

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 23, 2022

IN RE:

**JOINT PETITION OF TENNESSEE-AMERICAN
WATER COMPANY AND WALKER COUNTY
WATER AND SEWAGE AUTHORITY FOR
EXPEDITED APPROVAL OF A SPECIAL
CONTRACT**

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**DOCKET NO.
22-00049**

**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 Tennessee Attorney General (“Consumer Advocate”) on July 18, 2022.

RELEVANT BACKGROUND

Tennessee-American Water Company (“TAWC”) is a public utility providing residential, commercial, industrial, and municipal water service to over 83,000 customers in Chattanooga, Tennessee and surrounding areas. On June 13, 2022, TAWC and Walker County Water and Sewerage Authority (“WCWSA”) filed the *Joint Petition of Tennessee-American Water Company and Walker County Water and Sewerage Authority for Expedited Approval of a Special Contract*.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On July 18, 2022, 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

Authority. The Consumer Advocate asserts it “has an interest in ensuring the proposed Special Contract between TAWC and WCWSA complies with Commission rules and the standards the Commission has established in prior dockets.”¹ In addition, the Consumer Advocate maintains it “has an interest in ensuring the Special Contract’s proposed terms and rates are reasonable and are not unjustly preferential or unduly discriminatory.”² As such, it 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.
- (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. 3 (July 18, 2022).

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, TAWC and WCWSA seek to enter a special contract whereby the rates charged to WCWSA will be outside of the tariff rates for TAWC's other customers. The Commission has established criteria for determining whether such special contracts are unduly preferential or discriminatory to TAWC's other customers. Therefore, as TAWC's request will directly impact TAWC's customers, the Hearing Officer finds 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 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

⁴ Tenn. Code Ann. § 65-4-118(b)(1).

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 that reads "Monica Smith-Ashford". The script is cursive and fluid, with the first name "Monica" being more prominent than the last name.

Monica Smith-Ashford, Hearing Officer