

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT  
NASHVILLE, TENNESSEE

IN RE: )  
)  
SHOW CAUSE PROCEEDING AGAINST )  
LAUREL HILLS CONDOMINIUMS PROPERTY )  
OWNERS ASSOCIATION FOR ALLEGED ) DOCKET NO. 12-00077  
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 )

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**PETITION TO INTERVENE**

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Herbert H. Slatery III, 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 because consumers’ interests, rights, duties or privileges may be determined or affected by the proceeding. 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 utilities services by initiating and intervening as a party in any matter or proceeding before the Authority in accordance with the Uniform Administrative Procedures Act (“UAPA”), Tenn. Code Ann. § 4-5-101 *et seq.*, and Authority rules.

2. Laurel Hills Condominium Property Owners Association, Inc. (“Laurel Hills”) owns and operates a small water distribution system in Cumberland County,

Tennessee within the development known as Renegade Mountain. Laurel Hills is the property owners association for the timeshare units of the Laurel Hills timeshare condominium complex.

3. Tenn. Code Ann. § 4-5-102(3) of the UAPA provides that:

“Contested case” means a proceeding, including a declaratory proceeding, in which the legal rights, duties or privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing.

4. The Consumer Advocate maintains that the proceeding in this Docket No. 12-00077 is a contested case.

5. The Consumer Advocate further maintains that consumers have an interest in this proceeding.

6. Tenn. Code Ann. § 4-5-310(a) (“Interventions”) of the UAPA provides as follows:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

- (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
- (2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
- (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

7. The Consumer Advocate maintains that it has met the three requirements of Tenn. Code Ann. § 4-5-310(a) because (1) the Petition is timely; (2) the Petitioner's "rights, duties, privileges, immunities or other legal interest may be determined" and the Petitioner also qualifies as an Intervenor under Tenn. Code Ann. § 64-5-118; and (3) the "interests of justice and the prompt conduct of the proceedings shall not be impaired".

8. On April 10, 2012, Laurel Hills filed the Petition in Docket No. 12-00030 asking that the TRA grant it a Certificate of Public Convenience and Necessity ("CCN") to operate its water distribution system.

9. The TRA denied Laurel Hills' Petition for a CCN in Docket No. 12-00030. In addition, the TRA opened a new docket, Docket No. 12-00077, and issued an *Order Requiring Laurel Hills Condominiums Property Owners Association To Appear And Show Cause Why A Cease And Desist Order And Civil Penalties & Sanctions Should Not Be Imposed Against It For Violations Of State Law*. ("Show Cause Docket"), July 17, 2012.

10. In the Order opening the Show Cause Docket, the TRA ordered Laurel Hills to appear before the Authority to show cause why the TRA should not issue a cease and desist order and impose civil penalties and sanctions against it for the following violations of law:

- 1) Operation of a public utility without a Certificate of Public Convenience and Necessity ("CCN") in violation of Tenn. Code Ann. § 65-4-201;
- 2) Failure to pay an annual inspection fee in violation of Tenn. Code Ann. § 65-4-301(a);

- 3) Failure to file a tariff in violation of Tenn. Code Ann. § 65-5-102;
- 4) Charging rates not approved by the Authority in violation of Tenn. Code Ann. § 65-5-101 and/or 65-5-103; and,
- 5) Withholding or refusing to provide service to customers in violation of Tenn. Code Ann. § 65-4-115.

*Show Cause Order* at 1.

11. These alleged violations of laws directly affect the interests and rights of customers of Laurel Hills, particularly charging unauthorized rates and withholding service.

12. The TRA Party Staff may enter a settlement agreement with Laurel Hills in this proceeding. If such a settlement is adverse to consumers' interests and if the Consumer Advocate is not allowed to intervene as a party, its ability to contest such an adverse settlement agreement would be impaired.

13. Laurel Hills appealed the TRA's decision to deny its request for a CCN to the Tennessee Court of Appeals, Appeals Docket No. M2013-01392-COA-12-CV. On April 14, 2014, the Court of Appeals denied Laurel Hills appeal.

14. Laurel Hills then filed a Rule 11 Application for Permission to Appeal to the Tennessee Supreme Court. The Application was denied October 15, 2014.

15. Subsequent to the denial of the Application for Permission to Appeal, the TRA Party Staff filed a Renewed Motion to Initiate Proceedings in the Show Cause Docket, October 21, 2014.

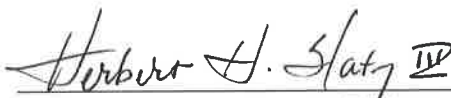
16. At a status conference before the Hearing Officer in the Show Cause Docket on November 20, 2014, a hearing date of January 15, 2014 was set.

17. If granted intervention, the Consumer Advocate will adhere to the procedural schedule. Furthermore, the Consumer Advocate does not intend to file any discovery requests.

18. Only by participating in this proceeding can the Consumer Advocate work adequately to protect the interests of consumers.

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

RESPECTFULLY SUBMITTED,



HERBERT H. SLATTERY III (BPR #09077)  
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State of Tennessee



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Dated: December 8, 2014

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:

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This the 8<sup>th</sup> day of December, 2014.

  
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VANCE L. BROEMEL