

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

March 3, 2023

IN RE:

**PETITION OF TENNESSEE WATER SERVICE,
INC. AND CORIX INFRASTRUCTURE (US) INC.,
FOR APPROVAL OF AUTHORITY TO TRANSFER
CONTROL PURSUANT TO TENN. CODE ANN §
65-4-113**

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**DOCKET NO.
22-00114**

**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 Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) on January 20, 2023.

RELEVANT BACKGROUND

On November 9, 2022, Tennessee Water Service, Inc. (“TWS” or the “Company”) and Corix Infrastructure (US) Inc, (“Corix US”) filed the *Petition of Tennessee Water Service, Inc., Along With Corix Infrastructure (US) Inc., for Approval of Authority to Transfer Control Pursuant to Tenn. Code Ann. § 65-4-113* (“*Petition*”). TWS is a TPUC regulated public utility providing wastewater service to approximately 385 residential customers in Sevier County, TN. TWS and Corix US seek approval for a merger of Corix US with SW Merger Acquisition Corp. (“SWMAC”) as a transfer of indirect control to combine their related businesses.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On January 20, 2023, 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 states it needs to further analyze the Transaction Agreement to confirm the parties' claims that the quality of service will not be impacted by the transfer. In addition, the Consumer Advocate maintains it needs to examine the financial and accounting records to make sure consumer interests are not adversely impacted.¹ The Consumer Advocate maintains that:

[t]he interests of consumers may be affected by determinations and orders made by the Commission with respect to (a) the interpretation, application, and implementation of Tenn. Code Ann. § 65-4-113, and other relevant statutory and regulatory provisions, and (b) the review and analysis of Parties' documentation, financial spreadsheets, and materials.²

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.³

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

¹ *Petition to Intervene*, p. 3 (January 20, 2023).

² *Id.* at 4.

³ *Id.*

(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.⁴

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.⁵

Because the proposed transfer set forth in the *Petition* could have an impact on the service quality of the customers of TWS, and there may be costs incurred due to the transfer and subsequent integration of the companies, the Hearing Officer finds there is a sufficient factual basis to establish 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 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

⁴ Tenn. Code Ann. § 4-5-310.

⁵ Tenn. Code Ann. § 65-4-118(b)(1).

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 Division of the Office of the Tennessee Attorney General is granted. The Consumer Advocate 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 signature is written in a cursive, flowing style.

Monica Smith-Ashford, Hearing Officer