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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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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

In the Matter of the Application of Ohio)
American Water Company for Approval)
of Accounting Charges with Respect to)
Deferral of Security Costs Incurred in)
The Wake of September 11, 2001.)

Case No. 04-0339-WW-AAM

**JOINT OBJECTIONS TO THE STAFF REPORT
OF THE CITIES OF TIFFIN AND MARION**

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October 29, 2004

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**JOINT OBJECTIONS TO THE
STAFF REPORT OF INVESTIGATION AND
SUMMARY OF MAJOR ISSUES
BY THE CITIES OF TIFFIN AND MARION**

Pursuant to Section 4909.19, Revised Code, Rule 4901-1-28, Ohio Administrative Code, and the Attorney Examiner's Entry dated October 8, 2004, the City of Tiffin, Ohio ("Tiffin") and the City of Marion, Ohio ("Marion") (collectively "Cities") hereby file their Objections to the Staff Report of Investigation ("Staff Report") in the above-captioned matters. The Staff Report was filed with the Public Utilities Commission of Ohio ("Commission") on September 30, 2004, setting forth its findings regarding Ohio-American Water Company's ("Ohio-American" or "Applicant") application for authority to increase its rates for water service. Ohio-American filed its Application on March 12, 2004. In submitting the Objections listed below, Cities specifically reserve the

right to contest, through presentation of documentary evidence, testimony or cross-examination, issues on which the Staff's position changes, or which are newly raised, between the issuance of the Staff Report and the closing of the record.

I. OBJECTIONS

Cities object to the Staff Report in the following particulars:

1. For reasons explained herein, Cities object to the Staff's revenue increase recommendation. Staff Report at 4.

2. Cities object to Staff's recommended rate of return and cost of capital analysis. *Id.* at 21.

a) The recommended return on common equity does not reflect that since RWE Aketingsellschaft ("RWE") acquired the Company's former parent company, American Water Works Company, several capital improvement projects have been tabled. *Id.* at 76. This has a negative effect upon Ohio-American's operations and the quality of service provided to its customers and should have been considered in the Staff's recommendation.

b) The sum of the calculated weighted costs of Ohio-American's capital structure presented on page 23 of the Staff Report is incorrect. The individual components calculate to the amounts presented but the sum of the components provides a rate of return range of 7.59% - 8.04% rather than 7.60% - 8.05%.

3. Cities object to the Staff's determination of Plant In Service for Water A, Staff Schedule B-1 Rate Base Summary, at page 97 of the Staff Report, in that it includes the incorrect level of adjustments present on Staff Schedule B-2.2a Summary of Staff's Adjustments to Plant In Service, at pages 105-106 of the Staff Report. The sum of the adjustments to Account 389 Land & Land Rights should be (\$2,112,840) rather than (\$2,112,077), calculated by the Staff and carried forward to the B-1 Rate Base Summary.

4. Cities object to the results calculated by the Staff of any and all other amounts that are dependent upon the Plant In Service, Net Plant In Service, or Rate Base as they are affected by the error addressed above.

5. Cities object to the Staff's inclusion of a three-year amortization of Non-Recurring Expenses. *Id.* at 196. The Staff has included an amortization of expenses that they excluded from operating income as non-recurring on Schedule C-3.20 Amortization of Non-Recurring Expense Adjustment. The Staff properly excluded the total of these expenses when they determined that the expenses were of a non-recurring nature. To then include an amortization of these expenses over any period is inappropriate and violates a basic rate-making principal that rates should be based only upon costs reasonably expected to be incurred during the period that the rates are in effect. The amortization provides a recovery of expenses that the Staff has determined will not be incurred.

6. Cities object to Staff's recommendation that the Reconnection Charge be increased from \$31.50 for Ohio-American service districts and \$10.00 for Former Citizens Utilities ("FCU") district to \$39.00. *Id.* at 52-53. This increase

of \$7.50 or 23.8% for Ohio-American and \$29.00 or 290% for FCU is not being requested by the Company.

7. Cities object to Staff's recommendation that the Commission only order Ohio-American to provide a revised remedial action report within 30 days from the opinion and order, outlining the measures Ohio-American will take to reduce and maintain its Unaccounted For Water ("UFW") below 15% for each of the systems (Blacklick, Worthington Hills, Madison, Marion, Tiffin, Aurora and Beechrest) cited by Staff as having over 15 % UFW, inasmuch as another report is not an adequate corrective measure. *Id.* at 74-75 While Cities recognize that Staff reduced test year chemical and power expenses for the Ashtabula and Franklin County districts by the cost of UFW above 15%, Staff also states that Ohio-American failed to comply with numerous provisions of the previous rate case Stipulation and the Commission's rules. *Id.*

Rule 4901:1-15-03, Ohio Administrative Code, states that any waterworks and/or sewage disposal system company, after due notice, that fails to comply with the Commission's rules or Commission order adopted thereunder, may be subject to forfeiture to the state of not more than one thousand dollars for each such failure or corrective action to effectuate compliance. Further, the Rule requirements are indicative of whether a water company is rendering "adequate service."

The Staff Report identifies that the Applicant has failed to reduce UFW, notwithstanding its commitment in the Stipulation and the Commission's order in the 2001 rate case. *Id.* Ohio-American has also failed to satisfy other aspects of

the Stipulation, including failing to file quarterly reports reflecting 2003 or 2004 leak detection efforts. Nonetheless, the Staff Report fails to recommend any meaningful remedy for these violations. Staff's recommendation that the Commission order Ohio-American to submit another remedial action report is inadequate. Cities believe that the Commission should consider performance issues as part of the basis reviewed in calculating any increase.

8. Cities object to Staff's recommendation that the Commission order Ohio-American to file a report outlining the measures it will employ to ensure adequate uninterrupted recarbonation tanker and slaker operations within 30 days from the opinion and order in this case as opposed to recommending that the Commission order Ohio-American to make the necessary repairs as the Staff Report recommendation is not an adequate corrective measure. *Id.* at 79.

9. Cities object to Staff's recommendation that the Commission order Ohio-American to file a report outlining the measures it will employ to ensure adequate uninterrupted aeration unit operation within 30 days from the opinion and order in this case as it is not an adequate corrective measure. *Id.*

II. SUMMARY OF MAJOR ISSUES

The major issues in this case will be:

1. The level of increase in rates that Ohio-American will be authorized to implement;
2. The determination of Ohio-American's Rate of Return;
3. The Staff's error in determination of Ohio-American's Rate Base;

4. The inclusion of a three year amortization of non-recurring expenses;
5. The increase in the Reconnection Charge;
6. The current revenue and expense effects of the excessive level of Unaccounted-for-Water; and
7. Compliance issues associated with the Stipulation in the last rate case (Case No. 01-626-WW-AIR).

Respectfully submitted,



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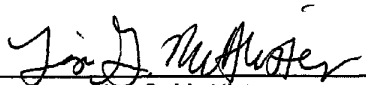
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *The Joint Objections to Staff Report of Investigation and Summary of Major Issues of the Cities of Tiffin and Marion* was served upon the following parties of record this 29th day of October 2004, *via* electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.



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