

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

November 6, 2019

IN RE:

**PETITION OF CARTWRIGHT CREEK, LLC TO
EXTEND CAPITAL IMPROVEMENTS
SURCHARGE**

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**DOCKET NO.
19-00097**

**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 October 29, 2019.

RELEVANT BACKGROUND

Cartwright Creek, LLC (“Cartwright Creek” or the “Company”) is a public utility regulated by the Commission and provides wastewater service to four separate wastewater systems located in Williamson County, Tennessee: Arrington Retreat, Grasslands, Hardeman Springs, and Troubadour (formerly “Hideaway”).¹ In Docket No. 16-00127, the Commission approved a Capital Improvements Surcharge (“Surcharge”) for Cartwright Creek to serve as a funding mechanism for the Company to address repairs and maintenance problems at the Company’s Grasslands system. In the current docket, Cartwright Creek filed a *Petition of*

¹ *Petition to Intervene*, p. 1 (October 29, 2019).

Cartwright Creek, LLC to Extend Capital Improvements Surcharge (“*Petition*”) on October 21, 2019 seeking to extend for thirty-six months the Surcharge adopted by the Commission in Docket No. 16-00127.² According to Cartwright Creek, the Company’s need for repairs and system upgrades remains as critical today as in 2016 when the Surcharge was first established.³

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On October 29, 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 the “interests of consumers, including without limitation the extension of the time period of the Surcharge, the list of capital projects for three of the Company’s systems and how these capital projects will be financed, may be affected by determinations and orders made by the Commission in this matter.”⁴ Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.⁵ Cartwright Creek did 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

² *Petition*, p. 1 (October 21, 2019).

³ *Id.*

⁴ *Petition to Intervene*, p. 3 (October 29, 2019).

⁵ *Id.*

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.⁶

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.⁷

Because granting Cartwright Creek's *Petition* will result in an extension of the surcharge on customers' bills to pay for system repairs and improvements, the Hearing Officer finds there is a sufficient factual basis to find that the legal rights or interests held by those consumers may be determined in this proceeding.

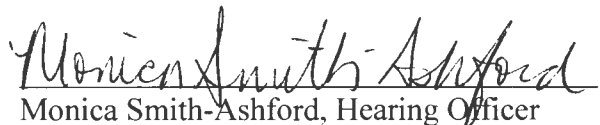
⁶ Tenn. Code Ann. § 4-5-310.

⁷ Tenn. Code Ann. § 65-4-118(b)(1).

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