

**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 ELECTRIC  
COOPERATIVE 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 Electric Cooperative 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 Electric Cooperative Association (“TECA” 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*, TECA is a trade association serving the needs of the consumer owned electric cooperatives in Tennessee. TECA represents 23 individual power distributors, which include Tennessee's 22 electric cooperatives and one municipal system. TECA states it has become aware of InfoStructure's claims that its conversion to a cooperative will prevent Gibson Electric Membership Corporation ("GEMC") and Gibson Cooperative from providing broadband voice, internet and related services in InfoStructure's claimed boundaries. According to its *Petition to Intervene*, TECA disputes the validity of InfoStructure's position, but if InfoStructure were to be granted the relief it seeks, "TECA's interests and its members' interests would be directly and negatively impacted."<sup>2</sup> TECA states many of its members have begun or are in the process of beginning to offer broadband services through subsidiaries, similar to GEMC. TECA argues that if InfoStructure's arguments are successful, "nothing would prevent other non-cooperative entities from claiming to convert to a telephone cooperative in an attempt to block electric cooperatives from providing broadband services through subsidiaries, thereby frustrating the General Assembly's clear intent to increase competition in the broadband sector and increase consumer access and choice with respect to broadband services." For the foregoing reasons, 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

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

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.<sup>3</sup>

Because TECA'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 TECA. 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 TECA 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.

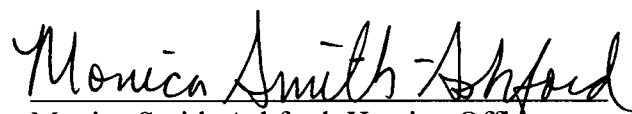
**IT IS THEREFORE ORDERED THAT:**

*The Petition for Leave to Intervene of the Tennessee Electric Cooperative Association is*

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<sup>3</sup> Tenn. Code Ann. § 4-5-310.

granted. Tennessee Electric Cooperative 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