



intervening as a party in any matter or proceeding before the Commission in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.*, and Commission rules.

2. TWSI is a public utility regulated by the Commission and provides wastewater service to approximately 2800 customers in Tennessee. The Company's principal office is located in 851 Aviation Parkway, Smyrna, Tennessee 37167.

3. On July 10, 2018, TWSI filed its Revised Tariff detailing proposed changes to its tariff pages due to the impact of the Tax Cuts and Jobs Act of 2017 (TCJA) and setting an effective date of the proposed changes as August 3, 2018.<sup>2</sup>

4. Tenn. Comp. R. & Regs.1220-04-01-.04(1) and -.06(4) requires the notice of any tariff changes be filed at least 30 days before the effective date of such changes unless good cause is shown to waive the 30-day time limit. The time-period between TWSI's Revised Tariff filing (July 10, 2018) and the effective date of the Revised Tariff (August 3, 2018) is less than 30 days, and TWSI provides no good cause to support a waiver of the 30-day time limit. Therefore, TWSI's filing of its Revised Tariff violates Tenn. Comp. R. & Regs.1220-04-01-.04(1) and -.06(4).

5. Tenn. Comp. R. & Regs.1220-04-01-.06(1) requires a utility to provide a written notice containing a brief explanation of the character and reason for the proposed changes in the tariff. However, a "brief" explanation does not mean a "vague" explanation. "Brief" is defined as concise in expression or using few words.<sup>3</sup> "Concise" is defined as giving a lot of information clearly using few words or brief but comprehensive.<sup>4</sup> The cover letter and Revised Tariff is short in its explanation and reason for the changes. However, TWSI's explanation and reason

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<sup>2</sup> Revised Tariff's cover letter.

<sup>3</sup> See <https://en.oxforddictionaries.com/definition/brief>.

<sup>4</sup> See <https://en.oxforddictionaries.com/definition/concise>.

supporting the changes are neither comprehensive nor provide a lot of information. In this filing, TWSI provides no testimony, explanation, workpapers or other supporting documentation. The limited information is especially concerning since TWSI's Revised Tariff is attempting to address multiple, complex issues and topics that should be addressed separately. Specifically:

- a. The impacts of the 2017 Tax Cuts and Jobs Act (TCJA) is of such importance that TPUC opened an investigation to address such impacts with TPUC Docket No. 18-00001. In response to this investigation, separate dockets were opened to address the specific responses of utilities.<sup>5</sup> TWSI's response<sup>6</sup> to the passage of the TCJA should follow this same process of the opening a separate docket and contested case to specifically address the TCJA impacts on TWSI. In the Docket at hand, this may mean converting this Revised Tariff filing to TWSI's tax docket.
- b. TWSI's process for extending service of an existing sewer system is the subject of a current docket, TPUC Docket No. 18-00037. In TPUC Docket No. 18-00037, the Consumer Advocate identified the interest of consumers in Adenus' ownership of the excess capacity of the existing system<sup>7</sup>; in the increase in commercial general liability insurance; and in the terms and conditions of the agreement with CSX Transportation, Inc.<sup>8</sup> As with its filing in TPUC Docket No. 18-00073, TWSI provided limited information with its filing for approval of the special contract which may result with additional consumer interest being identified once supplemental information is provided. Since there is an existing docket addressing the process for extending service and the complexities associated with such a transaction, any consideration of tariff language attempting to address extension plans should be addressed in TPUC Docket No. 18-00037.

6. TWSI does not cite the legal authority for the filing of its Revised Tariff.

However, it appears that TWSI may be attempting to submit a "tariff filing" under Tenn. Comp.

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<sup>5</sup> TPUC Docket No. 18-00034 for Atmos' response to TPUC's investigation; TPUC Docket No. 18-00035 for Chattanooga Gas Company's response to TPUC's investigation; TPUC Docket No. 18-00038 for Kingsport Power Company's response to TPUC's investigation; TPUC Docket No. 18-00039 for Tennessee American Water Company's response to TPUC's investigation; and TPUC Docket No. 18-00040 for Piedmont Natural Gas Company's response to TPUC's investigation.

<sup>6</sup> TWSI states that the TCJA requires water and wastewater utilities to record Contribution in Aid of Construction "as income and pay corporate income taxes on the contribution." Revised Tariff's cover letter. In the Revised Tariff, TWSI sets out a section entitled "Contribution in Aid of Construction." T.R.A. No. 1 Section 2, First Revised Pages 8-9.

<sup>7</sup> A term and condition of a State Operating Permit issued by the Tennessee Department of Environment and Conservation (TDEC) is that the permittee, TWSI, owns the treatment facility, or a perpetual easement in lieu of ownership. TDEC Modified State Operating Permit SOP-07015, pg. 12, Part III, Section F. However, TWSI claims that Adenus owns the excess capacity of the Clovercroft Treatment Facility. TWSI has failed to provide an agreement between TWSI and Adenus resulting in Adenus owning the excess capacity. *Petition to Intervene*, TPUC Docket No. 18-00037, pgs. 2-3, ¶7 (April 4, 2018).

<sup>8</sup> It should be noted that the Consumer Advocate has not seen the full agreement with CSX Transportation, Inc. since TWSI only filed one page of the agreement. *Id.* at 2, ¶6.

R. & Regs.1220-1-2-.02(4). Ordinarily, utilities file revised tariffs after a contested case proceeding and decision issued by TPUC.<sup>9</sup> Therefore, the filing of the revised tariff does not constitute a contested case. However, in this instance, there has been no contested case or decision issued by TPUC directing the revision to tariffs as proposed by TWSI in this filing.

It is the Consumer Advocate's position that TWSI's Revised Tariff is actually an "Initial Petition" as defined in Tenn. Comp. R. & Regs.1220-1-2-.01(2)(c), which means "any filing with the Authority [sic] by which a person seeks to initiate action by the Authority [sic] and which requires a contested case hearing however denominated, including applications and complaints." As explained in Paragraph 5 above, TWSI's Revised Tariff raises issues related to the TCJA which has required the opening of dockets and contested cases for other utilities and attempts to address extension of services which is the topic of an existing TPUC docket. Therefore, it is clear that TWSI's Revised Tariff is not a "tariff filing" but an Initial Petition requiring a contested case hearing. Accordingly, TWSI should not be allowed to circumvent the Initial Petition process.

7. The interests of consumers, including without limitation, the impact of TCJA on CIAC on all similarly-situated utilities and not just TWSI, and the impact of an extension or expansion on existing consumers, may be affected by determinations and orders made by the Commission in this matter.

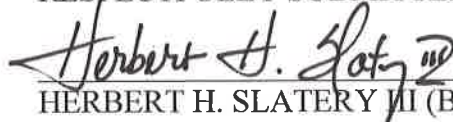
8. Only by participating as a party in this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

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<sup>9</sup> For example, TWSI filed a revised tariff in TPUC Docket No. 08-00202 after approval of the Revised Settlement Agreement. *TWSI Tariff Change Confirmation*, TPUC Docket No. 08-00202 (Dec. 8, 2009).

WHEREFORE, Petitioner respectfully asks the Commission to grant this Complaint and/or Petition to Intervene and direct TWSI to submit testimony, explanation, workpapers or other supporting documentation for its filing.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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This the 16<sup>th</sup> day of July 2018.

Karen H. Stachowski  
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