

Tennessee Board of Utility Regulation

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TENNESSEE COMPTROLLER OF THE TREASURY



1

Roadmap

1. TBOUR Introduction
2. Financial Distress
3. Annual Information Report
4. Water Loss
5. Training
6. Administrative Review
7. Merger Authority
8. Utility Revitalization
9. Customer Complaints
10. Legislative Changes

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2

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3

Tennessee Utility Board(s)

- The UMRB and WWFB were established in 1989.
- In April of 2007, the authority of the two utility boards was transitioned from TDEC to the Comptroller's Office
- The Tennessee Board of Utility Regulation was started in July of 2023.
 - Added municipal gas systems.
 - Authorized the review of municipal customer complaints.
 - Referral for two outstanding, late audits.
 - Authority to order the consolidation of an ailing utility system.

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4

Tennessee Board of Utility Regulation

PC0463 combined the:

Water and Wastewater Financing Board

Roughly 280 Utilities

Municipal, County, Authority Systems

Utility Management Review Board

Roughly 170 Utility Districts

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5

Who makes up the Board?

Greg Moody, Chair- Comptroller or Comptroller Designee

Paula Mitchell, Vice-Chair- TDEC Commissioner or Designee

Edwin Carter, Comptroller Appointee

Steve Stone, Middle TN Natural Gas UD, House Speaker Appointee

David Purkey, Morristown Utility System, Senate Speaker Appointee

6 Governor Appointees

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6

Who makes up the Board?

Governor Appointees

Candace Vannasdale, Harriman Utility Board

Alex Smith, Humboldt Utility Authority

Bruce Giles, First UD of Knox

Eugene Hampton, Metro Nashville

Britt Dye, Utility System Representative

Anthony Pelham, Warren County Utility District

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7

What do we regulate?

Water, Sewer, and Natural Gas Local Government Utility Compliance with State Laws surrounding:

Financial Distress

Water Loss, 40% by volume

Training

Managerial, Technical, and Financial Capacities

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8

Financial Distress

Two Years of Loss

Deficit Net Position

Default on Debt

2 Years of Delinquent Audits*

Illicit Transfer of Funds*

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9

Illicit Transfer of Funds

An employee or governing body member of a utility under the TBOUR has 15 days to report an unauthorized transfer after they become aware of the unauthorized transaction.

Board staff reviews audits to find transfers that have not been authorized.

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10

Financial Distress Process

Questionnaire

Order Rate Study and Policy Review

Order Implementation

Update Cycle- 40 Entities

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11

Annual Information Report

Utilities under the Board must complete an Annual Information Report to submit to the Comptroller's Office.

If a utility refuses to submit the report, the TBOUR will subpoena the manager and governing body to come to the next Board meeting to explain why they refuse to comply with the law.

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12

Water Loss

Non-Revenue Water must be less than 40%.

Water Produced/Purchased Minus Water Sold

Reported on the Annual Information Report.

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13

Water Loss Process

Referral to the Board

Completion of the AWWA 6.0.

Submission of a Water Loss Correction Plan

Board staff reviews AIR for compliance.

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14

Water Loss- What's Next

Validity Score

Finding a solution to also consider the cost of the water being lost.

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15

Training

Governing Body Members must take 12 hours of training within one year of appointment or election.

After completion of the initial 12 hours, must receive 6 hours every 3 year cycle.

Must file an annual training statement to be held locally.

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16

Administrative Review

Previously called Board Investigations.

Evaluates the utility's ability to comply with state and federal statute.

Managerial, Financial, and Technical Analyses

TBOUR can order an array of corrective measures.

8 Utilities Currently Under Administrative Review

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17

Merger Authority

Force mergers between any types of utilities.

Merger must be feasible.

Must benefit the worse off utility and benefit or have a net neutral effect on the better off utility.

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18

Merger Process

1. Board orders feasibility study.
2. Board staff holds a public hearing in the area of the utility.
3. Board staff presents feasibility study and hearing results to TBOUR.
4. Board orders the utilities to enter into good faith negotiations
5. Utilities execute a merger agreement

Enforceable through the Chancery Court
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19

Utility Revitalization Fund

Used to mitigate the costs of mergers between utilities.

Is not removed from statutory change in net position effect.

Depreciation

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20

Customer Complaints

Must first be heard by the local board.

Board staff receives complaint first.

Complainant and Utility present case to TBOUR.

TBOUR can order corrective actions.

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21

Informal Hearings

“The justness and reasonableness of a utility system's rates, fees, or charges”

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22

Informal Hearings

“The justness and reasonableness of a utility system's requirement that a customer or developer build infrastructure or fixtures to be dedicated to the utility system; ”

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23

Informal Hearings

“The failure of a utility system to adopt and enforce policies or rules necessary for the efficient and financially responsible operation of the utility system, including policies regarding ethics or financial controls, or for water loss, water leak adjustment, purchasing, or other industry standard policies; ”

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24

Informal Hearings

“The inadequacy of a utility system's policies regarding ethics or financial controls, or for water loss, water leak adjustment, purchasing, or other industry standard policies; ”

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25

Failure to Extend Service

“The failure of a utility system to offer or extend utility service to a customer:

- (a) Located within the utility system's covered area;
- (b) Located within an area in which the utility system offers similar services;
- (c) Located within an area in which the utility has the infrastructure to offer similar services; or ”

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26

Failure to Extend Service

“The utility system has the affirmative burden to show that:

- (a) It does not have the capacity to serve the customer;
- (b) Service to the customer is not economically feasible;
- or
- (c) Service is not in the best interest of the utility and its existing customers.”

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27

What's Next?

Changes to Water Loss monitoring to consider Validity Score

Changes to the Annual Information Report

More Customer Complaints in front of the Board, such as...

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28

Inside and Outside Rates

Rates must be reasonable and justifiable

Many Municipal Systems have rates based on the City Boundary

I/O rates haven't been evaluated in years in many cases

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29

Legislative Changes

Public Chapter 6

- Local government utility systems are authorized to provide mutual aid to requesting jurisdictions during a municipal, county, state, or federal state of emergency.

Public Chapter 33

- Extended the Tennessee Board of Utility Regulation to June 30, 2029.

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30

Legislative Changes

Public Chapter 140

- Requires that county, municipal, and metropolitan governments that assess a fee in excess of \$250 must provide a description that includes the justification and cost basis for such fee.
- This documentation must
 1. Be kept on file by the local government,
 2. Be made a public record and available for inspection, and
 3. Be subject to annual audit by the Comptroller's Office.

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31

Legislative Changes

Public Chapter 166

- Allows utility district commissioners who have become ineligible to serve due to failing to meet the utility training requirements to become re-eligible after completing certain requirements.
- This bill also lowers the required continuing education hours for all local government utilities from 12 to 6; this does not affect the initial period requirement.

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32

Legislative Changes

Public Chapter 170

- Allows all water, sewer, or gas utility systems to borrow money in anticipation of the collection of revenues, provided that notes do not exceed 60% of the total projected cash flows for the same fiscal year.
- The division of Local Government Finance must approve the issuance of any debt under this section, and the utility will be directly referred to the Tennessee Board of Utility Regulation for review.

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33

Legislative Changes

Public Chapter 170 (cont.)

- This bill also gave the TBOUR the authority to hold contested case hearings against non-elected municipal utility boards.
- Lastly, this bill removed the requirement for utility districts issuing bonds in excess of fifty million dollars to rebid the position for financial advisor and the underwriting services.

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34

Legislative Changes

Public Chapter 461

- Requires that municipal utilities and utility districts that have operated a wastewater system outside of its corporate boundaries cannot cease operation of the system as long as it maintains sufficient capacity, as determined by a study, report, or other information.
- This report must be presented to TBOUR for review.

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35

Legislative Changes

Public Chapter 461 (cont.)

- Additionally, county, municipal, or metropolitan utility systems must provide a wastewater service connection to a customer who owns property with an existing gravity sewer line located on the property.
- If the local government refuses to provide wastewater service, then the Customer may submit a complaint to the TBOUR once it has been appealed to the local governing body and 60 days have passed.

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36

Legislative Changes

Public Chapter 490

- County and municipal-owned utilities **must** review development plans within thirty days of them being submitted to the local government.
- If the utility fails to examine the plan in a timely manner, the developer may hire a third-party expert to review it for compliance with applicable codes and submit the reviewed codes back to the local government

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37

Legislative Changes

Public Chapter 490 (cont.)

- Once the utility receives the reviewed documentation, it will have ten business days to review and provide one of the following:
 1. Approval of plans,
 2. A report of deficiencies with the plan, or
 3. A request for additional information to ensure compliance.
- If the utility fails to take action after ten days, the plans are deemed to be approved, and the project may commence using materials for utility infrastructure as approved by the governing body.

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38

Questions?



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