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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

25-00086

RE: New Tariff to Distribute PFAS Settlement Proceeds

Dear Chairman Jones:

Attached for filing on behalf of Tennessee-American Water Company (“TAWC” or the “Company”), please find a PFAS (per- and poly- fluoroalkyl substances) Litigation Universal Surcredit Tariff (“PLUS Tariff”) to facilitate the timely distribution of PFAS settlement proceeds to TAWC’s customers. The explanation of the character of and reasons for this filing and purpose of the PLUS Tariff are set forth below. For the benefit of its customers, and to serve the public interest, pursuant to Tennessee Public Utility Commission (“TPUC” or “Commission”) Rules 1220-04-01-.04 and 1220-04-01-.06, the Company respectfully requests that the PLUS Tariff be permitted to become effective 30 days after this filing.

I. Background

PFAS are manufactured chemicals historically used in household products, such as nonstick cookware (e.g., Teflon™), stain repellants (e.g., Scotchgard™), and waterproofing (e.g., GORE-TEX™). The chemicals are or were also used in industrial applications, such as firefighting foams and electronics production. Thousands of PFAS chemicals persist in the environment.

In 2024, the United States Environmental Protection Agency (“EPA”) announced PFAS drinking water regulations and identified PFAS as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). Drinking water limits of four parts per trillion were instituted, with a compliance deadline of 2029.¹

Water utilities are passive receivers of PFAS and their removal from drinking water generally requires construction of either granular activated carbon (“GAC”) or ion exchange (“IX”) facilities. The associated costs can include filter media reactivation and waste disposal services.

¹ See <https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>.

II. PFAS Litigation

For more than five years, TAWC and other American Water subsidiaries have been plaintiffs in litigation against several of the major manufacturers of PFAS. The more than 7,000 PFAS lawsuits were consolidated into a multi-district litigation (“MDL”) docket before the U.S. District Court for the District of South Carolina (the “Court”).²

A mediator was appointed who lead discussions between the plaintiff water utilities, including TAWC, and the interested PFAS primary and secondary manufacturers. These efforts resulted in settlements between the affected water utilities and the following PFAS manufacturers:

- a. 3M Company (“3M”)
- b. The Chemours Company, The Chemours Company FC, LLC, DuPont de Nemours, Inc., Corteva, Inc., and E.I. DuPont de Nemours and Company n/k/a EIDP, Inc. (collectively “DuPont”)
- c. Tyco Fire Products LP (“Tyco”); and
- d. BASF Corporation (“BASF”)

The MDL settlement was reached with 3M and DuPont in March of 2024 and with Tyco and BASF in November 2024. These settlements have all been approved by the Court. The 3M settlement is expected to yield two payments in 2025, followed by annual payments for a number of years. The DuPont, Tyco, and BASF settlements are expected to result in one-time payments. Documents and other material pertinent to the settlement agreements are available at the Court’s website for this litigation: <https://www.pfaswatersettlement.com>.

III. The Company’s Receipt of Settlement Funds

The Company does not yet know the specific amounts it will ultimately receive, in total, from the settlements described above. Although the settlements are not identical, they all use a methodology for allocating the settlement among participating water utilities of assigning scores based on various criteria determined in the settlement agreement and applied by the settlement administrator. The settlement administrator and the settling parties have been working closely to submit the appropriate system-specific data necessary to calculate a score under the settlements.

Because the Company’s share of settlement proceeds is ultimately determined by the settlement administrator, the Company has no control of how settlement funds are allocated among utilities (including other American Water subsidiaries) or how much it will receive. Similarly, the Company does not control settlement administration timeframes, so timing of settlement allocations will not always be predictable.

The 3M settlement was the first agreement approved by the Court, and the scoring metrics have been completed for the initial payment. Thus far, the Company has received approximately

² The MDL docket comprises multiple civil cases involving one or more common issues in cases that are pending at the same time in different courts. *In re: Aqueous Film-Forming Foams Product Liability Litigation*, MDL No. 2:18-mn-2873-RMG (D.S.C.)

\$4.3 million, which is net of the litigation costs and fees TAWC incurred to pursue this litigation. The Company expects more payments over the next several years from the 3M settlement. In addition to the 3M settlement, the Company is part of settlements reached in the PFAS litigation with DuPont, Tyco, and BASF. These settlements will provide further compensation.

These settlements resolve the drinking water claims against these four manufacturers. TAWC has sought damages through the MDL from other PFAS manufacturers related to costs imposed to provide water service. This continued litigation may provide further compensation through either settlements or judgements.

IV. Distribution of Funds to Customers; PLUS Tariff

TAWC is proposing the PLUS Tariff to facilitate the timely and efficient distribution of PFAS litigation proceeds to customers as they are received. The Company proposes adding the PLUS Tariff as Original Sheet No. 60.

Under the PLUS Tariff, the Company would calculate a credit on customer bills for each PFAS litigation payment received. Credits may also be combined, for example if more than one payment is received in a short period of time or if more than one payment is received prior to tariff approval. The amount of the credit would vary based on the proceeds received (net of attorneys' fees and costs) and the number of customers at the time of any such credit. The Company will credit the full amount of the proceeds to customers after deducting its legal expenses incurred to obtain these proceeds.

After the proposed tariff becomes effective, the customers' first credit would be issued. The first two disbursements from 3M are expected to be approximately \$4.3 million plus interest, with about 89,000 customers taking water service. If no further funds are received in the interim, the resulting credit per customer would be approximately \$48.30.³

V. Benefits of the PLUS Tariff

As illustrated below, the PLUS Tariff would have several advantages, including the following:

Timely delivery to customers: The PLUS Tariff allows for timely distribution of proceeds to customers based on a customer-oriented trackable and appropriate formula. The company would optimally apply credits at the beginning of a month, so that customers would all receive credits within that month's billing cycle. This approach quickly distributes these proceeds to customers, thereby allowing customers to benefit immediately rather than holding the proceeds for future use.

Regulatory efficiency: Because the tariff is formulaic and trackable, and not for a specified dollar amount, neither repeated tariff filings nor tariff revisions would be required in the

³ The actual amount of the credit could vary slightly due to fluctuations in active customer count between the time of this tariff filing and the time of the credit calculation (which would be in a targeted two-week window prior to bill adjustments). Customer counts can vary due to move ins, move outs, and the addition of new taps.

coming years. As set forth within the proposed PLUS Tariff, upon the effectiveness of the tariff, future credits will be made without additional tariff filings, unless changes to the PLUS Tariff are requested. This formulaic feature reduces the amount of regulatory and legal resources expended for the purpose of delivering funds to customers. Since regulatory and legal costs are ultimately borne by our customers, a formulaic tariff allows maximum benefit, timely applied, at minimal cost.

Flexibility: Due to its simplicity and reusability, the tariff is easily adaptable to varying payment timelines and amounts, none of which are entirely predictable or controllable by the Company. Similarly, the tariff is not vulnerable to future complications arising from potential changes to drinking water regulations and their associated operating and capital costs. The flexibility and simplicity of the PLUS Tariff ensure customers receive funds as they are delivered to the Company, without unnecessary barriers, costs, or delays.

Straight-Forward: The methodology of calculating the refund is simple, will remain constant during the potentially lengthy period of time PFAS MDL proceeds could be received and can be reviewed to ensure the proceeds were distributed to customers as required under the tariff.

Customer Benefits: The PLUS Tariff provides customers with immediate credits upon receipt that will be transparent to our customers and accompanied with clear communication. TAWC will provide a bill message and/or “zone/insert” on the bill explaining the source of credits, thus affording customers the opportunity to see and better understand the benefit, as opposed to other approaches that might bury the proceeds in a ratemaking proceeding and leave customers without knowledge of the benefit these proceeds are providing.

For the foregoing reasons, and for good cause shown, pursuant to Commission Rules 1220-04-01-.04, and 1220-04-01-.06, the Company respectfully requests that the Commission allow the PLUS Tariff to take effect 30 Days after filing.

Please do not hesitate to contact me if you have any questions regarding this matter.

Very truly yours,

BUTLER SNOW LLP



Melvin J. Malone

Attachment

cc: Bob Lane, Tennessee-American Water Company
David Foster, TPUC Utility Division
Karen Stachowski, Consumer Advocate Division

PLUS Tariff

PFAS LITIGATION UNIVERSAL SURCREDIT “PLUS”

APPLICABILITY

Applicable to All Residential and Non-Residential Service Classifications

Tennessee American sought compensation from various manufacturers of chemicals of Aqueous Film Forming Foam. This litigation was consolidated for the limited purpose of pursuing settlements into multi-district litigation No. 2873 (“MDL”), which are overseen by the United States District Court for the District of South Carolina. Tennessee American has entered into multiple settlements in the MDL and may enter into further agreements. These settlements may provide one or more payments. The proceeds will be net of any costs to be paid out of the settlement funds incurred to administer or achieve the settlement. The purpose of this tariff is to credit Tennessee American customers the proceeds Tennessee American receives from these MDL settlements.

The proceeds from the MDL shall be credited to customers as a credit within a reasonable time after Tennessee American Water receives payment of the funds. Within seven (7) days of a credit to customers, Tennessee American shall provide written notice to the Commission of any distribution made pursuant to this tariff, the amount of such proceeds included and supporting workpapers showing the determination of the credit as outlined below. Tennessee-American may combine proceeds resulting from the MDL settlement. The notice will include an affidavit verifying that any credits made pursuant to this tariff are consistent with the terms of the PLUS Tariff. A copy of such notice will be provided to the Consumer Advocate Division, Office of the Tennessee Attorney General, at the same time that it is submitted to the Commission.

Determination of the Credit

The litigation or settlement proceed credit shall be calculated as follows:

$$\frac{\text{MDL Proceeds}}{\text{Total Water Customer Count}}$$

$$\text{PLUS Credit} = \frac{\text{MDLP}}{\text{CC}}$$

Where:

- PLUS Credit represents the proceeds credit each customer will receive as a result of proceeds paid from MDL settlements.
- MDLP represents the proceeds received from one or more MDL settlements.
- CC total active water customer counts, inclusive of all customer classes at the time of credit calculation.

Issued: October 06, 2025

Effective: November 05, 2025

Issued by: 

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