

June 19, 2014

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DOCKET NO.
14-00004

On June 10, 2014, Berry's Chapel Utility, Inc. ("Berry's Chapel") filed its *Objection to Consumer Advocate's Motion to File Supplemental Testimony and Exhibit* ("Objection"). In its *Objection*, Berry's Chapel asserts that the filing deadline for testimony was May 30, 2014, and that the Consumer Advocate failed to provide any reason to explain or justify the late filing.

Therefore, Berry's Chapel contends that the Consumer Advocate's *Motion to Amend Testimony* should be denied as untimely and prejudicial.

Pursuant to TRA Rule 1220-1-2-.06, the Consumer Advocate filed a *Motion for Leave to File a Response to Objection of Berry's Chapel* and attached, as Exhibit A, its *Response to Objection of Berry's Chapel to Consumer Advocate's Motion to File Supplemental Testimony and Exhibit* ("Response") on June 13, 2014. In its *Response*, the Consumer Advocate asserts that, because certain information was not available in the online docket file, the exhibit was incomplete at the time that it filed the Direct Testimony, but that it intended to file the exhibit as soon as possible after obtaining accurate and complete information. Further, the Consumer Advocate contends that because Berry's Chapel's rebuttal testimony is not yet due, and ample time remains within which it may review and address the exhibit in its rebuttal testimony, the amendment of Novak's testimony does not prejudice Berry's Chapel. Finally, the comparison of costs is derived from information provided by Berry's Chapel, is public record, and was created to clarify and illustrate the facts, which are admissible during the hearing. Moreover, the Consumer Advocate asserts that it regularly provides a comparison of costs in rate cases before the Authority, and contends that such information is not unduly prejudicial but is helpful to the Authority as fact-finder.

Upon due consideration, the Hearing Officer finds that the *Motion for Leave to File a Response to Objection of Berry's Chapel* complies with TRA Rule 1220-01-02-.06 and should be granted. The Hearing Officer further finds that the amendment to the Direct Testimony of William H. Novak, while late-filed, is not unduly prejudicial to Berry's Chapel. Exhibits similar to the one at-issue here have been offered by the Consumer Advocate in previous cases before the Authority and the information is relevant to the issues for consideration in this docket.

Berry's Chapel has sufficient opportunity to review the amendment and to respond in its rebuttal testimony, which is currently due on June 24, 2014. Therefore, the Hearing Officer concludes that the Consumer Advocate's *Motion to Amend Testimony* should be granted.

BE IT THEREFORE ORDERED THAT:

1) The *Motion for Leave to File a Response to Objection of Berry's Chapel*, filed by the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General on June 13, 2014, is granted.

2) The *Motion to Amend Testimony of William H. Novak*, filed by the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General on June 9, 2014, is granted.


Kelly Cashman-Grams, Hearing Officer