

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

June 11, 2024

IN RE:	)	
	)	
TENNESSEE WATER SERVICE, INC. PETITION	)	DOCKET NO.
FOR APPROVAL OF ITS 2024 ANNUAL RATE	)	24-00028
REVIEW FILING PURSUANT TO TENN. CODE	)	
ANN. § 65-5-103 (d)(6) AND REQUEST FOR RATE	)	
STRUCTURE MODIFICATION	)	

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ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE  
CONSUMER ADVOCATE

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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 May 16, 2024.

**RELEVANT BACKGROUND**

On April 30, 2024, Tennessee Water Service, Inc. (“TWS”) filed its *Petition for Approval of 2024 Rate Review Filing and Rate Structure Modification* (“*Petition*”) pursuant to the Annual Rate Review Mechanism (“ARRM”) established as part of the *Stipulation and Settlement Agreement* (“*Settlement Agreement*”) with the Consumer Advocate that was approved by the Commission in Docket No. 23-00046. This is the first annual filing since the ARRM approval.<sup>1</sup>

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<sup>1</sup> In its *Petition to Intervene*, the Consumer Advocate states this docket is the Company’s first Petition to adopt an ARRM. See *Petition to Intervene*, p. 2 (May 16, 2024). However, the Commission adopted the TWS ARRM in Docket No. 23-00046. The current docket is the first annual filing since the TWS ARRM was adopted.

## CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On May 16, 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 maintains that the interests of consumers may be impacted 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.<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> The Consumer Advocate states TWS does not oppose the Consumer Advocate’s *Petition to Intervene*.<sup>4</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

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<sup>2</sup> *Petition to Intervene*, pp. 2-3 (May 16, 2024).

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

<sup>4</sup> *Id.*

(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>5</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>6</sup>

Pursuant to the *Stipulation and Settlement Agreement* entered into with the Consumer Advocate and approved by the Commission, TWS is not seeking a rate increase in the current *Petition*.<sup>7</sup> In its *Petition*, TWS is seeking a modification to its current ARRM rate structure based on feedback from its customers.<sup>8</sup> The Administrative Judge finds that there is a sufficient factual basis to find that the legal rights or interests held by TWS consumers may be determined in this proceeding because it is a review of the annual rate calculations and methodologies over the past year, and the Commission will determine whether the approved methodologies have been appropriately

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

<sup>6</sup> Tenn. Code Ann. § 65-4-118(b)(1).

<sup>7</sup> The *Petition to Intervene* states customers may be impacted by a proposed increase in rates. *See Petition to Intervene*, p. 2 (May 16, 2024). However, in its *Petition*, TWS states it does **not** seek an increase in rates in the ARRM filing. *See Petition*, p. 3 (April 30, 2024).

<sup>8</sup> *Petition*, pp. 4-5 (April 30, 2024).

implemented. In addition, TWS customers may be impacted by any changes to the current rate structure.

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