

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 2, 2007

IN RE:)	
)	
PETITION OF LYNWOOD UTILITY)	DOCKET NO.
CORPORATION TO CHANGE AND)	07-00007
INCREASE RATES AND CHARGES)	

**ORDER SUSPENDING TARIFF, GRANTING PETITION TO INTERVENE
AND SETTING A STATUS CONFERENCE**

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Pat Miller, of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on January 23, 2007 for consideration of the *Petition* filed by Lynwood Utility Corporation on January 4, 2007. During that Conference, the panel voted unanimously to proceed to convene a contested case proceeding and to appoint General Counsel or his designee as Hearing Officer for the purpose of preparing this matter for hearing, including handling preliminary matters and establishing a procedural schedule to completion.

BACKGROUND

On January 4, 2007, Lynwood Utility Corporation (“Lynwood” or the “Company”) filed its *Petition* in which the Company seeks approval by the Authority of proposed increased rates, alleging that “[t]he Company’s existing rates and charges do not provide it sufficient revenue to cover all of the costs it incurs in providing adequate sewer service to its customers, including its

cost of capital.”¹ In the *Petition*, Lynwood requests that the Authority set a hearing and determine, after the presentation of evidence, that the rates proposed by Lynwood are fair and reasonable and are necessary to provide adequate sewer service to its customers and a fair rate of return to the Company. Along with the *Petition*, Lynwood filed a revised tariff containing the effective date of February 3, 2007.

On January 16, 2007, the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”) filed a Petition to Intervene. During the Authority Conference held on January 23, 2007, the panel directed the Hearing Officer to establish a hearing date that would allow the panel enough time to meet the six-month deadline for getting the rates in place.

PETITION TO INTERVENE

Criteria for Permitting Intervention

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;
 - (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
 - (2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and
 - (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

¹ *Petition* at 1 (January 4, 2007).

Under TRA Rule 1220-1-2-.06, any party opposing a motion in a contested case must file and serve a response to the motion within seven days of service of the motion.

The Consumer Advocate seeks intervention, stating that it is authorized to intervene in proceedings to represent the interests of Tennessee consumers pursuant to Tenn. Code Ann. § 65-4-118. The Petition to Intervene alleges that the increase in rates requested by Lynwood “. . . may be excessive and may not be just and reasonable under the circumstances.”² The Consumer Advocate states that it can protect the public interest only by intervening and participating in this proceeding. No party or person has filed an objection to or opposed the Consumer Advocate’s intervention request.

The Hearing Officer finds that the legal rights and interests of Tennessee consumers may be determined in this proceeding and that the Consumer Advocate’s petition is timely and its intervention will not impair the orderly and prompt conduct of these proceedings. For these reasons and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a), the Hearing Officer grants the Consumer Advocate’s Petition to Intervene.

SUSPENSION OF TARIFF

The tariff filed with Lynwood’s *Petition* on January 4, 2007 is marked with an effective date of February 3, 2007. Tenn. Code Ann. § 65-5-103 permits the Authority to suspend any increase, change, or alteration initially for a period of three months from the proposed effective date of the increase, change, or alteration. Because the hearing and determination of Lynwood’s proposed increase, change or alteration in its tariff cannot be completed by the proposed effective date of the tariff, the Hearing Officer hereby suspends the effectiveness of the tariff filed with the *Petition* for a period of three months from the proposed effective date or until **May 3, 2007**.

² *Petition to Intervene* at 2 (January 16, 2007).

STATUS CONFERENCE

Inasmuch as the Authority has instructed the Hearing Officer to set this matter for a timely hearing, the Hearing Officer hereby sets a Status Conference for **1:00 p.m. on Friday, February 16, 2007** to establish a procedural schedule and discuss other preliminary matters. A separate Notice will issue setting forth specific matters for consideration during the Status Conference.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division, Office of the Attorney General, is hereby granted leave to intervene and receive copies of any notices, orders or other documents herein.
2. The *Petition* and the effective date of the tariff filed with the *Petition* by Lynwood Utility Corporation are hereby suspended through **May 3, 2007**.
3. A Status Conference will be held at **1:00 p.m. on Friday, February 16, 2007**.


J. Richard Collier, Hearing Officer