



JASON E. MUMPOWER  
*Comptroller*

**MINUTES**  
**of the**  
**TENNESSEE BOARD OF UTILITY REGULATION MEETING**  
**March 14, 2023**  
**10:00 am**

**Greeting:**

Chairman Moody detected a quorum and called to order the meeting of the Tennessee Board of Utility Regulation (“TBOUR”) in the Volunteer Conference Center on the 2<sup>nd</sup> Floor of the Cordell Hull Building in Nashville, TN at 10:00 a.m. (CDT).

**Board Members Present and Constituting A Quorum:**

Greg Moody, Chairman  
Tom Moss, Vice-Chairman  
Edwin Carter  
Eugene Hampton  
David Purkey  
Steve Stone  
Bruce Giles  
Nick Newman  
Michael Adams  
Anthony Pelham  
Candace Vannasdale

**Staff Present:**

Nate Fontenot, Comptroller’s Office  
Ben Johnson, Comptroller’s Office  
Charlie Lester, Comptroller’s Office

**Counsel Present:**

Seth May, Comptroller’s Office



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**Others present and Addressing the Board:**

Steve Osborne, Assistant Director, LGF, Comptroller's Office  
Sheila Reed, Director, LGF, Comptroller's Office  
Jean Suh, Audit Review Manager, LGA, Comptroller's Office  
Alton Hethcoat, Hethcoat and Davis  
Don Scholes, Tennessee Association of Utility Districts  
Ethan Carter, Tennessee Association of Utility Districts  
Isabel Szendrey, American Water Works Association  
Melanie Lawson, Ocoee Utility District Customer  
Ben Waller, Town of Bean Station  
Kenny Wiggins, Municipal Technical Advisory Services  
Doug Porter, City of Huntland  
Jim Wade, Madison Suburban Utility District  
Joyce Carpenter, Mooresburg Utility District  
Rick Brewer, Mooresburg Utility District

**Conflict of Interest Statement:**

Counsel read the following statement: "The Board was created to act for the public welfare and in furtherance of the legislature's intent that utility systems be operated as self-sufficient enterprises. Board members are not authorized to participate in the discussion of or to vote on matters involving entities in which the Board member has a financial interest, with which the Board member has a conflict of interest, with which the Board member has a contract of employment, or if there is any appearance of impropriety."

Mr. Pelham recused himself from discussions regarding the Town of Spencer.

Mr. Purkey recused himself from discussions regarding the Town of Bean Station.



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### **Adopt and Review Minutes**

Previous TBOUR minutes were reviewed. Mr. Purkey made a motion to accept the minutes. Mr. Stone seconded the motion which passed unanimously.

### **Presentation on Water Loss**

Mr. Johnson introduced Ms. Szendrey, with the American Water Works Association. Ms. Szendrey gave an approximately 34 minute presentation to the Board on Water Loss.

### **Public Comment Period**

Mr. Johnson introduced the public comment period and that Ms. Lawson had requested to speak.

Mr. May explained that Ms. Lawson submitted a complaint to our office which was not recommended for an informal hearing as it appeared to be outside the Board's statutory jurisdiction. Mr. May clarified which areas the Board had authority to hear and explained that Ms. Lawson still wanted to provide a public comment regarding her situation to the Board.

Ms. Lawson set out her grievances against the Ocoee Utility District, including that the district did not have a leak protection policy. Based on testimony and additional information Mr. May reversed his previous decision and recommended the Board conduct an informal hearing of Ms. Lawson's complaint. The Board took a brief recess for staff to try and reach out to Ocoee Utility District and see if they would like to address the Board.

Chairman Moody called for a 15-minute recess at 10:56 a.m. in order for staff to discuss and reach out to Ocoee Utility District for additional information.

Chairman Moody called the meeting back to order at 11:10 a.m.

Mr. Johnson explained that staff were unable to get in contact with any representatives from the district.

Mr. Pelham asked if the Board had authority to place a hold on the bills and fees placed on Ms. Lawson, Mr. May said that they did.



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Mr. Adams moved for Board staff to further investigate the matter, after which he amended the motion to allow for a stay on the bills and fees. Vice Chairman Moss Seconded the motion which passed unanimously.

### **Water Loss**

Mr. Johnson explained the ongoing non-compliance from multiple entities regarding Board staff's request to complete an AWWA v. 6.0 worksheet. Mr. Johnson then provided Board staff's recommendations.

Mr. Pelham motioned to accept the staff recommendations. Mr. Stone seconded the motion which passed unanimously.

### **Update Cycle**

Mr. Johnson provided a brief explanation regarding entities on the Update Cycle.

### **Released Cases**

Mr. Johnson described the current standing of the utilities and explained the staff recommendations.

1. The Entity is officially released from the Board's oversight.
2. Staff and Counsel shall close the case.

Mr. Stone moved to accept staff's recommendations. Mr. Giles seconded the motion which passed unanimously.

### **Training Violations**

Mr. Johnson described the current situation with the outlined entities and gave staff recommendations.



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1. By May 31, 2024, the Entities shall send Board staff proof that all members of the utility system's governing body have complied with the applicable training requirements.
2. Should any of the Entities fail to comply with this order, that entity is prohibited from issuing any debt or receiving any grants until compliance is met.
3. If any of the Entities shows that all governing body members are compliant with training requirements and Board staff are unaware of any reason for which that entity should remain under Board supervision, Board staff may close that entity's case as to non-compliance with training requirements without further action by the Board.

Vice Chairman Moss asked if the Board had the authority to remove commissioners from utility districts, Mr. May confirmed. Mr. Hampton asked if it was all board members or just individuals,

Mr. Johnson said it varied from entity to entity. Mr. Pelham asked if the Board can restrict pay to Board members, Mr. May confirmed that they likely had this authority.

Mr. Pelham moved to accept revised staff's recommendation and add the staying of compensation for Board members who are out of compliance with no retroactive pay.

Further Board discussion was had. Mr. Pelham reiterated his full motion with added portions.

Mr. Hampton asked for clarification on the whole process of non-compensation, further discussion was had. Amended again to stop payments on April 1, 2024, Mr. Pelham renewed his motion with the amendment. Mr. Hampton seconded the motion which passed unanimously.

### **Town of Bean Station**

Mr. Johnson explained the current standing with Bean Station and the request for approval of a new wastewater system, he then invited Mayor Waller and Mr. Wiggins to present the proposal before the Board.

Mayor Waller and Mr. Wiggins presented the wastewater proposal to the Board.

Mr. Pelham asked staff if the past audits had been clean and timely, Mr. Johnson confirmed that they had been. Mr. Pelham also asked if the modified depreciation approach was of concern, Mr. Johnson said that it was.



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Further board discussion was had on the cost of operating the system.

Mr. Giles moved to approve the wastewater system proposal. Mr. Newman seconded the motion, which was passed unanimously, with the exception of Mr. Purkey who abstained due to a conflict of interest.

### **Huntland**

Mr. Johnson explained that there was no recommendation but wanted to provide an update on a sewer system currently being designed and completed. Mr. Johnson expressed staff's concern with the project.

Vice Chairman Moss asked for clarification from Mr. May on the legality of borrowing from the General Fund to pay for the project. Mr. May was uncertain and asked for individuals with the Division of Local Government Finance to help answer the question.

Ms. Reed confirmed that the general fund can lend monies to assist with capital projects, but it must be approved by the Comptroller's office prior to issuance.

Mr. Giles asked where the initial 5.5 million in funding came from. Mr. Johnson turned it over to a representative from the Town of Huntland who appeared online. Mr. Porter explained that 3.9 million came from SRF and the remaining funding came from ARPA monies. He also explained that the total cost was around 7 million.

Mr. Giles expressed his concern regarding the cost of a system designed for only 200 customers.

Mr. Giles made a recommendation and moved to open an administrative review of the Town. Mr. Newman seconded the motion, which passed unanimously.

### **Jackson Energy Authority**

Mr. May explained that Jackson Energy Authority had adopted a new Code of Ethics Policy, and that the Board was required to approve any policy that was not more stringent than the Current



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TAUD model policy. Mr. May went on to explain that he believes JEAs new policy to be more stringent than the model policy, however, he felt that it was worth bringing it before the Board.

Mr. Pelham moved to approve JEA's new Code of Ethics Policy. Ms. Vannasdale seconded the motion which passed unanimously.

### **Leoma Utility District**

Mr. Johnson explained that the District had recently been the subject of a Division of Investigation's report, he then proceeded to provide a brief synopsis of the report and findings.

Mr. Johnson also provided the staff summary and gave staff recommendations.

1. By May 15, 2024, the Entity shall engage TAUD or another qualified expert for a review of internal controls and policies to correct the deficiencies noted in the Comptroller investigative report.
2. By September 1, 2024, the Entity shall provide proof to Board staff that proper internal controls and policies have been adopted to correct the deficiencies noted in the Comptroller investigative report.
3. Board staff shall begin discussions on behalf of the TBOUR with the local governments in Lawrence County to improve utility service within the county

General discussion was had regarding the report and possible board actions.

Mr. Pelham requested that the Board order the governing body of the District to appear in person and answer questions regarding the deficiencies.

Mr. Pelham moved to accept the staff recommendations with the added requirement for the governing body to appear at the next Board meeting. Mr. Newman seconded the motion, which was passed unanimously.

### **Madison Suburban Utility District**

Mr. Johnson gave a brief recap of the current standing of the customer complaint against the district and invited a representative from the District to speak.



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Mr. Wade explained to the Board that the District had decided to refund those who already paid and give those who hadn't paid an extension to decide. Further board discussion was had on this matter.

Mr. Giles moved to close the customer complaint case. Mr. Purkey seconded the motion, which was passed unanimously.

### **Town of Mason**

Mr. Johnson described the current standing of the utility and explained the staff recommendations.

1. By May 15, 2023, the Entity shall provide Board staff with the updated rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.

Mr. Pelham noted that the recommendation had a typo in the year, and also stated his concern that Alliance Water Resources would be managing the water system for the Town, as there had been prior issues with companies management of East Sevier County Utility District. Mr. Johnson acknowledged that it was the same company and concurred with Mr. Pelham's concern.

Mr. Giles asked if the Board had any jurisdiction over which company a Town contracted with for management. Mr. May stated that he was unsure if the Board would have any authority over it.

Mr. Pelham asked for an update on the feasibility study that was ordered, Mr. Johnson explained the due date had not been passed yet. Further discussion was had on this matter.

Mr. Newman made a motion to accept the staff's recommendations. Mr. Pelham seconded the motion, which was passed unanimously. ,

### **South Fork Utility District**

Mr. Johnson explained that the District had recently been the subject of a Division of Investigation's report, he then proceeded to provide a brief synopsis of the report and findings.





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Mr. Johnson stated that no action would need to be taken at that time.

## **EAST TENNESSEE UTILITIES**

### **Bristol Bluff City Utility District**

Mr. Johnson described the current standing of the utility and the completed feasibility study. Mr. Johnson provided a brief overview of the merger process to the Board and explained that no action would need to be taken at this time

### **Clearfork Utility District**

Mr. Johnson described the current standing of the utility regarding the rate study, feasibility study, and delinquent audits. Mr. Johnson explained the various issues that were being experienced by the district, staff did not have any recommendations at that time.

Mr. Giles expressed his concern with the District and recommended that a motion be made to require the governing body to appear before the Board, if they failed to appear, ouster proceedings should commence.

Mr. Pelham asked for clarification on the training requirements for the governing body and further discussion was had. Mr. Stone seconded the motion, which passed unanimously.

### **Intermont Utility District**

Mr. Johnson described the current standing of the district and their refusal to adopt all recommendations in the completed rate study. Mr. Johnson explained the staff recommendations.

1. By May 1, 2024, the Entity shall provide Board staff with proof of implementation of the recommendations of their most recent rate study, or a proposed plan of implementation.
2. If the Entity does not adopt all provisions of the TAUD rate study or take other actions Board staff finds sufficient to remedy the Entity's financial distress, the



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Entity's governing body shall appear in person before the board at the next regularly scheduled meeting to address why recommendations from the TAUD rate study have not been implemented.

3. Should the Entity adopt the full recommendations of the TAUD rate study, the governing body will not be required to appear before the Board as described in paragraph 2 of this order. Should the Entity adopt other remedial measures Board staff believes are sufficient to remedy the Entity's financial distress, Board staff will update the Board at the next meeting, but the Entity's governing body and manager will not be required to attend.

4. Should the Entity fail to comply with, or indicate it will not comply with, any directive in this order, Board staff may issue subpoenas for members of the Entity's governing body, manager, and any other necessary staff to appear in-person before the Board during its next meeting.

Mr. Newman moved to accept staff's recommendations. Mr. Giles seconded the motion, which was passed unanimously.

### **Mooreburg Utility District**

Mr. Johnson explained that the District had recently been the subject of a Division of Investigation's report, he then proceeded to provide a brief synopsis of the report and findings.

Mr. Johnson went on to explain the actions taken by the district to resolve the deficiencies noted in the report.

Mr. Johnson then turned it over to Ms. Joyce and President Brewer to provide an update regarding the district.

Ms. Joyce presented before the Board the various actions taken by the district to remedy certain issues and provided a general update regarding their current standing.

Mr. Purkey asked clarifying questions regarding the length of employment and board membership of Ms. Joyce and President Brewer.



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President Brewer expressed some concerns that he had noted during his term on the Board.

Mr. Giles commended the district and Ms. Joyce on the progress that they had made. Further discussion was had between the Board and representatives of Mooresburg Utility District.

Mr. Giles moved to accept staff's recommendations regarding the adoption and implementation of proper internal controls. Ms. Vannasdale seconded the motion, which was passed unanimously.

Mr. Johnson asked for clarification if a deferment of the implementation of the rate increase was also ordered. The Board confirmed that they had not voted on that aspect yet.

Mr. Pelham moved to accept the staff's recommendations on deferring the rate increase. Mr. Giles seconded the motion, which passed unanimously.

### **Town of Parrottsville**

Mr. Johnson described the current standing of the utility and explained the staff recommendations.

1. By August 31, 2024, the Entity shall provide Board staff with proof of implementation of the resulting recommendations or a proposed plan of implementation.

Mr. Pelham moved to accept staff's recommendation. Ms. Vannasdale seconded the motion, which passed unanimously.

### **Webb Creek Utility District**

Mr. Johnson explained that a commissioner had reached out to Board staff and expressed concern regarding the eligibility of another commissioner. Mr. Johnson explained that concerns regarding the legality of both commissioners were now being questioned. Mr. Johnson explained the staff recommendations.



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1. By May 31, 2024, the District shall confirm the eligibility of all commissioners to serve on the Entity's board of commissioners. The District shall further provide the initial appointment dates for all commissioners and supporting documentation showing that they are legally eligible to serve as commissioners as outlined in TCA 7-82-307.

Mr. Purkey and Mr. Hampton asked for clarification that both commissioners were under eligibility concerns, Mr. Johnson confirmed.

Mr. Stone moved to accept staff's recommendation. Mr. Pelham seconded the motion, which passed unanimously.

## **MIDDLE TENNESSEE UTILITIES**

### **Town of Petersburg**

Mr. Johnson described the current standing of the utility and the completed feasibility study. Mr. Johnson provided a brief overview of the merger process to the Board and explained that no action would need to be taken at this time

### **City of Spencer**

Mr. Johnson described the current standing of the utility and explained the staff recommendations.

1. The Entity is released from any previous Board order requiring the study of the feasibility of a merger between itself and any surrounding utilities.

Vice Chairman Moss asked how far out the merger was. Mr. Pelham provided an update to the Board of the current standing between the City of Spencer and Warren County Utility District.

Vice Chairman Moss moved to accept staff's recommendations. Mr. Hampton seconded the motion, which passed unanimously, with the exception of Mr. Pelham who abstained due to a conflict of interest.



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### **Tarpley Shop Utility District**

Mr. Johnson described the current standing of the utility and a brief overview of the merger process to the Board. No action was recommended to be taken at this time

### **WEST TENNESSEE UTILITIES**

At this time Mr. Johnson turned over the presentation of staff recommendations to the West Tennessee Utility Analyst, Nate Fontenot.

### **City of Hohenwald**

Mr. Fontenot gave the staff summary and explained the staff recommendation.

1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert, as approved by Board staff, perform a rate study that includes the following:
  - a. a review of the capitalization policy, including any recommended modifications;
  - b. a review of the debt management policy, including any recommended modifications;
  - c. the creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
  - d. a review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
  - e. verification that all governing body members of the utility are in compliance with all relevant training requirements;
  - f. a review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist; and,
  - g. a justification of the inside and outside the city limit rates, including any recommended modifications to the rate structure.



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2. By May 28, 2024, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
3. By December 31, 2024, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.
4. Board staff is given the authority to grant one extension of up to six months of the foregoing deadlines upon a showing of good cause by the Entity.

Board discussion was had about possible legislation being passed that would affect utility rates.

Mr. Newman moved to accept staff's recommendations. Mr. Giles seconded the motion, which passed unanimously.

### **General Board Discussion**

The Board asked for binders to be included at future meetings as well.

Mr. Newman explained that he had retired from MLGW and would no longer be serving on the Tennessee Board of Utility Regulation. He went on to express his gratitude towards the Board and the function it serves.

No further comments were made.

### **Board Adjournment**

Chairman Moody entertained a motion to adjourn the meeting, Mr. Giles seconded the motion. The meeting was adjourned at 2:32 p.m.

