

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 19, 2012

IN RE:

**PETITION OF LAUREL HILLS CONDOMINIUMS)
PROPERTY OWNERS ASSOCIATION FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY)**

**DOCKET NO.
12-00030**

**ORDER GRANTING, IN PART PETITIONS TO INTERVENE AND ESTABLISHING A
PROCEDURAL SCHEDULE**

On April 10, 2012, Laurel Hills Condominiums Property Owners Association ("Laurel Hills") filed for a Certificate of Public Convenience and Necessity ("CCN") and petitions to intervene were filed by Gary Haiser *et al.*¹ ("Renegade Mountain") and the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") on May 1, 2012 and June 28, 2012, respectively. Laurel Hills filed an amended petition on August 3, 2012, and a supplemental petition to intervene was filed by Renegade Mountain on August 21, 2012. At the Authority Conference held on August 20, 2012, the panel of directors assigned to this docket voted unanimously to appoint a Hearing Officer to prepare this matter for hearing. The Hearing Officer held a Status Conference on August 23, 2012 at which Laurel Hills, the Consumer Advocate, Renegade Mountain, and TRA Party Staff² had representatives participating.

Petitions to Intervene

On June 28, 2012, the Consumer Advocate filed a *Petition to Intervene* stating "the propriety of a water service provider unilaterally terminating service to a group of its customers

¹ The owners of property within Renegade Resort listed on the petition to intervene and supplemental petition to intervene are Gary Haiser, John Moore, Gerald Nugent, Roy Perry, John Peters, Joel Matchak, Robert Adkins, Joe Garner, Terry Cope, Robert Schwartz, Onus Williams, Gene Maners, Michael Krabousanos, Wendell Blair, Luke Dunn, David Breg, Kent Latham, Cortez Investment Group, Inc., Jimmy Douglas, Thomas Bauer, Donald Sandlin, Judy Scales Patterson, Isaac Gamble, Renee Todd, Richard Knapp, John chambers, John Peters Revocable Trust, and Cumberland Point Condominium Owners Association.

² Authority Staff was designated as a party on August 22, 2012.

for reasons other than for non-payment of lawfully imposed fees and tariffs are of concern to all utility consumers and to the Consumer Advocate.”³ No objection was filed to the Consumer Advocate’s *Petition to Intervene*, and at the Status Conference, Laurel Hills stated it did not object to allowing the Consumer Advocate to intervene.⁴

Based on these facts, the Hearing Officer found that the legal rights and interests of Tennessee consumers may be determined in this proceeding, the Consumer Advocate’s *Petition to Intervene* is timely, and that its intervention will not impair the orderly and prompt conduct of these proceedings. Therefore, the Hearing Officer granted the Consumer Advocate’s *Petition to Intervene*.

Renegade Mountain filed a petition to intervene on May 1, 2012 and a supplemental petition to intervene on August 21, 2012, asserting that the legal rights and duties of the customers may be determined in these proceedings.⁵ In addition, the petition and supplemental petition (together, “Renegade’s Petition to Intervene”) allege several inaccuracies in Laurel Hills’ petition and amended petition for a CCN.⁶ In Renegade’s Petition to Intervene, Renegade Mountain requests relief beyond allowing it to intervene and become an active participant in the docket.⁷ At the Status Conference, Laurel Hills objected to the Renegade’s Petition to Intervene stating “we are concerned that given that there are a number of customers who are part of this intervention, having each of those customers be an individual participant in this proceeding will become a little cumbersome.”⁸ However, Laurel Hills indicated it did not oppose the customers joining in the docket as a group.⁹ The attorney for Renegade Mountain, Ms. Melanie Davis, indicated that all of the individuals listed on the petition and supplemental petition have been acting as a single group with one voice and with Ms. Davis as their attorney.¹⁰ Ms. Davis stated she would consult with her clients about filing a stipulation to the fact that they are one group and will speak with one voice.

³ *Petition to Intervene*, p. 2 (June 28, 2012).

⁴ Transcript of TRA Status Conference, p. 6 (August 23, 2012).

⁵ Petition of Gary Haiser *et al.* to Intervene in Docket No. 12-00030, pp. 1-2 (May 1, 2012). *See also* Supplemental Petition of Gary Haiser *et al.* to Intervene in Docket No. 12-00030, p. 2 (August 21, 2012).

⁶ Petition of Gary Haiser *et al.* to Intervene in Docket No. 12-00030, pp. 13-14 (May 1, 2012). *See also* Supplemental Petition of Gary Haiser *et al.* to Intervene in Docket No. 12-00030, pp. 21-23 (August 21, 2012).

⁷ *See Petition of Gary Haiser et al. to Intervene in docket No. 12-00030* (May 1, 2012) and *Supplemental Petition of Gary Haiser et al. to Intervene in Docket No. 12-00030* (August 21, 2012).

⁸ Transcript of TRA Status Conference, pp. 3-4 (August 23, 2012).

⁹ *Id.* at 3.

¹⁰ *Id.* at 4.

On August 27, 2012, Laurel Hills and Renegade Mountain filed a *Stipulation Regarding Intervenors*. Laurel Hills and Renegade Mountain stipulated that for the purposes of the TRA proceeding, Renegade Mountain would act as a single party, and, service of one copy of all pleadings on their counsel will constitute service on all Renegade Mountain customer intervenors.¹¹

Based on the foregoing, the Hearing Officer finds that the legal right and interests of the Renegade Mountain customers may be determined in this proceeding, Renegade's Petition to Intervene is timely and allowing Renegade Mountain to intervene will not impair the orderly and prompt conduct of these proceedings. However, the additional relief requested by Renegade Mountain is inappropriate for consideration at this time and further, it exceeds the scope of the authority given to the Hearing Officer.¹² Therefore, the Hearing Officer grants, in part Renegade Mountain's Petition to Intervene. Renegade Mountain will be allowed to intervene in this docket; however, all other relief requested in the petition is deferred until the hearing.

Procedural Schedule

At the Status Conference, the parties agreed on a hearing date of November 7, 2012 and that Laurel Hills shall file Pre-filed Direct Testimony on September 6, 2012.¹³ The Hearing Officer asked the parties to submit an agreed procedural schedule by August 28, 2012. Upon consideration, the Hearing Officer finds that the dates determined by the parties at the Status Conference and in the agreed Procedural Schedule submitted on August 28, 2012 are reasonable and adopts those dates. Based on these findings, the Hearing Officer establishes the following schedule:

September 6, 2012	Pre-filed Direct Testimony of the Petitioner
September 10, 2012	Discovery Requests by All Parties
September 13, 2012	Objections to Discovery Requests
September 17, 2012	Responses to Discovery Requests by All Parties
October 1, 2012	Pre-filed Direct Testimony of the Intervenors
October 8, 2012	Petitioner's Rebuttal Testimony

¹¹ *Stipulation Regarding Intervenors*, p. 2 (August 27, 2012).

¹² *See Order Convening A Contested Case And Appointing A Hearing Officer* (August 31, 2012).

¹³ Transcript of TRA Status Conference, pp. 9-15 (August 23, 2012).

October 31, 2012

Prehearing Conference

November 7, 2012

Hearing on the Merits


November 14, 2012

Post-Hearing Briefs

All filings are required to be submitted to the Authority no later than **2:00 p.m.** on the date they are due. Requests for extensions of time shall be made by written motion and shall state the grounds for the request. The Hearing in this matter is scheduled for **Wednesday, November 7, 2012 at 1:00 p.m.** before the panel of Directors assigned to this docket.

IT IS THEREFORE ORDERED THAT:

1. The *Petition to Intervene* filed by Consumer Advocate and Protection Division of the Office of the Attorney General is hereby granted.
2. Gary Haiser *et al.* 's request to intervene is hereby granted. All other relief requested in the petition to intervene and supplemental petition to intervene is deferred for consideration at the hearing.
3. The procedural schedule for this matter is established, as set forth herein.


Monica Smith-Ashford
Hearing Officer