

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	February 6, 2013)	
)	
PETITION OF LAUREL HILLS CONDOMINIUMS)	DOCKET NO.
PROPERTY OWNERS ASSOCIATION FOR A)	12-00030
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY)	

PRE-HEARING ORDER

This matter came before the Hearing Officer during a Pre-Hearing Conference with the parties, Laurel Hills Condominiums Property Owners Association ("Laurel Hills"), Gary Haiser *et al.* ("Customer Intervenors"), the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), and the Tennessee Regulatory Authority ("Authority" or "TRA") Party Staff on January 29, 2013. The Pre-Hearing Conference began at 11:00 a.m. (CST), as noticed, and was conducted in accordance with Tenn. Code Ann. § 4-5-306.¹

All parties had representatives participating. The parties in attendance were as follows:

For Laurel Hills:

Ben Gastel-Branstetter, Stranch & Jennings, PLLC, 227 Second Avenue North Nashville, TN 37201-1631.

For the Consumer Advocate:

John Baroni and Charlena Aumiller-425 5th Avenue North, 4th Floor Nashville, TN 37201-1631.

For TRA Party Staff: Shiva Bozarth-460 James Robertson Parkway Nashville, TN 37243-0505.

Participating by telephone for the Customer Intervenors:

Melanie Davis-Kizer & Black, PLLC 329 Cates Street Maryville, TN 37801.

¹ See Notice of Pre-Hearing Conference (January 14, 2013).

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. The hearing on the merits is scheduled for Wednesday, February 13, 2013, immediately following the Authority Conference scheduled to begin at 1:00 p.m. (CST). Upon commencement of the Pre-Hearing Conference, there were no unresolved motions pending in the docket file.

I. Preliminary Issues

Notice to Laurel Hills' Customers

During the Pre-Hearing Conference, the Hearing Officer requested that Laurel Hills mail the notice of hearing to its customers because publication of the notice in the newspaper was not sufficient since so many of the homeowners live out of state.² Laurel Hills asserted that it may not have valid addresses for all of its customers.³ The Hearing Officer determined that posting the notice in common areas and mailing to the billing address for each customer would be sufficient notice of the hearing. Laurel Hills agreed to provide notice in such manner and none of the parties objected.

II. Procedural Deadlines

Following discussion, the parties agreed to the following procedural deadlines:

Due Date	Filing
February 4, 2013 by 2:00 p.m. (CST)	Parties will exchange exhibits/visuals/charts to be used during the hearing & work together in an effort to resolve any objections to exhibits and other evidentiary concerns (if any)
February 5, 2013 by 2:00 p.m. (CST)	Motions in Limine Due (if any)

² Transcript of Proceedings, p. 5 (January 29, 2013).

³ *Id.* at 6.

February 7, 2013 by 2:00 p.m. (CST)	Responses to Motions in Limine Due (if any)
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III. Order of Proof

The length and timing of the order of proof was discussed. The following order of the hearing was then established and agreed upon:

Public comments	if any
Opening Statement:	Laurel Hills (10 minutes)
Opening Statement:	Customer Intervenors (10 minutes)
Opening Statement:	Consumer Advocate (10 minutes)
Opening Statement:	TRA Party Staff (10 minutes)
<u>Laurel Hills' witness</u>	Michael McClung-President, Laurel Hills
*Witness Summary of Direct	Limited to 10 minutes
Cross-examination	TRA Party Staff
Cross-examination	Consumer Advocate
Cross-examination	Customer Intervenors
Questions	TRA Staff ⁴
Re-direct examination	Laurel Hills
<u>Consumer Advocate's witness</u>	Dr. Chris Klein-Economist
*Witness Summary of Direct	Limited to 10 minutes
Cross-examination	Laurel Hills
Cross-examination	Customer Intervenors
Cross-examination	TRA Party Staff
Questions	TRA Staff
Re-direct examination	Consumer Advocate
<u>Consumer Advocate's witness</u>	William H. Novak-WHN Consulting
*Witness Summary of Direct	Limited to 10 minutes
Cross-examination	Laurel Hills
Cross-examination	Customer Intervenors
Cross-examination	TRA Party Staff
Questions	TRA Staff

⁴ While the Directors may ask questions at any time, the parties agreed to allow the Staff of the TRA to directly question a witness between cross and re-direct examination.

Re-direct examination

Customer Intervenors' witness

*Witness Summary of Direct

Cross-examination

Cross-examination

Cross-examination

Questions

Re-direct examination

Customer Intervenors' witness

*Witness Summary of Direct

Cross-examination

Cross-examination

Cross-examination

Questions

Re-direct examination

Customer Intervenors' witness

*Witness Summary of Direct

Cross-examination

Cross-examination

Cross-examination

Questions

Re-direct examination

Customer Intervenors' witness

*Witness Summary of Direct

Cross-examination

Cross-examination

Cross-examination

Questions

Re-direct examination

Public comments

*All witnesses are subject to recall for rebuttal purposes.

Consumer Advocate

**John Moore-President, Renegade Mountain
Community Club**

Limited to 10 minutes

Laurel Hills

Consumer Advocate

TRA Party Staff

TRA Staff

Customer Intervenors

**Everett Bolin-General Manager, Crab Orchard
Utility District**

Limited to 10 minutes

Laurel Hills

Consumer Advocate

TRA Party Staff

TRA Staff

Customer Intervenors

Ronnie Hill-Certified Public Accountant

Limited to 10 minutes

Laurel Hills

Consumer Advocate

TRA Party Staff

TRA Staff

Customer Intervenors

Robert Adkins-Resident, Renegade Resort

Limited to 10 minutes

Laurel Hills

Consumer Advocate

TRA Party Staff

TRA Staff

Consumer Advocate

if any

The parties agreed to submit post-hearing briefs in lieu of giving closing arguments. The deadline for submitting briefs will be determined at the hearing.

IT IS THEREFORE ORDERED THAT:

1. The procedural deadlines, specifically as to the motions in limine and responses, are adopted as set forth in § II. above.
2. The order of proof is adopted as set forth in § III. above.


Monica Smith-Ashford, Hearing Officer