

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

September 23, 2019

IN RE:

JOINT APPLICATION OF AQUA UTILITIES
COMPANY, INC. AND LIMESTONE WATER
UTILITY OPERATING COMPANY, LLC FOR
AUTHORITY TO SELL OR TRANSFER TITLE TO
THE ASSETS, PROPERTY, AND REAL ESTATE
OF A PUBLIC UTILITY AND FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY

DOCKET NO.
19-00062

ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE
CONSUMER ADVOCATE

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition to Intervene* filed by the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (“Consumer Advocate”) on August 22, 2019.

RELEVANT BACKGROUND

On July 26, 2019, Aqua Utilities Company, Inc. (“Aqua Utilities”) and Limestone Water Utility Operating Company, LLC (“Limestone”) filed a Joint Application seeking authorization to transfer title from Aqua Utilities to Central States Water Resources, Inc. (“CSWR”) and Limestone all assets, property, and real estate use to provide regulated water and wastewater services to six subdivisions in Hardin County. The Joint Application also seeks to transfer Aqua Utilities’ Certificate of Public Convenience and Necessity (“CCN”) or grant Limestone a new CCN to serve the six communities.

CONSUMER ADVOCATE'S *PETITION TO INTERVENE*

On August 22, 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 maintains that:

[t]he interests of consumers in the transfer of authority to provide utility services from Aqua Utilities to CSWR and Limestone may be affected by determinations and orders made by the Commission with respect to its interpretation, application, and implementation of Tenn. Code Ann. §§ 65-4-113 and other relevant statutory and regulatory provisions. Such interests include, but are not limited to, clarification on the number of water and wastewater systems that are subject to this transaction; the affiliate relationship of Limestone and its parent company CSWR; the impact of the purchase price on the rates of the Aqua Utilities consumers; the benefit to consumers to be gained from the transfer; and the assessment of the suitability, the financial responsibility, and technical capability of both Limestone and CSWR to operate the Aqua Utilities water and wastewater systems.¹

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.² Cartwright Creek and Limestone do not oppose the Consumer Advocate's *Petition to Intervene*.

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;

¹ *Petition to Intervene*, pp. 3-4 (August 22, 2019).

² *Id.*

(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 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

Because granting the Joint Application will result in a change of service provider and a possible change in rates and operating regulations for Cartwright Creek's customers, the Hearing Officer finds that there is a sufficient factual basis to find that the legal rights or interests held by those consumers may be determined in this proceeding.

THEREFORE, upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of Tennessee consumers may be determined

³ Tenn. Code Ann. § 4-5-310(2015).

⁴ Tenn. Code Ann. § 65-4-118(b)(1)(2015).

in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there is no opposition 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 concludes 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 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