

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 6, 2012

IN RE:

BERRY'S CHAPEL UTILITY, INC. TO
CHANGE AND INCREASE RATES AND
CHARGES

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DOCKET NO.
11-00198

PRE-HEARING ORDER

This matter came before the Hearing Officer of the Tennessee Regulatory Authority ("TRA" or the "Authority") during a Pre-Hearing Conference held with the parties, Berry's Chapel Utility, Inc. ("Berry's Chapel" or the "Company") and the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate" or "CAPD") on June 5, 2012.

On May 23, 2012, the Hearing Officer issued a *Notice of Hearing and Pre-Hearing Conference* setting a Pre-Hearing Conference on June 5, 2012, and a hearing on the merits on June 7, 2012.¹ Thereafter, on June 5, 2012, as noticed, the Pre-Hearing Conference was convened in the Hearing Room on the Ground Floor of the Tennessee Regulatory Authority at 460 James Robertson Parkway, Nashville, Tennessee. The parties in attendance were as follows:

For the Consumer Advocate:

Scott Jackson, Esq., Office of the Attorney General, Consumer Advocate and Protection Division, P.O. Box 20207, Nashville, Tennessee, 37202; and,

¹ On May 25, 2012, a *Supplemental Notice of Hearing* was issued by the Authority's General Counsel setting the hearing on the merits to begin on May 31, 2012, and reconvene on June 7, 2012, in order to allow the panel to hear the testimony of the Company's witness, Mr. Jim Ford, who would be unavailable during the remainder of the hearing. Thereafter, on May 31, 2012, the hearing was convened and the testimony of Jim Ford was heard by the panel.

Via telephone for Berry's Chapel:

Henry Walker, Esq., Bradley Arant Boult Cummings, 1600 Division Street, Suite 700,
Nashville, Tennessee 37203.

In accordance with Tenn. Code Ann. § 4-5-306, the Pre-Hearing Conference was held to establish or resolve certain matters prior to the commencement of a Hearing on the merits, including any outstanding procedural matters or pending motions, and to establish an orderly procedure for the Hearing. Upon commencement of the Pre-Hearing Conference, there were no unresolved motions pending in the docket file.

I. Consumer Advocate's Request to File Supplemental Testimony

During the Pre-Hearing Conference, the Consumer Advocate stated that it intended to file supplemental testimony on behalf of its witnesses, Mr. David Peters and Mr. Hal Novak. In support of its request, the Consumer Advocate stated that, as a result of certain discovery produced after its earlier-filed testimony, the calculations of certain expenses were revised. Therefore, the Consumer Advocate asserted that supplemental testimony was appropriate and necessary in order to update and more accurately convey to the Authority the proper amount of revenue shortfall, as determined by the Consumer Advocate. In addition, the Consumer Advocate stated that the supplemental testimony would be filed following the Pre-Hearing Conference, after Berry's Chapel had an opportunity to review it. During the Pre-Hearing Conference, Berry's Chapel stated that based on the Consumer Advocate's description of the content of the supplemental testimony, it did not foresee any objection to the Consumer Advocate's request, but would confirm its agreement upon review.

II. Order of Proof

During the Pre-Hearing Conference, the length and timing of the order of proof was discussed. The following order of the hearing was then established and agreed upon:

- **Public Comment is scheduled to begin at 9:00 a.m. and will continue until all commenters have had an opportunity to speak or 10:00 a.m., whichever occurs first.**

Opening Statement:	Berry's Chapel (10 minutes)
Opening Statement:	Consumer Advocate (10 minutes)
Berry's Chapel witness	Tyler Ring, President of Berry's Chapel
Cross-examination	Consumer Advocate
Questions	TRA Staff ²
Re-direct examination	Berry's Chapel
Consumer Advocate witness	David Peters, Regulatory Analyst
Cross-examination	Berry's Chapel
Questions	TRA Staff
Re-direct examination	Consumer Advocate
Consumer Advocate witness	William Novak
Cross-examination	Berry's Chapel
Questions	TRA Staff
Re-direct examination	Consumer Advocate
Closing Statement:	Consumer Advocate (15 minutes)
Closing Statement:	Berry's Chapel (15 minutes)
Final public comments	if any


By stipulation of the parties, the testimonies of Consumer Advocate witness, **Christopher Klein**, and Berry's Chapel witness, **Scott Davis, Operations Manager**, are admitted into the record in lieu of the live presentation of direct testimony and cross

² While the Directors may ask questions at any time, the parties agreed that TRA Staff would have an opportunity to directly question a witness between cross and re-direct examination.

examination. The verbal summaries of testimony given by direct witnesses are limited to ten (10) minutes. All witnesses are subject to recall for rebuttal purposes.

IT IS THEREFORE ORDERED THAT:

1. The order of the proof at hearing is adopted as set forth herein above.
2. The hearing on the merits in this docket will commence promptly with public comment at **9:00 a.m. on Thursday, June 7, 2012.**


Kelly Cashman-Grams, Hearing Officer