

RECEIVED

2013 MAY 31 PM 3:50

TRA DOCKET ROOM



1 **Q. Please state your name, business name and address for the record.**

2 A. My name is Robert T. ("Terry") Buckner. I am operating as a sole pro-
3 prietorship, Robert T. Buckner CPA, 2783 Saundersville Ferry Road, Mount
4 Juliet, Tennessee 37122.

5
6 **Q. On whose behalf are you testifying in this docket?**

7 A. I am submitting testimony on behalf of Berry's Chapel Utility, Inc.
8 ("Company").

9
10 **Q. How long have you been employed in conjunction with the public utility
11 industry?**

12 A. I have been employed in conjunction with the public utility industry
13 for over thirty years. Before my retirement from the Office of the Attorney
14 General in the Consumer Advocate and Protection Division ("Office"), I was
15 employed by the Comptroller's Office for the state of Tennessee for nearly
16 two years as the Assistant Director responsible for public utility audits after
17 approximately eight years of prior employment with the Office. Formerly, I
18 was employed with the Tennessee Public Service Commission
19 ("Commission") in the Utility Rates Division as a financial analyst for
20 approximately six years. My responsibilities included testifying before the
21 Commission as to the appropriate cost of service for public utilities
22 operating in Tennessee. Prior to my employment with the Commission, I
23 was employed by TDS Telecom for eight years and the First Utility District of
24 Knox County for three years.

1 **Q. What is your educational background and what degrees do you hold?**

2 A. I have a Bachelors degree in Business Administration from the
3 University of Tennessee, Knoxville with a major in Accounting.

4
5 **Q. What is the purpose of your testimony?**

6 A. The purpose of my testimony is to address two issues: (1) the overall
7 financial condition of the Company; and (2) the funding of an escrow ac-
8 count.

9
10 **Q. What is the financial condition of the Company?**

11 A. Simply put, the Company's financial condition is poor. Ideally, an en-
12 terprise's Current Assets should be at least twice that of its Current Liabili-
13 ties. Current Assets less Current Liabilities are known as Working Capital,
14 i.e. cash. The Company's working capital is less than one.¹ Consequently,
15 the Company struggles to pay its bills on time, to fund potential exogenous
16 circumstances, and to maintain its plant operations. The Company's finan-
17 cial condition will be further exacerbated when the approximately \$7,000
18 per month in cash flow expires for the flood damage recovery.

19
20 **Q. What will the funding of an escrow account provide for the Company and**
21 **its customers?**

22 A. An escrow account could be established by the TRA to be funded by
23 the Company for two primary purposes: (1) the provision of financial securi-

¹ Page 2 of the independent audit report dated October 21, 2011 as filed in TRA Docket #11-00198.

1 ty; and or (2) funding for an emergency such as the failure of an important
2 piece of equipment required to meet its sewage treatment obligations.
3

4 **Q. Please describe the provision of Financial Security.**

5 A. The TRA's rules for wastewater utilities include a section entitled "Fi-
6 nancial Security"²
7

8 All public wastewater utilities either holding or seeking to
9 hold a CCN and owning wastewater systems shall furnish
10 to the Authority, prior to providing service to a customer,
11 acceptable financial security using a format prescribed by
12 the Authority. The public wastewater utility shall ensure
13 that such financial security is maintained in continuous
14 force in conformity to these rules.³...On or before July 1
15 of each year, public wastewater utilities holding a CCN
16 and providing service shall file proof with the Authority of
17 a security in the amount of one hundred percent (100%)
18 of the gross annual revenue in the most recent Authority
19 Form UD 20 or \$20,000, whichever is greater.⁴
20

21 **Q. Does the Company presently have Financial Security?**

22 A. No. Attached are the minutes of the Company's Board of Director's
23 Meeting dated November 6, 2012. The last page of the minutes disclose six
24 banks, which have declined to make a short-term loan to the Company due
25 to its current financial position.
26

² TRA Rules 1220-4-13.07.

³ TRA Rules 1220-4-13.07 (1).

⁴ TRA Rules 1220-4-13.07 (2) (a).

1 **Q. How does the Company intend to fund the Financial Security of \$20,000?**

2 A. In the course of settlement discussions with members of the TRA staff
3 assigned to participate in this docket as a party, the TRA staff proposed and
4 the Company agreed that, as part of a settlement, the Company would
5 contribute \$20,000, which would be used to create an escrow account, held
6 for the benefit of the Company's customers, and that this escrow account
7 would satisfy TRA's "Financial Security" requirement. In fact, as I will
8 explain, the parties concluded that, because of the Company's poor financial
9 condition, this is the only way in which the Company can meet the TRA's
10 Financial Security requirement and the only way to begin to protect the
11 customers from a future financial calamity in the event of an equipment
12 failure or other emergency.

13
14 **Q. Explain why the Company cannot otherwise comply with the TRA's**
15 **Financial Security requirement.**

16 A. As I stated earlier, the Company has tried repeatedly to get a short
17 term bank loan. Because of the Company's poor financial condition, no
18 bank will make the necessary loan. For the same reasons, it is very difficult
19 to purchase a surety bond or letter of credit. Even if the Company could
20 persuade a bank to issue a surety bond or letter of credit, the Company
21 would have to deposit the full amount of the bond as collateral. The
22 Company simply does not have the funds to do that and maintain its
23 operations.
24

1 **Q. Why is the creation of the escrow account in the best interests of the**
2 **Company's customers?**

3 A. The purpose of the TRA's Financial Security requirement is to protect
4 the customers in case of an emergency. This amount will at least provide
5 the customers with some protection in the event of equipment failure or
6 some other type of emergency which threatens the viability of the Company
7 or the continuity of its operations. Given the Company's financial condition,
8 the only way to create this emergency fund is to have the Company fund it
9 directly. Under the terms of the proposed settlement, the TRA will insure
10 that the amounts in the escrow fund are only spent for the benefit of the
11 customers.

12
13 **Q. Please continue.**

14 A. Additionally, in paragraph number twenty-nine ("29") of the
15 settlement, the customers are not charged for the annual cost of a loan,
16 bond, or letter of credit to fund the TRA's Financial Security requirement.

17
18 **Q. Have you read the pre-filed testimony of the TRA's staff witness, Ms.**
19 **Tiffany Underwood, in this docket?**

20 A. Yes. I worked with Ms. Underwood to furnish the
21 available information from the Company. I agree with and
22 support Ms. Underwood's findings. In my opinion, Ms.
23 Underwood's calculations of overcharges must be refunded to
24 customers or used to benefit customers. I also agree with her
25 calculations of the Company expenses which were used to

1 benefit customers and which the Company is entitled to
2 recover from customers. The difference between those two
3 numbers and the additional contribution by the Company to
4 the escrow account provide the basis for a fair settlement of
5 these matters.

6
7 **Q. Does this conclude your testimony?**

8 **A. Yes.**

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF BERRY'S CHAPEL UTILITY, INC.

NOVEMBER 6, 2012

A MEETING OF THE Board of Directors of Berry's Chapel Utility, Inc. was held at 11:30 am on Tuesday, November 6, 2012 at the office of Berry's Chapel Utility, Inc. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Terry Buckner, Regulatory Consultant and Henry Walker, Attorney were unable to attend.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of the October 2, 2012 Board of Director's meeting. After discussion, the motion passed 3-0.

Mr. Ford gave the financial report (copy attached).

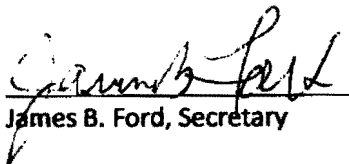
Mr. Ford, also stated, that now six (6) banks (see attached) had declined to make BCUI a short term loan due to the fact that BCUI financial position had not improved even after considering the TRA order in latest rate case and the underwriters of the banks do not feel that the TRA realizes the real financial problems BCUI has. The company is in the process of moving the Checking Account to Reliant Bank and is having discussions for a \$100,000 line of credit. The possibility of refinancing the long term debt will be done after the audit report is finalized by LBMC. Mr. Tyler Ring stated that the company improved cash flow is allowing BCUI to start to pay its overdue payables and hopes to be current with most vendors in the next few months.

Mr. Ford discussed the need for collection requirements to be added to the BCUI Tariff to be filed by Mr. Walker with the TRA for water turn off and a late charge for non-payment of 10%. This is the standard method that other local utilities and will reduce the company's bad debts. Past due accounts at present are **running \$40,000 to \$45,000** which is up substantially from past periods due to BCUI not having a cut-off Tariff. HB & TS would cut-off for nonpayment when they were collecting the billing. BCUI is unable to cut off customers until the new tariff is approved. Mr. Ring will follow up with Mr. Buckner and Mr. Walker to resolve this matter. Past due accounts are now at \$40,000.

Mr. Ford stated that TCI wanted to buy Tyler Ring's truck to settle some of payables to them. Sale would be at FMV of \$25,987. BCUI will record a gain of \$8,177 on sale. Mr. Ford made a motion to pass, Tyler Ring seconded the motion. Vote carried 3 - 0.

Planning and timing of membership drive and scheduling of Annual meeting was reviewed by Tyler Ring. No action taken at this time.

Motion to adjourn meeting by Tyler Ring, seconded by James Ford. Vote carried 3-0.


James B. Ford, Secretary

2/8/13
Date

BERRY'S CHAPEL UTILITY, INC.

Banks contacted about refinancing as of 11/30/12

1. Republic Bank
2. 5th /3rd Bank
3. Bancorp South
4. Capital Bank
5. Southern Heritage Bank
6. Reliant Bank