

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	March 20, 2008)	
)	
PETITION OF CONDO VILLAS OF GATLINBURG ASSOCIATION, INC. D/B/A FOOTHILLS WATER PROPERTIES, INC. FOR A GENERAL RATE INCREASE)	DOCKET NO. 07-00228

ORDER APPROVING SETTLEMENT AGREEMENT

This matter came before Chairman Eddie Roberson, Director Tre Hargett and Director Sara Kyle, of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a hearing held on February 25, 2008, for consideration of the *Proposed Settlement Agreement* (“*Settlement Agreement*”) between Condo Villas of Gatlinburg Association, Inc. d/b/a Foothills Water Properties, Inc. (“Condo Villas” or “Company”), and Staff of the TRA (“TRA Staff” or “Staff”) (collectively, “the parties”).

Condo Villas provides water service to approximately 102 customers in or around Gatlinburg, Tennessee through water purchases from the City of Gatlinburg. An agreement was executed on December 18, 1999 conveying the interests of Foothills Water Properties, Inc. as a charitable gift to Condo Villas. By Order dated October 10, 2000 in Docket No. 00-00046, the Authority approved this transfer.

TRAVEL OF THE CASE

On October 2, 2007, Condo Villas filed a *Petition* with the TRA requesting approval of a general rate increase of approximately 43% or an increase in annual revenues of \$18,376.¹ The Company’s initial request would have increased monthly water rates from \$35.00 to \$50.00

¹ *Petition*, p. 2 (October 2, 2007).

monthly. In addition, the Company identified additional capital needs over the next five years for equipment replacement of approximately \$55,000.²

At the November 6, 2007 Authority Conference, the panel assigned to this docket voted unanimously to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding for the purpose of hearing preliminary matters, setting a procedural schedule to completion and preparing the matter for a hearing before the panel. Two members of the TRA Staff were designated to participate as parties in the case for purposes of assisting the Company with its filing and negotiating a settlement if possible. TRA Staff was represented by Counsel from TRA's Legal Division.

No party filed to intervene in the case. On January 23, 2008 the parties filed the *Settlement Agreement*. On January 30, 2008, General Counsel filed a memorandum in the docket naming the Staff members who had participated as parties and stating that these Staff members would not be involved in an advisory capacity. Also, on this date, the Hearing Officer issued a *Notice of Hearing* setting the matter for hearing on February 25, 2008. On February 4, 2008, the Company filed a copy of the public notice that was published in compliance with TRA Rule 1220-4-1-.05(1).

THE PROPOSED SETTLEMENT AGREEMENT

The *Settlement Agreement* relating to specific issues to which the parties stipulated includes, among other provisions, the following:

1. Condo Villas proposed revenue requirement increase shall be set at \$3,789 per year.
2. The rates will be set to cover projected operating costs excluding any applicable excise or income taxes for the years 2008, 2009 and 2010 with no margin. No rate of return will be established since the Company's plant is comprised of contributed capital.

² *Ibid.*

3. While the parties have agreed that it is anticipated that the rates determined in this proposed settlement agreement will be sufficient to cover operating costs through 2010 nothing in this proposed settlement agreement shall prevent either party from seeking rate adjustments prior to the end of 2010 if conditions warrant such action.

4. The Company agrees to establish a separate escrow account for plant replacement in the amount of \$55,080 to be funded by an escrow rider of \$9 per month per customer commencing after Authority approval and to continue for sixty months at which time the escrow rider will automatically expire.

5. The Company further agrees to maintain detailed documentation of all withdrawals from said escrow account. The Company also agrees that any excess funds remaining unexpended five (5) years from the date of the decision in this docket shall be expended or refunded in a manner to be determined by the Authority.

6. The parties agree that any plant additions funded from the escrow account will be accounted for as Contributions in Aid of Construction.

7. Upon approval of the *Settlement Agreement* by the Authority, the Company shall be allowed to increase its base rate from \$35 to \$38.10 or 8.86%, provided the requisite public notice is provided and a public hearing is held.

8. Upon Authority approval, the Company shall immediately file tariff revisions to reflect the stipulated rates and subsequently make other such tariff modifications as deemed necessary by the Staff to update the existing tariff.

THE HEARING

The Hearing in this matter was held before the voting panel on February 25, 2008. Participating in the Hearing were the following parties and their respective counsel:

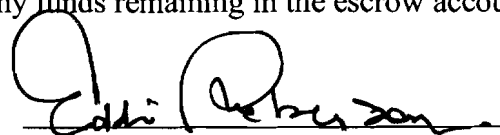
Condo Villas – Wayne Campbell, CPA, 525 West Morris Boulevard, Suite B, Morristown, Tennessee 37813.

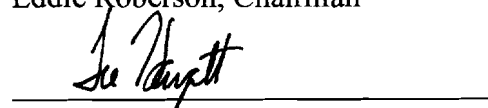
TRA Staff – Paul Greene, Mike Warner, and Shilina Chatterjee Brown, Esq., 460 James Robertson Parkway, Nashville, Tennessee 37243-0505.

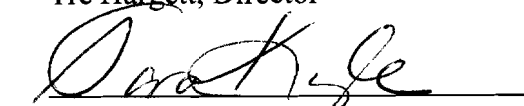
Mr. Wayne Campbell of Condo Villas provided an overview of the *Settlement Agreement*. The panel then confirmed through the General Counsel that the requisite public notice for the hearing had been provided and proceeded to open the hearing to members of the public for comment. After receiving no comment from members of the public, the panel found that the *Settlement Agreement* was in the public interest because it effectively balanced the interests of the consumers and the Company and the proposed rates were fair and reasonable. The panel then voted unanimously to accept the *Settlement Agreement* with its provisions becoming effective immediately.

IT IS THEREFORE ORDERED THAT:

1. The *Proposed Settlement Agreement* filed by the parties, attached hereto as Exhibit A and incorporated into this Order as if fully rewritten herein, is accepted and approved effective immediately.
2. The Company shall file revised tariffs consistent with this Order within thirty days.
3. The Company shall file a detailed accounting of the transactions in its escrow account each year concurrent with the filing of the annual report. Further, at the end of five years, the Company shall notify the Authority of any funds remaining in the escrow account.


Eddie Roberson, Chairman


Tre Hargett, Director


Sara Kyle, Director

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

RECEIVED

JAN 23 AM 10:14

T.R.A. DOCKET ROOM

IN RE:

**IN RE: PETITION OF CONDO VILLAS OF
GATLINBURG ASSOCIATION, INC. D/B/A
FOOTHILLS WATER PROPERTIES, INC. FOR A
GENERAL RATE INCREASE**

)
)
)
)
)
)

DOCKET NO. 07-00228

PROPOSED SETTLEMENT AGREEMENT

Condo Villas of Gatlinburg Association, Inc. d/b/a Foothills Water Properties, Inc. ("Condo Villas" or "Company") and Staff of Tennessee Regulatory Authority ("TRA Staff" or "Staff") (collectively, the "Parties") respectfully submits this proposed settlement agreement to the Tennessee Regulatory Authority ("TRA" or "Authority") for approval for the purposes of settling this docket. The parties agree and stipulate as follows:

1. Condo Villas is incorporated under the laws of the State of Tennessee and is engaged in the business of providing water service to approximately 102 customers in or around Gatlinburg. Condo Villas is a public utility pursuant to the laws of Tennessee and its public utility operations are subject to the jurisdiction and regulation of the TRA.

2. By TRA Order dated October 10, 2000, in Docket 00-00046, the Authority unanimously approved the transfer of authority sought by the parties to the Agreement.

3. By the Agreement executed December 18, 1999 Foothills Water Properties, Inc. ("Foothills") conveyed to Condo Villas as a charitable gift all of its interests in Foothills as originally granted in Docket 90-02584.

4. Condo Villas' principal office is located at 814 E. Foothills Drive, Gatlinburg, TN 37738.

5. On October 2, 2007 Condo Villas filed a petition for approval to adjust its rates. In that filing Condo Villas sought a 42.9% rate increase or an increase in its annual revenues of \$18,376. In addition, the Company identified additional capital needs over the next five years for equipment replacement of approximately \$55,000.

6. On November 6, 2007, the voting panel of Directors assigned to this docket voted unanimously to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding for the purposes of hearing preliminary matters prior to the Hearing, setting a procedural schedule, and preparing the matter for hearing before the panel. As of the date of this proposed settlement agreement, no party has filed an intervention in this docket.

7. The parties to this proposed settlement agreement have exchanged information and engaged in extensive discussions to resolve all known disputed issues in this docket. As a result of these efforts, the parties have agreed to settle the issues pending in this docket and have agreed to reduce Condo Villas proposed revenue requirement increase from \$18,376 per year to \$3,789 per year. This rate increase is based upon 2007 test year revenues at current rates and 2007 test year expenses grown at a fair and reasonable agreed upon rate of 3% per year for the attrition years 2008, 2009 and 2010. See Exhibit A.

8. The parties agree that rates will be set to cover projected operating costs excluding any applicable excise or income taxes for the years 2008, 2009 and 2010 with no margin. No rate of return will be established since the Company's plant is comprised of contributed capital.

9. While the parties have agreed that it is anticipated that the rates determined in this proposed settlement agreement will be sufficient to cover operating costs through 2010 nothing in this proposed settlement agreement shall prevent either party from seeking rate adjustments prior to the end of 2010 if conditions warrant such action.

10. The Company agrees to establish a separate escrow account for plant replacement in the amount of \$55,080 to be funded by an escrow rider of \$9 per month per customer commencing after Authority approval and to continue for 60 months at which time the escrow rider will automatically expire.

11. The Company further agrees to maintain detailed documentation of all withdrawals from said escrow account. The Company also agrees that any excess funds remaining unexpended five (5) years from the date of the decision in this docket shall be expended or refunded in a manner to be determined by the Authority.

12. The parties agree that any plant additions funded from the escrow account will be accounted for as Contributions in Aid of Construction.

13. The proposed Settlement Agreement will be effective upon a date approved and determined by the Authority. The parties agree that this proposed Settlement Agreement is subject to the approval of the Directors of the TRA. On such date, the Company shall be allowed to increase its base rate from \$35 to \$38.10 or 8.86%, provided the requisite public notice is provided and a public hearing is held.

14. Upon Authority approval, the Company shall immediately file tariff revisions to reflect the stipulated rates and subsequently make other such tariff modifications as deemed necessary by the Staff to update the existing tariff.

15. Condo Villas' projected cumulative operating income deficiency excluding any excise or income taxes at present rates is (\$11,368.25) for 2008, 2009 and 2010.

16. The new rate design includes:

- a. The residential water rate will increase from \$35.00 per customer per month to \$38.10 per customer per month.
- b. A \$9 per customer per month escrow rider to cover anticipated capital improvements to run for 60 months and expire automatically.
- c. No other rates will change.

17. The revised rates agreed to in the proposed settlement agreement are fair and reasonable to all customers and will provide the Company with a reasonable opportunity to recover operating costs and make necessary capital improvements.

18. If questions should be asked by any person, including a TRA Director, who is not a party to this stipulation, the parties may present testimony and exhibits; provided, however, such cross examination shall not be inconsistent with this stipulation.

19. The provisions of this proposed settlement agreement do not necessarily reflect the positions asserted by any party and no party to this proposed settlement agreement waives the right to assert any position in any future proceeding. This proposed settlement agreement shall not have any precedential effect in any future proceeding or be binding on any parties except to the limited extent necessary to implement the provisions hereof.

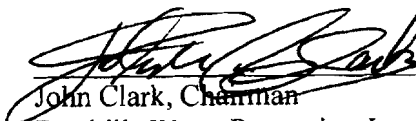
20. In the event that the Company merges, consolidates with or transfers its assets to another corporation or entity, its successor shall remain responsible for fully complying with the terms and conditions of this proposed settlement agreement. The Company shall notify the TRA no later than ten (10) days prior to the completion of such transaction.

21. If the TRA does not accept the proposed settlement in whole, the parties are not bound by any position set forth in this proposed settlement agreement. In the event that the Authority does not approve this proposed settlement agreement, each of the signatories to this proposed settlement agreement will retain the right to terminate this proposed settlement agreement. In the event of such action by the Authority, any of the signatories to this proposed settlement agreement would be entitled to give notice within five (5) business days of exercising its rights to terminate this proposed settlement agreement; provided however, that the signatories to this proposed settlement agreement could, by unanimous consent, elect to modify this proposed settlement agreement to address modification(s) required by, or issues raised by the Authority. Should this proposed settlement agreement terminate, it would be considered void and have no binding precedential effect, and the signatories to this proposed settlement agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this proposed settlement agreement.

22. The parties agree to implement the terms of this proposed settlement agreement in good faith and with due diligence.

23. This agreement shall be governed by and construed under the laws of the State of Tennessee, notwithstanding conflict of law provisions.

FOR CONDO VILLAS OF GATLINBURG ASSOCIATION, INC.:


John Clark, Chairman
Foothills Water Properties, Incorporated
814 East Foothills Drive
P.O. Box 613
Gatlinburg, Tennessee 37738

Date: 4/19/2008

**FOR STAFF OF THE TENNESSEE
REGULATORY AUTHORITY**

A handwritten signature in cursive script that reads "Shilina Chatterjee Brown". The signature is written in black ink and is positioned above the printed name and title.

Shilina Chatterjee Brown (BPR# 020689)

Legal Counsel

Tennessee Regulatory Authority

460 James Robertson Parkway

2nd Floor

Nashville, TN 37212

(615) 741-2904 Ext. 154

Date: 1/15/08

EXHIBIT A

Condo Villas
Income Statement at Current Rates
Test Year 2007
Attrition Period 2008 - 2010

EXHIBIT A

Line No.	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
<u>Revenues</u>				
1 Water Revenue	42,840.00	42,840.00	42,840.00	42,840.00
<u>Expenses</u>				
2 Purchased Water Expenses	36,512.23	37,607.59	38,735.82	39,897.90
3 Purchased Power Expense	229.56	236.45	243.54	250.85
4 Administrative and General Expense	4,282.18	4,410.65	4,542.96	4,679.25
5 Insurance Expense	810.00	834.30	859.33	885.11
6 Rate Case Expense		500.00	500.00	500.00
7 Other Taxes	1,634.77	1,683.81	1,734.33	1,786.36
9 Total Operating Expenses	43,468.74	45,272.80	46,615.99	47,999.46
10 Net Income Loss	(628.74)	(2,432.80)	(3,775.99)	(5,159.46)
11 2008 - 2010 NOI Deficiency				(11,368.25)
14 Revenue Deficiency per Customer per Month				-3.10
15 Settled Base Rate per Customer per Month				38.10