

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 2, 2012

IN RE:

PETITION OF BERRY'S CHAPEL UTILITY, INC.
TO RECOVER COSTS TO REPAIR FLOOD
DAMAGE AND TO REFUND CUSTOMER SERVICE
FEES

DOCKET NO.
11-00180

ORDER GRANTING PETITION TO INTERVENE OF CONSUMER ADVOCATE

This matter is before the Hearing Officer upon the filing with the Tennessee Regulatory Authority ("TRA" or "Authority") of a *Petition to Intervene* by Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") on December 5, 2011.

BACKGROUND

On October 25, 2011, Berry's Chapel Utility, Inc. ("Berry's Chapel") filed with the Authority a *Petition to Recover Costs to Repair Flood Damage and to Refund Customer Service Fees* ("*Petition*") requesting approval of a tariff amendment to impose a surcharge for the recovery of extraordinary losses incurred as a result of flood damage to the wastewater treatment plant during May 2010. As part of its *Petition*, Berry's Chapel proposes to refund to its customers certain "service fees" collected during 2010 and 2011 through a deduction to the proposed surcharge for recovery of its flood damage costs.

On November 17, 2011, the Authority entered an *Order Convening a Contested Case and Appointing a Hearing Officer* reflecting the unanimous decision of the voting panel during a

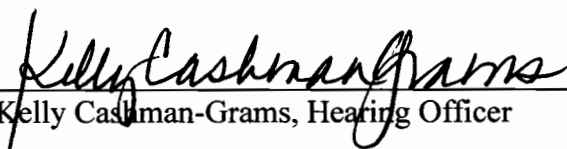
regularly scheduled Authority Conference held on March 28, 2011, to appoint General Counsel or his designee to act as Hearing Officer to handle any preliminary matters arising in the docket.

PETITION TO INTERVENE

In its *Petition to Intervene*, the Consumer Advocate seeks intervention pursuant to Tenn. Code Ann. § 65-4-118, which authorizes the Consumer Advocate to intervene in proceedings to represent the interests of Tennessee consumers. In its *Petition to Intervene*, the Consumer Advocate asserts that consumers could be adversely affected by the proposals and methodology of recovery, which may not be just and reasonable, set forth in the *Petition*. In addition, the Consumer Advocate contends that Berry's Chapel is in breach of an Authority Order rendered in Docket No. 08-00060, wherein the TRA approved a settlement agreement that authorized a volumetric surcharge for certain odor control costs. Further, the Consumer Advocate states that it can protect the public interest only by participating in this proceeding. Berry's Chapel has not filed an objection in the docket file or otherwise indicated opposition to the Consumer Advocate's intervention request.

Upon the foregoing, the Hearing Officer finds that the legal rights and interests of Tennessee consumers may be determined in this proceeding, the Consumer Advocate's petition is timely, and that its intervention will not impair the orderly and prompt conduct of these proceedings. For the foregoing reasons, the Hearing Officer hereby grants the Consumer Advocate's *Petition to Intervene*. At this time, there are no other petitions to intervene pending in the docket.

IT IS SO ORDERED.


Kelly Cashman-Grams, Hearing Officer