

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 3, 2024

IN RE:

JOINT APPLICATION OF LIMESTONE WATER
UTILITY OPERATING COMPANY, LLC AND
CUMBERLAND BASIN WASTEWATER SYSTEMS,
LLC FOR APPROVAL OF THE ACQUISITION OF
AND TO OPERATE THE WASTEWATER SYSTEM
OF CUMBERLAND BASIN WASTEWATER
SYSTEMS, LLC AND TO ISSUE A CERTIFICATE
OF CONVENIENCE AND NECESSITY

DOCKET NO.
23-00077

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 December 11, 2023.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On October 31, 2023, Limestone Water Utility Operating Company, Inc. (“Limestone”) filed its *Joint Application of Limestone Water Utility Operating Company, LLC and Cumberland Basin Wastewater Systems, LLC for Approval of the Acquisition of and to Operate the Wastewater System of Cumberland Basin Wastewater Systems, LLC, and to Issue a Certificate of Public Convenience and Necessity* (“*Joint Application*”). On December 11, 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 Cumberland Basin 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.¹

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.² 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 interest may be determined in the proceeding or that the

¹ *Petition to Intervene*, p. 4 (December 11, 2023).

² *Id.*

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.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

Granting Limestone's *Joint Application* will result in a change of service provider for Cumberland Basin's customers. Also, Limestone states it will charge the same base rates as Cumberland Basin currently charges. However, Limestone states it may seek an increase in rates or change certain operating regulations 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,

³ Tenn. Code Ann. § 4-5-310.

⁴ 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