



JASON E. MUMPOWER
Comptroller

**MINUTES
of the
TENNESSEE BOARD OF UTILITY REGULATION MEETING
July 18, 2024
10:00 am**

Greeting:

Chairman Moody detected a quorum and called to order the first meeting of the Tennessee Board of Utility Regulation (“TBOUR”) in the Volunteer Conference Center on the 2nd 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
Eugene Hampton
David Purkey
Steve Stone
Bruce Giles
Anthony Pelham
Candace Vannasdale

Staff Present:

Ross Colona, Comptroller’s Office
Ben Johnson, Comptroller’s Office
Meghan Huffstutter, Comptroller’s Office
Nate Fontenot, Comptroller’s Office
Charlie Lester, Comptroller’s Office

Counsel Present:

Seth May, Comptroller’s Office

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
Don Scholes, Tennessee Association of Utility Districts
Ethan Carter, Tennessee Association of Utility Districts
Nick Newman, Tennessee Association of Utility Districts
Eric W. Reeher, Elliot Lawson & Minor Attorneys at Law
Britt Dye, Fayetteville Public Utilities
Melaine Lawson, Ocoee Utility District Customer (virtual)
Steve Wyatt, Melanie Lawson Representative (virtual)
Tim Lawson, Ocoee Utility District (virtual)
Allison Williams, Huntingdon Customer
Nina Smothers, Town of Huntingdon
Mark Maddox, City of Dresden
Jennifer Branscum, City of Dresden
Carla Edwards, City of Dresden
Rick Johnson, Clearfork Utility District
Ms. Annie Chiodo, Communities Unlimited
Ms. Samantha Crites, Town of Centerville Customer

Conflict of Interest Statement:

Counsel Seth May 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.

Adopt and Review Minutes

Chairman Moody opened the Board to discussion and review of the previous TBOUR minutes.

Vice Chairman Moss asked to amend page 10 of the minutes, to note the relevance of Alliance Water Resources’s issues with the management of East Sevier County Utility District.

Previous TBOUR minutes were adopted as amended. Mr. Stone made a motion to accept the minutes as amended. Mr. Giles seconded the motion which passed unanimously

Public Comment Period

There were no requests to speak during the public comment period.

MERGER HEARINGS

South Fork Utility District and Bristol-Bluff Utility District

Mr. Colona explained the history and current standing of the merger between the South Fork Utility District and Bristol-Bluff Utility District.

Mr. Colona discussed the results of June 12, 2024, public hearing in Blountville, TN, and explained the concerns brought up by those attending.

Mr. Colona summarized the benefits and the opposed opinions and stated that Board staff believe the merger is within the best interest of the respective communities.

Mr. Eric Reecher with Elliot Lawson & Minor Attorneys at Law, who represents South Fork Utility District as their attorney, was introduced by Mr. Colona.

Mr. Reecher explained that the South Fork Utility District opposes the merger and questions the legal authority of the Board. Mr. Reecher summarized the Utility's opinion and lists the reasons they question the authority of the Board for this case.

Chairman Moody opens the floor for the Board to address Mr. Reecher.

The Board had a number of questions for Mr. Colona and Mr. Reecher regarding the size, location, board structure, rates, the merger agreement, and other operations of the two utility districts.

Mr. Colona summarized the Board staff recommendation found in the Board packet.

Mr. Hampton questioned rather 60 days is sufficient for the Utility to complete the order.

Mr. Giles asked whether the Board has the authority to order the merger. Further discussion was held regarding this topic.

Mr. Pelham proposed extending the due date of the current staff recommendation to 120 days, and to encourage the utilities to facilitate the merger on their own. Mr. Pelham motioned to order the staff recommendation with proposed changes. Vice Chairman Moss seconded the motion which passed unanimously.

Town of Petersburg's utility system and City of Fayetteville

Mr. Colona summarized the current status of the merger between the Town of Petersburg's utility and the City of Fayetteville's utility system, noting that there has been no opposition to the merger from either system and that a feasibility study conducted determined the merger is feasible.

Mr. Colona stated that Mr. Britt Dye with Fayetteville Public Utilities is present at the meeting and is available for questions. The Board had no questions for Mr. Dye.

Mr. Colona pointed out a typo in the order that needs to be corrected and proposed extending the due date of the order to December 31st, 2024.

Mr. Giles motioned to accept the staff recommendation with the extended due date, Ms. Vannasdale seconded the motion which passed unanimously.

CUSTOMER COMPLAINTS

Melanie Lawson, Ocoee Utility District

Ms. Melanie Lawson joined the meeting online via teams and stated she was joined by her representative, Steve Wyatt, online as well. Ms. Lawson then requested an update from the Board on her case.

Mr. Colona reminded the Board that Ms. Lawson explained her complaint at the prior TBOUR meeting, and that the Ocoee Utility District should have a representative online as well.

Vice Chairman Moss asked Mr. May whether the Servline Line Protection Program stands as a legitimate leak adjustment policy, considering it does not cover the costs incurred by the leak and only covers the pipe damage. Mr. May explained that it was deemed they did not have a leak adjustment policy.

Mr. Tim Lawson joined online to represent the Ocoee Utility District. Mr. Lawson explained their leak adjustment policy to the Board. The Board had questions for Mr. Lawson, and the Board further discussed the district's leak adjustment policy.

Mr. Colona explained the powers of the Board as they relate to this case, and stated that the Board probably doesn't have jurisdiction to accommodate Ms. Lawsons sought resolution.

Mr. Hampton asked Mr. Lawson if any changes had been made to the intake application regarding leak adjustment policies since Ms. Lawsons utility bill being discovered. Mr. Lawson explained that no changes have been made to the application and that Servline Line Protection Program has a separate form signed by the customer.

Mr. Pelham asked Mr. Lawson if the Utility notified Ms. Lawson of the leak, and if so, why it took seven days. Mr. Lawson explained that with their current system, they did not have the capability to notify her any sooner than they did.

Ms. Lawson stated that she is requesting for policies and procedures to be put in place.

Mr. Giles asked Mr. May if the Board has the authority to order Ocoee to review their policies and procedures and report back to the Board as to why they believe their policies are adequate. Mr. May responded, saying that under a Customer Complaint, he does not think the Board has the jurisdiction to order that action.

Mr. Pelham described his utility's policies and procedures regarding customer leaks and further stated that the 7-day delay in Ocoee Utility District notifying the customer concerned him. He further proposed that the Board ask for a written response from the utility on their policies to this customer.

Mr. May explained that he believed this would be expanding past the jurisdiction of the Board to hear the customer complaint.

Ms. Vannasdale expressed her concern that this does not seem like a TBOUR issue.

Mr. Colona said that the Board could open an administrative review case and task TBOUR staff with identifying any best practices or changes that they would recommend.

Vice Chairman Moss asked if Board staff could request information regarding the frequency of leak issue like this one from the utility. Mr. Colona confirmed Board staff could complete this if the utility was placed under administrative review.

Mr. Purkey stated he does not believe this is a situation where an administrative review is necessary. He further stated that he would like this case to move off the agenda after this

meeting, explaining that the Board has heard the complaint and is not in the position to order relief for this customer.

Mr. Pelham stated that in the past the Board has requested that a utility revisit the issue and attempt to resolve the issue.

Mr. Colona proposed the following recommendations:

1. Board staff will draft and send a letter to the Entity's governing body, on behalf of the Board, encouraging the Entity to review its leak adjustment policy and to engage with members of the community to determine whether the policy adequately protects the customers.
2. Board staff will update the Board at the Board's next regular meeting.

Mr. Pelham motioned to accept this recommendation. Mr. Purkey seconded the motion which passed unanimously.

Allison Williams, Huntington

Mr. Colona requested from the Board that they give precedence to individuals here in person to address the Board before proceeding with the other cases. Mr. Colona introduced Ms. Allison Williams to the Board.

Ms. Williams presented her complaint to the Board.

Mr. Colona stated that representatives from the City of Huntington were in attendance to answer any questions.

Ms. Nina Smothers, Mayor of Huntingdon, introduced herself to the Board. Mayor Smothers was joined by Ms. Kim Carter, the recorder for the town. Mayor Smothers explained what happened and stated that the town followed their policies and procedures. Ms. Carter gave additional details to the Board regarding Ms. Williams bills.

Mr. Giles asked Mayor Smothers and Ms. Carter if the employees related to the complaint were still employed by the town, Ms. Carter confirmed they were not. Additionally, Mr. Giles asked if the policies and procedures that affected Ms. Williams' bills were equally enforced across all customers. Ms. Carter confirmed that they were.

Mr. Purkey asked Mayor Smothers and Ms. Carter if the customers were notified of the under and over billing when this was discovered. Ms. Carter explained that they did not notify the customers, but explained the situation to the customers as they called in. Mr. Purkey asked

Mayor Smothers if the town offered any relief to their customers for the under billing. Mayor Smothers replied, stating that the town did not offer relief to any customers.

Mr. Hampton asked Ms. Carter and Mayor Smothers how many customers were under billed and how many customers the utility has total. Ms. Carter stated that the utility has 2,400 customers and she did not know how many customers were underbilled at that time. Mr. Hampton stated that the policy the town followed was designated for water leaks and this issue was due to mismanagement, not water leaks. Mr. Pelham added to this, stating that this situation was due to staff negligence and not a water leak, according to the policy they followed.

Mr. Purkey asked Mayor Smothers if the town sought criminal investigation or if they handled it internally. Mayor Smothers stated that the town met with a lawyer to discuss this matter and decided to let go of the employees.

Mr. Purkey asked Mayor Smothers if the town felt any responsibility for the under and over billing. Mayor Smothers explained that she felt like the town handled the billing discrepancies appropriately.

Ms. Vannasdale then asked for some clarity on the Anonymous Donor that helped to cover some of the bills, asking specifically why Ms. Williams felt like she was not being helped by this as others were. Mayor Smothers responded saying the anonymous donor acted with a specific customer, but this was not an action made by the city. Ms. Vannasdale followed this question by asking if any rate payer dollars were used to adjust any customers bills. Mayor Summers responded, No, to that question.

Mr. Giles asked why this scenario did not fall under Section 2 of their policies. Ms. Carter explained that the section he was referring to was for “unexplainable” circumstances, and since this situation had an explanation, that this did not apply.

Mr. Purkey stated that as a government, there is a higher responsibility in these cases to take care of those affected by the fault of the government.

Mr. Stone asked Ms. Carter how many adjustments needed to make to customers’ bills. Ms. Carter stated that she did not have a total number but that there were 90 in March and 81 in April of 2024.

Vice chairman Moss asked if the under and over billings balanced pretty equally or if it was weighted in one way. Ms. Carter responded saying that it was weighted pretty equally.

Ms. Vannasdale asked Board staff what the Comptrollers Offices’ expectations are in situations like this when a meter is misread. Mr. Colona explained that there is no official recommendation,

but that the best practice in this case might be to take care of the customer when it's based on the mismanagement of the utility.

Mr. May then stated that determining the best practice in this situation is in the jurisdiction of the Board.

Mr. Pelham motioned to have Board staff draft a letter to the town requesting they reconsider the policy in question. This was seconded by Mr. Hampton. Mr. Colona then summarized the order as the following:

1. The Entity shall review Huntingdon Municipal Code 18-131.
2. The Entity shall apply Huntingdon Municipal Code 18-131 to instances where water meters are misread or not read by Entity employees.
3. The Entity will report its findings and any remedial actions taken to Board staff, to be presented to the Board its next regular meeting.

The motion passed unanimously.

WEST TENNESSEE

Dresden

Mr. Colona recommended moving on to the city of Dresden financial distress case since they are in person to address the Board.

Mr. Fontenot explained that the city has had 2 consecutive years of statutory decrease in net position. Mr. Fontenot also stated that Board staff recommends a rate study for the city of Dresden. Mr. Fontenot noted that the city has not had rate study in the past 5 years, the utility structure is heavily weighted towards outside city customers and discussed the addition of a large capital project identified in the most recent years audit. Mr. Fontenot then gave the Board the recommendation. Mr. Fontenot noted that city officials were present to address the Board and welcomed them to the podium.

Mayor Mark Maddox introduced himself to the Board and noted that he was joined by Ms. Jennifer Branscum, the city recorder, and Ms. Carla Edwards, the finance director of the city of Dresden.

Mayor Maddox noted missing information in the Financial Distress Questionnaire that the City submitted. Mayor Maddox stated that Ms. Edwards recognized the issue in the Utility department and city has raised rates by 15% for the current Fiscal Year. The mayor noted that the city is currently looking for an entity to perform a rate study.

Ms. Edwards gave the Board additional details regarding the changed in net position, stating that this negative statutory change was primarily due to the restatement of certain capital items which was suggested by their auditor and by the state.

Mr. Hampton questions Board staff as to why, given the situation, this is still considered a financially distressed case, since the primary issue is due to restatements.

Mr. Colona stated that this is not abnormal to other financial distress cases, further stating that the city has taken appropriate steps and Board staff has confidence in the direction of this case.

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

Mr. Purkey requested that Board staff speak with Mr. Kelton before he leaves to ensure he understands what the Board ordered.

EAST TENNESSEE

Clearfork Utility District

Mr. Johnson explained the history and current status of the Clearfork Utility District financial distress case, stating that the biggest issue at this point is getting the audits completed. Mr. Johnson noted that Mr. Rick Johnson was present and would like to address the Board.

Mr. Rick Johnson gave an update to the Board regarding the status of their audits and actions being made to resolve their financial distress case.

No action was taken by the Board.

WEST TENNESSEE

Leoma Utility District

Mr. Fontenot reminded the Board about the Board's prior meeting and corresponding orders, noting the origin of this case was due to an investigation completed by the Comptrollers Division of Investigations. Mr. Fontenot stated that the utility has complied with all of the due dates to this point. Mr. Fontenot welcomed Mr. Herbert Kelton with Leoma Utility District to address the Board.

Mr. Kelton described the events that lead to the investigation report.

Mr. Pelham asked about the size of the current board, and whether the utility reviews monthly financial reports. Mr. Kelton explained that the board currently has 4 members, and they are looking for a 5th member. Mr. Kelton further explained that they have hired a CPA that gives the board financial updates at each board meeting.

Mr. Hampton asked Mr. Kelton if he was the only member of the board currently present.

Mr. Kelton stated he was the only board member present.

Mr. Fontenot stated that the Board ordered Leoma's board to be present at this meeting during the March 2024 TBOUR meeting.

Mr. Hampton asked Mr. Kelton, given the vacancies in the board, if the board still has regular meetings. Mr. Kelton responded, stating that the board meets every 2nd Monday night.

Mr. Giles asked Mr. Kelton how many customers the utility has. Mr. Kelton responded, stating the utility has around 1,300 customers. Mr. Giles asked further how the utility produces their water. Mr. Kelton responded, stating that they use a well. Vice Chairman Moss stated that they are required to have a second well by TDEC regulations. Mr. Kelton stated they are looking at multiple options as far as getting a second well.

Mr. Giles asked if there are any nearby utilities that would be a possible merger opportunity. Mr. Kelton responded by saying that the community is fighting the idea of a merger, and that nobody wants that. Mr. Giles stated that this situation is similar to the South Fork utility situation that occurred a few years ago when a feasibility study was ordered due to the finding of an investigation report. Mr. Giles stated further that he believes this would be the appropriate next step. Mr. Colona stated that the Board would need to order Leoma to conduct a feasibility study with surrounding utilities including Lawrenceburg.

Mr. Pelham asked Mr. Kelton if they have Licensed full time staff for the well, water treatment, and for distribution. Mr. Kelton stated that they have a part time worker seeking a license. Mr. Colona stated that it sounds like they do not have licensed staff.

Mr. Colona further stated that, given the new information gathered at the meeting, staff recommendation would be to order a feasibility study with surrounding utilities and Lawrenceburg.

Ms. Vannasdale motioned to accept staff recommendations; Mr. Giles seconded the motion.

Mr. May stated that due dates need to be decided for the order. The Board discussed due dates associated with the order. The motion then passed unanimously.

West Point Utility District

Mr. Fontenot described the status of the case. Mr. Fontenot explained that Board staff is concerned about the management of the utility and recommended a feasibility study, further stating that a merger may be a good solution. Mr. Fontenot explained that the utility does not have records past four or five years ago. Mr. Fontenot stated that the manager of the utility has had health issues, which is another reason for bringing this to the Board. Mr. Fontenot mentioned that members of Communities Unlimited, who have been working with the utility are present to answer any questions.

Mr. Pelham asks Mr. Fontenot what role Communities Unlimited plays in regard to West Point Utility District. Mr. Fontenot replied, stating that they serve a role similar to TAUD, advising and training the utility.

Mr. Pelham asked if anyone from West Point Utility District is present. Mr. Fontenot responded, stating no one is present. Mr. Pelham asked if Communities Unlimited had any comments, they had none.

Mr. Pelham motioned to accept staff recommendations. Mr. Purkey seconds the motion which passes unanimously.

CUSTOMER COMPLAINTS

Patricia Powers, Mason

Mr. Colona checked online to see if Ms. Patricia Powers is available online to address the Board with her complaint. Mr. Colona stated that she is no longer present online.

Mr. Pelham motions drafting a letter to the utility, to be consistent with the other customer complaints discussed.

Mr. Colona explained to those that did not hear Mr. Pelham that Board staff would be tasked with drafting a letter on behalf of the Board encouraging the Town to revisit the complaint and make sure all of their policies and procedures were adequately followed. Further stating that Board staff would update the Board at the following TBOUR meeting.

Mr. Stone seconded the motion which passed unanimously.

Lyndsey Mosley, Jonesborough

Mr. Colona explained that Board staff does not have a recommended action for this case. He explained that this has turned into more of a criminal matter and there is nothing more for the Board to do here. Mr. Colona also added that there was never an official case opened, and no further action is necessary.

Samantha Crites, Centerville

Mr. Colona checked to see if Ms. Samantha Crites is available online to address her complaint.

Ms. Samantha Crites was available and began to address the Board with her complaint. Ms. Crites states that she requested to speak at the town's monthly meeting and was denied by the mayor. She further explained she believes the sewer access fee being charged is not reasonable.

Mr. Colona explained that the remedy being sought here is for the sewer access fee to be reduced to the monthly flat fee, instead of the variable rate, and that refunds are issued to the customers of Centerville's system.

Mr. Colona checked online to see if anyone was present from Centerville to address the complaint. None were present.

Mr. Giles stated that he believes that this fee is unreasonable, and that the city should be required to do some sort of cost-of-service study to justify this fee. He further added that he believes it would be a good idea for a section to be added to the Annual Information Report, requiring utilities to report how they address sewer access fees. Mr. Colona stated that the Board would need to vote on adding this to the report.

Mr. Colona then gave some context about sewer access fees for those who may be unfamiliar with this practice. He stated that he does not understand how you justify charging a variable rate for a service that is not being provided. He further states that he would be comfortable with ordering the Town to complete a cost-of-service survey to determine what the flat fee should be for all the customers, and to further implement this as the flat fee in place of the variable rate. Mr. Colona states that this will be the staff's new recommendation.

Mr. Colona questioned what to do in the meantime while the study is being completed, stating that he is concerned that ordering them to drop the variable rate today might cause financial issues.

Mr. Pelham asked Mr. May if he is familiar with the state statute that authorizes the charge of a sewer access fee.

Mr. Stone asked Ms. Crite if she can choose to access the sewer system if she chooses too. She stated that she believes that she can.

Mr. Colona then restated Board staff's recommendation.

Vice Chairman Moss motioned to accept the staff recommendation. Mr. Giles seconded the motion.

Mr. Hampton asked how many customers there are in the district. Mr. Colona stated he believes there are 1,400 customers. Mr. Hampton asked if they received ARP funds for sewer infrastructure. Mr. Colona states that they should have.

Mr. Colona restated the staff recommendation.

Ms. Vannasdale asked whether or not the refunds requested by Ms. Crite will be addressed in the cost of service study. Mr. Colona responds, stating that he thinks the Board should make that determination.

Mr. Pelham described the complexity of this issue. Stating that there may be homeowners that believe they are on septic, but believe they are using the sewer system due to the variable rate being charged.

Mr. Giles reminded the Board that she was denied the ability to speak at a public meeting and asks whether or not this is a problem.

Mr. Colona stated, for the record, that the complaint questioned the justness and reasonableness of the rate being charged to the customer.

Mr. Hampton stated, that in addition to the cost of service study, he would like to see documentation regarding why they chose to implement this variable rate and to defend their policy.

Mr. Giles explained that some bond covenants require you to have a base fee, but has not seen the requirement of a variable rate.

Mr. Stone said he has seen this variable rate practice used before, further stating that this practice is used to incentivize customers to use the sewer system and to get people off the septic. Mr. Pelham adds that he has seen this practice as well.

Ms. Vannasdale pointed out the issues Mr. Pelham stated earlier regarding homeowners believing they are paying to use the sewer system when they are not, further adding that this may also cause issues for the utility internally when determining who is actually using the sewer system.

Ms. Vannasdale added that she believes there should be some consideration given to the idea are issuing refunds and making sure they have a good tracking system to identify who is and is not on the sewer system.

Mr. Giles expressed that he hopes adding this to the Annual Information Report brings light to the subject and helps protect customers in the future.

Chairman Moody reminded the Board that there is an existing motion and second. Further asking if any changes would like to be made. Mr. Hampton retracts his earlier suggestion.

Mr. Colona restated the outstanding Board recommendation to require Centerville to conduct a cost of service study, to determine the flat fee and variable cost of running the system and to implement the finding so that customers not using the service pay the flat fee. By September 30th, the town will have sent Board staff a copy of the contract, by December 31st they will have sent Board staff the results and proof of implementation of that study. Board staff will update the Board at the next TBOUR meeting. Board staff can grant a six-month extension if the utility shows good cause to do so.

Mr. Colona stated there will be an additional vote to add this section to the Annual Information Report.

The Board voted on the aforementioned motion and second which passed unanimously.

The Board then discussed the addition to the Annual Information Report.

Mr. Colona stated that he is looking for the authority from the Board to update the Annual Information Report to reflect what utilities charge a fixed and variable rate for sewer access.

Mr. Giles motions to accept staff recommendations. Mr. Stone seconds the motion which passed unanimously.

UPDATE CYCLE CASES

Mr. Colona stated that the entities listed in this section have followed all Board directives and Board staff recommend moving them into the update cycle.

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

RELEASED CASES

Mr. Colona explained that the cases found in this section are the cases Board staff recommend release from Board oversight.

Mr. Stone motions to accept staff recommendation. Vice Chairman Moss seconds the motion.

Mr. Pelham asked for a short update on the cases.

Mr. Colona states the following:

Cold Springs Utility District is being released because they have merged with Mountain City Utility District.

Blountville is a normal case; they are being released because they have reported two years of positive statutory change.

Oliver Springs administrative review case is being closed because there is a financial distress case now open, and the administrative review case is no longer needed.

Tiptonville is another typical financial distress case that has reported two years of positive statutory change.

Tarpley Shop Utility District has merged with South Giles Utility District so the case can now be closed.

Tuchalechee Utility District are under new contract management and everything is looking positive, so the open case is no longer needed.

Mr. Colona then gave the board an outline of what happened with the Watertown Administrative Review case, and states that there is an open Financial Distress case open for the town and the administrative review case is no longer needed.

Vice Chairman Moss noted they have an order out for Watertown as well, stating that the order signed against them is dated August 16th, 2022, and the agreed order is signed April 9th, 2024.

Mr. Colona advised the Board that the mayor of Watertown also serves as the county attorney.

Mr. Colona stated the following:

For Webb Creek Utility District, Board staff wanted to make sure the commissioners were appointed properly. Their attorney has reported they were appointed properly.

Witt Utility District was previously brought in front of the Board regarding the Division of Investigations report. Ben Harris has been let go from the utility. Things at the utility has been moving in a positive direction and there is nothing left to do regarding this case.

The aforementioned motion and second was voted on which passed unanimously.

DELINQUENT AUDIT CASES

Mr. Colona stated that the cases in this category have late outstanding audits and Board staff recommend ordering the entities to have their delinquent audits submitted to LGA by December 31st. Mr. Colona then states that he would like to amend the recommendation to require the entity to submit all outstanding audits by December 31st. Additionally, the entity is required to provide a written statement to LGA and Board staff describing why they have failed to submit the audits timely. Mr. Colona further stated that the entities are not allowed to issue any debt or receive grants until the audits are received. Lastly, Mr. Colona stated that Board staff can issue an extension if needed.

Mr. Giles motioned to accept staff recommendations. Mr. Pelham seconded the motion.

Mr. Hampton asked if the Decherd case is related to the recent news regarding Decherd alderman. Ms. Huffstutter stated that this is unrelated to the news Mr. Hampton is referring to.

The aforementioned motion and second were voted on and passed unanimously.

MANAGER CASES

Alexandria

Mr. Colona requested that the Board place Alexandria under Administrative Review due to managerial and technical concerns, but not necessarily financial concerns. Mr. Colona further explained that Board staff have received a number of complaints about Alexandria and believes it would be appropriate to place them under administrative review and report back to the Board at the next meeting.

Vice Chairman Moss explains that they have received a dozen complaints since January and double that the year before regarding water pressure. He further explained that their operator was fired and that they had until July 30th to hire another certified operator and believe they may not meet that requirement.

Mr. Giles motioned to accept staff recommendations. Ms. Vannasdale seconded the motions which passed unanimously.

Mason

Mr. Colona explained that the Board had previously ordered Mason to complete a feasibility study. The study concluded that it is feasible for Mason to hook onto Poplar Grove Utility District, however the Town of Mason has contracted with Alliance Water Resources to manage the utility and would need to pay a large amount of money to terminate their contract. Mr. Colona stated that this makes sense as long as Alliance can turn things around and this takes care of the customers. Mr. Colona stated that as of July 5th, Alliance sent a letter terminating the contract due to cause with the Town of Mason. The letter states there are staffing challenges, hostile environment, budget overruns, vendor reluctance, safety concerns, mitigating operational issues, equipment deficiencies and lack of investment. Mr. Colona stated that he has a huge concern with what is going to happen to the customers of Mason once Alliance leaves. Mr. Colona noted that part of the reason they were brought under the Board was because TDEC was having issues with them in staffing a certified operator. Mr. Colona stated that he is concerned but does not have a current recommendation.

Mr. Pelham asks if Poplar Grove is apposed to the merger. MR. Colona stated that he has not spoken with the board of Poplar Grove, further stating that in the past they were willing to do what's right for the community.

Vice Chairman Moss states that for the past 6 months, they have not been submitting monthly reports on sewer or drinking water. Additionally, he noted that their sewer system lacks the ability for them to know whether they are in compliance with TDEC regulations. Vice Chairman Moss recommended pursuing a merger with Poplar Grove.

Mr. Colona discussed the logistics of moving forward with a merger. Mr. Colona suggest the Board order staff to hold a public hearing regarding this prior to the October 2024 meeting.

Mr. Giles stated that he completely concurs with Vice Chairman Moss and seconds his motion which passes unanimously.

Spencer

Mr. Colona explained that Mr. Pelham would recuse himself from this referral because Warren County Utility District, which he works for, is seeking to merge with Spencer. Mr. Colona explained that the Warren County UD had requested a few items from the Board before the potential merger took place.

The first request was for a million-dollar grant from the Utility Revitalization fund. Mr. Colona explained that the money in the Utility Revitalization fund was directed to be used elsewhere by the General Assembly. Mr. Colona explained that he would like to request that the Board provide a positive recommendation that if the funds were available the Board would provide them to Warren County to help with the merger.

The second request was to approve Warren County UD's asset valuation of nearly 2.8 million dollars of the Spencer utility system. Mr. Colona explained that when there is a merger the acquiring utility system gets to revalue the assets of the system that they are acquiring, and working with an engineer 2.8 million is what they came up with. Mr. Colona explained that Board staff does not dispute this valuation.

The third request was to approve Warren County UD's request to utilize the modified approach of depreciation for the newly created TDEC ARP infrastructure is placed into service. Mr. Colona explained that there is a lot of work needed at Spencer and as long as Warren County was using an accounting system that is approved by GAAP and GASB, then Board staff does not have an issue with it.

The fourth request was to resend the pending August 2024 rate increase that was issued against Spencer by the Board. Mr. Colona explained that Warren County does not think the rate increase will be necessary going forward.

Mr. Pelham explained that Warren County UD would be amending their charter because they will be taking over the Spencer sewer system in the merger and stated that he would be happy to take any questions regarding the new sewer system.

Mr. Hampton asked Board staff about the first request, specifically if the funds would be returned to the utility revitalization fund within the next six months.

Mr. Colona explained that the funds could only be made available in the next legislative session and that he was not sure if a new request would be made for the funds to be made available.

Mr. Moss asked if the SRF fund had some available funds set aside for mergers.

Mr. Colona explained that they kind of do and he has been discussing it with them , but it takes a long time to receive funds from this program and things need to be moving forward sooner.

Mr. Giles stated that appropriating money for the Utility Revitalization fund annually would be a good thing because there are so many entities across the state that could use this funding.

Mr. Pelham explained that there are many ancillary costs that are going to have to be covered and that if the Utility Revitalization funds do become available that they would hope to be recouped for those costs using the funds.

Mr. Hampton stated that for request number two he did not feel comfortable with the Board voting on the asset valuation.

Mr. Colona explained that instead of approving the asset valuation the recommendation could say the Board doesn't oppose the valuation but the Board also does not have a positive recommendation of the asset valuation either.

Mr. Hampton stated that he was okay with that recommendation. He also asked how long the modified depreciation approach would last.

Mr. Pelham explained that it would be for Fiscal Years 2027 and 2028.

Mr. Hampton asked about recommendation number four regarding the rate increase and when would a rate study take place.

Mr. Pelham stated that it would be in fiscal year 2026.

Mr. Colona asked that we keep the staff recommendation as it is written.

Mr. Hampton moved the Board to accept recommendations 1,2,3 and 5. That was seconded by Mr. Moss. The motion passed unanimously.

Mr. Colona explained the recommendation for the town of Spencer. Mr. Stone motioned to pass that recommendation and Mr. Hampton seconded. The motion passed unanimously.

The Board went into recess for 5 minutes

EAST TENNESSEE

Brownlow Utility District

Mr. Johnson explained that Brownlow is behind on audits and is financially distressed for fiscal years 2021 and 2022. Mr. Johnson explained that Board staff is recommending a rate study be carried out with a contract in place for the study by October 31, 2024 and a completed rate study by March 31, 2025.

Mr. Pelham asked if the March 31, 2025 deadline would fall before or after the first Board meeting of calendar year 2025.

Mr. Colona explained that a March 31, 2025 deadline would probably fall after the first Board meeting of 2025.

Mr. Johnson stated that the recommendation could be changed for the rate study to be due by the end of February and that 6 month extension language could also be added to the recommendation.

Mr. Pelham made the motion to pass the recommendation with the revisions and Ms. Vannasdale seconded the motion. The motion passed unanimously.

Luttrell

Mr. Johnson explained that Luttrell has been under the Board going back to 2016 with continued negative net position on all of their new audits. Mr. Johnson explained the recommendation would be to have an updated rate study carried out and a feasibility study to be carried out for the potential merger with Luttrell Blaine Coryton Utility District and other surrounding utility systems.

Mr. Pelham asked if the due dates for the recommendation could be moved forward to reflect the due dates for Brownlow utility district.

Mr. Johnson stated that the recommendation could be updated with a completion date of the end of February 2025 with 6 month extension language.

Mr. Pelham motioned to pass the revised recommendation. Mr. Stone seconded the motion. The motion passed unanimously.

MIDDLE TENNESSEE

Decherd

Ms. Huffstutter stated that Decherd has been under the Board since 2021 and they are missing audits for Fiscal years 2022 and 2023. Ms. Huffstutter explained that she has been in contact with Mr. Jim Marshall from Jackson Thornton while working on the recommendation of extending the deadline for their order till December 31, 2025 for their rate study.

Mr. Giles motioned to pass the recommendation. Mr. Stone seconded the motion.

Mr. Pelham noted that there was a large drop in statutory net position and asked what that was related to.

Ms. Huffstutter stated that Board staff is unsure at this time due to the issues Decherd has had with record keeping.

The motion passed unanimously.

Huntland

Ms. Huffstutter explained that this was an administrative review case that was related to a sewer project that was started and has gone over budget and was done all at once instead of in stages. Ms. Huffstutter explained that Board staff is concerned about the sewer fund and its ability to self-sustain . Ms. Huffstutter provided the recommendation to order a rate study .

Mr. Porter from the town of Huntland asked for a few minutes to provide an update.

Chairman Moody stated that he could have 5 minutes to provide an update.

Mr. Porter explained that 230 of the planned 260 sewer customers are hooked up to the system and SRF funds were becoming available, and they are hoping that the \$300,000 loan would not be necessary.

Mr. Giles motioned to accept the staff recommendation. Mr. Stone seconded the motion. The motion passed unanimously.

WEST TENNESSEE

At this time the West Tennessee Utility Analyst, Nate Fontenot, started the presentations of staff recommendations of West Tennessee.

First Utility District of Hardin County

Mr. Fontenot briefly described the current state of the utility as it has a 2 year decrease in net position (2022-2023) and has not completed a rate study in the last 5 years. The Board order is for a rate study to be performed.

Mr. Pelham made a motion to accept the staff's recommendation. Mr. Purkey seconded the motion, which passed unanimously with no discussion or questions.

Promulgation of Rules - revisions

At this time the presentation was turned over to Seth May. Mr. May stated that there has been a revision of the rules since the last meeting and opened it up for questions or comments from the Board, at which there were none. There was no vote on this item.

Utility Manual

Mr. Colona stated that this is a relatively new utility manual that will be a good resource for utilities to utilize and how TBOUR operates. He asked for a positive vote to adopt this manual that will be available on the Comptroller's website for utilities to benefit from. Mr. Colona noted that this manual can be amended in the upcoming meetings if needed.

Vice Chair Tom Moss requested if public water systems and sewer systems be added in some fashion in the TDEC section of page 272 because a lot of other states have the drinking water program in the health department. Mr. Colona stated that this can be added. At that, Vice Chair motions to approve the manual.

Mr. Hampton noted that there was a comment left in the manual on page 244 that still needed to be removed before being published. Mr. Hampton then seconded the motion to approve the manual.

The motion to approve the utility manual passed unanimously with no further discussion.

Fast Growing Utility Exception Discussion

Mr. Colona opened this item of discussion by stating that this proposal is a way of handling growth for Tennessee utilities. This proposal lays out what the Board staff would want to see from utilities regarding deferring action to support their utility growth, especially as it relates to depreciation. He asks for a positive vote and says this is a lenience action they can offer to utilities based on growth in unique situations.

Mr. Pelham stated that he understands the goal of this but is concerned that the utilities are still going to undergo a negative hit as soon as the asset is booked and starts to depreciate. Yet, he motioned approval for handling growth in Tennessee utilities. The motion was seconded.

This motion carries unanimously with no further discussion.

Board Discussion

Mr. Colona closed by saying that he has ideas on how to speed up these meetings in the future that he plans to discuss with the Board members individually. Lastly, he expressed appreciation for the Board staff for their time and work.

There were no further comments or discussions.

Board Adjournment

Chairman Moody entertains a motion to adjourn the meeting, and Mr. Hampton seconds the motion.