

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**December 12, 2025**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF CONVENTIONAL SEPTIC SYSTEM</b>	)	<b>DOCKET NO.</b>
<b>AT 0 OLD TULLAHOMA HIGHWAY,</b>	)	<b>25-00084</b>
<b>TULLAHOMA, FRANKLIN COUNTY, TENNESSEE</b>	)	
<b>TO DETERMINE IF A CCN IS NEEDED</b>	)	
	)	

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**ORDER DENYING THE PETITION TO INTERVENE FILED BY THE  
CONSUMER ADVOCATE**

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This matter is before the Administrative Judge of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition to Intervene* filed by the Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) on October 16, 2025.

**RELEVANT BACKGROUND**

On October 6, 2025, counsel for Joseph Denby (“Petitioner”) filed a Petition for a Determination Whether a CCN is Necessary (“Petition”) seeking an order from the Commission regarding whether a certificate of public convenience and necessity (“CCN”) is required for a proposed development located at 0 Old Tullahoma Hwy. in Tullahoma, Franklin, Tennessee. According to the Petition, the project consists of three lots with one building on each lot and containing a total of 22 townhomes. Each lot will consist of two conventional gravity septic systems. The systems will be installed by the Developer and maintained by a Homeowners Association. The Homeowners Association will be established as part of a

Horizontal Property Regime that will be formed once the plat has been approved by the Franklin County Planning Commission.

**CONSUMER ADVOCATE’S *PETITION TO INTERVENE***

On October 16, 2025, the Consumer Advocate filed a *Petition to Intervene* seeking to intervene in the docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to represent the interests of Tennessee consumers of public utility services in proceedings before the Commission. According to the Consumer Advocate,

the *Petition* is a little over one page and provides little detail about the development or the proposed homeowners association ... As such, the Consumer Advocate requires additional information before taking a position on whether this development and its wastewater system is exempt from the Commission's regulatory authority.<sup>1</sup>

The Consumer Advocate asserts:

The interests of consumers in this CCN *Petition* may be affected by determinations and orders made by the Commission with respect to its jurisdiction and its interpretation, application, and implementation of Tenn. Code Ann. § 65-4-101(6) and other relevant statutory and regulatory provisions. Only by participating as a party to this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.<sup>2</sup>

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.<sup>3</sup>

**FINDINGS & CONCLUSIONS**

Tenn. Code Ann. § 4-5-310 establishes the following criteria for granting petitions to intervene:

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

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<sup>1</sup> *Petition to Intervene*, p. 2 (October 16, 2025).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

(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 provision of law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.<sup>4</sup>

Although it is not an automatic or absolute right to participate in proceedings before the Commission, Tenn. Code Ann. § 65-4-118(b)(1) provides a general basis for the qualification of the Consumer Advocate to be permitted to intervene as a party to represent the interests of Tennessee public utility consumers. It provides as follows:

The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the commission or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the commission.<sup>5</sup>

For the analysis of the *Petition to Intervene* filed in this docket, it is important to consider the genesis and nature of the “petitions for a determination if a CCN is necessary” (“Determination Dockets”) type of dockets before the Commission. Determination Dockets were instituted by the

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<sup>4</sup> Tenn. Code Ann. § 4-5-310 (2021).

<sup>5</sup> Tenn. Code Ann. § 65-4-118(b)(1) (2022).

Commission because many of the County Commissions required a written document from TPUC that a proposed project did not need a CCN before the County Commission would approve the project to go forward. In order to make sure that facts provided to TPUC were properly in the record to allow TPUC to analyze them and provide a written document that a CCN was not required, TPUC developed the Determination Dockets. Determination Dockets are filed with the thought that a CCN is probably **not required**, and the Commission is providing such confirmation in writing after a review of the facts provided.

If the Commission determines a CCN is necessary, the petitioner would be required to file a petition for a CCN. Most of the projects that are filed under the Determination Dockets are RV Parks, individuals who want to build on their own property, etc. A Commission Administrative Judge and Commission Staff evaluate and analyze these dockets. If additional documentation is necessary, Commission Staff will issue data requests to assist in the analysis of the documentation provided, and the Administrative Judge will issue an order. Such was the case in this docket. Commission Staff requested additional information to supplement the record.

It is understandable that the Consumer Advocate initially had concerns about the Petition in this docket due to the lack of information filed with the Petition. Commission Staff had concerns as well and requested additional information, which was promptly provided by the Petitioner. Admittedly, there have been a couple of complex dockets filed as Determination Dockets that were actually conducted as a petition for a declaratory ruling and another that is being conducted as regular contested case proceeding. Those dockets are the exception.<sup>6</sup> Docket No. 21-00061 had many Intervenors, and the Consumer Advocate is fully participating in Docket No. 25-00048.

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<sup>6</sup> See *In re: Petition of Jackson Sustainability Cooperative to Determine if a Certificate of Convenience and Necessity is Needed*, Docket No. 21-00061, *Notice of Hearing, In re: Petition for Declaratory Ruling* (July 21, 2021); see also *In re: Petition of Tellico Village Property Owners Association (TVPOA) to Determine if a CCN is Needed*, Docket No. 25-00048 (June 23, 2025).

While those two dockets were initially filed as Determination Dockets, they were not and are not being handled as the routine Determination Dockets.

The Administrative Judge is concerned about overly complicating, increasing the review time and increasing the cost of the Determination Dockets by allowing intervention. Allowing intervention in the routine Determination Dockets would require the individual homeowners and small business owners to hire attorneys and extend the length of time for a decision in the docket, which is especially problematic where the presumption for the Determination Dockets is that a CCN is **not** required.

THEREFORE, upon due consideration and based on the foregoing analysis, the Administrative Judge concludes that the interests of justice and the orderly and prompt conduct of the proceedings shall be impaired by allowing the intervention of the Consumer Advocate in this docket. For these reasons, the Administrative Judge concludes that the Consumer Advocate's *Petition to Intervene* should be denied.

**IT IS THEREFORE ORDERED THAT:**

The *Petition to Intervene* filed by the Consumer Advocate Division of the Office of the Tennessee Attorney General is denied.

  
Monica Smith-Ashford, Administrative Judge