

**RULES
OF
THE TENNESSEE COMPTROLLER OF THE TREASURY
TENNESSEE BOARD OF UTILITY REGULATION**

**CHAPTER 1715-02
GENERAL AUTHORITY**

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1715-02-.01 BOARD MEMBER COMPENSATION.

Board members shall serve without compensation, but shall be eligible for reimbursement for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Tennessee Attorney General and Reporter.

Authority: T.C.A. §§ 4-5-201, et seq., 7-82-701, and 7-82-702. **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023. Amendments filed May 5, 2025; effective August 3, 2025.

1715-02-.02 MEETINGS.

- (1) The Board shall exercise its powers only at public meetings.
- (2) The Board shall hold at least two regular meetings each calendar year.
- (3) The Board may hold special meetings.
- (4) Special meetings shall be called by the chair or by any two Board members.
- (5) For any calendar year, the Board may set a regular meeting schedule by resolution.
- (6) The Board may conduct meetings electronically, in whole or in part, as allowed by Tennessee law. Tennessee law shall dictate the extent to which Board members may participate electronically, whether a Board member participating electronically is considered present for purposes of quorum, and whether the Board member may vote.

Authority: T.C.A. §§ 4-5-201, et seq., and 7-82-702. **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023. Amendments filed May 5, 2025; effective August 3, 2025.

1715-02-.03 QUORUM.

A majority of the Board constitutes a quorum. A majority of the Board members present and voting shall be required for formal action of the Board.

Authority: T.C.A. §§ 4-5-201, et seq., and 7-82-702. **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023. Amendments filed May 5, 2025; effective August 3, 2025.

1715-02-.04 INCAPACITY OF BOARD CHAIR.

If the Board chair is incapacitated or unavailable, the Board vice-chair may serve as Board chair at

(Rule 1715-02-.04, continued)

meetings, sign subpoenas, orders, or other documents in place of the Board chair, or exercise any other authority ordinarily delegated to the Board chair. The Board chair may only be found to be incapacitated or unavailable by a Board vote at a meeting; or, outside of a Board meeting, by:

- (1) Agreement of Board staff and the Board vice-chair; or
- (2) The Board chair's written notification of unavailability.

Authority: T.C.A. §§ 4-5-201, et seq., and 7-82-702. **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023. Amendments filed May 5, 2025; effective August 3, 2025.

1715-02-.05 CONFLICTS OF INTEREST.

- (1) Board members shall file annual written disclosures of financial interests and other direct and indirect conflicts of interest with Staff.
- (2) 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. Board members must notify Board staff and/or the Board chair if they have a conflict of interest.
- (3) At each Board meeting, Board staff shall state the following on the record:

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.

Authority: T.C.A. §§ 4-5-201, et seq., 7-82-701, and 7-82-702. **Administrative History:** New rules filed May 5, 2025; effective August 3, 2025.

1715-02-.06 RECORDS.

- (1) Staff shall keep complete and accurate records of Board meetings.
- (2) Board records will be located in the office of the Comptroller and will be open to the public in accordance with Comptroller policy and state law.

Authority: T.C.A. §§ 4-5-201, et seq., 7-82-701, and 7-82-702. **Administrative History:** New rules filed May 5, 2025; effective August 3, 2025.

1715-02-.07 GUIDELINES.

- (1) The Board may delegate certain duties to Staff related to researching, drafting, and updating Board policies, guidelines, manuals, and other educational materials. Board manuals and guidelines shall be reviewed by Board counsel and approved by the Board.
- (2) Policies and Procedures
 - (a) Board staff may adopt new policies or forms for the administration of the Board's authority after such policies and procedures have been reviewed for legal sufficiency by Board counsel. New policies and procedures are effective when adopted by Board staff and will remain in effect until the Board's first regular meeting after their adoption.

(Rule 1715-02-.07, continued)

- (b) New policies or forms must be brought to the Board at the Board's next regular meeting after adoption by Board staff. The Board may adopt, reject, modify, or delay implementation of any new policy or procedure. Board counsel will advise the Board as to whether the policy or procedure should be written into rule.

Authority: T.C.A. §§ 4-5-201, et seq., 7-82-701, and 7-82-702. **Administrative History:** New rules filed May 5, 2025; effective August 3, 2025.

1715-02-.08 FORMAL REVIEW.

- (1) When a utility system is referred to the Board by operation of statute, the utility system will undergo a formal review by the Board and Board staff. A utility system may be placed under formal review for the following reasons:
 - (a) The utility system's financially distressed status;
 - (b) Excessive water loss by the utility system;
 - (c) Approval of a utility system's ethics policy;
 - (d) Approval of the incorporation of a new utility district under T.C.A. § 7-82-702(a)(7) system;
 - (e) Approval of the purchase, development, acquisition, or construction of a new water or wastewater system by a city or county under T.C.A. § 68-221-1017;
 - (f) A utility system's failure to file an annual report;
 - (g) The failure of a utility system's governing body to meet training or continuing education requirements;
 - (h) The failure of a utility system to implement or update a cyber-security plan; and,
 - (i) Any other reason a utility system is referred to the Board for review, or must submit any documentation to the Board for review.
- (2) In preparation for the Board's formal review, Staff may request any records from the utility system and speak with its officials and employees. Staff shall gather sufficient information about the circumstances leading to the referral and shall summarize that information and any remedial steps taken by the utility system for the Board.
- (3) The utility's staff and governing body must promptly provide requested records and cooperate with Staff's review. The Board may adopt negative inferences as to what missing records may show if the utility's staff or governing body repeatedly refuses to provide records or cooperate with Board staff.
- (4) At a public meeting, the Board shall review staff's case summary and any recommendations, may request additional documentation for a full consideration of the issues before it, and may determine any other remedial actions the utility system must take to correct any remaining issues. Staff shall document the Board's directive(s) in the form of an order, letter, or memorandum, depending on the nature of the directive(s). The Board's directive(s) must be met before the Board releases the utility system from Board oversight.

(Rule 1715-02-.08, continued)

- (5) Upon satisfactory compliance with the directive(s) of the Board, the Board shall instruct Staff to close the review and inform the utility system that it has been released from the Board's oversight.

Authority: T.C.A. §§ 4-5-201, et seq., 7-82-702, 7-82-703, 7-82-706, and 68-221-1017. **Administrative History:** New rules filed May 5, 2025; effective August 3, 2025.

1715-02-.09 ADMINISTRATIVE REVIEW.

- (1) The Board may request Staff to perform an administrative review of a utility system's financial, technical, and managerial capacity.
- (2) The utility's staff and governing body must promptly provide requested records and cooperate with Staff's review. The Board may adopt negative conclusions as to what missing records may show if the utility's staff or governing body repeatedly refuses to provide records or cooperate with Board staff.
- (3) At the conclusion of the investigation, Staff shall report its findings and recommendations to the Board.
- (4) At a public meeting, the Board shall review or hear the Staff report and recommendations based upon the Staff's administrative review. The Board may order the utility system to take any necessary and appropriate actions to remedy any issues, require Staff to investigate further and gather more information, or take any other necessary and appropriate action.
- (5) Upon satisfactory compliance with the directive(s) of the Board, the Board shall instruct Staff to close the administrative review and inform the utility system that it has been released from the Board's oversight.

Authority: T.C.A. §§ 4-5-201, et seq., 7-82-307, 7-82-702, 7-82-703, and 7-82-706. **Administrative History:** New rules filed May 5, 2025; effective August 3, 2025.

1715-02-.10 LITIGATION.

- (1) Within the parameters of state law, the Board may initiate legal proceedings against noncompliant entities.
- (2) The Board shall exhaust all statutorily authorized administrative procedures before initiating any formal legal proceedings.
- (3) In all matters involving formal litigation other than in front of the Board or an administrative hearing officer or administrative law judge, the Board shall engage the Tennessee Attorney General and Reporter.

Authority: T.C.A. §§ 4-5-201, et seq., and 7-82-702. **Administrative History:** New rules filed May 5, 2025; effective August 3, 2025.

1715-02-.11 ORDERS.

- (1) The Board shall produce a written order memorializing any directive entered by the Board which obligates a party other than Board staff to take an action. The written order may be drafted by a Board member or Board staff and shall be reviewed and signed by the Board chair.
- (2) The written order shall be posted to the Board's website and sent to any parties named in or obligated by the order. Orders will remain available via the Board's website until such time as the order may be destroyed pursuant to the relevant records disposition authorization.

(Rule 1715-02-.11, continued)

- (3) Board staff will resolve ambiguity in an order in favor of effectuating the Board's intent.

Authority: *T.C.A. §§ 4-5-201, et seq., and 7-82-702. Administrative History: New rules filed May 5, 2025; effective August 3, 2025.*