

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

April 18, 2023

IN RE:

TENNESSEE-AMERICAN WATER COMPANY
PETITION IN SUPPORT OF THE CALCULATION
OF THE 2023 CAPITAL RECOVERY RIDERS
RECONCILIATION

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DOCKET NO.
23-00018

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 March 20, 2023.

RELEVANT BACKGROUND

Tennessee-American Water Company (“TAWC”) is a public utility providing residential, commercial, industrial and municipal water service to approximately 83,000 customers in Chattanooga, Tennessee and surrounding areas. Pursuant to the Stipulation and Capital Riders approved in TPUC Docket No. 13-00130, TAWC filed a *Petition in Support of the Calculation of the 2022 Capital Recovery Riders Reconciliation* (“*Petition*”) on March 1, 2023, regarding its qualifiable investment and related expenses for the 2022 calendar year.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On March 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 maintains that:

[t]he interests of consumers may be affected by determinations and orders made by TPUC with respect to the following: (i) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103(a), Tenn. Code Ann. § 65-5-103(d), and other relevant statutory and regulatory provisions; (ii) the review and analysis of the Company's documentation, financial spreadsheets, and materials; and (iii) the interpretation, application, and/or implementation of the terms and conditions of the Commission's Orders in TPUC Docket Nos. 13-00130, 14-00121, 15-00029, 15-00111, 16-00022, 16-00126, 17-00020, 17-00124, 18-00022, 18-00120, 19-00031, 20-00028, 21-00030, 22-00021, and 22-00072, as well as any related settlement agreements applicable to these dockets.¹

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

¹ *Petition to Intervene*, pp. 3-4 (March 20, 2023).

² *Id.* at 4.

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 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

Because TAWC earned above the Commission's authorized rate of return, and the tariffs included with TAWC's *Petition* will impact customer rates through a potential decrease in rates, 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 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

³ Tenn. Code Ann. § 4-5-310.

⁴ Tenn. Code Ann. § 65-4-118(b)(1).

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

Monica Smith-Ashford, Hearing Officer