

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

IN RE:	October 18, 2024)	
)	
JOINT APPLICATION OF LIMESTONE WATER)	DOCKET NO.
UTILITY OPERATING COMPANY, LLC AND)	24-00034
BRIDGET J. WILHITE, AS ADMINISTRATOR CTA)	
OF THE ESTATE OF GLENNA NEWPORT, FOR)	
APPROVAL OF THE ACQUISITION OF AND TO)	
OPERATE THE NEWPORT RESORT WATER)	
SYSTEM, AND TO TRANSFER OR ISSUE A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY			

**ORDER GRANTING THE PETITION TO INTERVENE FILED BY RHEA COUNTY,
TENNESSEE AND NORTH UTILITY DISTRICT OF RHEA COUNTY**

This matter is before the Administrative Judge of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Joint Application of Rhea County, Tennessee and North Utility District of Rhea County’s Petition to Intervene* (“*Petition to Intervene*”) filed by Rhea County, Tennessee (“Rhea County”) and the North Utility District of Rhea County (“NUDRC”) (together “Joint Petitioners”) on August 29, 2024.

PETITION TO INTERVENE

On August 29, 2024, Rhea County and NUDRC filed a *Petition to Intervene* in these proceedings stating the “legal rights, duties, privileges, immunities, or other legal interests of North Utility District of Rhea County (“NUDRC”) and Rhea County, Tennessee, its citizens and residents that may be adversely affected by the acquisition of and operation of the Newport Resort Water System (“NRWS”) and transfer or issuance of a certificate of Public Convenience and Necessity.”¹ According to the Joint Petitioners, for many years Newport Resort Water System

¹ *Petition to Intervene*, p. 1 (August 29, 2024).

(“Newport,” “Newport Resort,” or “NRWS”) customers have had many days without potable water or any water at all to their homes because the water system is old and in disrepair. The Joint Petitioners assert that Limestone’s acquisition of the NRWS that is located in NUDRC’s district should be subject to “extensive inquiry and analysis to determine whether this is in the best interest of the citizens of Rhea County, Tennessee and whether rates will increase dramatically, which would not be just and reasonable.”² The Joint Petitioners maintain that merging the NRWS customers with NUDRC water system would be a seamless transition because NUDRC is ready, willing and able to serve the NRWS customers and has the resources to provide immediate, maintenance, repair or replacement of the antiquated NRWS.³ The *Petition to Intervene* states that Jim Vincent, the Rhea County Executive, has been working with NUDRC for over a year to help alleviate the water problems experienced by the NRWS customers.⁴ In addition, nineteen customers filed a petition with Mr. Vincent asking that NUDRC begin proceedings to assume NRWS due to frequent outages, a lack of response time to customers, and failure to maintain the system.⁵ According to the Joint Petitioners, only by being allowed to intervene in this docket can the Joint Petitioners protect the legal rights of the citizens of Rhea County.⁶

LIMESTONE’S RESPONSE

On September 5, 2024, Limestone filed its *Response in Opposition to Petition to Intervene filed by Rhea County, Tennessee, and North Utility District of Rhea County* (“Limestone’s Response”). Limestone argues the Joint Petitioners’ *Petition to Intervene* should be denied because the Joint Petitioners cannot demonstrate a legal right or interest that will be determined in this

² *Id.* at 2.

³ *Id.* at 2-3.

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.* at 3.

proceeding.⁷ Limestone asserts the *Petition to Intervene* does not demonstrate a legal interest, while Limestone, on the other hand, has entered into an Agreement for sale of Utility System to provide service to Newport Resort.⁸ Limestone asserts the Commission has held in many dockets that Limestone has the technical, managerial, and financial ability to provide water and wastewater service to thousands of connections across the state.⁹ Therefore, Limestone maintains it is the appropriate provider for Newport Resort and has the “adequate know-how and resources” to address the mechanical issues with NRWS.¹⁰ According to Limestone, the Joint Petitioners have known since May 2022 that NRWS must be sold, but the record doesn’t indicate an attempt to purchase the system. In addition, Limestone states the Joint Petitioners and customers have been aware of Limestone’s Petition to acquire the system but did not try to intervene until after a settlement agreement was reached with the Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”).¹¹ Since Limestone also claims that if the Joint Petitioners were to disturb the fulfillment of the contract between Limestone and NRWS, it could amount to tortious interference with a contract.¹²

CONSUMER ADVOCATE’S STATEMENT

On September 23, 2024, the Consumer Advocate filed the *Consumer Advocate's Statement Regarding Limestone's Opposition to Petition to Intervene Filed by Rhea County and North Utility District of Rhea County* (“Consumer Advocate’s Statement”). The Consumer Advocate disputes Limestone’s assertion in *Limestone’s Response* that the Joint Petitioners have no legal right or

⁷ *Limestone’s Response*, p. 3 (September 5, 2024).

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² *Id.* at 3-4. Limestone’s claim that the Joint Petitioners’ interference with the fulfillment of the contract between Limestone and NRWS could amount to tortious interference is not properly before the Commission, and the Administrative Judge refrains from considering this argument.

interest that would be determined in this Commission proceeding.¹³ The Consumer Advocate asserts that in numerous dockets, the Commission has recognized the rights or interests of cities, counties, and utility districts participating in the dockets before the Commission.¹⁴ According to the Consumer Advocate, the Joint Petitioners have a clear interest in this docket and in safeguarding the utility services of their residents.¹⁵ Lastly, the Consumer Advocate notes that Limestone's threat of possible action against the Joint Petitioners for tortious interference with contract is troubling and should be rejected.¹⁶

Limestone filed its *Response to Consumer Advocate's Statement Regarding Limestone's Opposition to Petition to Intervene Filed by Rhea County, Tennessee, and North Utility District of Rhea County* ("Limestone's Response to Advocate") on September 24, 2024. Limestone asserts that NUDRC was not formed until after NRWS had already been granted a Certificate of Convenience and Necessity ("CCN") by the Commission.¹⁷ Therefore, Limestone maintains that the NRWS customers have never been in NUDRC's territory and "NUDRC has no CCN to serve Newport Resort's territory or customers. Therefore, the Petitioners have no territory or franchise, i.e., legal right, upon which Limestone could infringe."¹⁸ Limestone maintains the Joint Petitioners should not be allowed to intervene because they do not have a legal right given the facts of this docket, and it would impede the orderly conduct of the proceedings.¹⁹ According to Limestone, "the parties to this case have reached a settlement agreement, of which the Petitioners were aware for months before filing for intervention; therefore, balancing the request to intervene against the Petitioners' disruption of the orderly conduct of these proceedings, the Petition to Intervene should

¹³ *Consumer Advocate's Statement*, p. 1 (September 23, 2024).

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 2-3.

¹⁶ *Id.* at 3.

¹⁷ *Limestone's Response to Advocate*, p. 2 (September 24, 2024).

¹⁸ *Id.*

¹⁹ *Id.* at 3.

be denied.”²⁰

JOINT PETITIONERS’ SUPPLEMENTAL FILING

The Joint Petitioners filed its *Supplemental Pleading of Rhea County, Tennessee and North Utility District of Rhea County to Joint Petition to Intervene* (“*Supplemental Filing*”) on September 27, 2024. According to Rhea County, “since the filing of the Petition to Intervene, material events and transactions have occurred and events have happened such that NUDRC has become the sole provider of water service to all of Newport Resort Water System (“Newport”) customers in the Newport Resort territory.”²¹ According to Rhea County, around August 26, 2024 NRWS’s operator had to open NUDRC’s emergency tap to fill Newport’s tank to service its customers because Newport’s pump became inoperable after experiencing major electrical issues.²² In addition, the Joint Petitioners maintain that Newport’s operator has been manually filling Newport’s tank to serve all of NRWS’s customers, and the pump has not yet been repaired.²³ The Joint Petitioners also strongly dispute Limestone’s assertion that NUDRC has never served NRWS customers because they have been “providing water to Newport Resort area customers, particularly to Tradewinds Investment Properties for some time now.”²⁴ The Joint Petitioners argue that the cases cited by Limestone are distinguishable because those entities did not have the symbiotic relationship that NUDRC has with NRWS.²⁵ According to the Joint Petitioners, “NUDRC’s water tap is vital to the ongoing success of Newport, now and in the future and is so entwined with the day-to-day operations of Newport so as to be acting as one.”²⁶ The Joint Petitioners assert NUDRC would like to continue to be the sole water source for NRWS “at no additional expense or

²⁰ *Id.* at 5-6.

²¹ *Supplemental Filing*, p. 1 (September 27, 2024).

²² *Id.* at 1-2.

²³ *Id.* at 2.

²⁴ *Id.*

²⁵ *Id.* at 3.

²⁶ *Id.* at 4.

interruptions in service which would be of great benefit to the Newport customers and citizens of Rhea County, Tennessee.”²⁷

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 justice and shall not impair the orderly and prompt conduct of the proceedings.²⁸

The Administrative Judge finds that the determinations made in this docket will directly impact the NUDRC and the citizens of Rhea County. Further, the Administrative Judge finds that NUDRC plays a crucial role in providing water service to the customers of Newport. Therefore, upon due consideration, the Administrative Judge concludes that the legal rights, duties, privileges, immunities or other legal interest of the Joint Petitioners may be determined in this proceeding.

²⁷ *Id.*

²⁸ Tenn. Code Ann. § 4-5-310.

While the *Petition to Intervene* was filed late in the proceedings, the interests of the Joint Petitioners in participating in this docket outweighs any delay the intervention may cause. The Administrative Judge will require a very compressed procedural schedule and directs the parties to move this docket forward as quickly as possible. For the foregoing reasons, the Administrative Judge concludes that Joint Petitioners' *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Joint Application of Rhea County, Tennessee and North Utility District of Rhea County's Petition to Intervene* is granted. Rhea County, Tennessee and North Utility District of Rhea County 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