

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

IN RE:

**PETITION TO SHOW CAUSE WHY A CEASE AND
DESIST ORDER AND CIVIL PENALTIES &
SANCTIONS SHOULD NOT BE IMPOSED
AGAINST LAUREL HILLS CONDOMINIUM
PROPERTY OWNERS ASSOCIATION**

DOCKET NO. 12-00077

OBJECTION TO INTERVENTION REQUESTS

Comes now Tennessee Regulatory Authority (“TRA” or “Authority”) Staff acting as a Party (“Party Staff”) appointed in Docket No. 12-00030 to prosecute this Show Cause proceeding against Laurel Hills Property Owner’s Association (“Laurel Hills”) for violations of statutes and regulations under the jurisdiction of the Authority to oppose the intervention of the Consumer Advocate and Protection Division of the Office of the Attorney General (“Advocate”). In support of this objection Party Staff would show as follows:

Who is Entitled to Represent Parties

in a Show Cause Proceeding

1. Party Staff asserts that this case is nothing more or less than an enforcement action against Laurel Hills for violations of the law.
2. The only parties that are entitled under the law to participate in a Show Cause proceeding are Party Staff appointed by the TRA and the respondent utility. The statute allows the Authority “to issue orders on its own motion citing persons under its jurisdiction to appear before it and

show cause why the authority should not take such action as the authority shall indicate in its show cause order....”¹

3. The Show cause statute does not contemplate third party intervention when the only issue is whether there has been a violation of the law.
4. The TRA is authorized to exercise “practically plenary authority over the utilities within its jurisdiction.”² This broad grant of authority empowers the TRA to conduct an enforcement action relying upon counsel employed by the Authority for that purpose.
5. It is the Authority that is responsible for ensuring the public good. The mission of the Authority is “to promote the public interest by balancing the interests of utility consumers and providers....”³
6. An enforcement action is the Authority fulfilling its role of enforcing the law for the public good.

Travel of the Case

7. On July 7, 2012, the Authority issued an Order requiring Laurel Hills to show cause why a cease and desist order, civil penalties, and other sanctions should not be levied against them for violations of state law.⁴
8. On August 8, 2012, the parties entered into an Agreed Order to hold the Show Cause proceeding in abeyance pending the outcome of Laurel Hills’ appeal of the Authority’s decision in TRA Docket No. 12-00030.⁵
9. On October 21, 2014, Party Staff filed a motion to reinstate the Show Cause proceeding as Laurel Hills’ had exhausted their appeals of TRA Docket No. 12-00030.⁶

¹ Tenn. Code Ann. §65-2-106

² *Tenn. Cable Television Assoc. v. Tenn. Public Service Comm.* 844 S.W.2d 151, 159 (Tenn. Ct. App., 1992).

³ Tennessee Regulatory Authority Mission Statement

⁴ *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*, July 7, 2012.

⁵ *Agreed Order*, August 8, 2012

⁶ *Renewed Motion to Initiate Proceedings*, October 22, 2014.

10. On December 8, 2014, the Advocate filed a Petition to Intervene (“Petition”) in this Show Cause proceeding.⁷

The petition for Intervention is

Inadequate to Allow Intervention

11. The Advocate’s Petition is devoid of any facts that would create a basis for intervention.
12. The Advocate claims that the “consumers have an interest in this proceeding” without any explanation about what facts lead them to this conclusion.⁸ Later the Advocate argues that the interests and rights of customers are at issue in this case.⁹ However, again there is no explanation about what consumer rights or interests are at issue.
13. The reason the Advocate is silent regarding the interests they seek to protect is because there are none. This is simply an enforcement action against the company for violations of the law.
14. The Advocate raises the specter of a Settlement Agreement that could possibly affect in some unnamed way the interests of the consumers. While Party Staff cannot imagine for the Advocate what consumer interests might be harmed in this theoretical settlement that require protection. Party Staff can state unequivocally that this not the appropriate time for an intervention solely on speculative grounds. If and when a Settlement Agreement is filed then the Advocate can seek intervention. Perhaps in that hypothetical future the Advocate will even be able to identify the basis for such an intervention.
15. The Advocate here takes the position that it is entitled to intervene in any case before the Authority on only its word that some consumer some where might be affected by the outcome of the case whatever that outcome might be.

In conclusion the Advocate has not established any basis upon which they can rightfully be allowed to intervene in this Show Cause proceeding.

⁷ *Petition to Intervene*

⁸ *Petition paragraph 5.*

⁹ *Petition paragraph 11.*

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that I have served a copy of the forgoing document on the following persons by depositing a copy of same in the U.S. Mail, postage prepaid, addressed to them at the addresses shown below:

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This the 30th day of December, 2014.


Shiva K. Bozarth