

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 30, 2024

IN RE:

COMPLAINT AND PETITION AGAINST OLD
HICKORY WATER, LLC FOR ALLEGED
VIOLATIONS OF THE STATUTES AND RULES
REGULATING CYBERSECURITY PLANS AND
REPORTING

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DOCKET NO.
24-00052

ORDER REQUIRING OLD HICKORY WATER, LLC TO APPEAR AND SHOW CAUSE
WHY IT SHOULD NOT BE FOUND LIABLE FOR VIOLATIONS OF TENN. CODE ANN.
§ 65-4-127

This matter is before the Administrative Judge of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Complaint and Petition to Convene a Show Cause Proceeding* (“*Petition*”) to determine whether a show cause order should be issued and sanctions imposed against Old Hickory Water, LLC (“OHW” or “Company”) for failing to submit documentation to the Commission concerning the Company’s compliance with the cyber security plan requirements established in Tenn. Code Ann. § 65-4-127. For this reason, the Commission Staff acting as a Party in this matter (“Party Staff”) has presented facts in its *Petition* setting forth the allegations against OHW. Based thereon, Party Staff requests the issuance of a show cause order requiring OHW to appear before the Commission and show cause why it should not be liable for violations of the cyber security plan requirements established in Tenn. Code Ann. § 65-4-127.

JURISDICTION

The Commission has a duty to ensure that “all laws of this state over which they have jurisdiction are enforced and obeyed, that violations thereof are promptly prosecuted, and all penalties

due the state are collected.”¹ Further, the Commission is specifically authorized to enforce the annual filing requirement of documentation concerning the cyber security plan of a public utility.² In addition, upon finding that a public utility has violated or failed to comply with regulatory requirements, the Commission is authorized to impose a civil penalty of up to “fifty dollars (\$50.00) for each day of any such violation or failure”³

RELEVANT FACTS

1. OHW is a Tennessee limited liability corporation duly authorized to do business in the state of Tennessee providing water and wastewater services to customers in accordance with a Certificate of Convenience and Necessity issued to the Company in Docket No. 12-00039.⁴

2. OHW was required to prepare and implement a cyber security plan by July 1, 2023. On July 1, 2024, OHW was required to submit documentation to the Commission demonstrating the Company’s compliance with the cyber security plan requirement.

3. OHW did not file documentation with the Commission on or before July 1, 2024, demonstrating the Company’s compliance with the cyber security plan requirement.

4. Commission Staff contacted a representative of IRM via telephone and discussed the cyber security filing requirements. However, the Company did not subsequently file cyber security documentation as required.

RELEVANT PROVISIONS OF LAW

Tenn. Code Ann. § 65-4-127(b) provides:

¹ Tenn. Code Ann. § 65-1-113 (2022).

² Tenn. Code Ann. § 65-4-127(e) (2022).

³ Tenn. Code Ann. § 65-4-120 (2022).

⁴ *In re: Petition of Old Hickory Water, LLC for a Certificate of Convenience and Necessity*, Docket No. 12-00039, *Order Granting CCN and Approving Motion for Alternative Security* (July 3, 2013).

(1) By July 1, 2023, or within one (1) year after a utility is formed, whichever is later, a utility shall prepare and implement a cyber security plan to provide for the protection of the utility's facilities from unauthorized use, alteration, ransom, or destruction of the electronic data. The utility shall annually submit documentation of the utility's compliance with this section to the commission by July 1.

(2) The documentation required by this section must be made in writing and under oath by the chief executive officer, president, or other person with an equivalent role of the utility.

In addition, Commission Rule 1220-04-15-.04 establishes the information required to satisfy the annual filing requirement. At a minimum, the annual requirement is required to include: contact information for the employee responsible for cyber security; a statement on whether the utility conducts annual cyber security training; a statement on whether the utility has procured cyber security insurance; and a sworn statement confirming that a cyber security plan has been prepared and implemented, whether such plan has been prepared or updated within the last two (2) years, and that all documentation and information is current and accurate.⁵

ALLEGED VIOLATIONS OF STATE LAW

The following facts alleged in Paragraphs 1 through 4 of the *Petition* constitute a violation of state law:

A. OHW failed to file documentation with the Commission on or before July 1, 2024, demonstrating the Company's compliance with the cyber security plan requirement.

Tenn. Code Ann. § 65-4-127(b) provides in:

(1) By July 1, 2023, or within one (1) year after a utility is formed, whichever is later, a utility shall prepare and implement a cyber security plan to provide for the protection of the utility's facilities from unauthorized use, alteration, ransom, or destruction of the electronic data. The utility shall annually submit documentation of the utility's compliance with this section to the commission by July 1.

⁵ Tenn. Comp. R. & Regs. 1220-04-15-.04.

(2) The documentation required by this section must be made in writing and under oath by the chief executive officer, president, or other person with an equivalent role of the utility.

BASED UPON THE FOREGOING INFORMATION, as presented in the *Petition* filed in the docket file, the Administrative Judge hereby determines that OHW should be required to appear and show cause why it should not be found in violation of state law and why the Commission should not immediately impose civil penalties and sanctions to the maximum extent allowed by law.

BE IT THEREFORE ORDERED THAT:

Old Hickory Water, LLC is hereby ordered and shall appear before the Tennessee Public Utility Commission during the regularly scheduled Commission Conference to be held on **September 9, 2024, at 10:00 a.m. (central)** to show cause why the Commission should not proceed to take action against Old Hickory Water, LLC for the unlawful actions and omissions alleged in the *Complaint and Petition to Convene a Show Cause Proceeding*.

The Commission Conference will commence promptly, as noted above, in **Hearing Room G.201**, located on the ground floor of the **Andrew Jackson State Office Building, 502 Deaderick Street, Nashville, Tennessee**. Participants with disabilities who require special accommodations or alternate communications formats should contact the Tennessee Public Utility Commission ADA-EEO/AA Coordinator/Officer at 502 Deaderick Street, 4th Floor, Nashville, Tennessee 37243-0505, 1-800-342-8359 or TDD (615) 741-3930, so that reasonable accommodations can be made.


Monica Smith-Ashford, Administrative Judge