

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

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IN RE: )  
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**SHOW CAUSE PROCEEDING AGAINST** )  
**LAUREL HILLS CONDOMINIUMS** )  
**PROPERTY OWNERS ASSOCIATION FOR** )  
**ALLEGED VIOLATIONS OF** )  
**TENN. CODE ANN 65-4-201, 65-4-301(A),** )  
**65-5-102, 65-4-101 AND/OR 65-4-103,** )  
**AND 65-4-115** )

**DOCKET NO. 12-00077**

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**TRA PARTY STAFF'S REPSONSES TO FIRST DISCOVERY REQUEST OF LAUREL  
HILLS CONDOMINIUMS PROPERTY OWNERS ASSOCIATION TO THE  
TENNESSEE REGULATORY AUTHORITY PARTY STAFF**

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For purposes of answering the following discovery requests Party Staff will use the following nomenclature:

Tennessee Regulatory Authority – TRA or the Authority

Tennessee Regulatory Authority staff participating as a party – Party Staff

Certificate of Public Convenience and Necessity – CCN

Laurel Hills Condominium Property Owner's Association – Laurel Hills

The water system owned by Laurel Hills Condominium Property Owner's Association – Laurel Hills

**REQUESTS FOR PRODUCTION**

1. Produce all documents you intend to use at the Hearing in this Proceeding.

**RESPONSE:** The following documents are available in TRA Docket 12-00030:

*Petition of Laurel Hills Condominiums Property Owner's Association for a Certificate of public Convenience and Necessity – filed April 10, 2012*

*Notice of Voluntary Dismissal and Withdrawal* – filed May 7, 2012

*Notice to Appear* – filed May 11, 2012

*Response to Notice to Appear* – filed May 18, 2012

*Response of Laurel Hills Property Owners Association* – filed June 5, 2012

*Order Requiring Laurel Hills Condominiums Property Owners Association to Appear and Show Cause why a Cease and Desist Order and Civil Penalties and Sanctions Should not be Imposed Against it for Violations of State Law* – filed July 17, 2012

*Notice of Reinstatement of Petition Tariff Filing and Amended Petition* – filed July 20, 2012

*Transcript of Proceedings* – August 23, 2012

*Pre-filed Testimony of Mike McClung on Behalf of Laurel Hills Condominium Property Owners Association* – filed September 6, 2012

*Laurel Hill's Response to Staff Data Request* – filed September 7, 2012

*Response of Laurel Hills to First Discovery Request of the Consumer Advocate* – filed September 25, 2012

*Response of Laurel Hills to Discovery Request of the Tennessee Regulatory Authority* – filed September 26, 2012

*Response of Laurel Hills to First Discovery Requests of the Customer Intervenors* – filed September 27, 2012

*Response of Laurel Hills to the Second and Third Discovery Requests of the Customer Intervenors* – filed November 2, 2012

*Supplemental Response of Laurel Hills to First Discovery Request of The Customer Intervenors* – filed November 9, 2012

*Response Of Laurel Hills Condominiums Property Owners Association To Revised  
Second Discovery Request Of The Customer Intervenors* – filed November 19, 2012

Transcript of Proceedings - November 7, 2012

*Direct Testimony of Robert Adkins* – filed November 5, 2012

*Direct Testimony of William H. Novak* – filed December 13, 2012

*Deposition of Everett Bolin* – filed December 17, 2012

*Rebuttal Testimony of Michael McClung* – filed January 14, 2012

Transcript of Proceedings – January 29, 2012

*Notice of Giving Customers Notice Filed on Behalf of Laurel Hills* – filed February 1,  
2012

Transcript of Proceedings – February 13, 2013

*Post-Hearing Brief Of Laurel Hills* – filed March 15, 2013

*Order Denying Certificate Of Public Convenience And Necessity And Requiring  
Divestiture Of Water System* – filed April 18, 2013

2. Produce all documents that support your contention that Laurel Hills terminated water service to certain customers in February 2012.

**RESPONSE:** See page 55 of the *Petition of Laurel Hills Condominiums Property Owners Association for a Certificate of Public Convenience and Necessity* filed on April 10, 2012 in Docket No. 12-00030.

See pages 59-64 of the Transcript of Proceedings on February 13, 2013 filed in Docket No. 12-00030.

3. Produce all documents that support your contention that Laurel Hills purchased a water system in May of 2011.

**RESPONSE:** See page two, paragraph two of the *Petition of Laurel Hills Condominiums Property Owners Association for a Certificate of Public Convenience and Necessity* filed on April 10, 2012 in Docket No. 12-00030.

See Direct Testimony of Michael McClung, pg. 2, lines 9-11, and pg. 5, line 1, filed on September 6, 2012 in Docket No. 12-00030.

4. Produce all documents related to the Cumberland Point Condominium Association.

**RESPONSE:** Objection there are no documents associated with Cumberland Point Condominium Association that are not subject to protection under T.R.C.P. 26.03.

5. Produce all documents related to fines imposed by the TRA related whatsoever to the wastewater system now operated by Berry's Chapel Utility District.

**RESPONSE:** The TRA has not to date imposed a civil penalty against Berry's Chapel Utility, Inc.

6. Produce documents sufficient to identify all other public utilities the TRA knows or reasonably believes are currently operating without a Certificate of Public Convenience and Necessity.

**RESPONSE:**

Objection. Documentary evidence in the TRA's possession regarding any uncertificated utility is subject to protection under T.R.C.P. 26.03.

7. Produce all non-privileged documents related to Laurel Hills Property Owner's Condominium Association ("Laurel Hills") that are not otherwise filed in this docket or Docket No. 12-00030.

**RESPONSE:**

Party Staff has filed documents in TRA Dockets No. 12-00030, 12-00077, Cumberland County Chancery Court Docket No. 2012-CH-560, and Tennessee Court of Appeals case no. M2013-1392-COA-R12-LV which relate to Laurel Hills Condominiums Property Owners Association. Party Staff is unaware of any other documents subject to production relating to Laurel Hills that are in the agencies possession.

8. Produce all documents related to any investigation undertaken by the TRA involving Laurel Hills. By way of limitation, Laurel Hills will agree to limit the scope of this request to those documents that the TRA does not reasonably believe are already in the possession of Laurel Hills or its counsel (i.e. those documents previously filed in public dockets involving Laurel Hills).

**RESPONSE:**

All documents filed in TRA Dockets No. 12-00030, 12-00077, Cumberland County Chancery Court Docket No. 2012-CH-560, and Tennessee Court of Appeals case no. M2013-1392-COA-R12-LV are related to Party Staff's ongoing investigation into the activities of Laurel Hills. A more specific list of documents is identified above in response to Request for Production 1. Party Staff has memoranda and other communications between itself and the Consumer Advocate and/or the customer intervenors in TRA docket 12-00030. Those documents would be protected under the common interest privilege. Additionally, Party Staff has memoranda and notes that were prepared in preparation for litigation and as such are subject to protections of TRCP 26.

9. Produce documents sufficient to identify all TRA staff members, employees, agents, or representatives involved in any investigation involving Laurel Hills.

**RESPONSE:**

Party Staff currently consists of:

Shiva Bozarth

Ectory Lawless

Henry Bayiye

Party Staff is unaware which other employees of the TRA have provided advisory or other support to the agency during the Show Cause proceedings against Laurel Hills.

10. Produce all communications by, to, and/or from the Crab Orchard Utility District.

**RESPONSE:**

See Exhibit 1

11. Produce all communications by, to, and/or from any customer of Laurel Hills.

**RESPONSE:**

See Exhibit 2

12. Produce all communications by, to, and/or from Eagles Nest LLC and its respective employees, officers, board members, representatives, and agents.

**RESPONSE:**

See Exhibit 3

13. Produce all documents related to your response to any Interrogatory that is contemporaneously served herewith.

**RESPONSE:**

See Exhibit 4

14. Produce all documents related to any denial of any Request for Admission that is contemporaneously served herewith.

**RESPONSE:**

None

### **Interrogatories**

1. Describe in detail the fine the TRA seeks to impose upon Laurel Hills in this Proceeding by stating the amount currently sought, whether the amount is continuing to accrue, and if so how, and a detailed calculation for any such amount.

#### **RESPONSE:**

The TRA can impose a fine of fifty dollars (\$50) for each day of any violation of law. If violations persist then fines continue to accrue on a daily basis. For a calculation of the fines see the response to Interrogatory 4.

2. Identify all TRA staff members, employees, agents, or representatives involved in any investigation involving Laurel Hills.

#### **RESPONSE:**

Party Staff currently consists of:

Shiva Bozarth

Ectory Lawless

Henry Bayiye

3. Identify all witnesses you intend to call at the Hearing in this Proceeding by stating the person's name, title, company (if applicable), address, phone number, and a brief description of the witness's knowledge regarding the issues in this Proceeding.

#### **RESPONSE:**

None – Party Staff intends to rely upon documentary evidence at the hearing on this matter.

4. Identify all statutes and/or regulations that you allege Laurel Hills has violated and the dates on which such alleged violations occurred and (if applicable) continued to occur.

**RESPONSE:**

While Party Staff has been unable to verify that Laurel Hills did not have an ownership interest in the water system prior to May 1, 2011, for purposes of calculating penalties Party Staff uses that date at this time but reserves the right to attempt to demonstrate an earlier date at the hearing in this matter.

Party Staff further asserts that violations of Tenn. Code Ann. §§ 65-4-201 and 65-4-301 are ongoing and each day of continued violation is a separate violation and grounds for additional civil penalties.

**Tenn. Code Ann. § 65-4-114** – Laurel Hills admits that they terminated service to customers in 2012. The evidence presented at the CCN hearing before the TRA was that service was terminated by Laurel Hills on February 1, 2012 and was not reinstated until February 6, 2012. Service was only restored after customers obtained injunctive relief from the Chancery Court of Cumberland County. The evidence presented before the TRA was that Laurel Hills had approximately one hundred thirty-four customers. Therefore, Laurel Hills improperly refused to provide adequate and proper water service to 134 customers for six days for a total of eight hundred four (804) violations of Tenn. Code Ann. § 65-4-114.

**Tenn. Code Ann. § 65-4-115** - Laurel Hills admits that they terminated service to customers in 2012. The evidence presented at the CCN hearing before the TRA was that service was terminated by Laurel Hills on February 1, 2012 and was not reinstated until



February 6, 2012. Service was only restored after customers obtained injunctive relief from the Chancery Court of Cumberland County. The evidence presented before the TRA was that Laurel Hills had approximately one hundred thirty-four customers. Therefore, Laurel Hills improperly unjustly refused to provide water service to 134 customers for six days for a total of eight hundred four (804) violations of Tenn. Code Ann. § 65-4-114.

**Tenn. Code Ann. § 65-4-201** – Laurel Hills admits acquiring the water system on May 1, 2011 and operated the system prior to applying for a CCN until April 10, 2012, a total of three hundred forty-five (345) days. Laurel Hills withdrew its Petition on May 7, 2012 and did not renew it until August 3, 2012, a total of one hundred forty-nine (149) days. The parties agreed to hold the Show Cause in abeyance on August 8, 2012. On October 21, 2014, Party Staff reinitiated the Show Cause proceeding. As of this date one hundred fifty-four (154) days have passed since October 21, 2014. As of the date of this filing Laurel Hills has accrued six hundred forty-eight (648) days for which it can be penalized for violations of Tenn. Code Ann. § 65-4-201. Each additional day that Laurel Hills operates without a CCN accrues as an additional violation of Tenn. Code Ann. § 65-4-201.

**Tenn. Code Ann. § 65-4-301** - Laurel Hills admits acquiring the water system on May 1, 2011. Laurel Hills did not file its annual inspection report as required by statute for 2011, 2012, 2013, 2014, and 2015. These reports were due on April 1<sup>st</sup> of each year. As of the date of this filing Laurel Hills has accrued six hundred forty-eight (648) days for which it can be penalized for violations of Tenn. Code Ann. § 65-4-301 for 2011. As of the date of this filing Laurel Hills has accrued six hundred forty-eight (648) days for which it can be

penalized for violations of Tenn. Code Ann. § 65-4-301 for 2012. As of the date of this filing Laurel Hills has accrued one hundred fifty-four (154) days for which it can be penalized for violations of Tenn. Code Ann. § 65-4-301 for 2013. As of the date of this filing Laurel Hills has accrued one hundred fifty-four (154) days for which it can be penalized for violations of Tenn. Code Ann. § 65-4-301 for 2014. Laurel Hills is not yet in violation of Tenn. Code Ann. § 65-4-301 for 2015 but if the inspection fee is not paid on or before April 1, 2015, the penalties would begin accruing on April 2, 2015. Each additional day that Laurel Hills operates without paying the past due inspection fees is an additional violation of Tenn. Code Ann. § 65-4-201 and additional civil penalties can be imposed.

**Tenn. Code Ann. §65-5-101** – Laurel Hills admits acquiring the water system on May 1, 2011. Laurel Hills charged a water rate that was not approved from May 1, 2011, until February 28, 2012, in violation of Tenn. Code Ann. §65-5-101 for at least three hundred three days (303). As of the date of this filing Laurel Hills has accrued three hundred three days (303) days for which it can be penalized for violations of Tenn. Code Ann. § 65-5-101.

**Tenn. Code Ann. §65-5-102** - Laurel Hills admits acquiring the water system on May 1, 2011. Laurel Hills charged customers for water without first filing a tariff with the Tennessee Regulatory Authority from May 1, 2011, until April 10, 2012, a total of three hundred forty-five (345) days. Laurel Hills withdrew its Petition without filing a tariff on May 7, 2012, and did not renew it until August 3, 2012, a total of one hundred forty-nine (149) days. As of the date of this filing Laurel Hills has accrued four hundred ninety-four (494) days for which it can be penalized for violations of Tenn. Code Ann. § 65-5-102.

**Tenn. Code Ann. §65-5-103** – Laurel Hills raised the amount charged for water service on June 1, 2011, without permission from the TRA and charged an increased rate without approval until the Cumberland County, Chancery Court imposed a rate of forty-three dollars and twenty cents (\$43.20) per month pending a decision by the Authority for at least two hundred seventy-two (272) days. As of the date of this filing Laurel Hills has accrued two hundred seventy-two (272) days for which it can be penalized for violations of Tenn. Code Ann. § 65-5-103.

5. Identify all fines imposed by the TRA in the last ten years pursuant to any statute referenced in your response to Interrogatory No. 4 by stating the entity or person fined, the amount of the fine, and the docket number in which the TRA imposed the fine.

**RESPONSE:**

Party Staff is unaware of any fines imposed for the violations indicated.

6. Identify all statutes and/or regulations that you allege provide the TRA's authority to impose a fine in this Proceeding.

**RESPONSE:**

Tenn. Code Ann. § 65-1-113

Tenn. Code Ann. § 65-2-102

Tenn. Code Ann. § 65-2-112

Tenn. Code Ann. § 65-2-121

Tenn. Code Ann. § 65-4-101

Tenn. Code Ann. § 65-4-105

Tenn. Code Ann. § 65-4-106

Tenn. Code Ann. § 65-4-114

Tenn. Code Ann. § 65-4-115

Tenn. Code Ann. § 65-4-117

Tenn. Code Ann. § 65-4-201

Tenn. Code Ann. § 65-4-203

Tenn. Code Ann. § 65-5-101

Tenn. Code Ann. § 65-5-102

Tenn. Code Ann. § 65-5-103

7. Identify all public utilities that the TRA knows that or believes currently operate, own, manage, or control and/or construct any public utility system (including any such plant or equipment) without a CCN by stating the public utility's name, address, service area (approximately), number of customers (if known), and the date upon which the public utility first operated, owned, managed, controlled, or constructed such system.

**RESPONSE:**

Cumberland Point Condominium Association – Crab Orchard, Tennessee – Cumberland

Point Condominiums – ~88 customers – Unknown

Gateway Utility Company, Inc. – Franklin, Tennessee – Unknown – Unknown -

Unknown

8. Identify all dates upon which you claim that Laurel Hills withheld water service from its customers.

**RESPONSE:**

At least from February 1, 2012 until February 6, 2012, although there may be additional instances of denial of service identified at the hearing in this matter.

9. For all Requests for Admission served contemporaneously herein that are not admitted, state all facts supporting your denial of any Request for Admission.

**RESPONSE:**

See below

**Requests for Admission**

1. Admit that Laurel Hills has been under Court order since February 3, 2012 to operate the water system.

**RESPONSE:**

Admit

2. Admit that Laurel Hills attempted to terminate its provision of water service to members of the public on a permanent basis as of July 9, 2012.

**RESPONSE:**

Admit

3. Admit that Laurel Hills did not own or operate any water system prior to May 1, 2011.

**RESPONSE:**

Party Staff can neither Admit nor Deny this request. While Laurel Hills admits they purchased the water system on May 1, 2011, it is unclear what ownership interest Laurel Hills had prior to that date.

4. Admit that Laurel Hills appealed the TRA's Order denying it a CCN.

**RESPONSE:**

Admit

5. Admit that such state appellate courts did not issue their final mandate related to appeal referenced in Request No. 4 until October 16, 2014.

**RESPONSE:**

Admit

6. Admit that Laurel Hills filed a tariff on July 20, 2012.

**RESPONSE:**

Admit

7. Admit that such tariff was accepted by the TRA on July 31, 2012.

**RESPONSE:**

Deny as to the word “accepted”. The tariff was received by the Utilities Division of the TRA on July 30, 2012, and on July 31, 2012, the Utilities Division notified Laurel Hills that they could begin charging the rate on the tariff as of July 20, 2012.

8. Admit that the TRA’s prior to April 18, 2013, Laurel Hills could not have known the amount of any annual inspection fee it allegedly owed under Tenn. Code Ann. § 65-4-301(a).

**RESPONSE:**

Deny. Laurel Hills was required by law to petition for a CCN when it sought to purchase the water system. Upon being granted a CCN the Authority would have determined the appropriate filing fee.

9. Admit that except for a period of time in February 2012, Laurel Hills has supplied water to all of its customers.

**RESPONSE:**

Party staff has received customer complaints by telephone indicating that water service was interrupted in February 2015. Additionally, Party Staff has received complaints that customers’ water service was interrupted at other times.

10. Admit that prior to May 1, 2011; the water system now operated by Laurel Hills did not have a certified operator as required by Tennessee Department of Environmental and Conservation regulations.

**RESPONSE:**

Party Staff can neither Admit nor Deny this request. Party Staff has no knowledge of whether prior to May 1, 2011, the water system employed a certified operator.

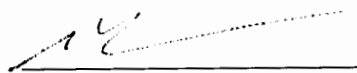
11. Admit that Laurel Hills does not have authority to extend service to new customers.

Served this 5th day of December, 2014.

**RESPONSE:**

Party Staff can neither Admit nor Deny this request. This is a legal question that the Directors of the Authority would need to answer if they were presented with the question in an appropriate manner.

Respectfully submitted,



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