

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**January 14, 2019**

**IN RE:**

**PETITION OF 1TENNESSEE BROADBAND, TV  
AND TELEPHONE COOPERATIVE, INC. FOR  
ESTABLISHMENT OF TERRITORIAL  
BOUNDARIES**

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**DOCKET NO.  
18-00096**

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**ORDER GRANTING THE PETITION TO INTERVENE FILED BY TENNESSEE MUNICIPAL  
ELECTRIC POWER ASSOCIATION**

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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 the Tennessee Municipal Electric Power Association* (“*Petition to Intervene*”) filed on December 20, 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.”<sup>1</sup>

***PETITION TO INTERVENE***

On December 20, 2018, Tennessee Municipal Electric Power Association (“TMEPA” or “Petitioners”) filed the *Petition to Intervene* seeking to intervene in the docket. According to the

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<sup>1</sup> *Petition*, p. 1 (September 4, 2018).

*Petition to Intervene*, TMEPA is a trade organization with a membership consisting primarily of municipal electric systems and other governmental utility systems throughout Tennessee. In the *Petition to Intervene*, TMEPA states that some of its members have already deployed broadband voice and Internet access services in various parts of the state and other members of TMEPA may seek to provide telecommunications services in various geographic areas in the future. According to TMEPA, InfoStructure “claims that it has converted to a non-profit telephone cooperative [Tennessee] and requests the Commission to grant it exclusive territorial boundaries that overlap with the electric service area of Gibson Electric Membership Corporation (“GEMC”) and, thus, a portion of the area in which Gibson Connect, LLC (“Gibson Connect”) is authorized to provide broadband Internet access and related services.”<sup>2</sup> TMEPA strongly disputes InfoStructure’s claim that it can convert to a telephone cooperative and claim territorial rights under Tennessee law.<sup>3</sup> TMEPA asserts that “accordingly, the subject of this proceeding may directly affect the operations of its members in the State of Tennessee.”<sup>4</sup> 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

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<sup>2</sup> *Petition to Intervene*, p. 2 (December 20, 2018).

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

<sup>4</sup> *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.

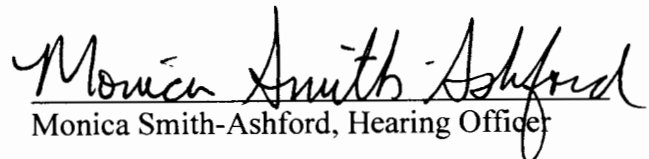
(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.<sup>5</sup>

Because TMEPA's members may be impacted by determinations made in this proceeding regarding any potential territorial rights of Tennessee, the Hearing Officer finds that granting Tennessee's *Petition* could have a direct impact on members of TMEPA. 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 members of TMEPA 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 the Tennessee Municipal Electric Power Association* is granted. Tennessee Municipal Electric Power Association 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

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