

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

July 12, 2023

IN RE:

PETITION OF TENNESSEE WATER SERVICE,
INC. TO ADOPT ANNUAL REVIEW MECHANISM
AND TARIFF PURSUANT TO TENN. CODE ANN.
§ 65-5-103(d)(6)

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DOCKET NO.
23-00046

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 July 12, 2023.

RELEVANT BACKGROUND

On June 20, 2023, Tennessee Water Service, Inc. (“TWS”) filed a *Tennessee Water Service, Inc. Petition to Adopt Annual Review Mechanism and ARM Tariff Pursuant to Tenn. Code Ann. §65-5-103(d)(6)* (“*Petition*”) seeking approval to implement an Annual Rate Review Mechanism (“ARRM”) based on methodologies approved by the Commission in Docket No. 19-00028, its last rate case.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On July 12, 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:

The interests of consumers, including without limitation the proposed increase in rates to be paid by TWS consumers, may be affected by determinations and orders made by the Commission with respect to: (1) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103(d)(6) and other relevant statutory and regulatory provisions; and (2) the review and analysis of the supporting schedules and other documentation, financial spreadsheets, and materials provided by TWS.¹

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.² The Consumer Advocate states TWS does not oppose the Consumer Advocate's *Petition to Intervene*.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

(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

¹ *Petition to Intervene*, pp. 2-3 (July 12, 2023).

² *Id.* at 3.

³ *Id.*

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 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 commission.⁵

Because TWS's *Petition* seeks to implement a new ARRM that could impact the rates of its customers going forward, 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 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

⁴ Tenn. Code Ann. § 4-5-310.

⁵ Tenn. Code Ann. § 65-4-118(b)(1).

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.


Monica Smith-Ashford, Hearing Officer