

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 25, 2020

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APPLICATION OF

VIRGINIA AMERICAN WATER COMPANY

CASE NO. PUR-2019-00185

For approval of a WWISC Rider True-Up Factor

ORDER

On December 31, 2019, Virginia-American Water Company ("Virginia-American" or "Company") completed its filing, with the State Corporation Commission ("Commission"), of an application ("Application") for approval of a Water and Wastewater Infrastructure Service Charge ("WWISC") Rider reconciliation factor ("True-Up Factor").¹ Per Virginia-American's proposed tariff, customers receiving service under Rate Schedule 1 (Alexandria) are subject to the WWISC Rider.²

Virginia-American filed a base rate application on November 2, 2018, incorporating into base rates all WWISC-eligible investments undertaken from April 1, 2017, through December 31, 2018, and resetting the WWISC Projected Factor to zero.³ Virginia-American

¹ As part of this Application, Virginia-American requested that the Commission waive its mandate that the Company provide an earnings test with its annual WWISC review. *See Application of Virginia-American Water Company, For approval to implement a Water and Wastewater Infrastructure Service Charge Plan and Rider*, Case No. PUR-2017-00149, 2018 S.C.C. Ann. Rept. 299, Final Order (March 13, 2018) (mandating an earnings test in this subsequent WWISC filing). On November 15, 2019, Commission Staff ("Staff") issued a Memorandum of Incompleteness, outlining all the information (including the required earnings tests for the Alexandria District) needed to complete the Company's Application. Thereafter, Virginia-American made multiple filings, which provided the information required in the Memorandum of Incompleteness. Staff deemed the Application complete and filed a Memorandum of Completeness on January 6, 2020, effective with the filing of the final required information on December 31, 2019.

² Ex. 3 (Application) at Exhibit D.

³ *Id.* at 1-2. *See Application of Virginia-American Water Company, for a general increase in rates*, Case No. PUR-2018-00175, 2018 Base Rate Application (filed Nov. 2, 2018).

also states, in its Application, that the Company does not intend to seek recovery in this case of any WWISC-eligible investments for the time period between December 31, 2018, through the end of the rate year in the Company's base rate case—April 30, 2020.⁴ The Company is not seeking cost recovery of any new, projected WWISC-eligible investments through this Application.⁵ Rather, Virginia-American only seeks approval of a True-Up Factor to reconcile its actual eligible infrastructure costs for WWISC-eligible investments through December 31, 2018, with the revenues already collected by the Company through the 2018 WWISC Rider.⁶

Specifically, Virginia-American seeks a WWISC True-Up Factor revenue requirement of \$380,493, to be charged to customers through the WWISC Rider, for services rendered beginning May 1, 2020, through December 31, 2020.⁷ Per the Company's proposed tariff, Virginia-American's requested Rate Schedule 1 (Alexandria) True-Up Factor would be \$0.01165 (per 100 gallons of water usage)⁸ (or 11.65¢ per 1000 gallons of water usage). Virginia-American sought an effective date for its proposed WWISC Rider of May 1, 2020.⁹

On January 23, 2020, the Commission issued an Order for Notice and Hearing ("Procedural Order") docketing this matter. Through the Procedural Order, the Commission assigned a Hearing Examiner to conduct all further proceedings in this case on behalf of the

⁴ Ex. 3 (Application) at 2.

⁵ *Id.* The Company maintains, however, that should the Commission approve modifications to the Company's WWISC Plan, the Company will seek approval of a Projected Factor for the recovery of any future WWISC-eligible costs through a separate application. *Id.* at 2, n.4.

⁶ Ex. 3 (Application) at 2.

⁷ *Id.*

⁸ *Id.* at Schedule 2. *See also, id.* at Exhibit D.

⁹ Ex. 3 (Application) at 4.

Commission. The Commission further directed the Company to provide notice of its Application; directed the Staff to investigate the Application, established a schedule for interested persons to participate in this case; and scheduled a public hearing on the Application for April 21, 2020. On March 13, 2020, the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel") filed a notice of participation in this case.

On March 27, 2020, Staff filed its pre-filed testimony. Staff recommended the Commission, among other things, approve a WWISC revenue requirement of \$466,075 to be recovered over a twelve-month period or until full recovery (whichever occurs first).¹⁰ Staff recommended a WWISC True-Up Factor of \$0.010025 per 100 gallons of usage.¹¹

On April 10, 2020 and in lieu of rebuttal testimony, Virginia-American filed a letter stating that it was working with Staff and Consumer Counsel to submit a stipulation resolving the issues in this case.

On April 13, 2020, the Hearing Examiner convened a prehearing conference by Skype for Business. The Company, Staff, and Consumer Counsel represented to the Hearing Examiner that they were close to resolving the issues in this case and anticipated submitting a stipulation. Based on these representations, the Hearing Examiner canceled the April 21, 2020 Hearing; directed the parties to file a stipulation or an update regarding settlement; and extended the public comment period.¹²

¹⁰ Ex. 6 (Kaufmann Direct) at 9. Staff explained that it was recommending use of the higher True-up Factor over a slightly longer period to ensure that ratepayers were not subjected to additional true-up and costs. *Id.* at 12-14, 21.

¹¹ *Cf.* Ex. 8 (Tufaro Direct) at 6; Ex. 1 (Stipulation) at 2.

¹² April 14, 2020 Hearing Examiner's Ruling at 2.

On April 22, 2020, the Company, Staff and Consumer Counsel ("Stipulating Parties") filed a Joint Motion to Accept Stipulation, to Accept Filing Out of Time, and to Order Additional Public Notice ("Joint Motion") with a stipulation ("Stipulation") attached. Through the Stipulation, the Stipulating Parties agreed, among other things, to Staff's calculated WWISC revenue requirement of \$466,075, to be recovered by Virginia-American over twelve months, and further agreed to Staff's WWISC True-Up Factor of \$0.010025 per 100 gallons of water usage.¹³

On April 27, 2020, the Hearing Examiner issued a ruling accepting the Joint Motion and the attached Stipulation. The Hearing Examiner authorized Virginia-American to implement the WWISC True-Up Factor agreed to in the Stipulation on an interim basis, beginning May 1, 2020.¹⁴ The Hearing Examiner took the remaining aspects of the Stipulation under advisement until after the expiration of the public comment period (which the Hearing Examiner had previously extended to May 5, 2020).¹⁵ No public comments were filed in this case.

On May 6, 2020, the Hearing Examiner issued the Report of A. Ann Berkebile, Senior Hearing Examiner ("Report"). The Hearing Examiner concluded that the Stipulation should be approved by the Commission because it is "fair, reasonable, and in the public interest."¹⁶ The Hearing Examiner recognized that the Stipulation contemplates the approval of a revenue requirement exceeding the amount initially noticed to the public but noted that "the interim nature of the WWISC True-Up Factor proposed for the Commission's initial approval in the

¹³ Ex. 1 (Stipulation) at 2-3.

¹⁴ April 27, 2020 Hearing Examiner's Ruling at 2.

¹⁵ *Id.*

¹⁶ Hearing Examiner Report at 10.

Stipulation [as] well as the Stipulation's contemplation of additional public notice and participation, if requested, alleviates any concern regarding the adequacy of the initial public notice provided."¹⁷ The Hearing Examiner recommended the Commission authorize Virginia-American to continue implementing a WWISC True-Up Factor of \$0.010025 per 100 gallons of usage on an interim basis.¹⁸ The Hearing Examiner further recommended that the Commission make Virginia-American's interim WWISC True-Up Factor final thirty days after Virginia-American provides the public notice described in Paragraphs 4 and 5 of the Stipulation, unless the Commission issues an Order directing additional proceedings.¹⁹ Each of the Stipulating Parties subsequently filed comments in support of Hearing Examiner's Report.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Stipulation, attached to this Order as Exhibit A, is in the public interest and should be adopted. We therefore approve Virginia-American's Application subject to the terms of the attached Stipulation. We agree with Hearing Examiner that due to the unique circumstances of this case, including that the WWISC True-Up Factor proposed in the Stipulation is interim in nature and the Stipulation contemplates additional public notice and participation, concerns regarding the fact that the WWISC revenue requirement is higher than what Virginia-American proposed in the Application are alleviated.²⁰ We therefore approve a total WWISC revenue requirement of \$466,075. We direct Virginia-American to continue implementing a WWISC True-Up Factor of \$0.010025 per 100 gallons of usage, beginning May 1, 2020, for up to twelve

¹⁷ *Id.*

¹⁸ *Id.* at 11.

¹⁹ *Id.*

²⁰ *Id.* at 10.

(12) months or until full recovery, whichever occurs first. We direct Virginia-American to publish and issue notice as provided for in paragraphs 4 and 5 of the Stipulation as soon as practicable, but no later than July 31, 2020. We direct Virginia-American to file proof of such notice within ten (10) days of completing the notice. If no public comment or requests for hearing are received within thirty (30) days of direct notice to customers, Virginia-American's interim WWISC True-Up Factor in the amount of \$0.010025 per 100 gallons of usage shall become the final rate. We further direct Virginia-American to comply with all remaining provisions of the Stipulation, including tracking recoveries from the WWISC True-Up Factor, providing a comprehensive calculation of accumulated deferred income taxes in the Company's next WWISC filing, and filing an earnings test as set forth in the attached Stipulation.

We note that implementation of the WWISC revenue requirement and True-Up Factor approved herein results in an increase to the monthly bills of customers in the Company's Alexandria District. Though we adopt the Staff's increase, which is slightly larger than that proposed by the Company, we are spreading this increase over twelve months, instead of eight months as proposed by the Company. The result is a monthly bill increase of 45¢ instead of 52¢ as proposed by Virginia-American in its Application.²¹ We realize that the COVID-19 public health crisis has caused devastating economic effects that impact all utility customers. We have responded to this economic emergency by, among other actions, temporarily suspending service disconnections for customers of Virginia utilities during the pandemic emergency.²² We are

²¹ *Id.* at 9; Ex. 8 (Tufaro Direct) at 5-6.

²² *Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte: Temporary Suspension of Tariff Requirements*, Case No. PUR-2020-00048, Doc. Con. Cen. No. 200320175, Order Suspending Disconnection of Service and Suspending Tariff Provisions Regarding Utility Disconnections of Service (Mar. 16, 2020), *extended by* Doc. Con. Cen. No. 200410196, Order Extending Suspension of Service Disconnections (Apr. 9, 2020), *and* Doc. Con. Cen. No. 200630135, Order on Suspension of Service Disconnections (June 12, 2020).

sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must follow the laws applicable to any rate case, as well as the findings of fact supported by the evidence in the case record. That is what we have done herein.

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application for approval of a WWISC Rider True-Up Factor is approved, subject to the directives provided herein and per the terms of the Stipulation.

(2) Virginia-American forthwith shall file revised tariffs with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as necessary to reflect the approvals granted herein.

(3) This case is continued generally.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.



COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

VIRGINIA-AMERICAN WATER COMPANY

CASE NO. PUR-2019-00185

For approval of a WWISC Rider True-Up Factor

STIPULATION

This Stipulation represents the agreement and recommendations between Virginia-American Water Company (“Virginia-American” or “Company”), the Staff of the State Corporation Commission (“Staff”), and the Office of the Attorney General’s Division of Consumer Counsel (“Consumer Counsel”) (collectively, “Stipulating Participants”) regarding the evidence to be entered into the record in this proceeding and resolving issues related to the application filed by Virginia-American on October 31, 2019 (“Application”) for approval of a Water and Wastewater Infrastructure Service Charge (“WWISC”) Rider reconciliation factor (“True-Up Factor”).

I. Evidentiary Record

1. The Stipulating Participants stipulate, agree, and recommend that this Stipulation be adopted, and request that the following documents and evidence be entered into the evidentiary record for consideration in this proceeding:

- a. Proof of Publication and Service, filed March 11, 2020;
- b. The Application, filed on October 31, 2019
- c. Supplemental Schedules to the Application, filed on December 27, 2019,

- d. Direct testimony of Virginia-American witness John S. Tomac, consisting of a summary page, three pages of questions and answers, filed in public version only on December 31, 2019.
- e. Testimony of Staff witness Edward R. Kaufman, consisting of a summary page, 21 pages of questions and answers, and three appendices
- f. Testimony of Staff witness Phillip M. Gereaux, consisting of a summary page, five pages of questions and answers, and two schedules.
- g. Testimony of Staff witness Marc A. Tufaro, consisting of a summary page and six pages of questions and answers. Staff makes the following minor corrections to the Testimony of Marc A. Tufaro, and requests these corrections to be incorporated and entered into the evidentiary record:
 - i. On the summary page, line 23 “0.01025” should be changed to “0.010025.”
 - ii. On Page 6, line 8 “0.01025” should be changed to “0.010025.”

II. Additional Agreements

2. The Stipulating Participants agree to a total WWISC True-Up Factor revenue requirement of \$466,075 (the “Revenue Requirement”), to be noticed in accordance with Paragraph 4. Agreement to the Revenue Requirement is for purposes of establishing a revenue requirement to be collected through the Company’s WWISC tariff in order to true-up collection related to investment undertaken by the Company through December 31, 2018 and does not establish any precedent as to any specific issues, other than the true-up revenue requirement, currently before the Commission in Case No. PUR-2018-00175 or in any future proceeding.

3. The Stipulating Participants agree that the Revenue Requirement will be recovered over a twelve-month period, resulting in a WWISC True-Up Factor of \$0.010025 per 100 gallons of usage, as calculated by Staff witness Tufaro.

4. Because the Revenue Requirement is higher than the amount requested in the Application and set forth in the notice provided to the public pursuant to the Commission's January 23, 2020 Order for Notice and Hearing and the Hearing Examiner's January 31, 2020 Ruling Modifying Notice, the Stipulating Participants agree that as soon as practical after issuance of a Hearing Examiner's Ruling or Commission Order directing such notice, Virginia-American will cause the following notice to be published as display advertising (not classified) on one occasion in a newspaper of general circulation in the Company's Alexandria operating district:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
VIRGINIA-AMERICAN WATER COMPANY
FOR APPROVAL OF A WWISC RIDER TRUE-UP FACTOR
CASE NO. PUR-2019-00185

On October 31, 2019, Virginia-American Water Company ("VAWC") filed an application with the State Corporation Commission for approval of a Water and Wastewater Infrastructure Service Charge ("WWISC") Rider True-Up Factor based on a revenue requirement of approximately \$380,493, to be collected over a period of 8 months, resulting in a True-Up Factor of \$0.01165 (per 100 gal). In February 2020, VAWC provided notice of its application to customers and the public.

VAWC and the Staff of the State Corporation Commission are recommending a revenue requirement of \$466,075 and that VAWC should collect this amount over a period of 12 months, resulting in a True-Up Factor of \$0.010025 (per 100 gal) effective for service beginning May 1, 2020 through April 30, 2021. The monthly bill for a typical residential customer using 4,500 gallons will increase by approximately \$0.45, which is lower than the previously noticed amount of \$0.52.

On or before [30 days after the date the Company anticipates completing direct notice to customers based on the date of a Ruling or Order directing notice], any interested person may comment on the WWISC Rider True-Up Factor or seek additional proceedings by filing written comments with the Clerk of the Commission at Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118 or by filing electronic comments by following the instructions found on the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. All such comments shall refer to Case No. PUR-2019-00185. Further information about this case is available on the SCC website at: <https://scc.virginia.gov/pages/Case-Information>.

VIRGINIA-AMERICAN WATER COMPANY

5. In addition, the Stipulating Participants agree that as soon as practical after issuance of a Hearing Examiner's Ruling or Commission Order directing such notice, Virginia-American will send a copy of the notice prescribed in Paragraph 4 of this Stipulation directly to all Customers in its Alexandria service territory subject to the WWISC tariff consistent with the requirements of § 56-237.1 B of the Code of Virginia. The message shall be sent either by first-class mail to the customary place of business or residence of the person served or may be included as a prominent and legible bill insert or bill message in each customer's respective bill. For those customers who have expressly approved service of bills and other correspondence by electronic means, the notice prescribed in Paragraph 4 of this Stipulation may be sent electronically.

6. Within 10 days of completing the notice required in Paragraphs 4 and 5, Virginia-American will file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the notice and service required by Paragraphs 4 and 5 of this Stipulation.



7. The Stipulating Participants agree that VAWC shall implement, for up to twelve months, a WWISC True-Up Factor of \$0.010025 per 100 gallons of usage on an interim basis, beginning May 1, 2020. The WWISC True-Up Factor will become the final rate thirty days after Virginia-American provides the public notice prescribed in Paragraphs 4 and 5 of this Stipulation, unless the Commission issues an Order directing additional proceedings based on public comments filed in this proceeding.

8. Virginia-American will track its recoveries derived from the WWISC True-Up Factor. Virginia-American shall cease billing the WWISC True-Up Factor once the full Revenue Requirement has been recovered.

9. Virginia-American agrees to provide a comprehensive calculation of accumulated deferred income taxes in any future WWISC filing.

10. The Company will file an earnings test for the Alexandria district covering the period January 1, 2019 through April 30, 2021, on or before July 31, 2021, in the next Annual Informational filing, or in the Company's next base rate case, whichever occurs first. To the extent the Commission approves the consolidation of the cost of service study for the Company's Alexandria district with the Company's other service districts, the Company may propose substitution of a consolidated earnings test for purposes of the WWISC subsequent to the effective date of such approval. The Company expressly reserves the right to challenge any recommendations raised in future proceedings regarding any refund of WWISC collections based on such earnings tests and does not waive any arguments regarding when refunds of WWISC collections would be required in any future proceeding.

11. The Stipulating Participants stipulate, agree, and recommend that this Stipulation be adopted and the record for this proceeding close without the necessity of an evidentiary

hearing. This Stipulation represents a settlement in this case only and shall not be regarded as a precedent or principle in any future case, except as expressly agreed to herein. The Stipulating Participants agree that the resolution of the issues in the Stipulation, taken as a whole, and the disposition of all other matters set forth in the Stipulation are in the public interest. This Stipulation is conditioned on and subject to acceptance by the Commission and is non-severable and of no force or effect and may not be used for any other purpose unless accepted in its entirety by the Commission, except that this paragraph shall remain in effect in any event.

12. In the event the Commission does not accept, or the Hearing Examiner does not recommend adoption of, the Stipulation in its entirety, the Stipulating Participants retain the right to withdraw support for the Stipulation. In the event of such action by the Commission or Hearing Examiner, any of the signatories to the Stipulation will be entitled to give notice exercising their right to withdraw support for the Stipulation; provided that the Stipulating Participants may, by unanimous consent, elect to modify the Stipulation to address any modifications required, or issues raised, by the Commission or the Hearing Examiner. Should the Stipulation not be approved by the Commission, it will be considered void and have no precedential effect, and the Stipulating Participants reserve their rights to participate in all relevant proceedings in the captioned case notwithstanding their agreement to the terms of the Stipulation. If the Commission chooses to reject the Stipulation, the Stipulating Participants agree that VAWC may seek leave to file rebuttal testimony and the Stipulating Participants may request that a hearing be convened at which time testimony and evidence may be presented by the case participants and cross-examination may occur on any issues arising in this proceeding.

Accepted and agreed to this 22nd day of April, 2020.

VIRGINIA-AMERICAN WATER
COMPANY

By: /s/ Timothy E. Biller
Counsel

Lonnie D. Nunley, III
Timothy E. Biller
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219

200640107

Accepted and agreed to this 22nd day of April, 2020.

STAFF OF THE STATE CORPORATION
COMMISSION

By: /s/ Alisson P. Klaiber
Counsel

Alisson P. Klaiber
Kelli J. Cole
Office of General Counsel
State Corporation Commission
Tyler Building, Tenth Floor
1300 East Main Street
Richmond, VA 23219

Accepted and agreed to this 22nd day of April, 2020.

OFFICE OF THE ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL

By: /s/ Katherine C. Creef
Counsel

C. Meade Browder, Jr.
Katherine C. Creef
Office of the Attorney General
Division of Consumer Counsel
202 North Ninth Street, Eighth Floor
Richmond, VA 23219

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA-AMERICAN WATER COMPANY

CASE NO. PUR-2019-00185

For Approval of a WWISC Rider True-Up Factor

HEARING EXAMINER'S RULING

April 14, 2020

On October 31, 2019, Virginia-American Water Company ("Virginia-American" or "Company") filed an application ("Application") for a Water and Wastewater Infrastructure Service Charge ("WWISC") Rider reconciliation. Pursuant to Virginia-American's tariff, customers receiving service under Rate Schedule 1 are subject to the WWISC Rider.¹

On January 23, 2020, the Commission issued an Order for Notice and Hearing ("Procedural Order") that, among other things, docketed this matter, directed the Company to provide notice of its Application and file proof of such notice on or before February 28, 2020; established a schedule for the filing of notices of participation and prefiled testimony; scheduled a public hearing on the Application for April 21, 2020; and assigned a Hearing Examiner to conduct all further proceedings in this case on behalf of the Commission.

On March 13, 2020, the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel") filed a notice of participation in this case.

On April 10, 2020, Virginia-American filed a letter in lieu of rebuttal testimony wherein it represented that it was working with the Staff of the Commission ("Staff") and Consumer Counsel to submit a stipulation resolving the issues in this case. In addition, a prehearing conference was conducted by Skype on April 13, 2020, at which time the Company, Staff, and Consumer Counsel represented that they were close to resolving the issues in this case and anticipated submitting a stipulation.

Based upon information obtained in the prehearing conference and upon consideration of the Commission's *Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency* entered on March 19, 2020,² wherein the Commission took judicial notice of the ongoing public health emergency relating to the spread of the coronavirus, or COVID-19, and state and federal declarations of emergency, I find it appropriate to cancel the hearing on April 21, 2020. I also find it appropriate to establish

¹ Application at Exhibit D.

² *Commonwealth of Virginia, ex rel, State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (March 19, 2020).

April 21, 2020, as the deadline for the filing of any stipulation³ or, in the alternative, for the filing of an update regarding: (1) any unresolved issues; (2) the possibility of resolving any disputed issues through the filing of briefs; (3) and the necessity of a hearing (which, if required, will be scheduled at a later date). In addition, I find it appropriate to extend the public comment period.

Accordingly, **IT IS DIRECTED THAT:**

1. The hearing scheduled for April 21, 2020, is hereby cancelled;
2. On or before April 21, 2020, the parties and Staff shall file a stipulation providing for the admission of evidence relative to the Application, including all prefiled testimony, without the necessity of a hearing or, in the alternative, shall file an update identifying any unresolved issues, specifying whether the disputed issues can be resolved through the filing of briefs, and clarifying whether a hearing is necessary to resolve any disputed issues; and
3. The period for the filing of comments shall be extended to May 5, 2020.



A. Ann Berkebile
Senior Hearing Examiner

The Commission's Document Control Center is requested to send a copy of the above Ruling to: Lonnie D. Nunley, III, Esquire, and Timothy E. Biller, Esquire, Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219-4074; and C. Meade Browder, Jr., Senior Assistant Attorney General, and Katherine C. Creef, Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 North Ninth Street, Eighth Floor, Richmond, Virginia 23219.

³ To ensure that the record of this case is complete, case participants are requested to include a list of the exhibits they seek to be admitted as evidence in the record with any stipulation that is filed. Based upon such stipulation, I will accept the evidence into the record. Furthermore, I will complete my Report to the Commission based upon such evidence following the expiration of the public comment period as extended herein.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 23, 2020

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APPLICATION OF

VIRGINIA-AMERICAN WATER COMPANY

CASE NO. PUR-2019-00185

For Approval of a WWISC Rider True-Up Factor

ORDER FOR NOTICE AND HEARING

On October 31, 2019, Virginia-American Water Company ("Virginia-American" or "Company"), pursuant to Rule 5 VAC 5-20-80 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure ("Rules of Practice")¹ and the Final Order entered in Case No. PUR-2017-00149 ("2018 WWISC Order"),² filed an application ("Application") for approval of a Water and Wastewater Infrastructure Service Charge ("WWISC") Rider reconciliation.³ Per Virginia-American's proposed tariff, customers receiving service under Rate Schedule 1 (Alexandria) are subject to the WWISC Rider.⁴

¹ 5 VAC 5-20-10 *et seq.*

² *Application of Virginia-American Water Company, For approval to implement a Water and Wastewater Infrastructure Service Charge Plan and Rider*, Case No. PUR-2017-00149, 2018 S.C.C. Ann. Rept. 299, Final Order (March 13, 2018).

³ As part of this Application, Virginia-American requested that the Commission waive its 2017 Order mandate that the Company provide an earnings test with its annual WWISC review. On November 15, 2019, Commission Staff ("Staff") issued a Memorandum of Incompleteness, outlining all of the information (including the required earnings tests for the Alexandria District) needed to complete the Company's Application. On November 21, 2019, Staff also filed its Response to Motion for Waiver of the Earnings Test, objecting to such request. On December 9, 2019, Virginia-American filed its Reply, objecting to Staff's Response, but stating that it would nevertheless, file the requisite earnings tests for the Alexandria District (without waiver of its rate case arguments related to the earnings test). Thereafter, Virginia-American made multiple filings in which it provided the information required in the Memorandum of Incompleteness. Staff deemed the Application complete and filed a Memorandum of Completeness on January 6, 2020, effective with the filing of the final required information on December 31, 2019.

⁴ Application at Exhibit D.

2020 JAN 23 P 12: 30

The Commission approved Virginia-American's initial WWISC Plan and Pilot on May 24, 2017, in Case No. PUE-2015-00097 ("2017 Order").⁵ The Commission approved the Company's initial WWISC Rider to recover costs incurred through the Company's WWISC Plan and Pilot in its 2018 WWISC Order.⁶

The initial WWISC Rider included only a "Projected Factor" designed to recover eligible infrastructure costs associated with Virginia-American's WWISC-eligible investments for the period April 1, 2017, through December 31, 2018 ("2018 WWISC Rider").⁷ The 2018 WWISC Rider was charged to customers for services rendered on and after March 1, 2018.⁸ Virginia-American filed a base rate application on November 2, 2018, incorporating into base rates all WWISC-eligible investments undertaken from April 1, 2017, through December 31, 2018; resetting the WWISC Projected Factor to zero.⁹ Virginia-American states in its Application that the Company does not intend to seek recovery of any WWISC-eligible investments for the time period between December 31, 2018, through the end of the rate year in the Company's base rate case—April 30, 2020.¹⁰ Thus, while Virginia-American's current WWISC Plan includes investments through March 31, 2020, the Company is not seeking recovery of any new

⁵ *Application of Virginia-American Water Company, for a general increase in rates*, Case No. PUE-2015-00097, 2017 S.C.C. Ann. Rept. 288, Final Order (May 24, 2017). Virginia American's WWISC applies only to the Company's Alexandria District customers.

⁶ Application at 1.

⁷ *Id.*

⁸ *Id.* at 2.

⁹ *Id.* at 1-2.

¹⁰ *Id.* at 2.

WWISC-eligible investments under the Company's current WWISC Plan through its Application.¹¹ Rather, Virginia-American seeks approval of a "True-Up Factor" to reconcile its actual eligible infrastructure costs for WWISC-eligible investments through December 31, 2018, with the revenues already collected by the Company through the 2018 WWISC Rider.¹² Virginia-American seeks an effective date for its proposed WWISC Rider of May 1, 2020.¹³

Specifically, Virginia-American seeks a True-Up revenue requirement of \$380,493, to be charged to customers through the WWISC Rider, for services rendered beginning May 1, 2020 through December 31, 2020.¹⁴ Per the Company's proposed tariff, Virginia-American's requested Rate Schedule 1 (Alexandria) True-Up Factor is \$0.01165 (per 100 gal)¹⁵ (or 11.65 cents per 1000 gal). The Company states that a typical residential customer¹⁶ in the Alexandria District would see a monthly increase of \$0.52.¹⁷

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter shall be docketed; Virginia-American should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have an opportunity to file comments on

¹¹ Application at 2. The Company maintains, however, that should the Commission approve modifications to the Company's WWISC Plan, the Company will seek approval of a Projected Factor for the recovery of any future WWISC-eligible costs through a separate application. *Id.* at 2, n. 4.

¹² Application at 2.

¹³ *Id.* at 4.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at Schedule 2. *See also, Id.* at Exhibit D.

¹⁶ Utilizing industry averages, a typical residential customer's usage averages 4500 gal./month. Actual cost of the True-up Factor may vary depending on actual customer usage.

¹⁷ Application at 2.

the Application or participate as a respondent in this proceeding; and the Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including filing a final report containing the Hearing Examiner's findings and recommendations.

The Commission further finds that, the Company's request to implement its proposed WWISC True-Up Factor rate for services rendered beginning May 1, 2020, should be granted. The Company may begin charging the proposed Rate Schedule 1 (Alexandria) True-Up Factor of \$0.01165 (per 100 gal)¹⁸ (or 11.65 cents per 1000 gal)¹⁹ subject to all of the requirements found in the Company's Tariff, the additional safeguards adopted by the Commission in the 2017 Order,²⁰ and subject to modification and true-up, with carrying costs, based on the final outcome of these proceedings.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2019-00185.

(2) Pursuant to § 12.1-31 of the Code of Virginia ("Code") and Rule 5 VAC 5-20-120, *Procedure before Hearing Examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, concluding with the issuance of a report containing the Hearing Examiner's findings and recommendations.

¹⁸ Application at Schedule 2.

¹⁹ *Supra.* See also, n. 11.

²⁰ *Application of Virginia-American Water Company. For a General Increase in Rates*, Case No. PUE-2015-00097, S.C.C. Ann. Rep. 288, Final Order (May 24, 2017).

(3) Subject to the protections outlined in the Company's Tariff, and the additional safeguards adopted by the Commission in the 2017 Order, the Company may begin charging customers for services rendered on and after May 1, 2020, Virginia-American's proposed True-Up Factor of \$0.01165 (per 100 gal).²¹ The Commission may modify Virginia-American's proposed True-Up Factor based on the final outcome of these proceedings, rendering such collections subject to possible additional true-up, with carrying costs.

(4) A public hearing shall be convened on April 21, 2020, at 10 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and the evidence of the Company, any respondents, and Staff. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's Courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

(5) The Company shall make copies of the public version of its Application, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies may also be obtained by submitting a written request to counsel for Virginia-American Water Company, Timothy E. Biller, Jr., Esquire, Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of the public version of all documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m.,

²¹ Application at Schedule 2.

Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(6) On or before February 14, 2020, Virginia American shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's service territory within Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
VIRGINIA-AMERICAN WATER COMPANY,
FOR APPROVAL OF A WWISC RIDER TRUE-UP FACTOR
CASE NO. PUR-2019-00185

- **Virginia American Water Company has applied for approval of a water and wastewater infrastructure service charge ("WWISC") Rider True-Up Factor with a revenue requirement of approximately \$380,493.**
- **A Hearing Examiner appointed by the Commission will hear the case on April 21, 2020, at 10 a.m.**
- **Further information about this case is available on the SCC website at: <http://www.scc.virginia.gov/case>.**

On October 31, 2019, Virginia-American Water Company ("Virginia-American," or "Company"), pursuant to Rule 5 VAC 5-20-80 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure ("Rules of Practice") and the Final Order entered in Case No. PUR-2017-00149 ("2018 WWISC Order"), filed an application ("Application") for approval of a Water and Wastewater Infrastructure Service Charge ("WWISC") Rider reconciliation. Per Virginia-American's proposed tariff, customers receiving service under Rate Schedule 1 (Alexandria) are subject to the WWISC Rider.

The Commission approved Virginia-American's initial WWISC Plan and Pilot on May 24, 2017, in Case No. PUE-2015-00097 ("2017 Order"). The Commission approved the Company's initial WWISC Rider to recover cost incurred through the Company's WWISC Plan and Pilot in its 2018 WWISC Order.

The initial WWISC Rider included only a "Projected Factor" designed to recover eligible infrastructure costs associated with Virginia-American's WWISC-eligible investments for the period April 1, 2017, through December 1, 2018 ("2018 WWISC Rider"). The 2018 WWISC Rider was charged to customers for services rendered on and after March 1, 2018. Virginia-American filed a base rate application on November 2, 2018, incorporating into base rates all WWISC-eligible investments undertaken from April 1, 2017, through December 31, 2018; resetting the WWISC Projected Factor to zero. Virginia-American states in its Application that the Company does not intend to seek recovery of any WWISC-eligible investments for the time period between December 31, 2018, through the end of the rate year in the Company's base rate case—April 30, 2020. Thus, while Virginia-American's current WWISC Plan includes investments through March 31, 2020, the Company is not seeking recovery of any new WWISC-eligible investments under the Company's current WWISC Plan through its Application. Rather, Virginia-American, through the instant Application, seeks approval of a "True-Up Factor" to reconcile its actual eligible infrastructure costs for WWISC-eligible investments through December 31, 2018, with the revenues already collected by the Company through the 2018 WWISC Rider. Virginia-American seeks an effective date for its proposed WWISC Rider of May 1, 2020.

Specifically, Virginia-American seeks a True-Up revenue requirement of \$380,493, to be charged customers through the WWISC Rider, for services rendered beginning May 1, 2020 through December 31, 2020. Per the Company's proposed tariff, Virginia-American's requested Rate Schedule 1 (Alexandria) True-Up Factor is \$0.01165 (per 100 gal) (or 11.65 cents per 1000 gal). The Company states that a typical residential customer in the Alexandria District, would see a monthly increase of \$0.52.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals.

TAKE NOTICE that the Commission may apportion revenues among the Virginia-American's customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents and thus may adopt rates that differ from those appearing in the Company's Application and supporting documents.

The Commission granted the Company's request to begin charging customers for its WWISC Rider True-Up Factor-related expenses for service rendered on and after May 1, 2020, subject to the Company's Tariff, true-up (with carrying costs), and the protections adopted by the Commission in its 2017 Order.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled a public hearing to commence at 10 a.m. on April 21, 2020, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Company, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

Copies of the Application and the Commission's Order for Notice and Hearing are available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Company, Timothy E. Biller, Jr., Esquire, Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Company may provide the documents by electronic means.

Copies of the public version of the Application and other documents filed in this case also are available for interested persons to review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

On or before March 6, 2020, any interested person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Company at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a*

respondent, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00185.

On or before March 6, 2020, each respondent may file with the Clerk of the Commission and serve on the Commission's Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. Respondents also shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00185.

On or before April 13, 2020, any interested person wishing to comment on the Company's Application shall file written comments on the Application with the Clerk of the Commission at the address set forth above. Any interested person desiring to file comments electronically may do so on or before April 13, 2020, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All such comments shall refer to Case No. PUR-2019-00185.

All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Rules of Practice and an official copy of the Commission's Order for Notice and Hearing in this proceeding may be obtained from the Clerk of the Commission at the address above.

VIRGINIA-AMERICAN WATER COMPANY

(7) On or before February 14, 2020, the Company shall serve a copy of this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made by first class mail to the customary place of business or residence of the person served.

(8) On or before February 14, 2020, Virginia-American shall serve a copy of the notice prescribed in Ordering Paragraph (6) of this Order for Notice and Hearing directly on the Company's customers in accordance with the provisions of Code § 56-237.1 B. Service shall either be made by first class mail to the customary place of business or residence of the person served or may be included as a prominent and legible bill insert in each customer's respective bill. For those customers who have expressly approved service of bills and other correspondence by electronic means, the notice prescribed in Ordering Paragraph (6) of this Order for Notice and Hearing may be sent electronically.

(9) On or before February 28, 2020, the Company shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the notice and service required by Ordering Paragraphs (6), (7) and (8), including the name, title, and address of each official served.

(10) On or before April 13, 2020, any interested person may file with the Clerk of the Commission, at the address set forth in Ordering Paragraph (9), written comments on the Application. Any interested person desiring to submit comments electronically may do so on or before April 13, 2020, by following the instructions found on the Commission's website:

<http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2019-00185.

(11) On or before March 6, 2020, any interested person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9). The respondent simultaneously shall serve a copy of the notice of participation on counsel for the Company at the address set out in Ordering Paragraph (5). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00185.

(12) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon such respondent a copy of this Order for Notice and Hearing, a copy of the public version of the Application, and a copy of the public version of all materials filed by the Company with the Commission, unless these materials already have been provided to the respondent.

(13) On or before March 6, 2020, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. Each witness's testimony shall

include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9). In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00185.

(14) The Staff shall investigate the Application. On or before March 27, 2020, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel to the Company and all respondents.

(15) On or before April 10, 2020, the Company shall file with the Clerk of the Commission any rebuttal testimony and exhibits that the Company expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company simultaneously shall serve a copy of the testimony and exhibits on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9).

(16) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(17) The Commission's Rule of Practice, 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents

shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney if the interrogatory or request for production is directed to the Staff.²² Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(18) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Lonnie D. Nunley, III, Esquire, and Timothy E. Biller, Jr., Esquire, Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219-4074; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.

²² The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUR-2019-00185, in the appropriate box.