

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 27, 2023

IN RE:	)	
	)	
PETITION OF SUPERIOR WASTEWATER	)	DOCKET NO.
SYSTEMS, LLC TO ADOPT AN ALTERNATIVE	)	23-00069
REGULATORY MECHANISM PURSUANT TO	)	
TENN. CODE ANN. § 65-5-103(d)(7)	)	

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ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE  
CONSUMER ADVOCATE

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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 September 29, 2023.

**RELEVANT BACKGROUND**

On September 11, 2023, Superior Wastewater Systems, LLC, (“Superior”) filed a *Petition of Superior Wastewater Systems, LLC to Adopt an Alternative Regulatory Mechanism Pursuant to Tenn. Code Ann. § 65-5-103 (D)(7)* (“*Petition*”) seeking approval to implement an Alternative Regulatory Mechanism (“ARM”).

**CONSUMER ADVOCATE’S *PETITION TO INTERVENE***

On September 29, 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 Superior seeks to implement an ARM where

“the Company will calculate an increase in rates based on Gross Domestic Product Implicit Price Deflator (“GDP-IPD”) and apply this increase to existing base charges.”<sup>1</sup> The Consumer Advocate maintains:

The interests of consumers, including without limitation the proposed increase in rates to be paid by Superior’s 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)(7) 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 the Company.<sup>2</sup>

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

## **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

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<sup>1</sup> *Petition to Intervene*, p. 2 (September 29, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

justice and shall not impair the orderly and prompt conduct of the proceedings.<sup>4</sup>

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.<sup>5</sup>

Because Superior's *Petition* seeks to implement a new ARM 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 Tennessee Attorney General is granted. The Consumer Advocate Division of the Office of the

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<sup>4</sup> Tenn. Code Ann. § 4-5-310.

<sup>5</sup> Tenn. Code Ann. § 65-4-118(b)(1).

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