

IN THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 15, 2024

IN RE:

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

)
)
)
)
)
)

DOCKET NO.
24-00052

ORDER ON MOTION TO DISMISS SHOW CAUSE ORDER

This matter came before Chairman David F. Jones, Commissioner Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner Clay R. Good, and Commissioner David Crowell of the Tennessee Public Utility Commission, (“TPUC” or “Commission”), the panel assigned to this docket, during a hearing held on September 9, 2024 for consideration of the *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* (“*Show Cause Order*”) entered by the Commission on August 30, 2024. In its *Show Cause Order*, the Commission, through its Administrative Judge, ordered Old Hickory Water, LLC (“OHW”) “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.”¹

BACKGROUND

OHW is a Tennessee limited liability company that is subject to the jurisdiction of the Commission. OHW holds a Certificate of Public Convenience and Necessity (“CCN”) to provide wastewater services within designated service areas in the state of Tennessee.

¹ *Show Cause Order*, p. 4 (August 30, 2024).

On or about August 26, 2024, Commission Staff designated as a party (“Party Staff”) filed a *Complaint and Petition to Convene a Show Cause Proceeding* (“*Complaint*”). In its *Complaint*, Party Staff presented evidence that OHW was required by Tenn. Code Ann. § 65-4-127 to submit a filing indicating compliance with cybersecurity plan requirements to the Commission on or before July 1, 2024. Further, the *Complaint* alleges that OHW failed to submit a cybersecurity plan compliance filing to the Commission as required by statute.² The *Complaint* is supported by the Pre-Filed Direct Testimony of Jerry Kettles, Director of Economic Analysis for the Commission, who is the repositor for cybersecurity plan filings. Mr. Kettles testifies that he attempted to make contact with a representative of OHW about the cybersecurity plan filing but did not receive a compliant cybersecurity plan filing in response to his contact.³ Based upon a review of the evidence provided in the *Complaint* and the Pre-Filed Testimony, the Administrative Judge issued the *Show Cause Order* requiring OHW to appear and show cause why it should not be found in violation of the legal requirement and subject to penalties.⁴

Subsequent to the issuance of the *Show Cause Order*, IRM contacted Party Staff concerning Party Staff concerning the *Complaint*. As a result of discussions with Party Staff, IRM submitted documentation that satisfies the annual cybersecurity plan requirement for 2024. Party Staff filed a *Notice of Compliance* on September 5, 2024, that indicates that “Commission Staff has reviewed the documentation and determined that the documentation fully complies with the requirements of such documentation established in Tenn. Code Ann. § 65-4-127(b) and TPUC Rule 1220-04-15-.04.”⁵

² *Complaint*, p. 2 (August 26, 2024).

³ Jerry Kettles, Pre-Filed Direct Testimony, p. 2 (August 30, 2024).

⁴ *Show Cause Order*, p. 4 (August 30, 2024).

⁵ *Notice of Compliance*, p. 2 (September 5, 2024).

THE HEARING

A Hearing in this matter was held before the panel of Commissioners during the regularly scheduled Conference held on September 9, 2024, as noticed by the Commission on August 30, 2024. Participating in the Hearing was Aaron J. Conklin, Counsel for Party Staff. During the Hearing, Mr. Conklin stated that OHW had submitted a compliant cybersecurity filing and presented an oral motion to dismiss the *Show Cause Order*.

FINDINGS AND CONCLUSIONS

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

- (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, the Commission promulgated TPUC Rule 1220-04-15-.04 which 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 cybersecurity; a statement on whether the utility conducts annual cybersecurity training; a statement on whether the utility has procured cybersecurity insurance; and a sworn statement confirming that a cybersecurity 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.⁶

The panel found that OHW submitted a cybersecurity plan prior to scheduled hearing on the *Show Cause Order* that was deemed satisfactorily compliant by Party Staff. The panel found that

⁶ Tenn. Comp. R. & Regs. 1220-04-15-.04.

Party Staff's oral motion to dismiss the *Show Cause Order* was well taken. Therefore, the panel voted unanimously to grant the motion to dismiss the *Show Cause Order*.

IT IS THEREFORE ORDERED THAT:

1. The motion of Party Staff to dismiss the *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* is granted and this docket is closed.

2. Any person(s) aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

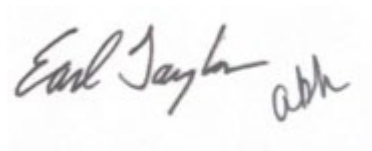
3. Any person(s) aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman David F. Jones,
Commissioner Herbert H. Hilliard
Commissioner Robin L. Morrison,
Commissioner Clay R. Good, and
Commissioner David Crowell concurring.**

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish or initials "abh" at the end.

Earl R. Taylor, Executive Director