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May 6, 2025

**VIA ELECTRONIC FILING**

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Room on May 6, 2025 at 2:17 p.m.

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  
[TPUC.DocketRoom@tn.gov](mailto:TPUC.DocketRoom@tn.gov)

**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**

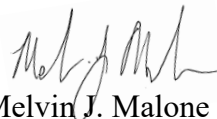
Dear Chairman Jones:

Attached for filing please find the *Petition of Tennessee-American Water Company for Reconsideration of the Commission's Order Setting Utility Rates* in the above-captioned matter.

As required, 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

Attachment

cc: Bob Lane, TAWC  
Shilina Brown, Consumer Advocate Division  
Victoria Glover, Consumer Advocate Division  
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BUTLER SNOW LLP

**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**

**DOCKET NO. 24-00032**

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**PETITION OF TENNESSEE-AMERICAN WATER COMPANY  
FOR RECONSIDERATION OF THE COMMISSION’S  
ORDER SETTING UTILITY RATES**

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Pursuant to Tenn. Code Ann. §§ 4-5-317 and 65-2-114 and the Tennessee Public Utility Commission’s Rule 1220-01-02-.20, Tennessee-American Water Company (“TAWC” or “Petitioner”) respectfully submits this Petition for Reconsideration of the Tennessee Public Utility Commission’s (“Commission” or “TPUC”) April 21, 2025, *Order Setting Utility Rates* (“Rate Case Order” or “Order”). For the reasons set forth below, for just cause shown, and to serve the public interest, TAWC respectfully requests that the Commission modify the Rate Case Order consistent with the points and authorities submitted herein.

**I.**

**TRAVEL OF THE CASE**

On May 1, 2024, TAWC submitted its Petition of Tennessee-American Water Company to Modify Tariff, Change and Increase Charges, Fees, and Rates, and for Approval of a General Rate Increase (the “Rate Case Petition”). Pursuant to a Petition to Intervene submitted by the Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer

Advocate” or “CAD”), the Commission granted CAD’s request to intervene.<sup>1</sup> A Procedural Schedule was established by the Commission and the parties engaged in both the informal exchange of information and discovery.

After being duly noticed, the Rate Case Petition was heard on the merits on November 18-21, 2024. On January 17, 2025, Chairman David F. Jones filed a written motion specifying certain calculations and findings and conclusions to resolve the merits. After being duly noticed, the Commission deliberated in a public meeting on January 21, 2025. The motion was seconded, and the panel voted unanimously in favor of the motion. On April 21, 2025, the Commission entered the Rate Case Order. This Petition timely follows the entry of that Order.

## II.

### **RELIEF REQUEST AND GROUNDS THEREFORE**

Pursuant to Commission Rule 1220-01-02-.20(1), Petitioner’s statement of the grounds upon which relief is requested are as follows:

The Rate Case Order eliminated “\$253,308 of attrition period purchased power costs to properly implement the Commission’s 15% non-revenue water (“NRW”) limitation factor.” (Rate Case Order at p. 21.) The Order held that the Commission “is continuing to apply the 15% standard for lost and unaccounted for water first adopted in the 2008 rate case.” (*Id.*) But the standard adopted in the January 13, 2009, Order in Docket No. 08-00039 (“2008 Rate Case Order”) is not the same formula utilized by CAD witness David Dittmore to arrive at a \$253,309 reduction in purchased power costs. This inconsistency is the basis for this Petition for Reconsideration.

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<sup>1</sup> *Order Granting the Petition to Intervene Filed by the Consumer Advocate*, TPUC Docket No. 24-00032 (June 12, 2024).

This Petition asks the Commission to utilize the formula underlying the 2008 Rate Case Order, to continue to apply the 15% standard to the outcome of that formula, and further to reject, at least in part, Mr. Dittmore's recommended reduction in purchased power costs.

A. The 2008 Rate Case Order Formula

The 2008 Rate Case Order in Docket No. 08-00039 stated that "TAWC reported a lost and unaccounted-for percentage of . . . 20.43% for the test period . . . ." (2008 Rate Case Order at p. 14.) The order there noted that the CAD recommended 15% as the acceptable level [of lost and unaccounted-for water].” (*Id.*) The Chattanooga Manufacturers Association (“CMA”), which intervened in Docket No. 08-00039, likewise recommended a limit of 15% on “lost and unaccounted-for water.” (*Id.* at pp. 14-15.) The Commission expressly relied on the testimony of CMA’s witness Michael Gorman, who himself relied on guidance from the American Water Works Association (“AWWA”). (*Id.* at p. 15.) The Commission took the opportunity to include this AWWA authority as support for its decision to “limit[] the unaccounted-for water percentage to fifteen percent.” (*Id.*)

But looking closer at this AWWA guidance, it becomes clear that “unaccounted-for water” was defined as “(unaccounted for water)% = system delivery – (water sales + volume unbilled but unmetered [non-revenue]) / system delivery.” (*See Rebuttal Testimony of TAWC Witness Mr. Michael A. Miller*, pp. 69-73, Exhibit MAM-9, TPUC Docket No. 08-00039 (Aug. 13, 2008).) This formula can be said the same way in other words as “(distributed water – (volume billed + authorized water use)) / distributed water”. (*See Pre-filed Rebuttal Testimony of Robert C. Lane*, at 6, TPUC Docket No. 25-00002 (Apr. 22, 2025).)

This is precisely the position TAWC advanced in this docket. In rebuttal testimony, TAWC witness Grady Stout explained the difference between NRW and “lost and unaccounted for water.”

(See *Pre-filed Rebuttal Testimony of Grady Stout*, 34:13-37:19, TPUC Docket 24-00032 (Oct. 22, 2024) (“*Stout Rebuttal*”).) He explained that the non-revenue water includes “authorized but unbilled water use.” (*Id.* at 35:10.) This conforms to the distinction by the AWWA and by the Commission in Docket No. 08-00039 that to properly calculate “unaccounted for water” the Company must consider the amount of unbilled but *metered* or “accounted-for” water. As Mr. Stout explained, there is a sub-category of non-revenue water “that is metered and used by customers but not billed” and that under no circumstances is this water “lost” or “unaccounted for.” (*Id.* at 37:3-7.) Mr. Stout also set forth the Company’s “lost and unaccounted for water” calculations for the test period (13.9%) and 2024 year-to-date (14.3%). (*Id.* at 35:12-16.) Because the Company’s test period and attrition year “lost and unaccounted for” results were less than the 15% standard, Mr. Dittmore’s recommended elimination of \$253,309 in purchased power costs should have been rejected.

B. The Consumer Advocate’s Calculation of Non-Revenue Water

The CAD, on the other hand, calculated its “NRW” not based on the 2008 Rate Case Order formula, but rather relying on the Company’s *admittedly incorrect* prior PCOP formula of “1- (Water Sales/System Delivery),” which is the formula for *all* non-revenue water, not just the lost and unaccounted for water. (*Post-Hearing Brief of the Consumer Advocate*, p. 18 at footnote 93, TPUC Docket No. 24-00032 (Dec. 10, 2024).) Mr. Dittmore’s pre-filed testimony likewise did not demonstrate an analysis of the 2008 Rate Case Order formula, but rather shows that the CAD’s reduction to purchased power were calculated based off the Company’s prior PCOP filings:

While I agree the Commission used the phrase lost and unaccounted for water in its findings in TRA Docket No. 10-00189, there is no indication that it made a distinction in the ratio calculation from the standard NRW determination made in PCOP filings. Because NRW is not metered, it is not possible to definitively make a numeric distinction between lost water and NRW.

(Pre-filed Direct Testimony of CAD Witness David N. Dittemore, at 31, TPUC Docket No. 24-00032 (Sept. 17, 2024) (hereinafter “Dittemore”) Mr. Dittemore acknowledges that his reduction was calculated using the non-revenue water formula of “ $1 - (\text{total billed usage} / \text{system delivery})$ ”. (*Id.*) The 23.27% referenced by Mr. Dittemore can be recreated by looking to TAWC MFG Q022\_Attachment, taking the total billed usage value from cell AC246 and the system delivery value from cell AE246, confirming that his recommended reduction was a non-revenue water calculation, not an unaccounted-for water calculation.

Respectfully, Mr. Dittemore was incorrect in stating that “there is no indication that [the Commission] made a distinction in the ratio calculation from the standard NRW determination . . . .” As shown above, the Commission, in originally setting the 15% threshold in Docket No. 08-00039, relied on testimonial and industry support for *excluding* metered-but-not-billed (*i.e.*, accounted for) water from the “lost and unaccounted for” water threshold. While Mr. Dittemore’s reliance on recent PCOP filings is not out of order, those PCOP filings themselves were flawed. The Company’s request in the Rate Case Petition was to wipe the slate clean and have the correct *calculation* adopted going forward consistent with the 2008 Rate Case Order.

The conclusion that Mr. Dittemore’s recommended reduction incorrectly applies the 15% standard is bolstered by considering Tennessee’s water loss standards. As noted by Mr. Stout in rebuttal, the Tennessee Comptroller of the Treasury collects data from water utilities under the jurisdiction of the Tennessee Board of Utility Regulators, which has set a **40%** threshold of “water loss.” (*See Stout Rebuttal* at 40:8-20 and Exhibit 3 thereto (TAW\_RT\_STOUT\_3).) This “water loss” figure is calculated using only the total water produced and the total water sold. (*See* TAW\_RT\_STOUT\_3.) This is the same formula used to calculate *non-revenue water*, not *lost and unaccounted for water* (which includes a figure for accounted-for or metered-but-not-billed water).

Simply put, the TBOUR 40% water loss standard using the “water produced – water billed” formula further supports that the Commission’s 15% threshold should be explicitly calculated using the UFW formula of “(distributed water – (volume billed + authorized water use)) / distributed water.”

By adopting Mr. Dittemore’s recommended reduction, the Commission is indeed applying a 15% **non-revenue water** standard as that is how Mr. Dittemore calculated his recommended reduction, *viz.*, by using the overall “water loss” formula as opposed to a formula that considers water the Company *can* account for. This Petition requests that the Commission correct this error not in setting the standard, but in applying the standard.

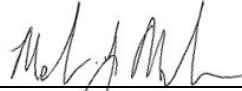
### III.

#### CONCLUSION

As stated before, the Company concedes that it, and the Consumer Advocate, have used the terms non-revenue water and unaccounted-for water loosely over the years and even that the Company itself has misapplied the formula to its detriment. But the time is now for a course correction. After a careful study of the genesis of the Commission’s 15% standard in Docket No. 08-00039 and the testimony and AWWA guidance on which that standard was based, the fog is lifted and we are able to see that the 15% standard gets applied in the form of the following calculation: “(distributed water – (volume billed + authorized water use)) / distributed water” or “(system delivery – (water sales + volume unbilled but unmetered [non-revenue])) / system delivery.” The Rate Case Order here should be modified to state that the Company *is* allowed recovery of *accounted*-for water and that the 15% threshold does not include water that is “authorized” or “unbilled but metered.” Without this correction, the Order would rely on the 2008 Rate Case Order on one hand but apply it incorrectly on the other.

For the foregoing reasons, for just cause shown, and to serve the public interest, Tennessee-American Water Company respectfully requests the Commission to modify its *Order Setting Utility Rates* according to the points and authorities raised herein.

RESPECTFULLY SUBMITTED,



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## 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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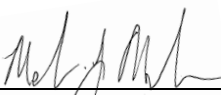
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This the 6<sup>th</sup> day of May 2025.

  
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Melvin J. Malone