

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 7, 2020

IN RE:

**PETITION OF TENNESSEE-AMERICAN WATER
COMPANY FOR APPROVAL OF THE
ESTABLISHMENT OF A REGULATORY ASSET**

**DOCKET NO.
20-00126**

**ORDER GRANTING THE PETITION TO INTERVENE FILED BY
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 Tennessee Attorney General (“Consumer Advocate”) on December 16, 2020.

RELEVANT BACKGROUND

Tennessee-American Water Company (“TAWC”) is a public utility providing residential, commercial, industrial, and municipal water service to approximately 80,670 customers in Chattanooga and the surrounding areas in Tennessee. TAWC filed *Tennessee-American Water Company’s Petition for Approval of the Establishment of a Regulatory Asset* (“TAWC Petition”) on November 16, 2020 seeking authority for the establishment of a regulatory asset for the financial impacts of COVID-19.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On December 16, 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 asserts that the “interests of consumers, including without limitation, evaluating whether it is appropriate that TAWC customers bear all the costs associated with the pandemic and the extent to which the Company has properly identified such costs, may be affected by determinations and orders made by the Commission...”¹ According to the Consumer Advocate, “the implication of this deferral request is that any such costs that are deferred may be recovered from ratepayers in a future regulatory proceeding.”² As such, the Consumer Advocate seeks to intervene in these proceedings to represent the interests of Tennessee consumers. TAWC 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.

¹ *Petition to Intervene*, pp. 2-3 (December 16, 2020).

² *Id.* at 3.

- (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 authority 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 authority.⁴

In the instant proceeding, TAWC seeks authority to accumulate as a regulatory asset and defer for future recovery a total amount of losses incurred due to the COVID-19 pandemic and “any additional incremental COVID-19 related financial impacts incurred going forward.”⁵ Therefore, because approval of *TAWC’s Petition* will directly impact the rates and charges paid by its customers, the Hearing Officer finds that there is a sufficient factual basis to find that legal rights or interests held by those consumers may be determined in this proceeding.

Upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of TAWC’s customers 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 objection to its intervention, and its *Petition to Intervene* was timely-filed and should not impair the interests of

³ Tenn. Code Ann. § 4-5-310.

⁴ Tenn. Code Ann. § 65-4-118(b)(1).

⁵ *TAWC Petition*, p. 8 (November 16, 2020).

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

A handwritten signature in black ink, reading "Monica Smith-Ashford". The signature is written in a cursive, flowing style.

Monica Smith-Ashford, Hearing Officer