

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 8, 2017

IN RE:

**PETITION OF TENNESSEE-AMERICAN WATER
COMPANY REGARDING THE PRODUCTION
COSTS AND OTHER PASS-THROUGHS RIDER**

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**DOCKET NO.
16-00148**

**ORDER GRANTING THE PETITION TO INTERVENE FILED BY
CONSUMER ADVOCATE**

This matter is before the Hearing Officer of the Tennessee Regulatory Authority (“Authority” or “TRA”) to consider the *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”) on January 30, 2017.

RELEVANT BACKGROUND

Tennessee-American Water Company (“TAWC”) is a public utility providing residential, commercial, industrial and municipal water service to approximately 75,840 customers in Chattanooga and the surrounding areas in Tennessee. Pursuant to the Stipulation and Capital Riders approved in TRA Docket No. 13-00130, TAWC filed a *Petition* on December 29, 2016 regarding the calculation of the Production Costs and Other Pass-Throughs Rider (“PCOP”) percentage rate.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On February 1, 2016, the Consumer Advocate filed a *Petition to Intervene* seeking to intervene in the docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to represent the interests of Tennessee consumers of public utility services in proceedings before the Authority. The Consumer Advocate asserts that the interests of consumers may be affected by “determinations and orders made by the Authority with respect to (i) the interpretation,

application, and implementation of Tenn. Code Ann. § 65-5-103(a), Tenn. Code Ann. § 65-5-103(d), and other relevant statutory and regulatory provisions, and (ii) the review and analysis of the Company's documentation, financial spreadsheets, and materials.”¹ As such, the Consumer Advocate seeks to intervene in these proceedings to represent the interests of Tennessee consumers. TAWC does not oppose the Consumer Advocate's intervention in these proceedings.

FINDINGS & CONCLUSIONS

Tenn. Code Ann. § 4-5-310 establishes 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 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.
- (b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.²

Although it is not an automatic or absolute right to participate in proceedings before the Authority, Tenn. Code Ann. § 65-4-118(b)(1) provides a general basis for the qualification of the Consumer Advocate to be permitted to intervene as a party to represent the interests of Tennessee public utility consumers. It provides as follows:

The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may,

¹ *Petition to Intervene*, pp. 2-3 (January 30, 2017).

² Tenn. Code Ann. § 4-5-310.

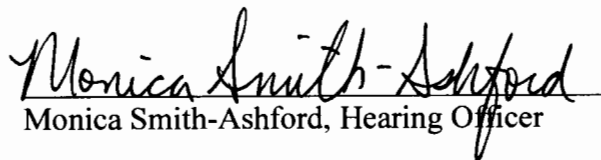
with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the authority or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the authority.³

In the instant proceeding, TAWC seeks approval of its annual PCOP percentage rate. Therefore, as TAWC's requests will directly impact the rates and charges paid by its customers, the Hearing Officer finds that there is a sufficient factual basis to find that legal rights or interests held by those consumers may be determined in this proceeding.

Upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of TAWC's customers may be determined in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there is no objection to its intervention, and its *Petition to Intervene* was timely-filed and should not impair the interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes that the Consumer Advocate's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

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


Monica Smith-Ashford, Hearing Officer

³ Tenn. Code Ann. § 65-4-118(b)(1).