

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 18, 2012

IN RE:

**PETITION OF BERRY'S CHAPEL UTILITY, INC.
TO CHANGE AND INCREASE RATES AND
CHARGES**

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**DOCKET NO.
11-00198**

**ORDER GRANTING PETITION TO INTERVENE OF CONSUMER ADVOCATE
AND REQUIRING THE PARTIES TO SUBMIT A
PROPOSED PROCEDURAL SCHEDULE AND PROTECTIVE ORDER**

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 November 15, 2011, Berry's Chapel Utility, Inc. ("Berry's Chapel" or the "Company") filed its *Petition* seeking the Authority's approval to increase its rates and charges and in which it asserts, "[the] 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." The *Petition* requests an upward adjustment in gross revenues of \$398,853, or a 16.6% increase in the customer usage rate. Further, the Company requests that the Authority set a hearing upon notice for the presentation of evidence to determine the rates necessary to provide adequate service to its customers and a fair rate of return to the Company.

On December 5, 2011, the Consumer Advocate filed a *Petition to Intervene* requesting to intervene in the proceedings. On January 6, 2012, the Authority entered an *Order Suspending Tariff for Sixty (60) Days, Convening a Contested Case Proceeding and Appointing a Hearing Officer* reflecting the unanimous decision of the voting panel during a regularly scheduled Authority Conference held on December 12, 2011 to suspend the proposed tariff for sixty days from December 14, 2011, convene a contested case proceeding, and appoint General Counsel or his designee to act as Hearing Officer to prepare the matter for hearing before the panel.

PETITION TO INTERVENE

Tenn. Code Ann. § 4-5-310(a) of the Uniform Administrative Procedures Act (“UAPA”) sets forth certain criteria to be considered by the Hearing Officer when granting petitions to intervene: timeliness of the petition, that the petitioner has demonstrated facts that its legal rights, duties, privileges, immunities or other legal interest may be determined or its qualification as an intervenor under provision of law, and that the interests of justice and orderly and prompt conduct of the proceedings will not be impaired.¹

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 accordance with the UAPA and rules of the Authority.² The Consumer Advocate asserts that it should be granted intervention in this proceeding on behalf of the public interest because, for various reasons, consumers may be adversely affected by the petition to increase rates, which may not be just and reasonable and requires investigation. The Consumer Advocate further asserts that only by participating in this proceeding can it work adequately to protect the interests of consumers. No party or person has

¹ See Tenn. Code Ann. § 4-5-310(a) (2011).

² See Tenn. Code Ann. § 65-4-118 (2004).

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, the Consumer Advocate's petition is timely, qualifies under provision of law for intervention, 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.

PROCEDURAL SCHEDULE AND PROTECTIVE ORDER

In an effort to expedite the proceedings, the parties are hereby ordered to work together to submit for the consideration of the Hearing Officer a joint procedural schedule and agreed protective order. If the parties cannot reach an agreement as to either document, then the parties shall submit separate proposed procedural schedules and protective orders. Whether by agreement or separately, the parties should submit a proposed procedural schedule and proposed protective order directly to the Hearing Officer either by electronic or U.S. mail on or before **January 27, 2012.**

IT IS SO ORDERED.



Kelly Cashman-Grams, Hearing Officer