

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 8, 2025

IN RE:)	
)	
PETITION OF TENNESSEE-AMERICAN WATER)	DOCKET NO.
COMPANY REGARDING THE 2024 PRODUCTION)	25-00002
COSTS AND OTHER PASS-THROUGHS RIDER)	

**ORDER APPROVING THE 2024 PRODUCTION COSTS
AND OTHER PASS-THROUGHS RIDER**

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Robin L. Morrison, Commissioner Clay R. Good, and Commissioner David 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 June 23, 2025. The panel convened to consider the *Petition* filed by Tennessee-American Water Company (“TAWC” or the “Company”) on January 15, 2024. In summary, the Company’s revised *Petition* was approved.

BACKGROUND

TAWC provides residential, commercial, industrial, and municipal water service to customers in Tennessee and North Georgia. TAWC is a wholly-owned subsidiary of American Water Works Company, Inc. Pursuant to Tenn. Code Ann. § 65-5-103(d), TAWC’s initial Production Costs and Other Pass-Throughs Rider mechanism (“PCOP” or “PCOP Rider”) was approved in TPUC Docket No. 13-00130 to recover incremental changes in certain essential, non-

discretionary expenses.¹ In TPUC Docket No. 15-00001, the Commission approved changes to the PCOP Rider tariff that provided for a single reconciliation, included a true-up of actual expenses over 12 months, and a revenue true-up over eight and one-half months.² Subsequently, the Commission approved additional changes to the PCOP Rider tariff in TPUC Docket No. 15-00131.³

The PCOP tariff approved by the Commission requires TAWC to annually file within 30 days of the end of the most recent authorized attrition year, a filing calculating the PCOP percentage rate applicable to customers' bills for the 12 months following the approval of the PCOP percentage rate. The Commission approved the most recent PCOP percentage rate in TPUC Docket No. 24-00002 for the actual costs incurred during December 1, 2022, through November 30, 2023.⁴

PETITION

In accordance with the PCOP tariff, on January 15, 2025, TAWC filed the *Petition* for the period of December 1, 2023, through November 30, 2024. Through the PCOP rider, TAWC seeks to recover the incremental changes in purchased power expense, purchased chemical expense, purchased water expense, wheeling charge expense, waste disposal expense, and TPUC inspection fee amounts from those levels approved in its most recent rate case, TPUC Docket No. 12-00049.

¹ See *In re: Petition of Tennessee-American Water Company for Approval of a Qualified Infrastructure Investment Program, an Economic Development Investment Rider, a Safety and Environmental Compliance Rider and Pass-Throughs for Purchased Power, Chemicals, Purchased Water, Wheeling Water Costs, Waste Disposal, and TRA Inspection Fee*, Docket No. 13-00130, *Order Approving Amended Petition* (January 27, 2016).

² See *In re: Petition of Tennessee-American Water Company Regarding the Production Costs and Other Pass-Throughs Rider*, Docket No. 15-00001, *Order on December 1, 2013 Through November 30, 2014 PCOP Rider Expenses*, p. 11 (February 5, 2016).

³ See *In re: Petition of Tennessee-American Water Company Regarding the Production Costs and Other Pass-Throughs Rider*, Docket No. 15-00131, *Order on December 1, 2014 Through November 30, 2015 PCOP Rider Expenses*, pp. 7-10 (July 26, 2016).

⁴ See *In re: Petition of Tennessee-American Water Company Regarding the 2024 Production Costs and Other Pass-Throughs Rider*, Docket No. 24-00002, *Order Approving the Revised 2024 Production Costs and Other Pass-Throughs*, pp. 2-3, 5-6 (July 15, 2024).

In the *Petition*, TAWC requested to recover changes between the actual expenses for the 12-month period ending November 30, 2023, and those approved in TPUC Docket No. 12-00049.

In the pre-filed testimony of Mr. Robert C. Lane filed in support of the *Petition*, TAWC included exhibits demonstrating the PCOP calculations with supporting workpapers for the historical review period of December 1, 2023, through November 30, 2024, in compliance with the PCOP tariffs previously approved by the Commission.⁵ Mr. Lane sponsored the exhibit work paper “Petitioner’s Exhibit– PCOP Calc Exhibit – RCL,” which established the Company’s initial proposed PCOP Rider percentage rate as 3.17%.

According to Mr. Lane, the Company’s PCOP calculation was consistent with all previous PCOP dockets approved by the Commission, with the exception of using the unaccounted-for water (“UFW”) limitation factor, rather than the Non-Revenue Water (“NRW”) limitation factor to be consistent with TPUC precedent pursuant to the Commission’s orders in TPUC Docket Nos. 08-00039 and 10-00189.⁶ Mr. Lane testified that NRW encompasses productive and necessary use of water, while UFW is a measure of unintentional loss of water.⁷ Mr. Lane asserted that the use of an NRW limitation factor is unfair and was not intended by the Commission.⁸ In summary, the Company sought to define and distinguish NRW and UFW and apply the latter solely as the Commission’s water loss standard.⁹

Mr. Lane testified that TAWC realized there was an inconsistency between how the UFW limitation factor had previously been implemented in recent years and the clear language of

⁵ Robert C. Lane, Pre-Filed Direct Testimony, pp. 8-9 (January 15, 2025).

⁶ *Id.* at 8.

⁷ *Id.* at 10.

⁸ *Id.*

⁹ The Company took a similar position in TAWC’s rate case, the course of which overlapped with this docket. *See In 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*, Docket No. 24-00032, *Order Setting Utility Rates*, pp. 21-22 (April 21, 2025).

previous Commission decisions applying a 15% UFW limitation factor. Thus, the Company adjusted the calculation to conform with the limitation factor on UFW adopted by the Commission in TPUC Docket Nos. 12-00049, 10-00189, and 08-00039.¹⁰ However, Mr. Lane asserted the NRW limitation factor has been used in the most recent years' PCOP calculations, which is inconsistent with these prior Commission decisions.¹¹ Mr. Lane claimed that using UFW and NRW interchangeably affronts the public interest and may even present the risk of creating a chilling effect on the positive use of water for productive and essential purposes, albeit sometimes non-revenue producing.¹²

Mr. Lane testified that the PCOP calculation includes an adjustment for Jasper Highlands consistent with the agreement between the Company and the Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") and approved in TPUC Docket No. 22-000005.¹³ The Company's PCOP calculation included base year revenues in the amount of \$1,242,200 for Whitwell.¹⁴ The Company's initially submitted PCOP calculation exhibit illustrated a requested PCOP rider surcharge of 3.17%, resulting in an annualized revenue increase of \$1,537,427.¹⁵

Based on the Company's *Petition*, the average City of Chattanooga residential customer would realize a decrease in their monthly bill of \$0.24 per month and represented a .87% decrease in the average bill.¹⁶

¹⁰ Robert C. Lane, Pre-Filed Direct Testimony, p. 9 (January 15, 2025).

¹¹ *Id.*

¹² *Id.* at 10.

¹³ *Id.* at 11.

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 15.

¹⁶ *Id.* at 12-13.

POSITION OF THE CONSUMER ADVOCATE

The Consumer Advocate formally sought intervention on February 12, 2025, which was granted by the Administrative Judge.¹⁷ Following discovery in accordance with a procedural schedule, the Consumer Advocate submitted the Pre-Filed Direct Testimony of Mr. William H. Novak.

Mr. Novak testified that the calculations supporting TAWC's filing appeared reasonable and could be traced back to the Company's books and records.¹⁸ Nevertheless, Mr. Novak disagreed with the Company's proposed adjustment to alter the NRW percentage calculation applied to the Company's Power Cost and Chemical expenses.¹⁹ According to Mr. Novak, the NRW percentage is based on the difference between the recorded water sales and deliveries, while the UFW percentage, as used by the Company, is the portion of NRW that a utility is not able to track/measure (e.g., meter inaccuracies, data errors and unauthorized non-metered charges).²⁰ Mr. Novak compared the NRW Percentage of 25.67% with an Unaccounted-For Water Percentage of 12.61%. Because the UFW Percentage is less than 15%, the Company's proposal included no adjustment to its power cost or chemical expenses.²¹

Mr. Novak testified that a settlement agreement between TAWC and the Consumer Advocate, approved by the Commission in TPUC Docket No. 13-00130, that established the PCOP Rider, included the application of an NRW Percentage component.²² According to Mr. Novak, the agreed-upon application of NRW was identical to the methodology approved in the Company's previous rate case in Docket No. 12-00049.²³ In an overview, Mr. Novak recounted the parties and

¹⁷ *Order Granting the Petition to Intervene Filed by Consumer Advocate* (February 28, 2025).

¹⁸ William H. Novak, Pre-Filed Direct Testimony, p. 6 (April 2, 2025).

¹⁹ *Id.* at 6-8.

²⁰ *Id.* at 7-8.

²¹ *Id.*

²² *Id.* at 8.

²³ *Id.*

the Commission's application of an NRW standard over the course of the history of the PCOP rider, which the Company sought to amend with the *Petition*.²⁴ Mr. Novak calculated that the difference between the two methodologies was \$573,517.²⁵

Consistent with prior Commission decisions, Mr. Novak recommended that the Commission adopt \$6,503,047 as the appropriate amount for TAWC to recover through the PCOP Rider in the current period and set a PCOP surcharge rate of 4.44%.²⁶

TAWC REBUTTAL TESTIMONY

In pre-filed rebuttal testimony submitted on April 22, 2025, Mr. Lane discussed revisions to the Company's previously submitted exhibits that resulted from discovery requests made by the Commission Staff and Consumer Advocate. These changes included correcting the deferred revenue amount to \$2,134,865 from TPUC Docket No. 24-00002, correcting the purchased water amounts for the vendor Marion Board of Water, updating the Jasper Highlands customer count to 467 to reflect the actual customers for the 12-month period ending November 2024, and updating the Jasper Highlands actual water sales to \$317,099 from the previously used methodology, which included using an estimate of 10%.²⁷ Based on the revisions, the Company proposed to update the Base Rate Revenue due to the Commission's decision in Docket No. 24-00032, as these decisions were made after the filing of the *Petition* in this proceeding. As a result of the revisions, the Company proposed a revised PCOP percentage of 3.85% to recover the PCOP deferred amount of \$2,742,339.²⁸

²⁴ *Id.* at 6-8, 10-11.

²⁵ *Id.* at 12-13.

²⁶ *Id.* at 13-14.

²⁷ Robert C. Lane, Pre-Filed Rebuttal Testimony, pp. 2-3 (April 22, 2025).

²⁸ *Id.* at 3.

Mr. Lane testified that while he agreed with Consumer Advocate Witness Mr. Novak's calculation of 25.67% as the NRW percentage, it was inappropriate to be applied in this proceeding.²⁹ The Company disagreed that the Commission established a 15% NRW standard in Docket No. 08-00039.³⁰ Mr. Lane testified that the Commission did not adopt an NRW loss standard in the Company's 2008 General Rate Case; rather the Commission unambiguously adopted a UFW loss standard in the TPUC Docket No. 08-00039 rate case order.³¹

According to Mr. Lane, the definition of NRW, as defined by and calculated by the Tennessee Comptroller of the Treasury and the Tennessee Board of Utility Regulation is: $(\text{Water Produced}) - (\text{Water Sold}) / (\text{Water Produced}) = \text{Water Loss Percent}$.³² Mr. Lane asserted that comparing these two formulas clarifies that the terms "Unaccounted for Water" and "Non-revenue Water" are not interchangeable and are entirely different measures of water loss. Furthermore, Mr. Lane asserted that while UFW is a subset of NRW, the calculation and treatment of each from a public policy perspective was not consistent and thus are not and never have been interchangeable.³³

Mr. Lane testified that the Tennessee Board of Utility Regulation ("TBOUR") defines excessive water loss as any system with NRW by volume of 40% or more in accordance with Tennessee Code Ann. §7-82-707. Mr. Lane asserted that compared to a statewide average, TAWC's NRW water loss is not excessive.³⁴ Mr. Lane testified he was unaware of any jurisdiction with a NRW reasonableness standard used to reduce cost recovery in rates for actual costs incurred if exceeded.³⁵ According to Mr. Lane, there is no other state in the country that exacts such a

²⁹ *Id.* at 4.

³⁰ *Id.*

³¹ *Id.* at 5.

³² *Id.* at 6.

³³ *Id.* at 7.

³⁴ *Id.* at 11.

³⁵ *Id.* at 12.

penalty on water utilities and continuing the Consumer Advocate's interpretation of the TAWC's 2008 Rate Case Order would render Tennessee a regulatory outlier.³⁶

Mr. Lane discussed the purported impacts of the Consumer Advocate's NRW approach, which included undermining the opportunity of the Company to achieve its authorized Return on Equity.³⁷ Mr. Lane reiterated that the Company requested that the Commission use the UFW standard adopted in the 2008 Rate Case Order in this proceeding and in the future, rather than undoing the application of the NRW in previous PCOP proceedings. Thus, TAWC is recommending a PCOP deferred amount of \$2,742,3389 be approved, resulting in a PCOP percentage of 3.85%.³⁸

CONSUMER ADVOCATE'S SUPPLEMENTAL TESTIMONY

On April 24, 2025, the Consumer Advocate sought leave to file supplemental testimony due to the Commission's rulings on rate base and UFW in the Company's rate case in Docket No. 24-00032.³⁹ The motion was subsequently granted by the Administrative Judge.⁴⁰ Mr. Novak's supplemental testimony included a revised PCOP surcharge percentage to reflect the new base rate revenue adopted in the Commission's April 21, 2025 Order in TPUC Docket No. 24-00032. The new base revenue of \$71,219,856 did not exist in a Commission Order when his pre-filed testimony was filed.⁴¹ Mr. Novak updated the base rate revenue to the new rate case amount, which decreased his initially proposed PCOP surcharge from 4.44% to 3.02%. In addition, Mr. Novak stated that he retained his original adjustments regarding the Commission's water loss policies in light of the Commission's decision in Docket No. 24-00032.⁴²

³⁶ *Id.* at 14.

³⁷ *Id.* at 14-15.

³⁸ *Id.* at 18.

³⁹ *Consumer Advocate's Motion for Leave to File Supplemental Testimony of William H. Novak*, p. 1 (April 24, 2025).

⁴⁰ *Order Granting Consumer Advocate's Motion to File Supplemental Testimony*, pp. 1-2 (May 8, 2025).

⁴¹ William H. Novak, Pre-Filed Supplemental Testimony, p. 1 (April 24, 2025).

⁴² *Id.* at 2.

CONSUMER ADVOCATE’S MOTION FOR SUMMARY JUDGMENT

On April 28, 2025, the Consumer Advocate filed the *Motion for Summary Judgment on the Issue of Non-Revenue Water* (“*Motion for Summary Judgment*”). The Consumer Advocate argued that TAWC’s position on water loss was contrary to the Commission’s rate case order in Docket No. 24-00032.⁴³ On May 13, 2025, the Consumer Advocate withdrew the *Motion for Summary Judgment*, stating the parties had reached an agreement.⁴⁴

SUPPLEMENTAL TESTIMONY OF TAWC IN SUPPORT OF SETTLEMENT OF DISPUTES

On May 13, 2025, the Company filed the supplemental testimony of Mr. Lane to support an agreement between TAWC and the Consumer Advocate. Mr. Lane testified that after several cooperative discussions since the conclusion of both discovery and pre-filed testimony phases, the parties agreed that the deferred PCOP-eligible expenses were \$2,153,202, the base revenues were \$71,219,856, and the PCOP rider percentage would be 3.02%.⁴⁵

Mr. Lane acknowledged that the Company recognized that in Docket No. 24-00032, the Commission applied the existing 15% NRW standard and explained that the term “unaccounted for water” was defined as an all-encompassing umbrella term without distinction for NRW in the Company’s 2008 rate case.⁴⁶ Mr. Lane concluded his supplemental testimony by stating that the parties would continue to discuss the Commission’s water loss limitation and the Company’s proposed definition of UFW, which would include a review of other jurisdictions’ approaches to a water loss limitation.⁴⁷

⁴³ *Memorandum in Support of Consumer Advocate’s Motion for Summary Judgment on the Issue of Non-Revenue Water*, pp. 2-4 (April 28, 2025).

⁴⁴ *Consumer Advocate’s Withdrawal of Motion for Summary Judgment on the Issue of Non-Revenue Water* (May 13, 2025).

⁴⁵ Robert C. Lane, Pre-Filed Supplemental Testimony, p. 2 (May 13, 2025).

⁴⁶ *Id.* at 3-4.

⁴⁷ *Id.* at 4.

JOINT LETTER OF THE PARTIES

In a letter from TAWC dated May 14, 2025, the parties jointly expressed that there were no outstanding contested or procedural issues. The letter represented that it was the position of both the Consumer Advocate and the Company that the matter should be resolved in favor of the *Petition*, as amended. Further, unless requested by the Commission, the parties waived opening statements, the live presentation of testimony, and cross-examination of witnesses by the Parties.⁴⁸

HEARING

A hearing in this matter was held before the voting panel on June 23, 2025, as noticed by the Commission on June 13, 2025. As noted previously herein, the Parties filed a letter indicating there were no outstanding disputes or contested issues and waived opening statements, closing statements, and cross-examination of the respective expert witnesses. Participating in the Hearing were the following Parties and their respective counsel:

TAWC – Melvin J. Malone, Esq., Butler Snow, LLP, 150 3rd Avenue South, Suite 1600, Nashville, Tennessee 37201.

Consumer Advocate – Vance Broemel, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, TN 37202.

Mr. Bob Lane was present and provided testimony in support of the revised calculations presented by the Company. During the Hearing, the public was given an opportunity to offer comment, but no member of the public sought to comment on the *Petition*.

FINDINGS AND CONCLUSIONS

Upon review of the evidentiary record in this proceeding, the panel voted unanimously to adopt the revised total PCOP percentage of 3.02%, as calculated in the Company’s PCOP work paper “Petitioner’s Exhibit in Support of Settlement,” submitted on May 13, 2025. The panel found

⁴⁸ Letter to Chairman David Jones from Tennessee-American Water Company, pp. 1-2 (May 14, 2024).

that the PCOP percentage rate was calculated correctly based on the Commission's approved methodologies. This was a decrease from last year's PCOP rider percentage of 4.40%.

The panel found that the total actual net PCOP Rider expense for the year ending November 30, 2024, included \$2,205,233 for Chemical Expense; \$2,593,957 for Fuel & Power Expense; \$788,031 for Waste Disposal Expense; \$215,041 for Purchased Water Expense; and \$264,561 for the Tennessee Public Utility Commission Inspection Fee Expense. The total PCOP expense included a recovery of \$436,223 because the revenues collected from customers during the review period were less than the amount authorized in the 2024 PCOP Rider proceeding. These findings resulted in a net PCOP expense recovery of \$6,503,047, which included a baseline PCOP expense amount for Whitwell and Jasper Highlands operations.

The panel also found that the PCOP Rider continues to benefit the Company by allowing timely recovery of expenses without the need to file base rate cases. Additionally, customers receive immediate refunds when expenses within the PCOP Rider decrease. For these reasons, the panel unanimously agreed that the PCOP Rider mechanism remains in the public interest.

It should be noted that the Commission has applied the 15% UFW standard to regulated water public utilities other than Tennessee-American Water Company. The regulated water public utility industry in Tennessee is not prohibited from petitioning the Commission for a re-examination of this policy and its application.

IT IS THEREFORE ORDERED THAT:

1. The total actual net Production Costs and Other Pass-Throughs Rider expense for the year ending November 30, 2024, includes \$2,205,233 for Chemical Expense; \$2,593,957 for Fuel & Power Expense; \$788,031 for Waste Disposal Expense; \$215,041 for Purchased Water Expense; and \$264,561 for the Tennessee Public Utility Commission Inspection Fee Expense. This

amount is increased by \$436,223 to account for under-collections, resulting in a net Production Costs and Other Pass-Throughs Riders expense of \$6,503,047 for a total Production Costs and Other Pass-Throughs Riders percentage rate of 3.02%.

2. Tennessee-American Water Company shall file the Production Costs and Other Pass-Throughs Rider expense percentage and tariffs consistent with the approved Production Costs and Other Pass-Throughs Rider expense.

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

4. Any person who is 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 60 days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman David F. Jones,
Vice Chairman John Hie,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good, and
Commissioner David Crowell concurred.**

None dissented.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish or initials "abh" at the end.

Earl R. Taylor, Executive Director