

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

December 10, 2014

IN RE:

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

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DOCKET NO.
12-00077

ORDER GRANTING *RENEWED MOTION TO INITIATE PROCEEDINGS*

This matter came before Vice Chairman David F. Jones, Director Kenneth C. Hill and Director James M. Allison of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 4, 2014, to consider the *Renewed Motion to Initiate Proceedings* ("Motion") filed by the TRA Investigative Staff, acting as a Party ("Party Staff"), on October 21, 2014.

BACKGROUND

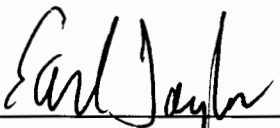
On July 17, 2012, the Hearing Officer in this docket issued an *Order Requiring Laurel Hills Condominiums Property Owners Association to Appear and Show Cause Why a Cease and Desist Order and Civil Penalties & Sanctions Should Not be Imposed Against It for Violations of State Law* ("Show Cause Order"). The *Show Cause Order* was issued as a result of proceedings held in TRA Docket No. 12-00030, in which Laurel Hills Condominiums Property Owners Association ("Laurel Hills") applied for a Certificate of Public Convenience and Necessity ("CCN") on April 10, 2012, and then subsequently withdrew that application on May 7, 2012.

The *Show Cause Order* sets forth six counts in which actions alleged to be performed by Laurel Hills would constitute violations of state law. These counts are summarized as follows:

- 1) Failure to obtain a CCN upon purchase and operation of a public utility in violation of Tenn. Code Ann. § 65-4-201;
- 2) Failure to pay an annual inspection fee in 2011 and 2012 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 for water service not approved by the Authority in violation of Tenn. Code Ann. § 65-5-101;
- 5) Increasing rates for water service without prior Authority approval in violation of Tenn. Code Ann. § 65-5-103; and
- 6) Withholding water service from its customers in violation of Tenn. Code Ann. § 65-4-115.¹

On August 3, 2012, Laurel Hills filed its *First Amended Petition* in Docket No. 12-00030, in which it again requested the issuance of a CCN. On August 7, 2012, the Parties filed a *Joint Motion to Hold Proceedings in Abeyance* (“*Joint Motion*”), requesting the Hearing Officer to hold these proceedings in abeyance pending the outcome of TRA Docket No. 12-00030. On August 8, 2012, the Hearing Officer issued an *Agreed Order* granting the *Joint Motion*.

On April 18, 2013, the panel in TRA Docket No. 12-00030 issued an *Order* denying the


¹ See *Show Cause Order*, pp. 5-8 (July 17, 2012).

CCN and ordering Laurel Hills to divest its water system.² On June 14, 2013, Laurel Hills filed a petition for review of the Authority's *Order* with the Tennessee Court of Appeals, citing a variety of issues. On September 9, 2013, the panel in Docket No. 12-00030 voted unanimously to grant Laurel Hills' request to stay additional action in that docket pending the final outcome of the appeals process and reaffirmed that all other findings, conclusions, and directives of its *Order* remained in effect. In addition, the panel voted to continue to hold this docket in abeyance.³

RENEWED MOTION TO INITIATE PROCEEDINGS

On October 21, 2014, Party Staff filed the *Motion* requesting that the Hearing Officer set this matter for Hearing. In support of the *Motion*, Party Staff states:

On April 14, 2014, the Court of Appeals for the Middle District of Tennessee upheld the Authority's decision in docket number 12-00030. Laurel Hills Condominiums Property Owners Association filed an application for permission to appeal the Court of Appeals decision in docket number 12-00030. On October 15, 2014, the Tennessee Supreme Court denied Laurel Hills Condominiums Property Owners Association application. At this time there is no reason to continue to delay the proceedings.⁴

Laurel Hills did not file a response to the *Motion*.

During the regularly scheduled Authority Conference held on November 4, 2014, the panel considered the *Motion*. The panel found that in consideration of the conclusion of the appellate court proceedings in TRA Docket No. 12-00030, abeyance of further TRA proceedings was no longer warranted and, therefore, unanimously voted to grant Party Staff's *Renewed*

² See *In re: Petition of Laurel Hills Condominiums Property Owners Association for a Certificate of Public Convenience and Necessity*, TRA Docket No. 12-00030, *Order Denying Certificate of Public Convenience and Necessity and Requiring Divestiture of Water System* (April 18, 2013) ("*Order*"). A full account of the TRA proceedings prior to and subsequent to the issuance of the *Show Cause Order* is set forth in TRA Docket No. 12-00030.

³ See *Order Granting Laurel Hills' Requests for Extension of Time to Divest and to Stay Further Action Pending Appeal* (November 5, 2013).

⁴ *Renewed Motion to Initiate Proceedings*, p. 1 (October 21, 2014). In addition, Party Staff filed in TRA Docket No. 12-00030 a copy of the Mandate issued from the Tennessee Court of Appeals and related appellate court filings. The TRA Order was affirmed in all respects. See *Laurel Hills Condominiums Property Owners' Association v. Tennessee Regulatory Authority*, 2014 WL 1494126 (Tenn. Ct. App. Apr. 14, 2014), *perm. app. denied* (Tenn. Oct. 15, 2014).

Motion to Initiate Proceedings. In addition, the panel instructed Party Staff to give sufficient notice to Laurel Hills prior to requesting any additional charges added to the counts in the *Show Cause Order*.

IT IS THEREFORE ORDERED THAT:

The *Renewed Motion to Initiate Proceedings* filed on October 21, 2014, by TRA Investigative Staff acting as a Party is hereby granted.

Vice Chairman David F. Jones, Director Kenneth C. Hill and Director James M. Allison concur.

ATTEST:



Earl R. Taylor, Executive Director