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January 22, 2026

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VIA ELECTRONIC FILING

Hon. David Jones, Chairman
c/o Ectory Lawless, Docket Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243
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 *Tennessee-American Water Company's Motion Regarding the Commission's January 8, 2026 Data Requests and Memorandum in Support Thereof*, in the above-captioned matter.

As required, copies will follow. Should you have any questions concerning this filing or require additional information, please do not hesitate to contact me.

Sincerely,

BUTLER SNOW LLP



John H. Dollarhide

clw

Attachments

cc: Bob Lane, TAWC
Shilina Brown, Consumer Advocate Division
Phillip Noblett, City of Chattanooga
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**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

**TENNESSEE-AMERICAN WATER COMPANY’S
MOTION REGARDING THE COMMISSION’S JANUARY 8, 2026 DATA REQUESTS**

IN-PERSON ORAL ARGUMENT REQUESTED¹

Pursuant to Rule 1220-01-02-.6 of the Tennessee Public Utility Commission (“TPUC” or “Commission”), Tennessee-American Water Company (“TAWC” or “Company”) respectfully submits its *Motion Regarding the Commission’s January 8, 2026 Data Requests*. For the reasons that follow and as more fully set forth in the Company’s memorandum in support hereof, and for good cause shown, TAWC respectfully requests that the Commission enter an order providing that the requested *unredacted* attorney billing invoices be submitted for *in camera* review so as to protect the sanctity of TAWC’s attorney-client privilege and work-product protections while enabling the Commission to fully evaluate the reasonableness and appropriateness of the Company’s rate case expenses.

1. Pursuant to the Commission’s April 21, 2025 *Order Setting Utility Rates* in the above-captioned matter, the Company submitted its *Petition for Recovery of Rate Case Expenses* on November 7, 2026 (“Rate Case Expense Petition”).

2. On January 8, 2026, the Commission issued a data request to TAWC requesting, in pertinent part, “non-redacted invoices supporting the requested total rate case expenses.” TAWC

¹ See TPUC Rule 1220-01-02-.06(4).

has no objection to producing the non-redacted invoices from its external witnesses and will be complying with the Commission's data request by producing same confidentially.

3. With respect to the legal invoices, though, TAWC requests relief to protect the attorney-client privilege and work-product protections. TAWC raised these objections when the legal invoices were requested in the rate case, produced legal invoices with the narratives redacted, and provided a privilege log.²

4. Because the unredacted legal invoices contain detailed narrative time entries that reveal attorney-client privileged communications and contain opinion work product, Tennessee-American seeks an *in camera* procedure that allows the Commission (and/or the Hearing Officer) to review the unredacted invoices for the purpose of evaluating the reasonableness and appropriateness of the claimed rate case expenses, without compelling disclosure of privileged or protected material to an adverse party.

5. Therefore, Tennessee-American Water Company respectfully requests the Commission to grant its motion and to enter an order directing the Company to submit unredacted attorneys' fees invoices supporting its Rate Case Expense Petition solely to the Commission for *in camera* review and to submit the remaining legal invoices, redacted, along with a privilege log to the Intervenor submitted as Confidential under the Protective Order. The Company requests other relief the Commission deems just and proper under the circumstances.

Dated: January 22, 2026

² See TAWC Resp. to CAD DR 3.6, TPUC Docket No. 24-00032 (Aug. 27, 2024).

Respectfully submitted,



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**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

**TENNESSEE-AMERICAN WATER COMPANY’S MEMORANDUM IN SUPPORT OF
MOTION REGARDING THE COMMISSION’S JANUARY 8, 2026 DATA REQUESTS**

IN-PERSON ORAL ARGUMENT REQUESTED¹

Pursuant to Rule 1220-01-02-.6 of the Tennessee Public Utility Commission (“TPUC” or “Commission”), Tennessee-American Water Company (“TAWC” or “Company”) respectfully submits its *Memorandum Regarding the Commission’s January 8, 2026 Data Requests*. For the reasons that follow and for good cause shown, TAWC respectfully requests the Commission enter an order providing that the requested *unredacted* legal invoices be submitted for *in camera* review so as to protect the sanctity of TAWC’s attorney-client privilege and work product protections while enabling the Commission to fully evaluate the reasonableness and appropriateness of the Company’s rate case expenses.

I. BACKGROUND

Pursuant to the Commission’s April 21, 2025 *Order Setting Utility Rates* in the above-captioned matter, the Company submitted its *Petition for Recovery of Rate Case Expenses* on November 7, 2026 (“Rate Case Expense Petition”). On January 8, 2026, the Commission issued a data request to TAWC requesting, in pertinent part, “non-redacted invoices supporting the requested total rate case expenses.”

¹ See TPUC Rule 1220-01-02-.06(4).

During the pendency of the rate case, certain Data Requests were issued to TAWC for its rate case expenses. As part of the Company's response, it objected to the requests based on the attorney-client privilege and work product protections.² TAWC submitted its legal invoices with the detailed time entries and other privileged and work product information redacted to preserve the attorney-client privilege and work product protections, while disclosing non-privileged information necessary to understand the nature and amount of the charges (*e.g.*, invoice dates, hours, rates, total fees). The Company also submitted a privilege log wherein the detailed, privileged, and opinion work product narrative time entries were summarized to disclose the work being performed by counsel.

The unredacted narrative descriptions include confidential communications between the Company and its counsel, legal advice, counsel's mental impressions, and strategy. Disclosure of those narratives to the Intervenors, even confidentially or under seal, would risk waiver of the attorney-client privilege and/or work product protections and would severely prejudice the Company.

TAWC seeks an *in camera* procedure that allows the Commission (and/or the Hearing Officer) to review the unredacted invoices for the limited purpose of evaluating the reasonableness and appropriateness of the requested rate case expenses, without compelling disclosure of privileged or protected material to an adverse party.

II. APPLICABLE AUTHORITY

The Commission has authority to control the course of proceedings and to issue protective relief as necessary to ensure the fair and orderly disposition of contested cases. The Commission's contested-case procedures incorporate discovery practice under the Tennessee

² See TAWC Resp. to CAD DR 3.6, TPUC Docket No. 24-00032 (Aug. 27, 2024).

Rules of Civil Procedure.³

The Commission's general filing procedures also provide mechanisms for submitting confidential or proprietary materials under protective conditions, including by sealed submission or separate clearly marked submission to prevent public disclosure, subject to Commission determination regarding the appropriateness of protection.⁴

A. The Attorney-Client Privilege

Tennessee law protects confidential communications between attorney and client.⁵ The attorney-client privilege is the longest-recognized privilege under common law and statute in Tennessee.⁶ This sacrosanct privilege “encourages full and frank communication between attorney and client by sheltering these communications from disclosure.”⁷ More specifically, the purpose is “to shelter the confidences a client shares with his or her attorney when seeking legal advice, in the interest of protecting a relationship that is a mainstay of our system of justice.”⁸ “The privilege applies not only to the client’s communications but also to the attorney’s communications to his or her client when the attorney’s communications are specifically based on the client’s confidential communications or when disclosing the attorney’s communications would, directly or indirectly, reveal the substance of the client’s confidential communications.”⁹

³ TPUC Rule 1220-01-02.11(1).

⁴ TPUC Rule 1220-01-01-.03(5).

⁵See Tenn. Code Ann. § 23-3-105. To illustrate the gravity of the Company’s decision to submit redacted invoices and now move the Commission for *in camera* protections of unredacted privileged communications, one need only look to Tennessee Code Annotated § 23-3-107, which provides for a Class C misdemeanor for an attorney’s offering of privileged testimony.

⁶ *Boyd v. Comdata Network, Inc.*, 88 S.W.3d 203, 212 (Tenn. Ct. App. 2002).

⁷ *Dialysis Clinic, Inc. v. Medley*, 567 S.W.3d 314 (2019) (citation omitted).

⁸ *Culbertson v. Culbertson*, 455 S.W.3d 107 (2014) (citation omitted).

⁹ *Boyd*, 88 S.W.3d at 213.

The Commission, accordingly, honors the privilege.¹⁰

B. The Work Product Doctrine

The work product doctrine protects materials prepared by or for an attorney in anticipation of litigation (including mental impressions and legal strategy) from disclosure to an adversary, absent a showing of substantial need and undue hardship. This doctrine was originally established by the U.S. Supreme Court in *Hickman v. Taylor*.¹¹ Tennessee has long-since adopted it, including making it part of the Rules of Civil Procedure.¹² Because the Commission applies the Tennessee Rules of Civil Procedure for discovery in contested cases, the Commission likewise honors the work product doctrine.¹³ Notably, the Commission specifically upholds the work-product protections for attorney billing invoices.¹⁴

III. ARGUMENT

A. TAWC’s detailed attorney billing invoices reveal privileged communications and work product and should be protected from disclosure.

Not all legal invoices are created equal. Invoices that only disclose “the amount of time spent, the amount billed, and the type of fee arrangement between attorney and client are fully subject to discovery.”¹⁵ But, depending on how the law firm bills the client, where there are detailed narratives that “reveal litigation strategy and/or the nature of the services performed,” the invoices are protected by the attorney-client privilege.¹⁶

¹⁰ TPUC Rule 1220-01-02-.16; Tenn. Code Ann. § 65-2-109(1) (“In all contested cases: (1) . . . the commission shall give effect to the rules of privilege recognized by law”); Tenn. Code Ann. § 4-5-313(1) (“The agency shall give effect to the rules of privilege recognized by law”).

¹¹ 329 U.S. 495 (1947).

¹² Tenn. R. Civ. P. 26.02(3).

¹³ TPUC Rule 1220-01-02.11(1) (“discovery shall be sought, effectuated, and enforced under the Tennessee Rules of Civil Procedure”).

¹⁴ See *Order Addressing Several Pre-trial Motions*, TPUC Docket No. 09-00183, p. 2 (Apr. 9, 2010) (“After conducting an *in camera* review, the Hearing Officer finds as follows: . . . (b) the current redactions to the billing statements are appropriate as they protect the attorney-client privilege and the attorney work product privilege”).

¹⁵ *United States v. Keystone Sanitation Co.*, 885 F. Supp. 672, 675 (M.D. Pa. 1994).

¹⁶ *Id.*

“While a simple invoice ordinarily is not privileged, itemized legal bills necessarily reveal confidential information and thus fall within the privilege.”¹⁷ Where billing records describe the services performed or any other attorney-client communication relating to the performance of legal services, “[s]uch documents may reveal the client’s motivation for seeking legal representation, the nature of the services provided or contemplated, strategies to be employed in the event of litigation, and other confidential information exchanged during the course of the representation.”¹⁸

This is true even where public interests are involved.¹⁹ The Commission has previously endorsed both redactions of privileged and work product information in billing statements as well as an *in camera* review mechanism.²⁰

B. The Commission should enter an order providing for TAWC to submit unredacted invoices for *in camera* review only to preserve the attorney-client privilege and work product protections.

The proper mechanism for the attorney to protect, and not waive, the client’s privilege is to redact the narratives where they describe the nature of the legal services performed.²¹ And, in addition to complying with the requirement under Tennessee Rule of Civil Procedure 26.02(5) to make the claim of privilege or work product and describe the nature of the withheld documents,

¹⁷ *Hewes v. Langston*, 853 So. 2d 1237, 1248 (Miss. 2003).

¹⁸ *In re Horn*, 976 F.2d 1314, 1318 (9th Cir. 1992).

¹⁹ *See State ex rel. Ames v. Baker, Dublikar, Beck, Wiley & Mathews*, 210 N.E.3d 518, 522 (Ohio 2022) (instructing the court of appeals to conduct an *in camera* review of unredacted contested invoices, noting that “an invoice for a legal service provided to a public-office client is a public record, with the caveat that the narrative portion of the invoice describing the service is protected from disclosure by the attorney-client privilege”)

²⁰ *See Order Addressing Several Pre-trial Motions*, TPUC Docket No. 09-00183, p. 2 (Apr. 9, 2010) (“After conducting an *in camera* review, the Hearing Officer finds as follows: . . . (b) the current redactions to the billing statements are appropriate as they protect the attorney-client privilege and the attorney work product privilege . . .”).

²¹ *Leach v. Quality Health Servs.*, 162 F.R.D. 499, 501–02 (E.D. Pa. 1995) (“It appears that both privileged and non-privileged material may exist side-by-side in many of the documents at issue here. For example, a typical time sheet may contain several different pieces of information, such as the attorney's name, the client's name, the general matter being worked on if the attorney has represented the client on more than one matter, the date and time the services were provided, as well as a description of the actual legal services performed. In this example, only the last item of information would generally be protected under the attorney-client privilege and should be redacted before production.”).

the law firm should provide a privilege log for the redactions in accordance with Rule 26.²²

Where unredacted invoices are sought, *in camera* review is the proper procedure for the tribunal to assess the reasonableness of the fees sought.²³ This *in camera* procedure should protect against disclosure to the adversary parties.²⁴

Accordingly, TAWC previously provided its rate case legal invoices, but redacted the privileged and work product portions and leaving intact the non-protected portions (rates, amount of time spent, amount of fees billed). The Company also provided a privilege log to the Commission and the Intervenors, summarizing each individual time entry so as to convey the work performed in a non-privileged manner. This was in line with prior Commission rulings.²⁵

While TAWC submits that the redacted invoices coupled with the privilege log should be sufficient for the Commission to assess the reasonableness and appropriateness of the

²² *Id.*, 162 F.R.D. at 502 (“Based on this understanding of the documents at issue, we rule that the Law Firm should produce its actual billing records, but should redact any privileged information appearing therein. In the event that some documents are completely privileged or protected, the Law Firm may retain those documents, but must produce a privilege log in accordance with Rule 26(b)(5). In the event that disagreements continue on this matter, this Court will be willing to examine the records *in camera*.”).

²³ See *Moody v. Hutchison*, 247 S.W.3d 187, 192 (Tenn. Ct. App. 2007) (“The Court noted that if any of the portions of the fees were asserted to be subject to privilege, those portions would be addressed *in camera*.”).

²⁴ See *Raines Bros., Inc. v. Chitwood*, No. E201501430COAR3CV, 2016 WL 3090902, at *2 (Tenn. Ct. App. May 24, 2016) (“Pursuant to Defendants’ request, Raines produced its engagement letter with its counsel and detailed billing statements but asked that those documents be filed under seal for the trial court’s *in camera* review. The court granted the request to file the documents under seal, allowing Defendants access to only redacted copies of the billing statements.”).

²⁵ See *Order Granting, in Part and Denying, in Part the Consumer Advocate’s Motion to Compel*, TPUC Docket No. 20-00049, p. 4 (Oct. 26, 2020) (emphasis added):

The legal invoices and similar documents incurred from 2019 outside vendors should be provided in a way that identifies the following:

- a. The corresponding docket(s) that the invoice relates to;
- b. The general nature of work provided on the docket (if some information is determined to be privileged, it may be redacted, as long as a general description of the work performed is included); and
- c. The billed amount/cost of the work performed in total and on an hourly basis.
- d. The corresponding docket(s) that the invoice relates to;
- e. The general nature of work provided on the docket (**if some information is determined to be privileged, it may be redacted, as long as a general description of the work performed is included**); and
- f. The billed amount/cost of the work performed in total and on an hourly basis.

Company's rate case legal fees, it understands that Commission Staff desires to review the unredacted invoices. TAWC has no objection to producing its unredacted invoices solely to the Commission under an *in camera* review procedure. But requiring the Company to disclose its unredacted legal invoices that contain detailed narrative time entries would be to force the Company to waive its attorney-client privilege and work product protections. This would severely prejudice the Company.

In addition to the risk of destroying the Company's attorney-client privilege and work product protections, requiring disclosure of unredacted invoices containing detailed narrative time entries to the Intervenor is against public policy. Requiring such disclosure of these communications which reveal strategy and contain counsel's mental impressions and opinions would also have a chilling effect on the free flow of information between attorney and client. It would also have the effect of discouraging attorneys practicing before the Commission from providing detailed information about their work to their clients. This would, in turn, hinder the regulated utilities' ability to scrutinize their counsel's work. Forcing disclosure of the unredacted invoices to the Intervenor would likely lead to a shift toward generic (non-privileged) time entries, making it more difficult for the utilities to self-regulate their legal expenses that they ultimately would submit for inclusion in rates.

Therefore, TAWC moves the Commission to enter an order allowing the Company to submit the unredacted invoices supporting its Rate Case Expense Petition solely to the Commission for *in camera* review and protecting the unredacted invoices from disclosure outside of the Commission.²⁶

²⁶ TAWC's submission of redacted invoices to the Commission and the Intervenor occurred during the discovery phase of the rate case, before all rate case expenses had been incurred and billed. Accordingly, TAWC intends to provide the remaining redacted invoices supporting the Rate Case Expense Petition and the associated privilege log in due course.

IV. CONCLUSION

For the foregoing reasons, Tennessee-American Water Company respectfully requests that the Commission grant its motion and to enter an order directing the Company to submit unredacted attorneys' fees invoices supporting its Rate Case Expense Petition solely to the Commission for *in camera* review and to submit the remaining invoices, redacted, along with a privilege log to the Intervenor submitted as Confidential under the Protective Order.

Dated: January 22, 2026

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:

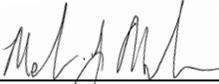
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This the 22nd day of January 2026.



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