

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

November 2, 2023

IN RE:

JOINT APPLICATION OF LIMESTONE WATER  
UTILITY OPERATING COMPANY, LLC, SUNSET  
COVE CONDOMINIUM HOA OF NORRIS LAKE,  
INC. AND COMMERCIAL BANK FOR APPROVAL  
OF THE ACQUISITION OF AND TO OPERATE  
THE WASTEWATER SYSTEM OF SUNSET COVE  
CONDOMINIUM HOA OF NORRIS LAKE, INC.  
AND COMMERCIAL BANK, AND TO ISSUE A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY

DOCKET NO.  
23-00070

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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 October 17, 2023.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On September 15, 2023, Limestone Water Utility Operating Company, Inc. (“Limestone”) filed its *Joint Application of Limestone Water Utility Operating Company, LLC, Sunset Condominium HOA of Norris Lake, Inc. (“Sunset Cove”), and Commercial Bank, for Approval of the Acquisition of and to Operate the Wastewater System of Sunset Condominium HOA of Norris Lake, Inc., and Commercial Bank, and to Issue a Certificate of Public Convenience and Necessity* (“*Joint Application*”). On October 17, 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 in transferring authority to provide wastewater services from Sunset Cove and Commercial Bank to Central States, CSWR and Limestone may be affected by determinations and orders made by the Commission with respect to its interpretation, application, and implementation of Tenn. Code Ann. § 65-4-113 and other relevant statutory and regulatory provisions. Such interests include, but are not limited to, clarification on the system or systems that are the subjection (sic) of the *Agreement*; the affiliate relationship of Limestone, its affiliate company CWSR (sic), and its ultimate parent, Central States; the cost and benefits to consumers which may be gained from the transfer; the system's compliance status with TDEC; the impact of Limestone's improvements and capital investments on the rates of customers; and the assessment of the suitability, the financial responsibility, and technical capability of both Limestone and CSWR to operate the wastewater systems.<sup>1</sup>

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.<sup>2</sup> There was no opposition to 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

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<sup>1</sup> *Petition to Intervene*, p. 4 (October 17, 2023).

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

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.<sup>3</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 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.<sup>4</sup>

Granting Limestone's *Joint Application* will result in a change of service provider for Sunset Cove's customers. Also, Limestone states it will charge the same rates as another transfer docket pending before the Commission. However, Limestone states it may seek an increase in rates in the future if the revenue requirement for the System increases. For the forgoing reasons, the Hearing Officer finds 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,

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<sup>3</sup> Tenn. Code Ann. § 4-5-310.

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

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 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