

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

IN RE:)	
)	
PETITION OF BERRY'S CHAPEL, INC.)	
TO TRANSFER AUTHORITY NUNC)	DOCKET NO. 12-00046
PRO TUNC)	

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. 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. On May 25, 2012, the Berry's Chapel Utility Inc. ("Berry's Chapel") filed a petition requesting the Authority to transfer the authority to provide utility service nunc pro tunc originally granted to Lynwood Utility Corporation ("Lynwood"). The Authority has scheduled consideration of the petition for June 8, 2012. Berry's Chapel is a public utility serving roughly 850 households, an elementary school and a church in Williamson County, Tennessee.

3. In requesting the transfer on a nunc pro tunc basis, Berry's Chapel is requesting the transfer of authority as if the transfer was approved by the Authority with an effective date of September 1, 2010.

4. Berry's Chapel was created as a non-profit by the owners of Lynwood. Lynwood was subsequently merged into Berry's Chapel. As part of the merger of Lynwood with Berry's Chapel, Berry's Chapel provided promissory notes of \$2.4 million, payable to John Ring and Tyler Ring, the owners of Lynwood. The merger was approved the directors of Berry's Chapel; John Ring and Tyler Ring, the owners of Lynwood, and Jim Ford, a consultant that worked on behalf of Lynwood.

5. On September 1, 2010, Lynwood merged with Berry's Chapel and thereafter informed the Authority it was no longer a public utility and requested cancellation of Lynwood's certificate of convenience and necessity ("CCN"). Shortly thereafter, Berry's Chapel raised the rates it charged for utility service without the approval of the Authority.

6. Following litigation initiated by the Consumer Advocate, the Authority ruled Berry's Chapel was a public utility under Tennessee law and ordered Berry's Chapel to suspend unauthorized rate increases.¹ Berry's Chapel has filed an appeal with the Tennessee Court of Appeals. The Authority and the Consumer Advocate are defending the appeal. The Authority's investigation as to whether a show cause order should be issued was initiated on August 1, 2011 in Docket 11-00065 and has not concluded. To date, no refunds have been granted to consumers that paid the surcharge levied by Berry's Chapel which the Authority subsequently ruled was unauthorized in Docket 11-00005. Berry's Chapel

7. Assuming Berry's Chapel has the qualifications for a CCN and operate as a public utility, the Consumer Advocate does not oppose the transfer of authority. However the

¹ *Order Declaring Berry's Chapel Utility, Inc. To Be A Public Utility*, August 5, 2011, Docket 11-00005.

Consumer Advocate does oppose a transfer of authority granted on a nunc pro tunc basis. Berry's Chapel cannot have it both ways by requesting a transfer on a nunc pro tunc basis while arguing in a pending appeal before the Court of Appeals that the Authority erred in Docket 11-00005 and that Berry's Chapel was a non-utility from September 1, 2010 to June 6, 2011.

8. The Consumer Advocate proposes consideration of conditions on the approval of a transfer of authority to Berry's Chapel in addition to any other conditions the Authority deems fit to protect the interests of the households, elementary school and church served by Berry's Chapel.

9. The Consumer Advocate proposes as a condition that in approving the transfer of authority, the TRA not offer an endorsing opinion on the validity of the promissory notes of \$2.4 million payable from Berry's Chapel to John and Tyler Ring as a result of the merger of Berry's Chapel and Lynwood.

10. The Consumer Advocate proposes as a condition that in approving the transfer of authority, Berry's Chapel pledge to control the recent increases in administrative costs from affiliates owned and/or operated by John Ring and Tyler Ring.

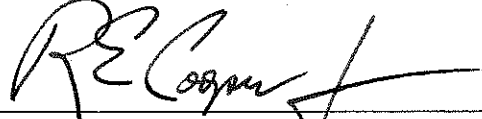
11. The Consumer Advocate proposes as a condition that in approving the transfer of authority, Berry's Chapel pledge to abide by all TRA orders, rules, regulations, including the terms of the settlement agreement approved by the Authority in Docket 08-00060 and to immediately cease charging consumers the odor control surcharge, the legal authority for which expired at the end of April, 2010.

12. The Consumer Advocate proposes as a condition in approving the transfer of authority, Berry's Chapel provide dollar for dollar refunds and/or credits to those individual

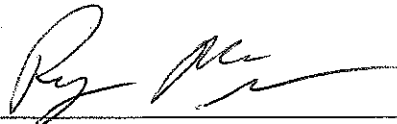
consumers which paid the unauthorized \$20 monthly surcharge which the Authority ruled was unauthorized in Docket 11-00005.

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

RESPECTFULLY SUBMITTED,



ROBERT E. COOPER, JR. (BPR #010934)
Attorney General and Reporter
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Dated: June - 1, 2012.

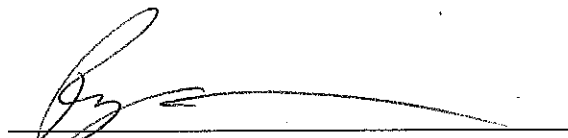
CERTIFICATE OF SERVICE

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:

This the 4th day of June, 2012.

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