

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**  
**NASHVILLE, TENNESSEE**

IN RE:	)	
	)	
SHOW CAUSE PROCEEDING AGAINST	)	
TENNESSEE WASTEWATER SYSTEMS,	)	
INC. FOR MATERIAL NON-	)	
COMPLIANCE AND/OR VIOLATION	)	DOCKET NO. 14-00041
OF TENN. COMP. R. & REGS.	)	
1220-04-13, <i>et. seq.</i>	)	

**OBJECTION TO THE INTERVENTION OF THE**  
**CONSUMER ADVOCATE AND PROTECTION DIVISION**

Tennessee Wastewater Systems, Inc. ("TWSI") joins in the "Objection to the Intervention of the Consumer Advocate and Protection Division" filed by the Staff of the Tennessee Regulatory Authority on April 23, 2014.

In addition to the arguments presented by the Staff, TWSI submits that the petition to intervene should be denied because the Consumer Advocate has no legal role in the prosecution of a "show cause" proceeding brought by the agency pursuant to T.C.A. § 65-2-106. By statute, the "Authority is empowered to issue orders on its own motion" and such a proceeding rests upon a "preliminary investigation made by the Authority under the powers conferred upon it by law." T.C.A. § 65-2-106 (emphasis added). The agency, in other words, is the "prosecutor" of this civil enforcement proceeding. No other party can assume that role.

By statute—and by the requirements of due process—there is only one "show cause" case being brought against TWSI, and that is the case outlined in the agency's "Show Cause" Order. The Advocate has no legal right to act as a separate prosecutor, taking its own discovery, presenting its own case, and making its own argument for whatever remedies the Advocate may

request. To allow the Advocate to present a separate case is inconsistent with the T.C.A. § 65-2-106 and unfair to TWSI. TWSI is prepared to oppose the case presented by the TRA staff, but it is not required to prepare to defend itself against a second case presented by the Advocate.

Furthermore, it is well established that third parties have no right to intervene in criminal or civil proceedings brought by the State. The reason for this, as explained by the courts, is that enforcement proceedings are brought to protect and enforce the interests of the State, not the interests of third parties. See State v. Brown and Williamson Tobacco Corporation, 18 S.W.3d 186, 192 (Tenn. 2000) (holding that where the State brings suit in its capacity as sovereign and seeks no relief on behalf of any individual or party other than itself, third parties "do not have a substantial legal interest in the State's suit entitling them to intervene as of right under T.R.C.P. 24.01.") See also, State v. Siliski, 2006 WL 1931814 (Tenn. Crim. App.) (holding that in a criminal prosecution, the court lacks jurisdiction to adjudicate the claims of third parties who are therefore not permitted to intervene.) Here, the TRA is not litigating the legal interests of third parties. In other words, no third party has a legal interest in the outcome of this enforcement proceeding. The TRA—the State—is the sole representative of the State's interests. To allow a third party to intervene and act as an additional prosecutor does not serve the "interests of justice" or the "orderly and prompt conduct of the proceedings." T.C.A. § 4-5-310(3).

TWSI has no objection to the Advocate's participation as an amicus curiae but objects to the Advocate's participation as a party. For these reasons, the Advocate's petition to intervene should be denied.

Respectfully submitted,

BRADLEY ARANT BOULT CUMMINGS LLP

By: 

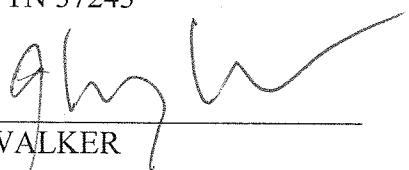
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of April, 2014, a copy of the foregoing document was served on the parties of record, via hand-delivery, overnight delivery or U.S. Mail, postage prepaid, addressed as follows:

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