

IN RE:

DOCKET NO. 11-00065

I. Request No. 6

1. The CAD requested “details of all consumers contacted determining that there is no longer an odor problem....”
2. Party Staff objected to the relevance of this request and stands by its original objection. Whether or not there is currently an “odor problem” is irrelevant to the issues in this matter nor is the identity of any persons contacted by Party Staff about a current “odor problem” likely to lead to the discovery of any information relevant to this matter.

II. Request No. 7

3. The CAD requested “details of all consumers contacted inquiring if they have any issues with receiving less than 100% recovery of illegal and unauthorized charges from the utility.”
4. Party Staff objected to the relevance of this request and stands by its original objection. Whether or not the Settlement Agreement constitutes an adequate recovery for the consumers is a matter for the Directors of the Tennessee Regulatory Authority to determine and the nature of any polling or inquiries by Party Staff towards customers is not relevant to the Director’s decision making nor is it likely to lead to the discovery of information relevant to the Directors.

III. Request No. 8

5. The CAD requested that Party Staff “identify the party to the settlement who is representing consumers and/or rate payers.”
6. Party Staff objected that this request seeks the “attorney’s mental impressions and trial strategy” and stands by its original objection. The CAD has in fact made the issue of who represents the rate payers the heart of their case. At this time Party Staff’s brief is due August 19, 2013, in that brief Party Staff will be forced to articulate its legal theory on this issue. If Party Staff were to divulge its legal theory at a time prior to the filing of that brief it would be revealing its work product prior to the necessary time frame. The CAD will of course have the opportunity to respond in its reply brief if it believes that necessary.

IV. Request No. 9

7. The CAD requested that Party Staff “identify and explain the TRA Staff’s [sic], rights, interest, and/or claims in the flood damage cost and odor control costs”.
8. Party Staff does not purport to represent the interests of TRA Staff and cannot answer for them. Therefore, Party Staff assumed that the CAD was requesting information about the Party Staff’s positions. If however, the CAD was requesting information about TRA Staff then Party Staff cannot answer for lack of knowledge. Party Staff objected that this request seeks the “attorney’s mental impressions and trial strategy” and stands by its original objection. The CAD’s request presumes that the Party Staff asserts any rights, interests, and/or claims in flood damage cost and odor control costs. It then requests that Party Staff should divulge the legal theory upon which it claims those rights. The CAD has clearly placed this issue in dispute in this matter and it is obviously an issue that will be determined in this matter. As such the Party Staff is under no obligation to reveal its legal strategy in this regard until such time as it files its brief. The CAD will have ample opportunity to respond to the brief in its reply brief.

V. Request No. 11

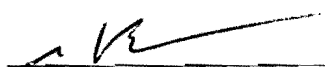
9. The CAD requested that Party Staff state how Ms. Underwood’s analysis and testimony would have differed if she had used a “rate making mindset”.
10. Party Staff objected to the relevance of this request and stands by its original objection. The difference in analysis is not relevant because the Directors of the Tennessee Regulatory Authority are not being asked to determine what rates are appropriate for Berry’s Chapel customers. Additionally, no such analysis exists and there is no basis upon which the CAD can demand that Party Staff produce the irrelevant analysis.

VI. Request No. 13

11. The CAD requested that Party Staff “explain by what authority TRA Party Staff has included in the Settlement Agreement the recovery of attorney’s fees for flood damage and odor control expenses.”
12. Party Staff objected that this request seeks the “attorney’s mental impressions and trial strategy” and stands by its original objection. Again the CAD has requested that Party Staff state its legal arguments and positions prior to the filing a brief. It is not reasonable to expect Party Staff to reveal their trial strategies and theories prior to filing the brief. In this matter Party Staff will address this issue in its brief and the CAD will have the opportunity to respond in their reply brief.

WHEREFORE, Party Staff respectfully requests Oral Argument on the CAD’s Motion to Compel and that after said hearing these requests be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have served a copy of the foregoing document on the following persons by U.S. Mail:

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This the 31st day of July, 2013.



Shiva K. Bozarth