

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

April 11, 2024

IN RE:

PETITION OF TENNESSEE-AMERICAN WATER
COMPANY'S 2024 INCREMENTAL CAPITAL
RECOVERY RIDER TARIFF

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DOCKET NO.
24-00011

ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE
CONSUMER ADVOCATE

This matter is before the Administrative Judge 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 April 1, 2024.

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 Tennessee Code Annotated § 65-5-103 *et seq.* and the Commission’s January 31, 2024, *Order Approving Stipulation and Settlement Agreement* in TPUC Docket No. 19-00103, TAWC filed its *Tennessee-American Water Company’s 2024 Incremental Capital Recovery Rider Tariff Petition* (“*Petition*”) on March 8, 2024.¹

¹ TAWC’s filing was due March 1st, but since this is the first Annual Filing subsequent to approval of the Incremental Capital Recovery Rider (“ICRR”) Tariff in Docket No. 19-00103, the Company states additional time was necessary to properly prepare the filing. There was no objection to the delayed filing.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On April 1, 2024, 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 asserts:

[a]lthough, the Petition proposes a zero percent cost recovery due to the Company earning in excess of its authorized ten percent return on equity, the Consumer Advocate has a strong interest in reviewing and analyzing the implementation of the terms of the settlement in TPUC Docket No. 19-00103 in which the Consumer Advocate was a party.²

In addition, The Consumer Advocate maintains it needs to review and analyze the proposed adjustment to Accumulated Deferred Income Tax amortization. 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, 18-00120, 19-00103, as well as any related settlement agreements applicable to these dockets.³

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.⁴ 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

² *Petition to Intervene*, p. 3 (April 1, 2024).

³ *Id.* at 4.

⁴ *Id.*

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 justice and shall not impair the orderly and prompt conduct of the proceedings.⁵

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.⁶

Because the TAWC's *Petition* is the first filing after modifications to the Capital Recovery Riders

⁵ Tenn. Code Ann. § 4-5-310.

⁶ Tenn. Code Ann. § 65-4-118(b)(1).

mechanism tariff after the Settlement Agreement approved by the Commission in Docket No. 19-00103 and includes a credit for implementing the Tax Cuts and Jobs Act of 2017 as an offset, the Administrative Judge 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 Administrative Judge concludes that the legal rights, duties, privileges, immunities, or other legal interest of Tennessee consumers may be determined in this proceeding. Further, the Administrative Judge 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 Administrative Judge 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, Administrative Judge