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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV

In the Matter of the Application of)
OHIO-AMERICAN WATER COMPANY)
To Increase Its Rates for Water and Sewer)
Service Provided to Its Entire Service Area)

Case No. 03-2390-WS-AIR

2003 DEC 11 PM 2:00

PUCO

**MOTION FOR APPROVAL OF WAIVERS
AND FOR TEST YEAR AND DATE CERTAIN**

NOW COMES Ohio-American Water Company ("Ohio-American" or "Applicant") and respectfully requests the Public Utilities Commission of Ohio ("Commission") to grant, pursuant to Ohio Revised Code ("R.C.") 4905.15(C) and Ohio Administrative Code ("O.A.C.") Rule 4901-7-01, Appendix A, Chapter II, Paragraph (A), Subparagraph 4(c) and (d) (5) and (6), the waivers detailed below in its rate application proceeding which has been commenced by a prenotification filing made contemporaneously with this Motion:

(1) a waiver from filing an Schedule D ("Rate of Return"), information on a consolidated basis, and, as a far less desirable alternative, upon three week's notice by the Staff, the Applicant's filing the consolidated information as of the most recent quarter for which information is available [O.A.C. Rule 4901-7-01, Appendix A, Chapter II, Paragraph (A) Subparagraph (4)(c)];

(2) a waiver from filing Schedules S ("Supplemental Five-Year Forecast") in the format indicated in the instructions to the Supplemental Filing Requirements and, as the alternative, filing the information in the same format as the Schedules F ("Projected Financial Data") [O.A.C. Rule 4901-7-01, Appendix A, Chapter II, Paragraph (A) Subparagraph (4)(d)];

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(3) a waiver with respect to filing testimony within fourteen days of the filing of the application, but only with respect to pre-filed testimony of a consultant on rate of return issues [R.C. Section 4909.15(C) and O.A.C. Rule 4901-7-01, Appendix A, Chapter II, Paragraph (A), Subparagraph (6)]; and

(4) to establish a Test Year consisting of the period October 1, 2002 through September 30, 2003 and a Date Certain of December 31, 2002 [R.C. Section 4909.15(C) and O.A.C. Rule 4901-7-01, Appendix A, Chapter II, Paragraph (A), Subparagraph (5)(a)].

MEMORANDUM IN SUPPORT

In support of the waivers from certain aspects of the Standard Filing Requirements, Ohio-American presents the following:

1. Schedules D- -Rate of Return

The instructions to Schedule D contemplate that consolidated capital structure data will be filed with the application. However, in the last several rate cases, the parties have stipulated - and the Commission has approved - rate of return percentages based upon the stand-alone capital structure of Ohio-American. In Ohio-American's immediately prior rate proceeding, Case No. 01-626-WW-AIR, the Commission denied Ohio-American's motion for a waiver of the requirement to file consolidated capital structure data, and instead granted Ohio-American's alternative request to waive the requirement to file consolidated rate of return information with the Application and file updated consolidated information within two months after the filing of the Application to reflect the Date Certain information. Despite the Commission's ruling in Case No. 01-626-WW-AIR, the Staff Report in that case determined that the use of the stand-alone capital structure of Ohio-American was still appropriate. In addition, subsequent to the

Commission's denial of Ohio-American's request for waiver, the Commission **granted** a substantially similar request for waiver of Consumers Ohio Water Company in Case No. 01-2924-WW-AIR (Entry dated December 13, 2001). Ohio-American is merely requesting that the Commission permit Ohio-American the same consideration that it gave Consumers Ohio Water Company in granting this waiver. Furthermore, just as in prior rate cases, Ohio-American's waiver request merely seeks to continue the practice of considering the Ohio-American capital structure by eliminating the requirement to provide consolidated information.

Similarly to Ohio-American's prior rate proceeding, as a much less desirable alternative, Ohio-American requests that if its waiver from filing Schedule Ds on a consolidated basis is not granted, that the Commission waive the requirement to file consolidated rate of return information with the Application, and to the extent applicable, the requirement to file updated consolidated information within two months after the filing of the Application to reflect the Date Certain information.

There is considerable work, and therefore expense, that is expended to retrieve and present the consolidated capital structure data. Ohio-American is a wholly owned subsidiary of American Water Works Company ("AWWC"). In total there are twenty three (23) operating companies in the AWWC system. Each of the twenty three operating companies have many mortgage bonds outstanding, each issue of which requires investigation and calculation to determine the appropriate financial information attributable to each.

Furthermore, none of the data required for the Schedules D is readily available. In order to provide the information required on Schedules D, Ohio-American must request that data be analyzed, compiled and developed for each of the twenty three operating companies. The time and expense (to the companies whose staff are assigned to the project) is all for naught because

the information so painstakingly developed has not been used in the determination of Ohio-American's rate of return in the last several rate cases.

Filing only the final data which will actually be used by the Staff in the calculation of the rate of return and adopted by the Commission in its decision will save the ratepayers the expense to Ohio-American of preparing the information.

As a far less desirable alternative, Ohio-American requests that the consolidated schedules be filed only one time. The practice of the Commission Staff has been to update rate-of-return information to the nearest quarter preceding the date of the public hearing. Without a waiver, it is conceivable, and indeed likely, that Ohio-American would have to file either two or three sets of information on a consolidated basis -- one set at the time of filing, one set with the two-month update which reflects the data as of the Date Certain, and a third set as of the nearest quarter to the public hearing. All except the last information is discarded and is of no use to the Staff in preparing its final rate-of-return recommendation.

In at least the past half dozen Ohio-American rate proceedings, including the last case, the Commission granted Ohio-American a waiver with respect to the timing of the filing of consolidated rate of return data. This is appropriate because only the consolidated capital structure data that is filed as of the most recent quarter prior to the hearing would be used in determining the final rate of return recommendation and in the Commission's decision on the rate of return issue.

To review: Ohio-American requests that it be permitted to submit only Ohio-American stand-alone data with the Application. In the last several rate cases, the Staff has recommended a rate of return based upon Ohio-American's capital structure and in the Staff Reports, has set forth its analysis on that basis. Moreover, in the last several rate cases Ohio-American stand-alone data is used by the parties, including the Staff, as a basis for their stipulations (which have been

approved by the Commission). As a far less desirable alternative, if the Commission denies the request to file on the basis of its own capital structure, Ohio-American requests that it be permitted to submit rate-of-return information on the consolidated basis as of the most recent quarter prior to the time when the Staff needs to review the data and not to be required to file the consolidated data until the most recent prior quarter to the issuance of the Staff Report.

Ohio-American submits that this waiver request meets the standards set forth in O.A.C. Rule 4901-7-01 Appendix, Chapter II, Paragraph (A), Subparagraph (4)(c). The granting of the waiver will permit the Staff to effectively and efficiently review the application. Ohio-American's capital structure has been the basis upon which the Staff Report has set forth the Staff's recommendation for rate of return in the last several rate cases. Thus, Ohio-American is merely requesting recognition of the past practices with respect to rate of return information. Finally, the consolidated information which is the subject of the waiver is not normally maintained by Ohio-American nor by its affiliates in the form that the Standard Requirements require and is not reasonably available to it and requires substantial time and expense to provide the information.

2. Schedules S- -Supplemental Five-Year Forecast

In previous rate proceedings, Ohio-American has obtained a waiver permitting it to file the information required by the S schedules in a format consistent with that of the F schedules pertaining to projected financial data. Ohio-American's forecasting techniques are readily compatible with the latter schedules, but its data are not available in the same kind of detail and format contemplated by the S schedules. To date, the Staff has had no apparent difficulty in using an F schedule format (an identical waiver was granted in Ohio-American's last five rate cases), and Ohio-American again requests permission to prepare the S schedule data in a manner approved in its prior proceedings.

3. Pre-Filed Testimony of a Consultant On Rate of Return Issues

In the past approximately 15 years, parties to Ohio-American rate cases have been able to reach stipulations as to all the issues of the cases and the Commission has approved them. Ohio-American desires to stipulate the issues in the application to be filed in this case as well. In each of these past cases, the rate of return issue has been agreed upon in the stipulation. In Case No. 01-626-WW-AIR, rather than hiring outside consultants to prepare and present written testimony to submit when the application testimony is due fourteen days after the application is filed, Ohio-American requested waivers that were granted to permit it to file initial rate of return testimony of Ohio-American representatives, but in the event rate of return becomes an issue later in the proceedings, Ohio-American would late file additional rate of return testimony of an outside consultant.

Employing a consultant creates an extra expense to the ratepayers if the testimony is not needed in the case as noted in Case No. 01-626-WW-AIR. Due to the agreement reached with parties to the case, the consultant testimony has not been relied upon for the cases filed in the last 15 years. Therefore, Ohio-American proposes not to file testimony of a consultant which supports the requested rate of return, but rather to submit testimony of one of its officers which would contain the rationale and background for the rate of return proposed by the company.

In the unlikely event that rate of return issue is not stipulated, Ohio-American requests a waiver so that it may hire a consultant to prepare testimony on this issue at a later stage in the proceedings if it becomes evident that this issue will not be settled. By proceeding in this manner Ohio-American is likely to save the expense of the consultant, a rate case expense which would, in the normal course, be passed onto ratepayers.

This waiver request meets the standards set forth in O.A.C. Rule 4901-7-01, Appendix, A, Chapter II, Paragraph (A), (4)(c). Ohio-American has given the specific reason to support its

request. Because Ohio-American will have provided rate of return testimony by an officer or other Ohio-American representative (not an outside consultant), the Commission Staff will have the information that it needs to effectively and efficiently review the rate of return issue. Though the exact amount of the consultant fees saved is unknown in this case since Ohio-American has not employed a consultant, in the past the fees have ranged from \$10,000 to more than \$20,000. Thus Ohio-American urges the Commission to grant this waiver as it did in Case No. 01-626-WW-AIR.

4. Test Year and Date Certain

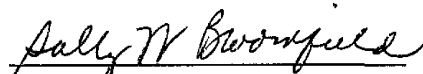
In support of its Test Year and Date Certain motion, Ohio-American states that it proposes to establish a Test Year of October 1, 2002 through September 30, 2003 and a Date Certain of December 31, 2002. Ohio-American intends to file its prenotification and application in the fourth quarter of 2003. R.C. Section 4909.15(C) and in O.A.C. Rule 4901-7-01, Appendix, Chapter II, Paragraph (A), Subparagraph (5)(a) permit the Commission to approve the requested Test Year period even though it does not include a future six month period after the application will have been filed. Further, the proposed Date Certain is no later than the date of filing of the application; therefore the Date Certain is in compliance with the provisions of R.C. Section 4909.15(C). At the time of the filing of the application, Staff will have available to it at least six months of actual Test Year data and six months of projected information provided in the application. In accordance with O.A.C. Rule 4901-7-01, Appendix, Chapter II, Paragraph (A), Subparagraph (5)(d), by January, 2004 which is three months after the end of the Test Year, at the same time Applicant files its application, Applicant will file a comparison of the twelve-month actual income statement versus the partially forecasted statement showing any variances with the data submitted in the application.

WHEREFORE, Ohio-American respectfully moves the Public Utilities Commission of

Ohio to grant it:

- 1) a waiver from filing consolidated rate of return data, Schedules D and instead file the data based upon Ohio-American's capital structure. As a far less desirable alternative, Ohio-American requests a waiver to defer filing consolidated rate of return data, Schedules D, so that it will have to file only one time for the most recent quarter prior to the time the Staff requires the information;
- 2) a waiver to provide Schedules S data in the format of Schedules F;
- 3) a waiver from the requirement to file written expert testimony on the rate of return issue fourteen days after the application is filed; and
- 4) approval of its proposed Test Year -- October 1, 2002 through September 30, 2003; and a Date Certain of December 31, 2002.

Respectfully submitted on behalf of
OHIO-AMERICAN WATER COMPANY



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