

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

May 1, 2019

IN RE:)	
)	
PETITION OF CARTWRIGHT CREEK, LLC TO)	DOCKET NO.
INCREASE TAP FEES TO ADDRESS)	19-00034
ENVIRONMENTAL ISSUES RAISED BY THE)	
TENNESSEE DEPARTMENT OF ENVIRONMENT)	
AND CONSERVATION)	

ORDER GRANTING THE PETITION TO INTERVENE FILED BY
CONSUMER ADVOCATE

This matter came before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) at a Status Conference held on April 30, 2019 with the parties, Cartwright Creek, LLC (“Cartwright Creek” or the “Company”) and the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (“Consumer Advocate”). At the beginning of the Status Conference, the Hearing Officer considered and granted the Consumer Advocate’s *Petition to Intervene* filed on April 2, 2019.

RELEVANT BACKGROUND

Cartwright Creek filed a *Petition of Cartwright Creek, LLC to Increase Tap Fees to Address Environmental Issues Raised by the Tennessee Department of Environment and Conservation* (“*Petition*”) on March 13, 2019 seeking to increase the Company’s tap fee to \$10,000 to pay for system upgrades.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On April 2, 2019, 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 states the Company seeks to increase the tap fees paid by consumers from \$5,000 to \$10,000. The Consumer Advocate asserts that the “interests, rights, duties, or privileges of consumers may be affected by determination and orders by the TPUC in this case.”¹ Further, the Consumer Advocate maintains that only by intervening in these proceedings can it adequately represent the interests of Tennessee consumers.² Cartwright Creek did not oppose the Consumer Advocate’s intervention in these proceedings.

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 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.³

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

¹ *Petition to Intervene*, p. 2 (April 2, 2019).

² *Id.*

³ Tenn. Code Ann. § 4-5-310.

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.⁴

In the instant proceeding, Cartwright Creek seeks to double the tap fees it is charging its customers to fund certain system upgrades required by the Tennessee Department of Environment and Conservation.⁵ The revenue from a potential increase in tap fees would be placed in escrow and spent under supervision of the Commission.⁶ Based on these facts, the Hearing Officer finds that there is a sufficient factual basis to find that legal rights or interests held by Tennessee's public utilities consumers may be determined in this proceeding.

At the April 30, 2019 Status Conference, the Hearing Officer concluded that the legal rights, duties, privileges, immunities or other legal interest of Cartwright Creek's customers may be determined in this proceeding. Further, the Hearing Officer found that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there was no objection 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 concluded that the Consumer Advocate's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

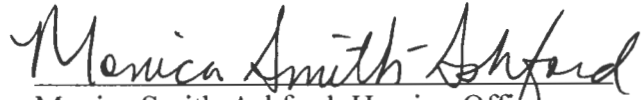
The *Petition to Intervene* filed by the Consumer Advocate Unit in the Financial Division of

⁴ Tenn. Code Ann. § 65-4-118(b)(1).

⁵ *Petition*, p. 1 (March 13, 2019).

⁶ *Id.*

the Office of the Attorney General is granted. The Consumer Advocate Unit in the Financial 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