

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

March 13, 2020

IN RE:	)	
	)	
JOINT PETITION OF TENNESSEE	)	DOCKET NO.
WASTEWATER SYSTEMS, INC. AND TPUC	)	20-00009
STAFF (AS A PARTY) TO INCREASE RATES AND	)	
CHARGES.	)	

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ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE  
CONSUMER ADVOCATE

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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 February 20, 2020.

**RELEVANT BACKGROUND**

On January 31, 2020, Tennessee Wastewater Systems, Inc. (“TWSI” or the “Company”) and TPUC Staff as a Party (“Party Staff”) (together “Joint Petitioners”) filed a *Joint Petition* seeking an increase in TWSI’s rates and charges in order to recover the Company’s costs of providing wastewater service to its customers. TWSI is a public utility providing wastewater service to approximately 2,760 residential customers and 804 commercial customers located in its service territories throughout Tennessee.

**CONSUMER ADVOCATE’S *PETITION TO INTERVENE***

On February 20, 2020, 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 amount of the proposed increase in rates to be paid by the Company's consumers, the proposed operating margin, the decrease in funding for the Escrow Account and the change in the accounting treatment of Developer Income under the *Joint Petition*, may be affected by determinations and orders made by the Commission with respect to (a) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103(a), and other relevant statutory and regulatory provisions, and (b) the review and analysis of the Company's documentation, financial spreadsheets, and materials.<sup>1</sup>

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.<sup>2</sup>

#### **MARCH 4, 2020 TELEPHONE STATUS CONFERENCE**

On March 4, 2020, the Hearing Officer held a Status Conference with TWSI, Party Staff and the Consumer Advocate. During the Status Conference, the Joint Petitioners stated they did not oppose the Consumer Advocate's intervention, even though the *Joint Petition* had requested that a hearing be held during the March 9, 2020 Commission Conference. The Consumer Advocate's intervention was not filed until February 20<sup>th</sup>. TWSI, however, expressed a desire to continue to move forward with the docket quickly if the intervention was 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;

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<sup>1</sup> *Petition to Intervene*, p. 4 (February 20, 2020).

<sup>2</sup> *Id.* at 2.

(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>

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.<sup>4</sup>

Because granting the *Joint Petition* will result in an increase in rates for TWSI's customers, a decrease in funding of TWSI's escrow account, and a change in accounting treatment of payments from developers, 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

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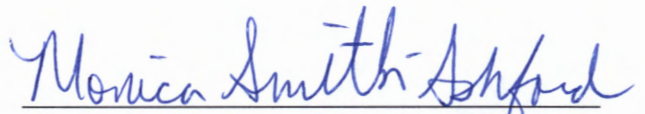
<sup>3</sup> Tenn. Code Ann. § 4-5-310.

<sup>4</sup> Tenn. Code Ann. § 65-4-118(b)(1).

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