

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

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|--|-------------------------|---|-------------------|
| IN RE: | October 19, 2012 |) | |
| | |) | |
| PETITION OF LAUREL HILLS CONDOMINIUMS | |) | DOCKET NO. |
| PROPERTY OWNERS ASSOCIATION FOR A | |) | 12-00030 |
| CERTIFICATE OF PUBLIC CONVENIENCE AND | |) | |
| NECESSITY | |) | |

ORDER GRANTING SUBPOENA

This docket is before the Hearing Officer for consideration of the *Response of Laurel Hills Condominiums Property Owners Association To Customer Intervenors' Request For Subpoena ("Laurel Hills' Response to Subpoena Request")* filed by Laurel Hills Condominiums Property Owners Association ("Laurel Hills") on October 1, 2012.

On September 27, 2012, Gary Haiser *et al.* ("Customer Intervenors") filed a request for a subpoena for a third party witness. Laurel Hills filed its response requesting that the Hearing Officer deny the Customer Intervenors' request for a subpoena. The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") filed its *Response To Customer Intervenors' Request For Subpoena ("Consumer Advocate's Response")* on October 3, 2012. And on October 3, 2012, the Customer Intervenors filed a *Reply of Customer Intervenors To Response Of Laurel Hills Condominiums Property Owners Association Regarding Customer Intervenors' Request For A Subpoena ("Customer Intervenors' Response")*.

TRA Rule 1220-1-2-.13 provides in pertinent part:

At the request of any party, the Chair of the Authority or the Hearing Officer shall issue signed subpoenas, including subpoenas duces tecum, in blank in accordance with the Tennessee Rules of Civil Procedure... This section may not be used to circumvent the provisions of TRA Rule 1220-1-2-.11.

The Customer Intervenors' request for a subpoena has not been used to circumvent discovery nor has such action been alleged by any party to this proceeding. Nevertheless, Laurel Hills objects to issuing a subpoena stating that the Customer Intervenors' request does not indicate what information it seeks from Everett Bolin, a representative of Crab Orchard Utility District, and any information Mr. Bolin

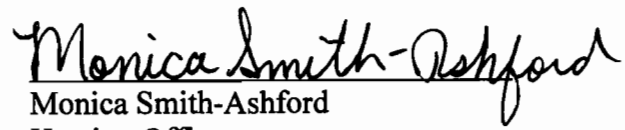
possesses is either already available or is irrelevant to this proceeding.¹ Laurel Hills asserts that deposing Mr. Bolin will only add to the cost of the proceeding and there are alternative, cheaper means to obtain any relevant information.² Laurel Hills urges the Hearing Officer to deny the request for a subpoena or in the alternative, require that Mr. Bolin's deposition be taken by written question in accordance with Tenn. R. Civ. P. 31 or a similar process, which would drastically reduce the costs Laurel Hills would incur by traveling to Crossville for a deposition.³

In the *Customer Intervenors' Response*, it asserts that Mr. Bolin's testimony is relevant and should not be prohibited on the front end.⁴ According to the Customer Intervenors, Mr. Bolin is generally familiar with the water system at issue and can speak to the cost of the process to rehabilitate the water tank at issue, the cost of water lines and about market rates for doing repair work.⁵ The Customer Intervenors states it would prefer to do a live deposition with a chance for follow-up questions.

The Hearing Officer finds that Mr. Bolin's testimony is relevant and the Customer Intervenors should not be prohibited from questioning this witness. In addition, the Hearing Officer finds that the costs associated with deposing Mr. Bolin are not burdensome and do not outweigh the Customer Intervenors' right to conduct discovery. Other means available for deposing this witness would also be costly. Tenn. R. Civ. P. 31.01 allows for deposing a witness by questions; however, the Rule also allows for cross questions, redirect questions and recross questions. Such a process involving multiple sets of questions would create substantial costs as well. The knowledge Mr. Bolin has is directly related to the issues in this docket and the Customer Intervenors should have an opportunity to depose him. Based on these findings, the Hearing Officer will issue a subpoena to the Customer Intervenors to depose Mr. Bolin.

IT IS THEREFORE ORDERED THAT:

Gary Haiser *et al.*'s request for a subpoena is hereby granted.


Monica Smith-Ashford
Hearing Officer

¹ *Laurel Hills' Response to Subpoena Request* (October 1, 2012).

² *Id.*

³ *Id.*

⁴ *Customer Intervenors' Response*, p. 1 (October 3, 2012).

⁵ *Id.*