

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 8, 2025

IN RE:)	
)	
PETITION OF TENNESSEE-AMERICAN WATER)	DOCKET NO.
COMPANY'S 2025 INCREMENTAL CAPITAL)	25-00016
RECOVERY RIDER TARIFF)	

ORDER GRANTING *PETITION* AS AMENDED

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Herbert H. Hilliard,¹ Commissioner Robin L. Morrison, and Commissioner Clay R. Good 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 *Tennessee-American Water Company’s 2025 Incremental Capital Recovery Rider Tariff Petition* (“*Petition*”) filed on March 3, 2025, by the Tennessee-American Water Company (“TAWC,” “Tennessee-American,” or the “Company”). In summary, the *Petition* was approved, as amended.

BACKGROUND AND *PETITION*

TAWC filed and was granted approval to implement a Qualified Infrastructure Investment Program (“QIIP”) Rider; Economic Development Investment (“EDI”) Rider; Safety and Environmental Compliance (“SEC”) Rider (collectively “Investment Riders” or “Capital Riders”); and a Pass-Through Mechanism for Purchased Power, Chemicals, Purchased Water, and Wheeling

¹ Commissioner Herbert H. Hilliard was absent from the June 23, 2025, Commission Conference and did not participate in the deliberations or vote in this docket.

Water (“PCOP”) in TPUC Docket No. 13-00130.² In Docket 19-00103, the Capital Riders were revised from a two-filing process per year to one annual filing for the Incremental Capital Recovery Rider (“ICRR”). Going forward, the Incremental Capital Recovery Revenue Requirement (“ICRRR”) will be calculated by comparing current eligible capital additions with authorized capital amounts already included in rates from the prior period.³ Using the authorized return on equity (“ROE”) from the Company’s most recent rate case in 2012 of 10%, an earnings test is applied to the ICRRR calculations. Any excess earnings will zero out any ICRRR for the filing year. In accordance with its approved tariff, the Company is to file by March 1st of every year a reconciliation of the three Capital Riders with qualifying investments made through December 31 of the previous year. The Company’s previous ICRR filing was considered by the Commission in Docket No. 24-00011.⁴

On March 3, 2025, TAWC filed the *Petition* covering the investments made between January 1, 2024, and December 31, 2024 (“review period”).⁵ In support of the *Petition*, Mr. Robert C. Lane provided pre-filed testimony to confirm that the filing was consistent with the ICRR Tariff approved in Commission Docket No. 19-00103 and that the data used to prepare this case was acquired from the books of account and business records of TAWC.⁶ Mr. Lane’s pre-filed testimony provided an overview of the establishment of the ICRRR in Docket No. 19-00103.⁷ The associated costs and investments of the capital riders in effect prior to 2024 were referred to in the ICRR tariff as “Legacy Riders” and remained in place until January 21, 2025. At that time, following the conclusion of the

² 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).

³ See *In re: Docket to Investigate and Consider Potential Issues and Modifications to the Collective Capital Riders of Tennessee-American Water Company*, Docket No. 19-00103, *Order Approving Stipulation and Settlement Agreement* (January 31, 2024).

⁴ *In re: Petition of Tennessee-American Water Company’s 2025 Incremental Capital Recovery Rider Tariff*, Docket No. 24-00011, *Order Granting Petition as Amended* (November 8, 2024).

⁵ Robert C. Lane, Pre-Filed Direct Testimony, p. 6 (March 3, 2025).

⁶ *Id.* at 4-5.

⁷ *Id.* at 6-7.

Company's rate case in Docket No. 24-00032, the "Legacy Riders" were incorporated into the new General Base Rates and were no longer applied separately.⁸

For the review period, the incremental capital placed in service was \$10,651,606.⁹ In addition, the Company under-collected \$605,074, less than the \$19,461,897 authorized in the 2023 Capital Recovery Rider proceeding. Additionally, a one-time adjustment was made for property tax and franchise tax resulting in an ICRRR for the review period of \$-1,174,067.¹⁰ The Company's adjusted net book income resulted in an ROE above the Company's authorized ROE of 10%. Therefore, the ICRR surcharge was set at 0.0% with no change to customers' bills.¹¹

Mr. Lane testified that the items included in the calculation of the ICRRR conform to the modifications made in Docket Nos. 14-00121, 15-00029, and 19-00103.¹² As a correction, Mr. Lane asserted that the Company realized there was an inconsistency between the actual unaccounted-for water ("UFW") factor of 12.6% and the standard 15% adopted by the Commission.¹³ Therefore, the Company made an adjustment to align the limitation of UFW to the approved 15% standard limitation factor and to maintain consistency between this filing and the Company's position and calculations in the Company's PCOP filing (Commission Docket No. 25-00002).¹⁴

Further, Mr. Lane stated that the Company was not making an adjustment for excess Accumulated Deferred Income Tax ("EADIT") normalization resulting from the Tax Cuts and Job Act ("TCJA") because the new base rates were based on the current Federal Tax Rate of 21% and therefore incorporated the impacts of the TCJA.¹⁵ Mr. Lane stated the Capital Rider Recovery

⁸ *Id.* at 8.

⁹ *Id.*

¹⁰ *Id.* at 9.

¹¹ *Id.* at 27.

¹² *Id.* at 13-14.

¹³ The Company took a similar position in TAWC's rate case concerning NRW and UFW. *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).

¹⁴ Robert C. Lane, Pre-Filed Direct Testimony, pp. 27-28 (March 3, 2025).

¹⁵ *Id.* at 28-29.

Mechanism remains to the mutual benefit of the Company and in the public interest.¹⁶ As a result of the Company's calculations, Mr. Lane testified that TAWC's adjusted net book income resulted in a ROE above the Company's authorized ROE of 10%, the ICRR surcharge was set at 0.0% with no change to customers' bills.¹⁷

Mr. Jon Sparkman, P.E., TAWC Director, Engineering, provided testimony supporting the TAWC's capital investments and the Company's Strategic Capital Expenditures Plan ("SCEP").¹⁸ Mr. Sparkman discussed two primary categories: Recurring Projects ("RP") and major projects identified as Investment Projects ("IP").¹⁹ According to Mr. Sparkman, the RP that are included within the Capital Investment Plan include smaller main projects for reinforcement and replacement, replacement of hydrants and valves, service line and meter setting replacements, security improvements, plant control improvements, projects to replace and maintain treatment facilities and equipment and new mains, hydrants and valves to assist with economic development.²⁰ The criteria used for RP include evaluating the need for the project; consideration of natural, state, and local trends; environmental impact evaluations; and water resource management. The IP included in the Capital Investment Plan is comprised of investment needed to meet environmental or water quality regulations, infrastructure capacity expansion or rehabilitation, and those to ensure a safe working environment.²¹

Mr. Sparkman testified that projects are strategically staggered over a five-year period to balance spending and ensure TAWC continues to provide safe, adequate, and reliable service to its customers. Additionally, the Capital Investment Plan incorporates a regional Capital Program Management Committee ("CPMC") that ensures that the capital investment plans meet the strategic

¹⁶ *Id.* at 14-18.

¹⁷ *Id.* at 27.

¹⁸ Jon Sparkman, Pre-Filed Direct Testimony, p. 3 (March 3, 2025).

¹⁹ *Id.*

²⁰ *Id.* at 4-5.

²¹ *Id.* at 5.

intent of the business; and a Functional Review Meeting (“FRM”) Committee, which meets monthly to sign off on projects and review spending. These meetings are used to oversee the progress of projects from inception to completion. Further, if the project requires an independent contractor or significant purchases, they are acquired through a bid solicitation process and consideration is given to prioritize projects, allowing TAWC to provide safe, adequate, and reliable service to customers.²²

According to Mr. Sparkman, investment has increased from \$18,205,874 in 2014 to \$26,722,775 in 2024.²³ Mr. Sparkman testified that a substantial portion of the Company’s distribution infrastructure is between 50 and 100 years old and nearing the end of its service life. The QIIP rider results in a stronger and more reliable water distribution and projection system for both current and future customers while allowing TAWC to recover ongoing investments and improvements rather than the less frequent but larger step increases that would result from a base rate increase. The items included in the QIIP include Mains, Mains Relocated, Hydrants and Valves Replaced, Services Replaced, Meters Replaced and Capitalized Tank Rehabilitation/Painting, which represent aging infrastructure that is non-revenue producing.²⁴

Expenditures included in the EDI include the installation of new infrastructure to expand or extend the distribution system that supports economic growth in the community. This expansion may include extending new mains in order to facilitate future growth of the community.²⁵ Expenditures included in the SEC include infrastructure requirements made to meet safety and environmental compliance mandates from the state and federal government, and are specifically related to the safety of the drinking water and in the public interest.²⁶ In summary, Mr. Sparkman testified that TAWC

²² *Id.* at 6-9.

²³ *Id.* at 10.

²⁴ *Id.* at 10-12.

²⁵ *Id.* at 22-23.

²⁶ *Id.* at 24-27.

spent \$23,597,653 in QIIP, \$761,118 in EDI, and \$2,364,004 in SEC Riders during the review period.²⁷

On April 11, 2025, the Company responded to discovery requests presented by the Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”). While preparing the responses, TAWC found an error within the Company’s ICRR filing related to the calculation of depreciation rates. Specifically, the rates used in the Company’s original filing did not include the cost of removal component of the depreciation rate. As a result, the Company updated the depreciation rates, which resulted in a change from \$767,559 to \$1,206,251 (an increase of \$438,692) in the Company’s depreciation expense on incremental additions. After flowing this through to changes in Accumulated Depreciation and Deferred Income Taxes, there was an overall change in TAWC’s After Tax ICRR from \$-1,174,067, to \$-597,200, and generated an overall increase of \$576,867 in After Tax ICRR. Nevertheless, the results of the ROE test and the Company’s proposed ICRR surcharge of 0.0% were not impacted by the corrections.²⁸

CONSUMER ADVOCATE’S DIRECT TESTIMONY

On behalf of the Consumer Advocate, Mr. David Dittmore provided his assessment of the *Petition* on April 28, 2025. Mr. Dittmore’s pre-filed testimony supported two adjustments to the Company’s ICRR, which were provided in the Company’s response to the Consumer Advocate Discovery Request No. 1-22. The first included the Acquisition Adjustment rate base of (\$935,260), as provided by the Company in response to Discovery Request No. 1-1, and was inadvertently omitted from the ICRR calculation. The second adjustment was a correction in the depreciation rates as originally filed by the Company. The original filing omitted the removal cost component. Based upon these two adjustments, Mr. Dittmore supported an ICRR of (\$597,200).²⁹

²⁷ *Id.* at 27-28.

²⁸ Tennessee American Water Company’s Response to the Consumer Advocate’s First Informal Discovery Request, Question 1-22 (April 11, 2025).

²⁹ David N. Dittmore, Pre-Filed Direct Testimony, p. 5 (April 28, 2025).

Next, Mr. Dittmore sponsored an adjustment to the ROE calculation that eliminated the excess purchase power and chemical cost (totaling \$573,517) identified in Commission Docket No. 25-00002 by the Consumer Advocate witness, Mr. William H. Novak, and required by the Commission's Order in the Company's rate case in Docket No. 24-00032.³⁰ After the adjustments, Mr. Dittmore calculated that the Company's Excess Net Income was \$1,321,134 in 2024, which corresponded to an excess revenue requirement of \$1,788,580.³¹

While recognizing that the excess earnings calculated in this proceeding prohibited collecting recovery under the ICRR, Mr. Dittmore encouraged the Commission to recognize the earnings position of the Company. According to Mr. Dittmore, the Company could have incurred an additional \$15 million in capital expenditures and still earned its authorized ROE.³² Based upon his calculations, Mr. Dittmore testified that the Company could have clearly replaced some of its galvanized steel and cast-iron mains instead of maintaining these excess earnings for its shareholders.³³

Mr. Dittmore stated that the current ICRR Tariff was not applicable for the Company's 2025 earnings, and the Company's 2024 rate case had implications on the ICRR tariff that were not envisioned nor addressed.³⁴ Specifically, the forecasted 2025 investments, including the ICRR eligible capital projects, were already being recovered from ratepayers. In discovery, the Consumer Advocate probed the Company's position with respect to a "negative" ICRRR, which would occur if actual ICRRR investments did not exceed forecasted ICRRR investments included in rate base. According to Mr. Dittmore, the Company's position is asymmetrical and allows the Company to avoid any downside risk.³⁵ Actual ICRR expenditures exceeding forecasted ICRR included in rate

³⁰ *Id.* at 6-7.

³¹ *Id.* at 7, DND-5.

³² *Id.*

³³ *Id.* at 7-8.

³⁴ *Id.* at 9.

³⁵ *Id.* at 10.

base would allow the Company to be eligible for surcharge recovery, yet would not flow the other way to benefit customers if expenditures fell below what was already incorporated in rate base.³⁶

According to Mr. Dittemore, while TAWC has not indicated a desire to do so, any consideration of a change should be put off until the ICRR filing in 2026, and the Company has no incentive to modify the tariff to permit a negative ICRR in the next year's filing.³⁷ To address the Consumer Advocate's concerns, Mr. Dittemore recommended the Commission suspend the ICRRR filing covering the 2025 period for one year, with a subsequent filing to be made in 2027 (covering the 2026 ICRRR investment). As the qualifying investment has been forecasted and included in base rates, suspending the tariff for one year would essentially remove the asymmetrical aspect of the current tariff. Mr. Dittemore testified that suspending the tariff for one year would result in equalization between the Company and its ratepayers regarding the extent to which its forecasted 2025 ICRR capital expenditures are already in base rates.

Mr. Dittemore testified that the proposal to suspend the tariff was not punitive, as the Company is in an over-earning situation. The Company was allowed to increase base rates effective January 1, 2025, by just over \$1 million, and the Company was already recovering costs associated with its forecasted ICRRR investment in base rates.³⁸ Mr. Dittemore concluded by stating he believed the ICRR continues to be in the public interest, but the Consumer Advocate has concerns that the overearnings of 2024 and 2023 prove the Company is extracting monopoly rents from its customers. Moreover, the replacement of cast iron and galvanized steel mains remains quite low, with the Company choosing instead a conservative replacement approach resulting in excess earnings accruing to the benefit of its shareholders.³⁹

³⁶ *Id.* at 9-10.

³⁷ *Id.* at 10-12.

³⁸ *Id.* at 13-14.

³⁹ *Id.* at 17-18.

TENNESSEE-AMERICAN'S REBUTTAL TESTIMONY

In response to the recommendations proposed by the Consumer Advocate, the Company filed the pre-filed rebuttal testimony of Mr. Lane. Mr. Lane adopted the corrections submitted by the Company in response to the Consumer Advocate Data Requests 1-1 and 1-22. Specifically, Mr. Lane acknowledged the inclusion of (\$935,260) for an Acquisition Adjustment, which the Company had omitted in its initial ICRRR calculation. Next, Mr. Lane confirmed the Company failed to include the removal cost component when calculating depreciation rates. Mr. Lane provides revised exhibits demonstrating an ICRRR of (\$597,200) instead of (\$1,174,067) as originally filed.⁴⁰

Mr. Lane disagreed with the Consumer Advocate's assertion that the Company should have invested more capital, considering the earnings above the Company's ROE. Rather, Mr. Lane asserted Mr. Dittmore failed to acknowledge that the primary driver of the Company exceeding its ROE was the one-time property tax adjustment.⁴¹ The Company did not anticipate lower-than-expected property tax expenses when developing the Company's capital plan and budget for 2024. Further, Mr. Lane testified that any investment made in one year carries over to future years, covering the useful life of the asset. Therefore, Mr. Lane concluded, it would be imprudent for the Company to make long-term investments based on a one-time tax adjustment.⁴²

According to Mr. Lane, the Company did not qualify for an increase in the ICRRR in 2025 to recover 2024 costs due to a combination of factors.⁴³ Mr. Lane asserted that the Company exceeded its capital spending plan for 2024 by spending \$40,943,049 on Capital Projects during the year, which was approximately 11% above the 2024 SCEP. This demonstrated that underinvestment was not the cause of earnings exceeding the ROE.⁴⁴

⁴⁰ Robert C. Lane, Pre-Filed Rebuttal Testimony, pp. 2-3 (May 13, 2025).

⁴¹ *Id.* at 3-4.

⁴² *Id.* at 5-6.

⁴³ *Id.* at 7.

⁴⁴ *Id.*

Mr. Lane confirmed the Company was not proposing any changes or modifications to the ICRR Tariff approved in Commission Docket No. 19-00103.⁴⁵ Further, Mr. Lane stated that the Company agreed with the Consumer Advocate’s recommendation to have a temporary, one-year suspension of the ICRR Tariff in 2026 with an automatic restart in 2027. Given that the Company’s last rate case included future test year investments covering 2025, an ICRR filing in 2026 is not necessary.⁴⁶ Mr. Lane testified that the Company’s agreement to temporarily suspend the ICRR in 2026 makes the Consumer Advocate’s proposal to adopt a new ICRR tariff unnecessary.⁴⁷ Further, Mr. Lane affirmed that the Company disagreed with the 15% NRW water loss limitation, but nevertheless accepted its application in this docket with the condition that the Consumer Advocate and Company continue to have meaningful future discussions regarding this standard.⁴⁸

SUPPLEMENTAL TESTIMONY OF THE COMPANY

On May 27, 2025, Mr. Lane filed pre-filed supplemental testimony stating the Company and the Consumer Advocate had entered into an agreement to resolve the contested issues in the docket. The Company agreed to a revised ICRRR calculation of (\$597,200).⁴⁹ The Company and the Consumer Advocate agreed that TAWC would not submit an ICRR tariff filing in 2026, and there would be an “automatic” restart in 2027.⁵⁰ While Mr. Lane stated that the Company continued to disagree with the application of a 15% NRW, TAWC agreed to its application in the docket with an expectation that the parties would discuss the issue in the future.⁵¹

JOINT LETTER OF THE PARTIES

In a letter filed on May 29, 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

⁴⁵ *Id.* at 8-9.

⁴⁶ *Id.* at 10.

⁴⁷ *Id.* at 11.

⁴⁸ *Id.* at 12.

⁴⁹ Robert C. Lane, Pre-Filed Supplemental Testimony, p. 3 (May 27, 2025).

⁵⁰ *Id.*

⁵¹ *Id.* at 4-5.

Advocate and the Company, and the matter should be resolved in favor of the *Petition*, as amended by the Company in Robert C. Lane’s pre-filed supplemental testimony filed on May 27, 2025. Further, unless requested by the Commission, the parties waived both opening statements, the live presentation of testimony, and cross-examination of witnesses by the parties.⁵²

THE HEARING

The hearing in this matter was noticed by the Commission on June 13, 2025, and held during the regularly scheduled Commission Conference on June 23, 2025. Making appearances were the following:

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

Consumer Advocate Division – Karen H. Stachowski, Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015.

Mr. Robert C. Lane testified on behalf of the Company in support of the adjustments to the *Petition*. Mr. David Dittemore was present on behalf of the Consumer Advocate to answer questions from the Commissioners. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

STANDARD FOR COMMISSION APPROVAL

Tenn. Code Ann. § 65-5-103(d)(5) states:

(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both related to other programs that are in the public interest.

(B) A utility may request and the commission may authorize a mechanism to allow for and permit a more timely adjustment of rates resulting from changes in essential, nondiscretionary expenses, such as fuel and power and chemical expenses.

⁵² Letter to Chairman David Jones from Tennessee-American Water Company, pp. 1-2 (May 29, 2025).

(C) Upon a finding that such programs are in the public interest, the commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in other programs, including the rate of return approved by the commission at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a).

FINDINGS AND CONCLUSIONS

Based on the evidentiary record, the panel found the zero percent Incremental Capital Recovery Rider ("ICRR") rate filed by the Company was reasonable and consistent with previously approved methodologies in Docket No. 19-00103. As directed in the Commission's recent rate case decision in Docket No. 24-00032, the legacy capital rider rate was consolidated into the newly approved base rates and reset to zero. The new base rates also reflect the current federal income tax rate; accordingly, the TCJA credits have been eliminated.

The Capital Recovery Riders are designed to recover certain costs of capital investments made between general rate cases. Given that the investments made in 2025 have been reflected in the newly approved base rates, the panel found it reasonable to suspend the ICRRR filing for 2025 capital investments, with the rider being eligible to restart for qualifying capital investments made in subsequent years beginning in 2026.

The panel further found that the Capital Recovery Rider programs continue to serve the public interest by benefitting both consumers and Tennessee-American. The programs allow the utility timely recovery of investment-related expenditures to ensure safe and reliable drinking water and the promotion of economic development. They also benefit consumers through reduced rate case and legal expenses which might otherwise result in the absence of these programs.

Accordingly, the panel voted unanimously to approve an Incremental Capital Recovery Rider Rate of 0%, a legacy capital rider rate of 0%, and the elimination of the TCJA tax credits. The panel voted to suspend the ICRRR filing for capital investments for 2025 with automatic reinstatement for qualifying capital investments made after 2025.

IT IS THEREFORE ORDERED THAT:

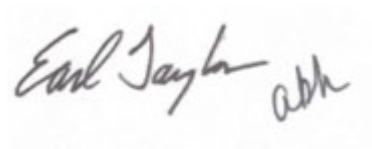
1. The *Petition of Tennessee-American Water Company's Tennessee-American Water Company's 2025 Incremental Capital Recovery Rider Tariff Petition*, filed on March 3, 2025, by Tennessee-American Water Company and amended, is approved.
2. The Incremental Capital Recovery Rider Rate of 0%, a legacy capital rider rate of 0%, and the elimination of the Tax Cuts and Jobs Act tax credits are approved.
3. The Incremental Capital Recovery Revenue Requirement filing for 2025 capital investments is suspended, with the rider being eligible to restart for qualifying capital investments made in subsequent years beginning in 2026.
4. Any person 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.
5. Any person 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:

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

None dissented.

ATTEST:

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

Earl R. Taylor, Executive Director