

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 7, 2014

IN RE:

APPLICATION OF B&W PIPELINE, LLC FOR A
CERTIFICATE OF CONVENIENCE AND NECESSITY
TO OPERATE A NATURAL GAS PIPELINE SYSTEM IN
PICKETT, MORGAN AND FENTRESS COUNTIES

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DOCKET NO.
13-00151

ORDER GRANTING CONSUMER ADVOCATE'S PETITION TO INTERVENE

This matter is before the Hearing Officer of the Tennessee Regulatory Authority ("Authority" or "TRA")¹ upon a *Petition to Intervene* filed by the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General ("Consumer Advocate") on February 28, 2014.

BACKGROUND

B&W Pipeline, LLC ("B&W") owns and operates an intrastate, natural gas pipeline distribution system located in Pickett, Morgan, and Fentress counties, Tennessee. On December 9, 2013, B&W filed an application seeking issuance of a Certificate of Public Convenience and Necessity ("CCN"), under Tenn. Code Ann. § 65-4-201, *et seq.*, to operate its natural gas pipeline.² According to its *Application*, B&W purchased the pipeline from Titan Energy Group, Inc., a subsidiary of Gasco Distribution Systems, Inc. ("Gasco"), following Gasco's bankruptcy. Currently, B&W provides gas transportation services to Navitas TN NG, LLC, and natural gas service to seven residential consumers. Further, B&W

¹ During the regularly scheduled Authority Conference held on February 3, 2014, the voting panel of Directors assigned in this docket voted unanimously to convene a contested case proceeding and appoint General Counsel or her designee to act as Hearing Officer to handle any preliminary matters arising in this proceeding.

² *Application of B&W Pipeline, LLC for a Certificate of Public Convenience and Necessity* (December 9, 2013).

states that it is in the process of transferring its residential customers to Navitas, and that, upon completion of the transfer, Navitas will be its only customer.³

PETITION TO INTERVENE

In its *Petition to Intervene*, the Consumer Advocate seeks to intervene in this docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to intervene in proceedings before the Authority in order to represent the interests of Tennessee consumers of public utility services.⁴ The Consumer Advocate asserts that its intervention is necessary because B&W has been doing business without a CCN and has indicated that it intends to transfer its residential customers to Navitas TN NG, LLC. In conclusion, the Consumer Advocate states that only by participating in this proceeding can it work to adequately protect the interests of consumers.⁵

FINDINGS & CONCLUSIONS

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria to be considered in reviewing a petition to intervene in Authority proceedings:

- (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 *Id.* at 2.

⁴ Tenn. Code Ann. § 65-4-118(b)(1) states, "The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the authority or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the authority."

⁵ *Petition to Intervene* (February 28, 2014).

(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.⁶

In addition, in situations that do not satisfy the standards of Tenn. Code Ann. § 4-5-310(a), the Hearing Officer has discretion to grant a petition to intervene upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.⁷ Further, the Hearing Officer may, at any time, limit or impose conditions upon an intervenor's participation.⁸ Finally, 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 (7) days of service of the motion.

Upon due consideration, the Hearing Officer finds that the *Petition to Intervene* is timely-filed, the Consumer Advocate qualifies as an intervenor under law, and that its intervention should not impair the interests of justice or the orderly and prompt conduct of the proceedings. Further, B&W has not filed a response or otherwise objected to the Consumer Advocate's request to intervene in these proceedings. For these reasons, the Hearing Officer finds that the Consumer Advocate's request to intervene in these proceedings should be granted.

IT IS THEREFORE ORDERED THAT:

1) The *Petition to Intervene* filed by the Consumer Advocate and Protection Division of the Office of the Attorney General is granted.

2) The Consumer Advocate and Protection Division of the Office of the Attorney

⁶Tenn. Code Ann. § 4-5-310(a); *see also* Tenn. Code Ann. § 65-2-107: "All persons having a right under the provisions of the laws applicable to the authority to appear and be heard in contested cases as defined in this chapter shall be deemed parties to such proceedings for the purposes of this chapter. In addition, the authority may upon motion allow any interested person to intervene and become a party to any contested case."

⁷ Tenn. Code Ann. § 4-5-310(b).

⁸ Tenn. Code Ann. § 4-5-310(c).

General may intervene and participate as a party in this proceeding and, as such, shall receive copies of any notices, orders, or other documents filed herein.


Kelly Cashman-Grams, Hearing Officer