

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**PETITION OF BERRY'S CHAPEL
UTILITY, INC. TO RECOVER COSTS
TO REPAIR FLOOD DAMAGE AND TO
REFUND CUSTOMER SERVICE FEES**

DOCKET NO. 11-00180

PETITION TO INTERVENE

Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Regulatory Authority ("TRA" or "Authority") to grant the Consumer Advocate's intervention into this proceeding on behalf of the public interest, because consumers may be adversely affected by Berry's Chapel Utility, Inc., f/k/a Lynwood Utility Corporation's ("Berry's Chapel/Lynwood") Petition to recover costs to repair flood damage and refund customer service fees. For cause, Petitioner would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in proceedings before the Authority in accordance with the Uniform Administrative Procedures Act and Authority rules.

2. Berry's Chapel/Lynwood is a public utility regulated by the Authority and provides wastewater service to consumers located in Williamson County, Tennessee. Approximately 800 residential consumers and two non-residential consumers, Walnut Grove

Elementary School and Berry's Chapel Church of Christ, receive waste water service from Berry's Chapel/Lynwood.

3. On October 25, 2011, Berry's Chapel/Lynwood filed in the Authority a Petition to Recover Costs to Repair Flood Damage and to Refund Customer Service Fees. The petition seeks to recover \$190,237.36 in expenses related to the flood of May, 2010. In addition, Berry's Chapel/Lynwood seeks to provide a refund to consumers for the illegal customer service fee imposed without Authority approval through a credit which would ultimately reduce the amount of flood damage expense recovered from consumers.

4. Berry's Chapel/Lynwood's proposal to recover \$190,237.36 from consumers may be unjust and unreasonable. Among the expenses included are meals from restaurants, arbitrary "overhead" costs, interest charged by Berry's Chapel/Lynwood at 8% and various other items.

5. Moreover, the methodology for recovery of this amount proposed, using a volumetric surcharge, would not spread the repair costs equally among consumers. As practically every household uses a different amount of water, on which the surcharge would be based, some consumers would bear more of the costs than others.

6. Berry's Chapel/Lynwood's proposal of using a credit, distributed on a volumetric basis, to provide a refund to those consumers that paid the illegal customer service fee will not provide a dollar for dollar refund of the amounts paid consumers. Not all consumers paid the illegal customer service fee and practically every household uses a different amount of water. Thus, consumers that paid the illegal surcharge will not receive a dollar for dollar refund.

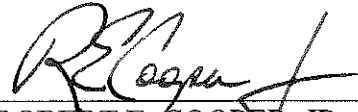
7. Moreover, Berry's Chapel/Lynwood has not complied with a settlement agreement approved by the Authority in Docket 08-00060, which authorized a volumetric

surcharge for odor control costs for a specific amount over a specific period. The amounts and time period for recovery have long since passed. Berry's Chapel/Lynwood continues to charge an illegal volumetric surcharge, similar to that requested in this docket, which is not authorized by the Authority. It is not in public interest to allow a public utility to remain in breach of an order of the Authority while granting an additional surcharge on consumers.

8. Only by participating in this proceeding can the Consumer Advocate work adequately to protect the interests of consumers.

WHEREFORE, Petitioner respectfully asks the Authority to grant the Petition to Intervene.

RESPECTFULLY SUBMITTED,



ROBERT E. COOPER, JR. (BPR #010934)
Attorney General and Reporter
State of Tennessee



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Dated: Dec. 5th, 2011.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition to Intervene was served via U.S. Mail or electronic mail upon:

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Jon Wike, Esq.
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This the 5th day of December, 2011.



RYAN L. MCGEHEE