

IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE: )  
)  
COMPLAINT AND PETITION OF THE )  
CONSUMER ADVOCATE DIVISION ) Docket No. 25-00048  
IN THE OFFICE OF THE ATTORNEY )  
GENERAL AGAINST TELLICO VILLAGE )  
PROPERTY OWNERS ASSOCIATION, INC. )

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JOINT PROPOSED LIST OF ISSUES

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Pursuant to the Administrative Judge’s request of December 4, 2025, the Consumer Advocate Division of the Office of the Attorney General (“Consumer Advocate”) and the Tellico Village Property Owner’s Association, Inc. (“TVPOA”), through counsel, respectfully submit the following agreed upon preliminary Joint Proposed List of Issues in this Docket No. 25-00048.

**PART I. Threshold Issue.**

1. Does the Tennessee Public Utility Commission (“TPUC” or the “Commission”) decide to proceed with issuance of a show cause order and initiation of a contested case in order to determine its statutory authority to regulate TVPOA?

**PART II. Only if yes to Part I.**

1. Tenn. Code Ann § 65-4-101(6)(A). “Public Utility” defined.
  - a. Does TVPOA fall within the definition of a “public utility” as set out in Tenn. Code Ann §. 65-4-101(6)(A)?
  - b. Does TVPOA fall within the listed “non-utilities” set as out in Tenn. Code Ann § 65-4-101(6)(A)(i)-(ix)?
2. Tenn. Code Ann § 65-4-101(6)(B)(i). Homeowners Association (“HOA”) exemption from TPUC regulatory oversight.
  - a. Is TVPOA a nonprofit homeowners association?
  - b. Is TVPOA a nonprofit organization?

- c. Is TVPOA's membership limited to owners of lots?
  - d. Is TVPOA's membership limited to lot owners in a residential subdivision?
    - i. Is Tellico Village a "residential subdivision"?
    - ii. Does the inclusion of a de minimis number of commercial lots in a subdivision consisting almost entirely of residential lots alter its designation as a "residential subdivision" under this section?
  - e. Does TVPOA own, construct, operate or maintain water, street light or park maintenance service systems for the exclusive use of that subdivision?
  - f. Is TVPOA unable to obtain services from the local utility district(s)?
3. Tenn. Code Ann § 65-4-101(6)(B)(ii). Nonprofit corporation exemption from TPUC jurisdiction, supervision or control (effective June 2, 2011).
- a. Is TVPOA a nonprofit corporation as defined in § 501(c)(4) of the Internal Revenue Code (26 U.S.C. § 501(c)(4))?
  - b. Does TVPOA own and operate a wastewater system?
  - c. Does TVPOA own and operate a wastewater system primarily for the use of the members of the nonprofit corporation?
  - d. Does TVPOA have a written statement of exemption from regulation as a public utility from the Commission prior to January 1, 2009?
    - i. Did the amendment of Tenn. Code Ann § 65-4-101(6)(E), establishing additional requirements for exemption from TPUC regulation in Tenn. Code Ann § 65-4-101(6)(B)(ii) (effective June 2, 2011), apply retroactively to TVPOA?
4. Tenn. Code Ann § 65-4-101(6)(E). Nonprofit corporation exemption from TPUC jurisdiction, supervision or control (effective from 1934 to June 1, 2011).
- a. Was TVPOA exempt from TPUC regulation as a nonprofit corporation under the terms of Tenn. Code Ann § 65-4-101(6)(E) at TVPOA's inception in 1985?
  - b. Did Tenn. Code Ann § 65-4-101(6)(E), in effect at TVPOA's inception in 1985, confer a vested right to TVPOA for exemption from TPUC regulation which cannot be retroactively removed?
5. Affirmative Defenses Raised by TVPOA.
- a. Does the Commission's decision not to regulate TVPOA at any time since 1985 evidence the Commission's interpretation of its statutory authority?
  - b. Do the Commission's decisions not to regulate other similarly situated nonprofit homeowners associations and nonprofit corporations evidence the

Commission's interpretation of its statutory authority?

- c. If the Commission seeks to exert regulatory oversight over TVPOA in this action, is it barred from exercising regulatory authority due to waiver, laches, and/or estoppel?
- d. If the Commission seeks to exert regulatory oversight over TVPOA in this action, is it barred from exercising regulatory authority due to the doctrine of "unclean hands", to the extent that TVPOA has relied upon statutory exemptions set out in Tenn. Code Ann §§ 65-4-101(6)(B)(i)-(ii) and 65-4-101(6)(E)?
- e. If the Commission seeks to exert regulatory oversight of TVPOA in this action, is it barred from exercising regulatory authority due to the applicable statutes of limitation and/or repose?

**JOINTLY SUBMITTED FOR ENTRY:**

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