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October 1, 2025

VIA ELECTRONIC AND U.S. MAIL:

Electronically Filed in TPUC Docket
Room on October 1, 2025 at 3:11 p.m.

Ectory Lawless, Docket Room Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243
TPUC.DocketRoom@tn.gov

**Re: *Integrated Resource Management, Inc.'s Response to the Consumer Advocate
Division's Petition to Intervene in TPUC Docket No. 25-00072.***

Dear Ms. Lawless:

Please find enclosed Integrated Resource Management, Inc.'s Response to the Consumer Advocate Division's Petition to Intervene in TPUC Docket No. 25-00072.

As required, an original and four copies of this filing will be sent via U.S. Mail. Please contact me if you have any questions concerning this filing or require additional information.

Sincerely,

PHELPS DUNBAR LLP



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**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)
)
PETITION OF INTEGRATED)
RESOURCEMANAGEMENT, INC.)
TO ADOPT AN ALTERNATIVE)
REGULATORY MECHANISM)
PURSUANT TO TENN. CODE ANN.)
§ 65-5-103(d)(7))

**INTEGRATED RESOURCE MANAGEMENT, INC.’S RESPONSE IN OPPOSITION TO
THE CONSUMER ADVOCATE DIVISION’S PETITION TO INTERVENE**

Integrated Resource Management, Inc., d/b/a IRM Utility (“IRM”), by and through counsel, hereby submits its Response in Opposition to the Consumer Advocate Division’s (“CAD”) Petition to Intervene, and pursuant to Tennessee Code Annotated (“TCA”) §§ 4-5-310(a) and 65-4-118, requests an Order denying the CAD’s petition as granting it would impair the interests of justice and the orderly and prompt resolution of this proceeding without offering measurable benefits or accountability. Alternatively, IRM requests an Order barring the CAD’s intervention based upon collateral estoppel. Should the petition to intervene be granted, IRM requests an Order limiting the scope of the CAD’s participation pursuant to TCA § 4-5-310(c).

In support of the foregoing, IRM states as follows:

I. BACKGROUND.

1. IRM provides wastewater services to approximately 273 customers in designated service territories in East Tennessee.¹ IRM is regulated by the Tennessee Public Utility Commission (the “Commission” or “TPUC”) pursuant to TCA Title 65, Chapter 4, and is a “Public Utility” within the meaning of such term as utilized in TCA § 65-5-103(d)(7).²

¹ *Petition of Integrated Resource Management, Inc. to Adopt an Alternative Regulatory Mechanism Pursuant to Tenn. Code Ann. § 65-5-103(d)(7)*, p. 1, ¶ 1, TPUC Docket No. 25-00072 (Sept. 3, 2025).

² *Id.* ¶ 2.

2. In 2004, the Commission approved IRM’s initial tariff, establishing a monthly base charge of \$35.11.³ That rate remained effective until 2016, when the Commission increased it to \$58.11.⁴ Inflation rendered the 2016 rate insufficient to recover operating expenses and yield a fair and reasonable net income, resulting in a financial shortfall.⁵ IRM delayed pursuing a rate case due to the burdens associated with such a proceeding for a small utility.⁶

3. In December of 2024, IRM initiated a rate case in TPUC Docket 24-00073, wherein the Commission increased IRM’s base rate from \$58.11 to \$74.96.⁷ Despite IRM’s rates remaining consistent for nearly a decade, customers protested.⁸

4. IRM now seeks to implement an ARM to alleviate the burdens associated with bringing more frequent rate cases, prevent financial shortfall due to inflation, and benefit customers by ensuring modest, gradual, and manageable rate adjustments.

II. INITIATION OF TPUC DOCKET 25-00072.

5. On September 3, 2025, IRM filed its Petition to Adopt an Alternative Regulatory Mechanism Pursuant to TCA § 65-5-103(d)(7) (the “Petition”), seeking to adopt an Alternative Regulatory Mechanism (“ARM”) that mirrors an ARM considered and approved by the Commission in TPUC Docket No. 23-00069 (the “Superior Docket”).⁹

6. As detailed in IRM’s Petition, the proposed ARM adjusts base rates to reflect both increases and decreases in the Gross Domestic Product Implicit Price Deflator (GDP-IPD). The

³ *Direct Testimony of Jeffrey Cox*, p. 6, Q7/A7, TPUC Docket No. 25-00072 (Sept. 3, 2025).

⁴ *Id.* at p. 7.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ See TPUC Docket No. 24-00074 for the public comments submitted by the following IRM customers: Mark Kirshe, Beverly Ahn, David and Sheryl Lambdin, Michael Albury, Jeffrey Schmidt, and Laura Earl.

⁹ See *Petition of Superior Wastewater Systems, LLC to Adopt an Alternative Regulatory Mechanism Pursuant to Tenn. Code Ann. § 65-5-103 (D)(7)*, TPUC Docket No. 23-00069 (Sept. 11, 2023).

Commission has already concluded that this ARM promotes public interest.¹⁰

7. Despite the Commission's endorsement and approval of this ARM in the Superior Docket, the CAD filed a petition to intervene on September 24, 2025,¹¹ stating: "[the] interests of consumers . . . may be affected 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)(7) and other relevant statutory and regulatory provisions; and (2) the review and analysis of the supporting schedules and other documentation . . . provided by the Company."¹²

III. ARGUMENT.

A. Pursuant to TCA § 4-5-310(a)(3), the CAD's Petition to Intervene should be denied as granting it would impair the interests of justice and the orderly and prompt resolution of this proceeding without offering measurable benefits or accountability.

8. Pursuant to TCA § 65-4-118, the CAD may be permitted to participate or intervene in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, and the rules of the Commission. TPUC Rule 1220-01-02-.08 provides that petitions to intervene shall be granted in accordance with TCA § 4-5-310.¹³

9. Under TCA § 4-5-310(a), a petition to intervene shall be granted 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 law; and
- (3) The administrative judge or hearing officer determines that the interests of

¹⁰ See *Order Approving Initial Annual Rate Review Mechanism for Superior Wastewater Systems LLC*, TPUC Docket No. 23-00069 (March 4, 2025).

¹¹ See *Petition to Intervene*, Consumer Advocate Division of the Tennessee Attorney General's Office, TPUC Docket 25-00072 (Sept. 24, 2025).

¹² *Id.* at p. 2, ¶ 6 (modified).

¹³ Tenn. Comp. R. & Reg. 1220-01-02-.08.

justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

10. IRM contends that the CAD has not satisfied TCA § 4-5-310(a)(3) and TPUC Rule 1220-01-02-.08(1).

11. The ARM proposed by IRM mirrors the ARM in the Superior Docket.¹⁴ The CAD, while not endorsing this ARM, opined that subject to the following conditions, this ARM is appropriate for a small utility (notably, the utility in the Superior Docket is larger than IRM¹⁵):

- (1) The utility must include its annual report in its annual ARM filing;
- (2) The utility must identify the amount of payroll charged to (a) capital projects and (b) operating and maintenance expenses;
- (3) The utility must provide supporting documentation of the GDP-IPD rate;
- (4) The utility must identify changes to the GDP-IPD data after the annual ARM filing and incorporate any such changes into the subsequent filing;
- (5) The ARM is limited to five years, after which it will be re-evaluated;
- (6) The utility must demonstrate extraordinary circumstances that justify terminating the ARM if it pursues a rate case within the initial five years;
- (7) (This condition was specific to the Superior Docket and does not apply);
- (8) Adjustments must reflect both increases and decreases in GDP-IPD; and
- (9) The ARM must be non-transferable.¹⁶

12. After fully considering the arguments of both parties in the Superior Docket, the

¹⁴ See *Petition of Superior Wastewater Systems, LLC to Adopt an Alternative Regulatory Mechanism Pursuant to Tenn. Code Ann. § 65-5-103 (D)(7)*, TPUC Docket No. 23-00069 (Sept. 11, 2023).

¹⁵ Compare *Petition of Superior Wastewater Systems, LLC to Adopt an Alternative Regulatory Mechanism Pursuant to Tenn. Code Ann. § 65-5-103 (D)(7)*, p. 1, ¶ 1, TPUC Docket No. 23-00069 (Sept. 11, 2023); with *Petition of Integrated Resource Management, Inc. to Adopt an Alternative Regulatory Mechanism Pursuant to Tennessee Code Annotated § 65-5-103 (d)(7)*, p. 1, ¶ 1, TPUC Docket No. 25-00072 (Sept. 3, 2025).

¹⁶ *Direct Testimony of David N. Dittmore*, 8:8-33, 9:1-4, TPUC Docket No. 23-00069 (Nov. 1, 2023).

Commission *unconditionally* approved the adoption of this ARM.¹⁷ In declining to adopt the CAD’s proposed conditions, the Commission’s Order stated that they would only “complicate the mechanism without providing measurable benefits or increased accountability.”¹⁸

13. Further, the Commission acknowledged that this ARM promotes public interest by (1) providing the utility with a better opportunity to recover expenses, increasing reliability of service; (2) providing opportunity for continued annual review by the Commission; and (3) mitigating the need for more frequent rate cases, reducing administrative and legal expenses.¹⁹

14. Granting the CAD’s petition would delay the adoption of an ARM already deemed beneficial to the interests of justice. It would also disrupt the orderly and prompt resolution of this docket, potentially prolonging it for months to enable the exchange of data requests, testimony, and other filings. Moreover, granting the CAD’s petition would impair judicial economy, resulting in unnecessary administrative and legal expenses to IRM.

15. These burdens produce no corresponding benefits. The Commission has already approved this ARM and there is no indication that the Commission will decide otherwise now.

B. The CAD should be collaterally estopped from intervening as this ARM has already been approved notwithstanding the CAD’s full and fair opportunity to litigate it.

16. Collateral estoppel is an issue preclusion doctrine promoting finality, conserving judicial resources, and preventing inconsistent decisions.²⁰ To establish a claim of collateral estoppel, “a party must establish: (1) that the issue . . . is identical to an issue decided in an earlier proceeding, (2) that the issue . . . was actually raised, litigated, and decided on the merits in the earlier proceeding, (3) that the judgment in the earlier proceeding has become final, (4) that the

¹⁷ *Order Approving Initial Annual Rate Review Mechanism for Superior Wastewater Systems LLC*, pp. 9-10, TPUC Docket No. 23-00069 (March 4, 2025).

¹⁸ *Id.* at p. 10.

¹⁹ *Id.*

²⁰ *Bowen v. Arnold*, 502 S.W.3d 102, 107 (Tenn. 2016).

party against whom collateral estoppel is asserted was a party . . . to the earlier proceeding, and (5) that the party against whom collateral estoppel is asserted had a full and fair opportunity . . . to contest the issue”²¹

17. Each of these elements is satisfied:

- (1) This docket proposes the exact ARM contested in the Superior Docket;
- (2) The CAD actually raised and litigated the ARM in the Superior Docket, and the Commission approved the ARM on its merits;
- (3) The Commission’s Order approving the ARM is final;
- (4) The CAD was a party in the Superior Docket; and
- (5) The CAD had a full and fair opportunity in the Superior Docket to contest this ARM—it hired an expert to analyze the ARM and presented testimony, received rebuttal testimony from the utility, and was a participant in a hearing before the Commission.

18. Therefore, IRM contends that the CAD is collaterally estopped from intervening.

C. Alternatively, if the CAD’s petition to intervene is granted, then based upon the provision of TCA § 4-5-310(c), IRM requests an Order limiting the scope of the CAD’s participation in this docket.

19. Under TCA § 4-5-310(c) a petition to intervene may be granted outright, or subject to the following conditions:

- (1) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
- (2) Limiting the intervenor's use of discovery, cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and
- (3) Requiring two (2) or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery and other

²¹ *Id.*

participation in the proceedings.²²

20. In accordance with TCA § 4-5-310(c)(1), IRM maintains that should the CAD's petition to intervene be granted, its participation should be limited to those issues not considered and resolved in the Superior Docket.²³ At minimum, IRM argues that the CAD should be precluded from presenting testimony, requesting information, or otherwise advancing any argument relating to the nine conditions it sought to impose in the Superior Docket.

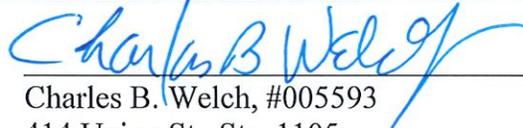
IV. CONCLUSION.

21. In conclusion, IRM requests an Order denying the CAD's petition as granting it would impair the interests of justice and the orderly and prompt resolution of this proceeding without offering measurable benefits or accountability. Alternatively, IRM requests an Order barring the CAD's intervention based upon collateral estoppel. Should the petition to intervene be granted, IRM requests an Order pursuant to TCA § 4-5-310(c) limiting the scope of the CAD's participation to those matters not considered and resolved in TPUC Docket No. 23-00069.

THEREFORE, Integrated Resource Management, Inc. requests that the Consumer Advocate Division's Petition to Intervene be denied, or in the alternative, limited in scope.

Respectfully submitted,

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²² Tenn. Code Ann. § 4-5-310(c)(1)-(3).

²³ *Id.* §310(c)(1).

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was served electronically and/or by United States Mail, First Class, postage prepaid, to the following:

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Dated: October 1, 2025.



Charles B. Welch