

# BUTLER | SNOW

October 22, 2024

## VIA ELECTRONIC FILING

Hon. David Jones, Chairman  
c/o Ectory Lawless, Docket Room Manager  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
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Electronically Filed in TPUC Docket Room  
on October 22, 2024 at 2:22 p.m.

**RE: *Petition of Tennessee-American Water Company to Modify Tariff, Change and Increase Charges, Fees, and Rates, and for Approval of a General Rate Increase, TPUC Docket No. 24-00032***

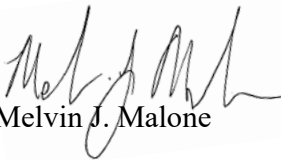
Dear Chairman Jones:

Attached for filing please find *Tennessee-American Water Company's Rebuttal Testimonies for (1) Heath Brooks; (2) Ann Bulkley; (3) Dominic J. DeGrazia; (4) Grant Evitts; (5) Nicholas Furia; (6) Larry Kennedy; (7) Bob Lane; (8) Robert V. Mustich; (9) Robert Prendergast; (10) Charles Rea; (11) Linda Schlessman; (12) Grady Stout; (13) Harold Walker, III; and (14) John Watkins* in the above-captioned matter.

As required, the original plus four (4) hard copies will follow. 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  
Shilina Brown, Consumer Advocate Division  
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**TENNESSEE-AMERICAN WATER COMPANY, INC.**

**DOCKET NO. 24-00032**

**REBUTTAL TESTIMONY**

**OF**

**GRANT EVITTS**

**ON**

**TOPIC:**

The impact of CAD's and COC's recommendations related to labor costs, Return on Equity,  
and customer-owned lead service lines



1   **Q.     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.     My name is Grant Evitts and my business address is 109 Wiehl Street, Chattanooga,  
3         Tennessee.

4   **Q.     DID YOU PREVIOUSLY SUBMIT DIRECT TESTIMONY IN THIS**  
5         **PROCEEDING ON BEHALF OF TENNESSEE AMERICAN WATER COMPANY**  
6         **(“TAWC” OR THE “COMPANY”) IN THIS PROCEEDING?**

7   A.     Yes. I filed Direct Testimony on May 1, 2024.

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

9   A.     While other Company witnesses address the specific recommendations made by the  
10         Consumer Advocate Division (“CAD”) and the City of Chattanooga (“COC”), I, as  
11         President of TAWC, want to speak to the adverse impact on the Company’s ability to  
12         provide safe, reliable and affordable service to customers as efficiently and effectively as  
13         possible over the long-term should the Commission accept the Intervenor’s arguments that  
14         disallow recovery of reasonable and prudently incurred expenses, impose an unreasonable  
15         weighted average cost of capital (“WACC”), largely due to setting a Return on Equity  
16         (“ROE”) that is substantially lower than warranted by both the Company’s Petition and  
17         supporting documentation and those being awarded to utilities in other jurisdictions, and a  
18         capital structure that is not reflective of its distinct risk profile or of that used to operate  
19         the business, and reject customer-focused proposals that aid the Company in complying  
20         with the new requirements to replace all lead service lines.

1 **Q. ARE THERE ANY CAD OR COC ARGUMENTS THAT YOU WANT TO**  
2 **HIGHLIGHT SPECIFICALLY FOR THE COMMISSION THAT YOU BELIEVE,**  
3 **IF ACCEPTED, WILL HAVE A NEGATIVE IMPACT ON THE COMPANY ?**

4 A. Both CAD's and COC's overall positions, which is to recommend that the Company  
5 receive a *decrease* in the rates established in 2012 and reject *all* of the Company's  
6 proposals, are very concerning as it appears that these parties have defaulted to a strategy  
7 that prioritizes achieving the lowest rates possible over most, if not all, other  
8 considerations, including providing the Company with a revenue requirement that allows  
9 it to continue to provide safe and reliable water service to our customers. As a Company,  
10 we want to maintain affordable rates for our customers. A singly-focused outcome-driven  
11 approach, however, such as that employed here by the CAD and COC, will ultimately not  
12 benefit our customers nor the communities we serve. With that said, there are some  
13 contentions from CAD and COC that I want to highlight as their respective positions, even  
14 standing alone, will have an adverse impact on the Company and its ability to serve its  
15 customers. These positions include: (i) CAD's and COC's recommendation to disallow  
16 labor costs associated with increasing the Company's workforce and recovery of costs  
17 related to the Company's performance pay portion of its total market-based compensation<sup>1</sup>,  
18 (ii) CAD's recommendation to adopt an inadequate ROE that is far below what is standard  
19 for utilities<sup>2</sup>, along with CAD's and COC's recommendation to do so with a capital

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<sup>1</sup> *Pre-filed Testimony of Consumer Advocate Witness David N. Dittmore* 8, 21-23; 23-29, TPUC Docket No. 24-00032 (Sept. 17, 2024) (hereinafter "*Dittmore*"); and *Pre-filed Testimony of City of Chattanooga Witness Mark E. Garrett* 15-31, 31-32, TPUC Docket No. 24-00032 (Sept. 17, 2024) (hereinafter "*Garrett*").

<sup>2</sup> *Pre-filed Testimony of Consumer Advocate Witness Aaron L. Rothschild* 8, TPUC Docket No. 24-00032 (Sept. 17, 2024) (hereinafter "*Rothschild*").

1 structure that is not reflective of the Company's operations or risk<sup>3</sup>, and (iii) CAD's  
2 recommendation to reject the Company's proposal to replace customer-owned lead service  
3 lines and recover those costs through the Qualified Infrastructure Investment Program  
4 Rider ("QIIP").<sup>4</sup>

5 **Q. WHAT IS YOUR CONCERN WITH THESE RECOMMENDATIONS?**

6 A. The individual and cumulative impact of these positions would undermine the Company's  
7 ability to adequately recover the Company's prudently incurred costs and continue to  
8 attract proactive capital investment resulting in consequences that will compromise the  
9 Company's ability to continue investment in infrastructure in a manner that is in the long-  
10 term best interest of its customers. I am also concerned with CAD's opposition to the  
11 Company's proposals to implement the Universal Affordability Tariff ("UAT"), which is  
12 a program that will help ensure the affordability for all of the Company's customers.

13 **Q. HOW ARE RECOVERY OF LABOR COSTS, INCLUDING TOTAL MARKET-**  
14 **BASED COMPENSATION, IMPORTANT FOR TAWC TO CONTINUE TO**  
15 **PROVIDE SAFE AND RELIABLE WATER SERVICE TO ITS CUSTOMERS?**

16 A. The Company's staffing needs reflect its growing customer base and the increased and  
17 more stringent regulatory requirements the Company must operate under, and as explained  
18 by Company witness Stout<sup>5</sup>, more customers and more stringent regulatory requirements  
19 demand that we increase our workforce. Our workforce is a prudent and reasonably

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<sup>3</sup> Rothschild 79 (recommending a capital structure based on the average equity ratios of the utilities in his proxy group.); Garrett 39 (recommending that the consolidated capital structure of American Water, with minor modification, be adopted as the capital structure for TAWC.)

<sup>4</sup> *Pre-filed Testimony of Consumer Advocate Witness Alex Bradley* 15-19, TPUC Docket No. 24-00032 (Sept. 17, 2024) (hereinafter "*Bradley*");

<sup>5</sup> Grady Rebuttal Testimony 4-5.

1 incurred expense necessary for the continued provision of safe and reliable service to our  
2 customers. If the Company ignored or downplayed the need for additional employees in  
3 this changing environment, it would be characterized as irresponsible.<sup>6</sup> In fact, if a  
4 catastrophic event occurred that impacted, and perhaps even interrupted, the Company's  
5 services, and it was later determined that TAWC was understaffed to appropriately handle  
6 such a challenge, our customers and the communities we serve would be disappointed at  
7 the least and maybe even outraged. For instance, and for illustrative purposes only, as a  
8 society, we want our healthcare and hospitals to be accessible; yet, we also want the  
9 provision of healthcare and our hospitals to be safe and reliable. Likewise, we want our  
10 food to be affordable, but not at the expense of quality and safety.

11 Further, recruitment and retention of skilled workers is critical to continuing to provide  
12 safe and reliable water service for the benefit of all of our customers. Competition among  
13 companies to attract and retain the best quality employees is tough, so it is crucial that the  
14 Company's compensation program provide employees with a total compensation package  
15 that's comparable to those offered by the companies with which we compete for  
16 employees. This is especially true with respect to employee retention, where the loss of  
17 skilled employees imposes a real and added cost on a Company, which must then recruit  
18 and train replacements. The Company has demonstrated in this case that the total  
19 compensation level it provides its employees is in line with the market, regardless of the  
20 Company's compensation structure which uses base pay and performance pay.<sup>7</sup> The

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<sup>6</sup> Not only do CAD and COC recommend the Commission disallow cost recovery of the additional positions sought in this case, but they also fail to make corresponding adjustments to overtime or contract services expense that would be necessary to perform the work such positions are contemplated to complete. *See Pre-filed Rebuttal Testimony of TAWC Witness Prendergast*, .3.

<sup>7</sup> *See Pre-filed Direct Testimony of TAWC Witness Mustich* .8, and Confidential Schedule RVM-1.

1 Company's total employee compensation costs should be assessed under the same standard  
2 as all other operating costs - if prudently incurred and reasonable in amount, relative to  
3 what the industry pays for the same services, it should be recoverable through rates. The  
4 Company has demonstrated in this case that its total compensation expense is reasonable  
5 and prudently incurred, and it is inappropriate to disallow cost recovery of a portion of the  
6 Company's total market-based compensation, as CAD and COC have recommended. It is  
7 also important to note that if we do not recover these unavoidable costs, we will have an  
8 immediate diminution in our earned rate of return, which also hinders the Company's  
9 ability to compete for proactive capital investment dollars because the Company would not  
10 have a reasonable opportunity to earn its authorized rate of return.

11 **Q. WHAT WOULD THE CONSEQUENCES BE IF THE COMMISSION WERE TO**  
12 **ACCEPT CAD'S RETURN ON EQUITY RECOMMENDATION OR CAD'S OR**  
13 **COC'S CAPITAL STRUCTURE RECOMMENDATIONS?**

14 A. I view part of my role to be an advocate for Tennessee in seeking to obtain funding -- in  
15 essence, to make the case to those outside the state that Tennessee deserves investment. If  
16 adopted, CAD's recommendation of an 8.28% ROE for TAWC, along with equity ratios  
17 recommended by CAD and COC that are not reflective of TAWC's operations, would  
18 directly and adversely impact the Company's ability to secure proactive investment  
19 funding. While American Water always ensures that each of its water and wastewater  
20 utilities are afforded funding to continue to provide safe, adequate, and reliable service,  
21 investment funding is not limitless. American Water is competing with other companies  
22 and industries in the marketplace for capital, and American Water's subsidiaries are



1 competing within the American Water system for proactive allocations of American  
2 Water's investment and financing capacity.

3 Allocations within American Water can be influenced by a company's capital requirements  
4 as well as by market conditions and available funds. Like any rational investor, American  
5 Water considers its opportunity to earn a fair and reasonable authorized return when  
6 considering investment opportunities. All other things being equal, American Water, again,  
7 like any investor, generally favors higher-return investments over lower ones, provided the  
8 investment risks are comparable. CAD, however, is recommending that the Commission  
9 set TAWC's ROE as 8.28%, which, as explained by Company witness Bulkley, is well  
10 below the ROE's being awarded to other utility companies.<sup>89</sup> As shown on her Table on  
11 page 20, CAD's recommended ROE of 8.28 doesn't even fall within the average range of  
12 annual authorized ROEs awarded in the nearly four year period (2021-2024) that she  
13 analyzed. As a consequence, American Water would have much less incentive to allocate  
14 funding to Tennessee-American than to its other regulated subsidiaries. This will be further  
15 compounded if the capital structure utilized to set rates is not reflective of TAWC's specific  
16 risk profile or operations, as both CAD and COC recommend.

17 **Q. IS THE CONCERN ABOUT ATTRACTING MONEY FROM INVESTORS, OR**  
18 **WHAT IS BEST FOR CUSTOMERS?**

19 A. Both; this is about aligning customer and investor interests. We have a multi-decade-long  
20 investment need that is funded up-front by shareholders and lenders and recovered from  
21 customers over a 40 plus-year time frame. American Water is acutely aware that utility

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<sup>8</sup> Refer to Ms. Bulkley's Rebuttal Testimony, 19-20.

<sup>9</sup> Ms. Bulkley also explains, starting on page 15, line 9 through page 16, line 3, why the ROEs issued by other commissions to utilities is a relevant consideration.

1 statutes and regulatory schemes vary from state to state; regulatory commissions have  
2 different policies, administrative procedures, and precedents; and these differences affect  
3 American Water's investment decisions. Investors have choices. The choices investors  
4 make must necessarily consider the returns available on invested capital. When investors  
5 have an incentive to invest, they will, and when they do not, they won't. Embracing the  
6 CAD's and COC's default, single-outcome driven strategy by imposing unjustifiably low  
7 shareholder returns may have the temporary, even well-intended, effect of lowering rates,  
8 but that practice ultimately imposes long-term costs that cannot be measured in dollars  
9 alone. Discouraging proactive investments that serve the long-term interests of customers,  
10 in the name of "protecting" those customers, ultimately harms the constituency the policy  
11 is meant to help. It is well-recognized that a reasonable ROE and equity ratio is necessary  
12 to align both customer and investor interests. This results in a stronger and more reliable  
13 water system for both current and future customers, reduces the frequency of general rate  
14 cases, lessens the occurrence of customer "rate shock," supports community and economic  
15 development, encourages the proactive maintenance and improvement of essential  
16 infrastructure, and supports the continued provision of safe and reliable service.

17 **Q. WHAT IS YOUR ROLE IN SECURING CAPITAL FOR THE COMPANY?**

18 A. Part of my job involves making the case to American Water for investment in Tennessee.  
19 Every affiliate employs someone in a capacity comparable to mine, and part of that person's  
20 job is to make the case for investment in their respective state. Because the collective need  
21 for capital inevitably exceeds the resources available from American Water, the various  
22 states are effectively competitors. This type of competition is healthy because it forces the

1 utilities to identify and develop projects that produce the greatest benefits for customers at  
2 the most reasonable cost.

3 **Q. ARE YOU SUGGESTING THAT AMERICAN WATER WILL CUT OFF**  
4 **INVESTMENT TO THE COMPANY IF THE COMMISSION ACCEPTS**  
5 **RECOMMENDATIONS THAT PLACE TAWC AMONG THE WORST**  
6 **PERFORMING IN THE AMERICAN WATER SYSTEM?**

7 A. I am not saying that at all. As I said previously, the Company will fulfill its duty to provide  
8 safe, adequate, and reliable service. Tennessee-American continues to make the necessary  
9 investments in developing and maintaining adequate sources of supply, treatment,  
10 pumping, transmission and distribution facilities, as well as to comply with applicable  
11 environmental laws and regulations. Still, even though the Company will remain  
12 committed to fulfilling its obligations and providing service to its customers, there are  
13 unintended consequences that TAWC will have to confront in such a scenario.

14 **Q. PLEASE EXPLAIN WHY ADOPTION OF CAD'S RECOMMENDATION TO**  
15 **REJECT THE COMPANY'S PROPOSAL TO REPLACE CUSTOMER-OWNED**  
16 **LEAD SERVICE LINES AND RECOVER THOSE COSTS THROUGH THE QIIP**  
17 **RIDER WOULD BE DETRIMENTAL TO THE COMPANY.**

18 A. Rejection of the Company's proposal to replace customer-owned lead service lines and  
19 recover the costs through the QIIP would be detrimental to the Company's ability to  
20 effectively and efficiently comply with the EPA's Lead and Copper Rule Improvements  
21 ("LCRI"), which became final on October 8, 2024. Under this new regulation, TAWC is  
22 not only *required* to replace all lead service lines on its system, including the portion of  
23 service lines owned by customers, within ten (10) years, but it also prohibits partial

1 replacements with limited exceptions<sup>10</sup>. While the Company anticipates replacing a good  
2 portion of its lead service lines as part of its mains replacement projects, which is the most  
3 efficient and cost effective method of complying with the LCRI, as discussed by Company  
4 witness Stout in Direct Testimony, replacing all lead service lines will require the Company  
5 to replace some lead service lines on mains that are not presently contemplated for  
6 replacement<sup>11</sup>. To begin the process of replacing all lead service lines within the next 10  
7 years, the Company needs to be able to recover its costs of replacing these service lines.  
8 The Company believes that its proposal to use the QIIP Rider provides a reasonable vehicle  
9 for cost recovery.

10 **Q. DO YOU HAVE ANY FINAL THOUGHTS ON THE POSITIONS OF CAD AND**  
11 **COC?**

12 A. While there are certainly differences in the adjustments to the Company's operating  
13 expenses, the premise is not that the Company is operating inappropriately or inadequately,  
14 but rather to minimize the level of expenses that should be included for recovery going  
15 forward. The Company is quite simply asking for timely cost recovery of its ongoing  
16 expenses and appropriate and timely returns of and on its investments that allows TAWC  
17 to compete for proactive investments so crucial not only to the Company, but also to the  
18 State as a whole. While the Company also wants to address affordability head on with its  
19 proposed UAT, CAD opposes this program without offering any alternative. I would  
20 encourage the Commission to adopt this meaningful program as proposed to address

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<sup>10</sup> The two exceptions are (1) emergency replacements of a service line in need of repair and (2) a service line replacement completed as part of a capital replacement project. And even though, there are limited exceptions for practical reasons, as Company witness Stout explains, performing partial replacements should be avoided for public health reasons whenever possible. Stout Rebuttal, 30.

<sup>11</sup> Stout Direct Testimony 25-26.

1           affordability for our most vulnerable customers. The Company simply wants to continue  
2           its successes and trends of wise investment and prudent operational expenditure and  
3           therefore I urge the Commission in its rulings in this case to support positions that allow  
4           these successes to continue – including full recovery of its labor costs including total  
5           market-based compensation, adoption of a reasonable and appropriate ROE and capital  
6           structure and cost recovery of investments required by the LCRI that are critical to public  
7           health.

8   **Q.    DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

9   **A.    Yes.**

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

**PETITION OF TENNESSEE-  
AMERICAN WATER COMPANY TO  
MODIFY TARIFF, CHANGE AND  
INCREASE CHARGES, FEES, AND  
RATES, AND FOR APPROVAL OF A  
GENERAL RATE INCREASE** )  
)  
)  
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)

**DOCKET NO. 24-00032**

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**VERIFICATION**

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STATE OF Tennessee )  
)  
COUNTY OF Hamilton )

I, GRANT ALLEN EVITTS, 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.

  
\_\_\_\_\_  
GRANT ALLEN EVITTS

Sworn to and subscribed before me  
this 22nd day of October, 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:

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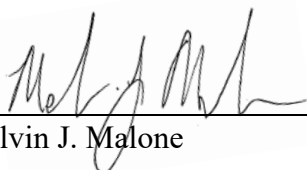
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*Union Counsel*

This the 22<sup>nd</sup> day of October 2024.

  
\_\_\_\_\_  
Melvin J. Malone