

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

**November 5, 2024**

<b>IN RE:</b>	)	
	)	
<b>TENNESSEE WATER SERVICE, INC. PETITION</b>	)	<b>DOCKET NO.</b>
<b>FOR APPROVAL OF ITS 2024 ANNUAL RATE</b>	)	<b>24-00028</b>
<b>REVIEW FILING PURSUANT TO TENN. CODE ANN.</b>	)	
<b>§ 65-5-103 (d)(6) AND REQUEST FOR RATE</b>	)	
<b>STRUCTURE MODIFICATION</b>	)	

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**ORDER APPROVING 2024 ARRM FILING AS AMENDED**

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This matter is before Commissioner Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner David H. Crowell of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on August 12, 2024, to consider the *Petition for Approval of 2024 Rate Review Filing And Rate Structure Modification* (“*Petition*”) filed on April 30, 2024, by Tennessee Water Service, Inc. (“TWS,” “Tennessee Water” or the “Company”).

**BACKGROUND AND *PETITION***

TWS operates one water system in the Chalet Village Subdivision in Sevier County, Tennessee, which serves approximately 418 customers. In November of 2016, Gatlinburg, Tennessee, and the surrounding area, including the community served by the Company, was devastated by the Great Smoky Mountain wildfires, also known as the Gatlinburg wildfires. Fourteen (14) lives were lost in the wildfires. In addition to the tragic loss in lives, there was widespread property destruction and damage, including much of the infrastructure of TWS and the property of the Company’s

customers.<sup>1</sup> In a 2019 rate case, the rates of the Company were substantially increased to account for new investment in replacing infrastructure.<sup>2</sup>

In 2023, the Company filed a request for Annual Rate Review Mechanism (“ARRM”). Ultimately, the Commission approved a settlement between TWS and the Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) authorizing TWS’s ARRM.<sup>3</sup> As part of the settlement, among other terms, base rates may not be increased until the third ARRM filing.<sup>4</sup> Pursuant to the approved ARRM, the Company is to submit an annual filing on or before April 30<sup>th</sup> of each year.

On April 30, 2024, the Company filed the *Petition* in this docket. Consistent with its approved ARRM, TWS did not request a rate increase. Instead, the Company requested a decrease in rates of approximately 0.09%,<sup>5</sup> and also that the Commission find that TWS’s ARRM filing employs proper methodologies. Further, based upon feedback from its customers, TWS requested a modification to its current rate structure.<sup>6</sup>

In pre-filed testimony, Ms. Tiffany Van Horn, President of TWS, provided an overview of the Company and described the extensive damage sustained during the 2016 Great Smoky Mountains wildfire. Before the wildfire, TWS served approximately 564 customers. After the fire, only twenty-five (25) connections remained.<sup>7</sup> Since that time, the Company has been rebuilding its system. At the

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<sup>1</sup> See *In re: Petition of Tennessee Water Service, Inc. for Adjustment of Rates and Charges, Approval of a Qualified Infrastructure Investment Program, and Modification to Certain Terms and Conditions for the Provision of Water Service*, Docket No. 19-00028, *Amended Order*, pp. 4-5 (March 9, 2020).

<sup>2</sup> *Id.* at 3.

<sup>3</sup> See *In re: Petition of Tennessee Water Service, Inc. to Adopt Annual Rate Review Mechanism and Tariff Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, Docket No. 23-00046, *Order Approving Stipulation and Settlement Agreement on Annual Rate Review Mechanism and Tariff* (November 16, 2023).

<sup>4</sup> *Id.* at 6.

<sup>5</sup> *Petition*, p. 3 (April 30, 2024).

<sup>6</sup> *Id.* at 3-4.

<sup>7</sup> Tiffany Van Horn, Pre-Filed Direct Testimony, p. 3 (April 30, 2024).

time the *Petition* was filed, TWS had reconnected and served approximately 75% of the premises that were existing before the wildfire and double the active premises since its last rate case.<sup>8</sup>

Based upon regular communication with its customers, the Company determined the current rate structure created an uneven burden across its customer base, which consists of a mix of year-round, seasonally active, and rental customers. For this reason, TWS requested approval of a modification to its rate structure that better aligns with its mix of customers.<sup>9</sup> According to Ms. Van Horn, the Company's proposal reverts back to a 2,000 gallons-per-month base usage allowance and creates an inclining, 3-tier volumetric block structure, which was in place for approximately ten (10) years before the Company's last rate case in 2019.<sup>10</sup>

In his pre-filed testimony, Mr. Philip J. Drennan, Regional Vice-President of Finance for TWS, sponsored an exhibit with sixteen (16) schedules outlining the components and calculations for the ARRM filing.<sup>11</sup> The mechanism, as approved by the Commission in Docket No. 23-00046, includes provisions that no rate increase would occur (or be deferred) for the first two annual filings, a 15% threshold for non-revenue water, and a \$15,000 limitation on recovery of annual filing costs.<sup>12</sup>

With respect to accounting treatment, the Company requested authorization to amortize two (2) deferred items. First, pursuant to authorization in the 2019 rate case, the Company included deferred operating losses accumulated from October 2018 to December 2019. Second, the Company deferred its filing costs for the initial ARRM petition in Docket No. 23-00046. The Company requested that the Commission approve its rate base and amortization treatments for these items in order to resolve outstanding balances on its balance sheet that would otherwise remain unrecovered until a future rate case.<sup>13</sup>

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<sup>8</sup> *Id.* at 3-4.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 5-6.

<sup>11</sup> Phillip J. Drennan, Pre-Filed Direct Testimony, pp. 3-4 (April 30, 2024).

<sup>12</sup> *Id.* at 4-5.

<sup>13</sup> *Id.* at 6.

According to Mr. Drennan, the Company's ARRM calculations demonstrate that an earnings excess occurred in the amount of \$1,682, and after applying carrying charges, results in an Annual True-Up Rate Adjustment credit of \$2,337 from the historic period that will be applied to the Attrition Period Reset. Mr. Drennan testified that the Company's calculations of the Attrition Period Reset, using the approved ARRM methodologies and inclusive of the Annual True-Up Rate Adjustment, results in a decrease in Service Revenues of \$578.<sup>14</sup>

Mr. Drennan testified that the Company analyzed its 2023 customer usage across Chalet Village to determine the billable usage at various consumption thresholds to identify reasonable usage blocks. Based upon this information, the Company identified the number of bills and amount of water volume that would fall into the Company's proposed usage blocks. Based upon this analysis, Mr. Drennan asserted the proposed rate design at Attrition Period revenues would generate lower bills for customers consuming at least 7,000 gallons/month. According to Mr. Drennan, the proposed rate design addresses the concerns of customers, is consistent with the terms of the TWS ARRM, and is in the public interest.<sup>15</sup>

#### **POSITION OF THE CONSUMER ADVOCATE**

On behalf of the Consumer Advocate, Mr. David N. Dittmore submitted pre-filed testimony and made several recommendations to the Company's *Petition*. Consistent with the principles of the Federal Energy Regulatory Commission ("FERC") in Docket EL-23-51-000, Mr. Dittmore recommended that the Commission find that future recognition of Net Operating Loss ("NOL") tax assets should be based on a reconcilable Tennessee-specific NOL balance and validation that TWS's parent company, Corix Regulated Utilities (US), Inc. ("Corix"), has an NOL at its corporate level.<sup>16</sup>

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<sup>14</sup> *Id.* at 7.

<sup>15</sup> *Id.* at 8-9.

<sup>16</sup> David N. Dittmore, Pre-Filed Direct Testimony, pp. 3-6, Exhibit DND-2 (July 1, 2024).

Based upon responses to data requests and his calculations, Mr. Dittemore expressed a lack of confidence in the accuracy of the NOL component of the Company's Accumulated Deferred Income Tax ("ADIT") balance. Mr. Dittemore recommended any offsetting impact of the NOL tax asset on TWS's ADIT liability should be removed from Rate Base in the historic base period.<sup>17</sup> Based upon the Consumer Advocate's adjustment for the difference in excess revenue calculations, Mr. Dittemore testified that the Commission should adopt a historic period revenue excess of \$10,145 and an attrition period revenue excess of \$15,567.<sup>18</sup> As a result, Mr. Dittemore calculated a monthly service charge reduction of \$1.67.<sup>19</sup>

Consistent with previous rulings of the Commission, Mr. Dittemore agreed with the Company's proposal to amortize *deferred operating losses* for the period from October 1, 2018, through December 31, 2019, over a ten-year period.<sup>20</sup> Mr. Dittemore testified that the proposal to amortize *rate case costs* over a three-year period is reasonable and should be adopted.<sup>21</sup> According to Mr. Dittemore, the Company's rate design proposal encourages conservation and is revenue-neutral and consequently, should be approved.<sup>22</sup> Overall, Mr. Dittemore proposed a monthly decrease of \$1.67 for each of the respective customer charges, resulting in rates of \$48.29 and \$34.10, respectively.

Finally, because consistent meter readings are important when rates are set on tiered usage blocks, Mr. Dittemore recommended that the Commission direct TWS to file tariff language indicating that the period between meter reading dates shall not exceed thirty-three (33) days.<sup>23</sup>

#### **TENNESSEE WATER SERVICE COMPANY REBUTTAL TESTIMONY**

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<sup>17</sup> *Id.* at 7-9.

<sup>18</sup> *Id.* at 9; Exhibit DND-4.

<sup>19</sup> *Id.* at 3, 10-1.

<sup>20</sup> *Id.* at 13.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 14.

<sup>23</sup> *Id.* at 15.

In rebuttal testimony filed on behalf of the Company, Mr. Drennan noted that the Consumer Advocate accepted the Company's filing except for two recommendations. Mr. Drennan testified that the Company agreed with the Consumer Advocate's recommendation to add tariff language limiting the meter reading cycle to thirty-three (33) days. Further, the Company also proposed to set a low-end threshold of twenty-five (25) days. In any instances where the read period is below twenty-five (25) days or above thirty-four (34) days, the Company will prorate the fixed and usage block charges accordingly.<sup>24</sup>

With respect to the NOL issues raised by the Consumer Advocate, Mr. Drennan testified that the Company provided sufficient support for the year-to-year movements in the state NOL asset. TWS, however, conceded its running balance for the state NOL asset has a portion miscoded to its corporate parent company. If this portion had been included, it would increase the NOL asset and therefore, its rate base. Given this error, TWS agreed to maintain its incomplete book balance for its state NOL asset as filed in this docket and forego the incremental portion recorded at the parent level.<sup>25</sup>

A similar miscoding variance is on the Company's local books regarding the federal NOL asset. Because TWS conceded its provided documentation for the federal balance does not provide the same level of verifiability as that provided for the state balance, the Company indicated it is willing to remove the federal NOL asset from rate base.<sup>26</sup> Based upon the corrections, Mr. Drennan proposed a revised revenue request of \$8,732. Mr. Drennan used the same method proposed by the Consumer Advocate to allocate this reduction via a decrease in fixed charges. The result was a change from the proposed \$1.67/month recommended by the Consumer Advocate to \$1.42/month. This

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<sup>24</sup> Phillip J. Drennan, Pre-Filed Rebuttal Testimony, p. 3 (July 15, 2024).

<sup>25</sup> *Id.* at 4.

<sup>26</sup> *Id.*

resulted in a new base charge of \$48.54 per month, a Multi-Use Connection charge of \$34.35 per month, and a Fire Only Connection Charge of \$70.11 per month.<sup>27</sup>

### **PRE-HEARING FILINGS**

On July 25, 2024, the parties submitted a settlement agreement and a *Joint Motion for Leave to File a Stipulation and Settlement Agreement* which the Administrative Judge denied. Because of the strict and compressed statutory deadlines imposed on the Commission and the parties in alternative ratemaking mechanism proceedings, parties must strive to submit formal settlement agreements pursuant to the procedural schedules proposed in such dockets and adopted by the Administrative Judge. In a joint letter filed on August 5, 2024, TWS and the Consumer Advocate agreed to accept TWS's revised revenue reduction calculation and NOL calculation.<sup>28</sup> The Company further agreed to provide additional support for NOL calculations.<sup>29</sup> The parties indicated there were no issues in dispute and agreed to waive cross-examination and opening and closing statements.

### **THE HEARING**

The hearing in this matter was noticed by the Commission on August 2, 2024, and held during the regularly scheduled Commission Conference on August 12, 2024. Making appearances were the following:

Tennessee Water Service, Inc. – Ryan A. Freeman, Esq., Baker Donelson, PC, 633 Chestnut Street, Suite 1900, Chattanooga, Tennessee 37201.

Consumer Advocate Division – Shilina B. Brown, Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015.

Mr. Phillip J. Drennan provided testimony in support of the adjustments to the *Petition*. Members of the public had an opportunity to offer comments, but no one sought recognition to do so.

### **FINDINGS AND CONCLUSIONS**

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<sup>27</sup> *Id.* at 5.

<sup>28</sup> *Letter to Chairman David F. Jones* (August 5, 2024).

<sup>29</sup> *Id.* at 2.

Based on the evidentiary record in this case, the panel found that the methodologies, adjustments, and procedures related to Tennessee Water Service's ARRM for the period January 2023 through December 2023 to be consistent with prior Commission Orders and TWS's approved tariff. The panel voted unanimously to approve the Company's proposed \$8,732 overall revenue sufficiency, as presented in Exhibit DND-4 TWS of Mr. Drennan's rebuttal testimony, along with the rate design supported by both parties. The Company's revised rates shall become effective September 1, 2024.

Next, the panel found the Company's revised rate structure, which doubles base customer usage to 2,000 gallons per month and includes three (3) progressive-rate usage tiers, to be just and reasonable. Because this new rate structure includes progressive rates for its usage blocks, the panel found that the Company's normal meter reading interval for its customers shall not be less than twenty-five (25) days, nor more than thirty-three (33) days, with any abnormal intervals having the fixed and usage charges appropriately prorated. The panel found that the ten-year and three-year amortization periods, respectively, for TWS's deferred operating losses from October 2018 through December 2019 and for its deferred regulatory filing costs from last year's initial ARRM filing, to be appropriate in this filing.

Further, the panel directed the Company to submit revised tariff sheets to the Commission for review that include TWS's revised rates and new rate structure, along with language defining the normal customer meter reading interval to be at least twenty-five (25) days and no higher than thirty-three (33) days. This language shall also explain how meter reading intervals falling outside of the normal range will be computed, including appropriate prorations. Finally, the panel found the Company's ARRM allows for timely recovery of reasonable and prudent expenditures by the Company while limiting more costly rate cases, which the Company might otherwise have to pursue



recovery of such expenditures. Therefore, the panel found that the Company's ARRM continues to be in the public interest.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Approval of 2024 Rate Review Filing and Rate Structure Modification* filed on April 30, 2024, by Tennessee Water Service, Inc., and amended by Mr. Phillip J. Drennan's Pre-Filed Rebuttal Testimony is APPROVED.

2. Tennessee Water Service, Inc.'s amended proposed \$8,732 overall revenue sufficiency, as presented in Exhibit DND-4 TWS of Mr. Drennan's Pre-Filed Rebuttal Testimony is APPROVED.

3. Any person(s) aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

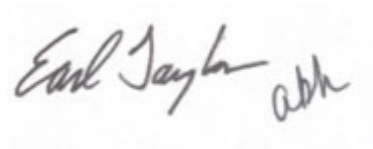
4. Any person(s) aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

**Commissioner Herbert H. Hilliard,  
Commissioner Robin L. Morrison,  
Commissioner Clay R. Good,  
Commissioner Kenneth C. Hill, and  
Commissioner David Crowell concurring.**

None dissenting.

**ATTEST:**

A handwritten signature in dark ink, appearing to read "Earl Taylor" followed by a stylized monogram or initials "abh".

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**Earl R. Taylor, Executive Director**