



those contemplated by the Tennessee Rules of Civil Procedure, TPUC Rules, and Tennessee law.

- C. The Consumer Advocate objects to each of the Company's requests to the extent that each purports to call for information and/or documents prepared in anticipation of litigation, and/or information and/or documents protected by the attorney-client privilege, the work product doctrine, the common-interest doctrine, or any other applicable protection or privilege.
- D. The Consumer Advocate objects to each of the Company's requests to the extent that they are not applicable in the context of a proceeding before the TPUC, cite an incorrect legal conclusion, or mischaracterize or improperly summarize statements made by the Consumer Advocate's expert witnesses in their pre-filed direct testimonies.
- E. By providing the objections contained herein, the Consumer Advocate does not waive or intend to waive, but rather, intends to preserve, all objections with regard to competence, relevance, materiality, and admissibility of the discovery information or documents in any subsequent proceeding on the related subject matter. Moreover, the Consumer Advocate intends by this set of responses to preserve all objections to vagueness, ambiguity, and undue burden in connection with requests to produce documents, including those that are not in the Consumer Advocate's possession, custody, or control.
- F. The responses made herein are made to the best of Consumer Advocate's present knowledge after a reasonably diligent search for responsive information. The Consumer Advocate will supplement its responses in line with the requirements of the Tennessee Rules of Civil Procedure as well as TPUC Rules and expressly reserves its right to supplement or amend its answers, if and as appropriate, including with respect to objections that may arise at a later time than this filing.

Without waiving these General Objections as they apply to each individual request, the Consumer Advocate presents the following responses:

### **RESPONSES TO IRM'S DISCOVERY REQUESTS**

**1-1. State whether the Consumer Advocate Division is familiar with and has reviewed the petition, testimony, order, and other filings in the Superior Docket.**

**RESPONSE:**

The Consumer Advocate was a party in the Superior ARM docket (TPUC Docket No. 23-00069).

**1-2. Describe how the ARM proposed in this Docket differs from the ARM that was proposed and approved in the Superior Docket.**

**RESPONSE:**

The Consumer Advocate has not made a point-by-point comparison of the two ARMs and objects to IRM's demand to do so on the grounds that it is over burdensome and would require the Consumer Advocate to do legal research for IRM.

**1-3. Referring to Q9/A9 of the Direct Testimony of David Dittmore in the Superior Docket: State whether the Consumer Advocate Division now rejects the position submitted by Mr. Dittmore on behalf of the Consumer Advocate Division that the adoption of the GDP-IPD as an inflation index is appropriate for a small utility.<sup>1</sup> If so, why?**

**RESPONSE:**

The Consumer Advocate objects to this request on the grounds that the question is vague and as such it cannot provide proper response. It is unclear whether the Petitioner seeks the Consumer Advocate to answer if it rejects the position of a past docket in relation to that docket or if it is now asked to reject a position taken in a different docket as applied to this docket.

**1-4. Describe whether the Consumer Advocate Division's objections to the ARM in the Superior Docket differ from its objections to the ARM in the present Docket. If so, explain how.**

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<sup>1</sup> See *Direct Testimony of David N. Dittmore* at 4:5-10, TPUC Docket No. 23-00069 (Nov. 1, 2023).

**RESPONSE:**

See Response to DR 1-2.

**1-5. Confirm that the Consumer Advocate Division had a full and fair opportunity to litigate its objections to the ARM in the Superior Docket.**

**RESPONSE:**

The Consumer Advocate objects to this request on the grounds that the question calls for pure legal conclusion. By this request, the Petitioner seeks the Consumer Advocate to state whether it has met a legal standard of “full and fair opportunity,” which is ultimately a pure question of law that ascertains no additional facts relevant to the discoverability or production of potentially admissible evidence as discussed in the advisory comments to FRCP 33 and through well-established case law.<sup>2</sup> As a pure question of law, this request is only appropriate for the Commission to make. To answer such a request would be to supplant the determinations of the Commission for the Consumer Advocate’s own opinions.

**1-6. Confirm that the Commission had a full and fair opportunity to consider the Consumer Advocate Division’s objections to the ARM in the Superior Docket.**

**REPSONSE:**

The Consumer Advocate objects to this request on the grounds that the question calls for speculation, legal conclusion, and is not based on personal knowledge of the Consumer Advocate. By this request, the petitioner seeks the Consumer Advocate to state whether the Commission has

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<sup>2</sup> “Interrogatories involving fact and law are permitted, [whereas] those asking solely about questions of law are prohibited.” *Glowgower v. Bybee-Fields*, No. 3:21-CV-00012-EBA, 2022 WL 4042412, at \*3 (E.D. Ky. Sept. 2, 2022).

met a legal standard, which is ultimately a pure question of law that would be meant for a reviewing court and which ascertains no additional facts relevant to the discoverability or production of potentially admissible evidence as discussed in the advisory comments to FRCP 33 and well-established case law.<sup>3</sup> As a pure question of law, this request is only appropriate for the Commission to make. The petitioner makes no effort to assert that there is any factual basis to the question and merely asks the Consumer Advocate’s opinion on a legal standard. To answer such a request would call for speculation by the Consumer Advocate as to the Commission’s deliberative decision-making process in determining what, if at all, was objectionable. The Consumer Advocate declines to partake in this speculation on grounds that it neither has personal knowledge of the Commission’s deliberative process and because it is beyond the appropriate statutory duty of the Consumer Advocate to frivolously hypothesize what a reviewing court might think of the Commission’s considerations of objections outside the appellate process.

**1-7. Does the Consumer Advocate Division agree that the proposed ARM in this Docket would provide for gradual rate increases or decreases tied to a general inflation rate, representing a proxy for actual costs incurred by IRM in operating its system? If not, please provide an explanation.**

**RESPONSE:**

This question asks the Consumer Advocate to agree to IRM’s description of the ARM proposal and speculation. IRM’s proposal speaks for itself. The proposal would provide for annual

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<sup>3</sup> “Interrogatories involving fact and law are permitted, [whereas] those asking solely about questions of law are prohibited.” *Glowgower v. Bybee-Fields*, No. 3:21-CV-00012-EBA, 2022 WL 4042412, at \*3 (E.D. Ky. Sept. 2, 2022).

increases. To the extent that they are gradual is subject to definition, dependent on future inflation rates, and comparison of the results of an alternative. Currently, neither is known.

**1-8. Does the Consumer Advocate Division contend that approval of this ARM would limit the Commission’s ability to monitor, modify, or otherwise terminate the ARM? If so, please provide an explanation.**

**RESPONSE:**

The Consumer Advocate does not question the Commission’s ability to terminate an ARM providing the Commission follows Tennessee law.

**1-9. Does the Consumer Advocate Division agree that an increase in inflation generally results in increased operating costs? If not, please provide an explanation.**

**RESPONSE:**

No. Inflation is a generic term. Inflation does not cause changes in prices or cost. Rather, it is a reflection (or measure) of the change in prices or cost.

**1-10. Referring to the nine conditions listed in A25 of the Direct Testimony of Clark Kaml in this Docket:<sup>4</sup> Confirm or deny that the Commission, in its Order approving the ARM in the Superior Docket, explicitly rejected the application of these nine conditions, stating that their adoption would only serve to complicate the mechanism without providing any measurable benefit or increased accountability.<sup>5</sup> If denied, please explain.**

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<sup>4</sup> *Direct Testimony of Clark Kaml* at 10:11-28, 11:1-9, TPUC Docket No. 25-00072 (Oct. 30, 2025).

<sup>5</sup> *See Order Approving Initial Annual Rate Review Mechanism for Superior Wastewater Systems, LLC*, at 9-10 TPUC Docket No. 23-00069 (March 4, 2025).

**RESPONSE:**

The Commission's Order speaks for itself.

**1-11. Describe how the conditions listed in A25 of Clark Kaml's testimony in this Docket would provide measurable benefits or increased accountability to justify the complications to the mechanism that would result from their application.**

**RESPONSE:**

The Testimony of Clark Kaml addresses this issue starting on page 11, as well as generally being the main point of his testimony.

**1-12. Referring to Q28/A28 of the Direct Testimony of Clark Kaml's in this Docket: Confirm that IRM's payroll information is included in its annual reports.**

**RESPONSE:**

This question does not go to the Q28/A28 that requests specific payroll information identified in Q28 "payroll charges to the company's capital expenditures and operating expenses". Q28/A28 discusses the importance of having the annual report included as part of an annual ARM filing.

**1-13. Does the Consumer Advocate Division agree that IRM is a small public wastewater utility?**

**RESPONSE:**

The Consumer Advocate agrees that IRM is a small public wastewater utility.

**1-14. State any and all reasons why the Commission should treat the Petitioner in this Docket any different than in its Order approving the ARM petition in the Superior Docket.**

**RESPONSE:**

The reasons are set forth in the Testimony of Clark Kaml in this Docket on pages 4-15.

**1-15. Does the Consumer Advocate Division agree that the ARM proposed in this Docket would permit more timely review and revision of rates, streamline the regulatory process, and reduce the cost and time associated with the ratemaking process? If not, please provide an explanation.**

**RESPONSE:**

The Testimony of Clark Kaml explains why the ARM proposed by IRM is flawed and would not properly do the things referred to in this question. The CAD does not believe the proposed ARM will do the things listed in the question without the conditions in the Testimony of Clark Kaml.

**1-16. Referring to Q12/A12 of the Direct Testimony of Clark Kaml in this Docket: Can the National Regulatory Research Institute (“NRRI”) report cited and included as Exhibit CDK-1, which was published over eleven years ago, still be relied upon as accurate for purposes of this proceeding?**

**RESPONSE:**

Yes, the NRRI report is still reliable for the purposes referred to by Mr. Kaml. In an industry that relies on the regulatory compact seminal decisions from almost a century ago, 11 years is a small fraction of the time in which utilities regulation changes. As such, it is a recent and on point reference.

**1-17. Referring to the statement contained in Q12/A12 of the Direct Testimony of Clark Kaml in this Docket that “alternative regulation methods often shift utility performance risk to taxpayers”:<sup>6</sup> Does this statement apply to the ARM proposed *in this docket*, or rather, to alternative regulation methods generally? If applicable to the ARM in this docket, please explain how.**

**RESPONSE:**

Mr. Kaml’s statement was made for purposes of this Docket and the explanation is in the testimony. The Consumer Advocate objects to this request to determine whether it applies to unnamed dockets on the grounds that the question is vague and over-burdensome. Alternative regulation can create a risk generally which necessitates that it is a risk in this Docket too.

**1-18. Referring to the statement contained in Q12/A12 of the Direct Testimony of Clark Kaml in this Docket that “benefits to ratepayers only result if two conditions exist: (1) operating efficiencies result from the alternative methods through operating or capital efficiencies, and (2) that the efficiencies are captured for customers”:<sup>7</sup>**

- a. Does this statement apply to the ARM proposed *in this docket*, or rather, to alternative regulation methods generally? If applicable to the ARM in this docket, please explain how.**
- b. Does the Consumer Advocate Division agree that a mechanism which provides for gradual rate changes increases predictability for customers? If not, please provide an explanation.**
- c. Does the Consumer Advocate Division agree that increased predictability is a benefit to customers? If not, please provide an explanation.**
- d. Does the Consumer Advocate Division agree that reducing the regulatory costs ultimately distributed across a utility’s customer base constitutes a benefit to customers of that utility? If not, please provide an explanation.**

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<sup>6</sup> *Direct Testimony of Clark Kaml* at 4:18-19, TPUC Docket No. 25-00072 (Oct. 30, 2025).

<sup>7</sup> *Id.* at 4:19-21, 5:1.

**RESPONSE:**

- a. Same answer as 1-17 above.
- b. The Consumer Advocate does not agree that “gradual” is the same as “predictable.” A mechanism based on an index is uncontrollable unlike a rate case and normal increases tied to actual expenses.
- c. No. The Consumer Advocate does not agree that predictability of rates based on a flawed methodology is a benefit to customers.

Predictability in isolation is not considered benefit to customers. There are several factors that must be considered when reviewing rates. Principles of public utility rates that are generally used were listed by James C. Bonbright as:

- i. Practical attributes of simplicity, understandability, public acceptability, and feasibility of application;
  - ii. Freedom from controversies as to proper interpretation;
  - iii. Effectiveness of yielding total revenue requirements under the fair return standard;
  - iv. Revenue stability from year to year;
  - v. Stability of rates themselves, minimal unexpected changes seriously adverse to existing customers;
  - vi. Fairness of the specific rates in the apportionment of total costs of service among different consumers;
  - vii. Avoidance of “undue discrimination” in rate relations; and
  - viii. Efficiency in discouraging wasteful use while promoting justified types and amounts of use:
    - a. In control of total amounts of service; and
    - b. In the control of relative uses of alternative types of service.
- d. The Consumer Advocate agrees that reducing regulatory costs can benefit customers but maintains that the reduction of such costs does not eliminate the need for accurate ratemaking methodology.

**1-19. Regarding escrow charges:**

- a. **Does the Consumer Advocate Division agree that an increase in customer escrow charges results in higher rates for customers and does not increase the revenue of the utility? If not, please provide an explanation.**
- b. **Has the Consumer Advocate Division analyzed the balance held in the IRM escrow account?**

- c. **Is there any reason to believe the balance in IRM's escrow account is not sufficient for its intended purpose?**
- d. **Is there any benefit to the utility or customers for escrow balances to increase to a level beyond an amount necessary to cover extraordinary expenses?**

**RESPONSE:**

- a. The Consumer Advocate agrees that customers pay for escrow charges , but maintains that escrow charges are not intended to increase revenue.
- b. The Consumer Advocate has reviewed the IRM escrow balance.
- c. The Consumer Advocate has not investigated the sufficiency of the escrow fund.
- d. The Consumer Advocate objects to this question on the ground that IRM has not defined "extraordinary expense" and may have a different understanding of that term than the Commission or other utilities.

**1-20. Referring to Q14/A14 of the Direct Testimony of Clark Kaml's in this Docket: Explain how an approach that allows an increase equal to a portion of the index, such as 50% of the index, benefits residential customers, but an approach that allows an increase equal to 100% of the index, does not.<sup>8</sup>**

**RESPONSE:**

Mr. Kaml answers this question in the next question of Q15/A15 in his Testimony. The problem with 100% of an index is that it is totally compartmentalized from actual expenses and capex regarding depreciation.

**1-21. Referring to Q15/A15 of the Direct Testimony of Clark Kaml's in this Docket, and specifically to the alleged "financial incentive to avoid capital expenditures under an inflation index mechanism that does not differentiate between operating costs and**

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<sup>8</sup> *Id.* at 5:6-15.

**capital expenditures”:<sup>9</sup> Confirm that a decrease in costs and the avoidance of capital expenditures would be apparent upon review of a utility’s annual reports.**

**RESPONSE:**

Denied. A review of a utility’s annual reports would not reveal the “avoidance of capital expenditures.”

**1-22. Referring to Q17/A17 of the Direct Testimony of Clark Kaml in this Docket wherein Mr. Kaml states that IRM has not changed its escrow rate since October 22, 2007, and did not increase the escrow rate when there were general rate increases in February 2016 and January 2025:<sup>10</sup>**

- a. Confirm that IRM’s most recent rate case in TPUC Docket No. 24-00073 was a *staff-assisted* rate case.**
- b. Confirm that despite increasing base rates in TPUC Docket No. 24-00073, there was no indication that an increase to IRM’s escrow charge was necessary.**

**RESPONSE:**

- a. The Consumer Advocate confirms that TPUC Docket No. 24-0003 was a staff-assisted rate case.
- b. The Consumer Advocate objects to this question on the grounds that it is vague and over-burdensome: the term “no indication” is without clear meaning.

**1-23. Confirm that the gradual rate increases provided for by IRM’s proposed ARM would address the concerns expressed by IRM’s customers in response to its most recent rate case regarding significant increases at once.<sup>11</sup>**

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<sup>9</sup> *Id.* at 5:16-23, 6:1-2.

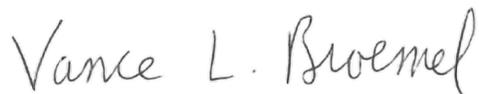
<sup>10</sup> *See Id.* at 6:8-18.

<sup>11</sup> 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. *The Consumer Advocate notes that the correct docket number is 24-00073.*

**RESPONSE:**

Denied. The Consumer Advocate is not aware of the concerns referred to by IRM.

RESPECTFULLY SUBMITTED,



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**TPUC Docket No. 25-00072**

*CA Responds to IRM DR 1*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via electronic mail upon:

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This the 10<sup>th</sup> day of November, 2025.

*Vance L. Broemel*

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**VANCE L. BROEMEL**  
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