

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**October 6, 2017**

<b>IN RE:</b>	)	
<b>PETITION OF TENNESSEE WATER SERVICE,</b>	)	
<b>INC. FOR APPROVAL OF AN INTERIM</b>	)	<b>DOCKET NO.</b>
<b>EMERGENCY WILDFIRE RESTORATION</b>	)	<b>17-00108</b>
<b>SURCHARGE, INTERIM EMERGENCY WATER</b>	)	
<b>SERVICE AVAILABILITY SURCHARGE,</b>	)	
<b>INTERIM EMERGENCY MAKE-WHOLE</b>	)	
<b>SURCHARGE, AND AN INTERIM EMERGENCY</b>	)	
<b>OPERATION COST PASS-THROUGH</b>	)	
<b>MECHANISM</b>	)	

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

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This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”) on September 28, 2017.

**RELEVANT BACKGROUND**

On September 25, 2017, Tennessee Water Service, Inc. (“TWS”) filed a *Petition for Emergency Interim Relief* (“*Emergency Petition*”). TWS requests “emergency interim relief in the form of a Wildfire Restoration Surcharge, Water Service Availability Surcharge, Make-Whole Surcharge, and Operational Cost Pass-Through Mechanism for the purpose of recovering TWS’ costs of providing water service to its customers during the period of recovery from the

devastating, wind-driven wildfires of 2016 . . . .”<sup>1</sup> TWS has requested that its Emergency Petition be heard at the October Commission Conference.

#### **CONSUMER ADVOCATE’S *PETITION TO INTERVENE***

On September 28, 2017, 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 Commission. The Consumer Advocate maintains that the “interests of consumers, including without limitation the proposed Wildfire Restoration, Water Service Availability, Make-Whole surcharges, fee and an operational pass-through mechanism to be paid by TWS’s customers under the Emergency Petition, may be affected by determinations and orders made by TPUC in this matter . . . .”<sup>2</sup> Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.<sup>3</sup> TWS does not oppose the Consumer Advocate’s *Petition to Intervene*.

#### **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

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<sup>1</sup> *Emergency Petition*, p. 1 (September 25, 2017).

<sup>2</sup> *Petition to Intervene*, p. 3 (September 28, 2017).

<sup>3</sup> *Id.*

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.<sup>4</sup>

Although it is not an automatic or absolute right to participate in proceedings before the Commission, 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, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the commission 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 commission.<sup>5</sup>

Because granting TWS's *Emergency Petition* will result in a rate increase for its customers, the Hearing Officer finds that there is a sufficient factual basis to find that the legal rights or interests held by those consumers may be determined in this proceeding. In addition, the Consumer Advocate has provided assurances that it will agree to work towards a hearing in October, as requested by TWS.

THEREFORE, upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of Tennessee consumers may be determined in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies

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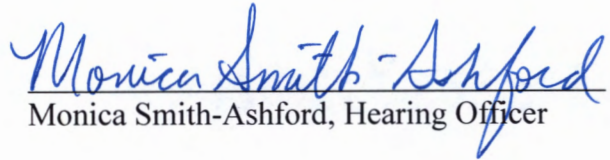
<sup>4</sup> Tenn. Code Ann. § 4-5-310.

<sup>5</sup> Tenn. Code Ann. § 65-4-118(b)(1).

under law as an intervenor for the purpose of representing those consumer interests, there is no opposition 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