate case No. 24-00032. Rather than returning to a recently
11 settled case and seeking to renegotiate that case, TAWC believes that it is in the parties,
12 and the Commission's best interest to focus on the rate case. The parties and the
13 Commission in Docket No. 24-00032 can identify any changes to the ICR Tariff
14 necessitated by the Commission's decisions in the general rate case. The compliant tariff
15 that must be submitted in Docket No. 24-00032 subsequent to the Commission's decisions
16 in Docket No. 24-00032 would include any such changes

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

18 A. Yes, it does.

**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 4th day of June, 2024.



Notary Public

My Commission Expires: 2-28-28

