

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

November 9, 2018

IN RE:)	
PETITION OF 1TENNESSEE BROADBAND, TV)	DOCKET NO.
AND TELEPHONE COOPERATIVE, INC. FOR)	18-00096
ESTABLISHMENT OF TERRITORIAL)	
BOUNDARIES)	

**ORDER GRANTING THE PETITION TO INTERVENE FILED BY GIBSON ELECTRIC
MEMBERSHIP CORPORATION AND GIBSON CONNECT, LLC**

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) for consideration of the *Petition for Leave to Intervene of Gibson Electric Membership Corporation and Gibson Connect, LLC* (“*Petition to Intervene*”) filed on October 2, 2018.

RELEVANT BACKGROUND

1Tennessee Broadband, TV and Telephone Cooperative, Inc. (“1Tennessee”) formerly known as Infostructure, Inc. d/b/a Click1.net (“Infostructure”) converted from a for-profit corporation to a non-profit telephone cooperative on July 3, 2018. On September 4, 2018, 1Tennessee filed a *Petition of 1Tennessee Broadband, TV and Telephone Cooperative, Inc. for Establishment of Territorial Boundaries* (“*Petition*”) with the Commission requesting that the Commission “establish and define 1Tennessee’s territorial boundaries.”¹

PETITION TO INTERVENE

On October 2, 2018, Gibson Electric Membership Corporation (“GEMC”) and Gibson Connect, LLC (“Gibson Connect”) (together “Petitioners”) filed the *Petition to Intervene* seeking to

¹ *Petition*, p. 1 (September 4, 2018).

intervene in the docket. According to the *Petition to Intervene*, GEMC is a Tennessee electric membership cooperative providing services in northern West Tennessee. Pursuant to the Tennessee Broadband Accessibility Act, GEMC formed Gibson Connect, a wholly-owned subsidiary, to provide broadband voice and internet access and related services.² The Petitioners state Gibson Connect has already begun deploying broadband facilities and providing broadband voice and internet access services within GEMC's service area. According to the Petitioners, Infostructure "claims that it has converted to a non-profit telephone cooperative and requests the Commission to grant it exclusive territorial boundaries that overlap with a portion of GEMC's service area and, thus, a portion of the area in which Gibson Connect is authorized to provide broadband voice and internet access and related services."³ The Petitioners state that Infostructure has taken the position that its conversion to a telephone cooperative prevents GEMC and Gibson Connect from providing broadband voice and internet access and related services within Infostructure's claimed boundaries.⁴ The Petitioners maintain they have a direct interest in the outcome of these proceedings and request that the *Petition to Intervene* be granted.

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

² *Petition to Intervene*, p. 1 (October 2, 2018).

³ *Id.* at 2.

⁴ *Id.*

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.

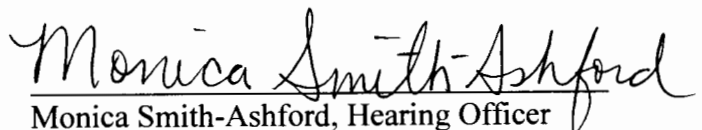
(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.⁵

Because a portion of the territory 1Tennessee is seeking is currently occupied by GEMC and Gibson Connect, the Hearing Officer finds that granting 1Tennessee's *Petition* will have a direct impact on operations of GEMC and Gibson Connect. Based on this finding, the Hearing Officer determines that there is a sufficient factual basis to find that the legal rights or interests held by GEMC and Gibson Connect may be decided in this proceeding.

THEREFORE, upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of the Petitioners may be determined in this proceeding. No opposition has been filed to the intervention, and the *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 *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Petition for Leave to Intervene of Gibson Electric Membership Corporation and Gibson Connect LLC* is granted. Gibson Electric Membership Corporation and Gibson Connect LLC 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

⁵ Tenn. Code Ann. § 4-5-310.