

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

**IN RE:** )  
 )  
**PETITION OF BERRY'S CHAPEL** ) **DOCKET NO. 14-00004**  
**UTILITY, INC. TO INCREASE** )  
**RATES AND CHARGES; TARIFF TO** )  
**RECOVER THE COST OF** )  
**FINANCIAL SECURITY;** )  
**IMPLEMENTATION OF PASS** )  
**THROUGHS FOR SLUDGE** )  
**REMOVAL, ELECTRICITY,** )  
**CHEMICALS AND PURCHASED** )  
**WATER** )

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**CONSUMER ADVOCATE'S MOTION TO STRIKE THE TESTIMONY  
OF MICHAEL KNOTTS AND CERTAIN SECTIONS OF  
THE REBUTTAL TESTIMONY OF ROBERT T. BUCKNER OR  
TO DEEM THE UTILITY'S AMENDMENT OF ITS ORIGINAL PETITION AS  
AN AMENDED OR NEW PETITION REQUIRING A RESTART  
OF THE RATEMAKING PROCESS**

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The State of Tennessee, by and through Attorney General and Reporter Robert E. Cooper, Jr., on behalf of the Consumer Advocate and Protection Division ("Consumer Advocate"), moves to strike the Testimony of Michael Knotts ("Knotts Testimony")<sup>1</sup> on behalf of Berry's Chapel Utility, Inc. d/b/a Harpeth Wastewater Cooperative (the "Utility") filed on June 24, 2014 in its entirety and the Rebuttal Testimony of Robert T. Buckner ("Buckner Rebuttal Testimony") on behalf of the Utility filed on June 24, 2014 with respect to certain sections as described more fully herein.

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<sup>1</sup> The Knotts Testimony is referred to as testimony herein notwithstanding that there is no affidavit attached thereto in documents provided by the Utility's legal counsel or in the electronic docket file for Tennessee Regulatory Authority ("Authority" or "TRA") Docket 14-00004.

Alternatively, the Consumer Advocate moves that the Knotts Testimony be deemed an amended or new petition resulting from the wholesale withdrawal of the requested relief and amendment of the Utility's original Petition filed January 16, 2014 (the "Petition"), thus requiring a restart of the ratemaking process for the Utility.

### Background

After the filing of the Petition on January 16, 2014, and the Direct Testimony of Robert T. Buckner ("Buckner Direct Testimony") on behalf of the Utility on January 15, 2014, there have been four procedural orders, a substantial amount of discovery requests, discovery production, and related motions and objections to motions, as well as direct testimony and rebuttal testimony, all of which (except for the Knotts Testimony) were directed towards the requests made by the Utility in its original Petition.<sup>2</sup> These extensive activities were undertaken by the Authority, Consumer Advocate, and the Utility at a substantial cost of time and resources. Now, four weeks before the Panel Hearing on the Merits set for July 22, 2014 ("Panel Hearing"),<sup>3</sup> the Utility has filed testimony in the form of the Buckner Rebuttal Testimony and the Knotts Testimony – each of which, it would be expected, would rebut the Novak Testimony. To a certain extent, most of the Buckner Rebuttal Testimony attempts to rebut the Novak Testimony. The Utility, though, drops a bombshell in the Knotts Testimony and Buckner Rebuttal

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<sup>2</sup> The TRA's electronic docket indicates there have been about 49 filings, some voluminous and some the subject of argument between the parties, in this Docket since January 15, 2014, the date the Buckner Direct Testimony was filed. Of those, 47 were directed towards the Petition and only two (other than this motion) have in whole or in part been directed towards the New Amendment (defined below).

<sup>3</sup> TRA Docket 14-00004, Amended Order Granting Extension of Time and Establishing 3<sup>rd</sup> Revised Procedural Order, dated June 19, 2014, page 3.

Testimony by abandoning its requests for relief in the original Petition, save for a request for a pass-through mechanism or surcharge to satisfy TRA financial security requirements (the “only remaining request”),<sup>4</sup> and amending the Petition to include a “Capital Improvements Surcharge” that the Utility claims would provide for capital improvements and replacements (the “New Amendment”).<sup>5</sup> The wholesale withdrawal of the requested relief and the amendment of the Petition by means of the Knotts Testimony eviscerates the hard work done by the Authority, Consumer Advocate, and Utility over the last five months. Further, the Knotts Testimony essentially moots the Novak Testimony, Buckner Direct Testimony, and substantially all of the Buckner Rebuttal Testimony, thereby denying the Consumer Advocate any testimony in this Docket and, further, in view of the Panel Hearing set for July 22, 2014, even denying the Consumer Advocate the opportunity to conduct an investigation and discovery, to prepare and file testimony, and to prepare adequately for the Panel Hearing. The Authority, in the Consumer Advocate’s view, is similarly being denied the opportunity to conduct an investigation and to prepare adequately for the Panel Hearing.

### Knotts Testimony

The Knotts Testimony does not rebut the Novak Testimony and,

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<sup>4</sup> The Utility appears to take the position in the Buckner Rebuttal Testimony that the four changes to its tariff with respect to application, disconnection, reconnection, and late payment fees (the “rate design fees”) originated in the Petition, but the rate design fees are not mentioned or described in the Petition and a search in the TRA’s electronic docket for attachments to the Petition that would support this claim was unsuccessful. See Buckner Rebuttal Testimony, page 10, lines 15-18; See also Knotts Testimony, page 10, lines 4-13 (citing Buckner Direct Testimony with respect to rate design fees). In view of the above, the rate design fees will be treated as an amendment to the Petition and included in the definition of the term “New Amendment” herein.

<sup>5</sup> Knotts Testimony, page 8, line 22, through page 10, line 3; Knotts Testimony, Appendix Two. The specific capital improvements and replacements sought are not stated in the Knotts Testimony or Buckner Rebuttal Testimony.

consequently, the Consumer Advocate requests that the Knotts Testimony be stricken in its entirety. To the extent that the Knotts Testimony is intended to serve as rebuttal testimony to the Novak Testimony, as it is so characterized by the Utility's expert and its legal counsel,<sup>6</sup> the Knotts Testimony fails. The Novak Testimony is not mentioned in the Knotts Testimony. No aspect of the issues in the original Petition that the Authority, Consumer Advocate, and Utility have been working on for the past five months are addressed in the Knotts Testimony, save for the only remaining request. On that basis, the Consumer Advocate requests that its motion to strike the Knotts Testimony be granted.

The Knotts Testimony, though, goes beyond purportedly rebutting the Novak Testimony – the Knotts Testimony amends, virtually in its entirety, the Petition. In contrast to the characterization of the Utility's expert and its legal counsel, the Knotts Testimony states its purpose as providing “an overview and discussion of the change in the company's governance, and update[s] the [TRA] Directors as to the new Board's desires for this rate case.”<sup>7</sup> The initial part of the testimony may be summarized as essentially a recent history of Mr. Knotts involvement with the Utility,<sup>8</sup> the corporate governance aspects of that recent history from Mr. Knotts' perspective and unsubstantiated statements about that history,<sup>9</sup> unsubstantiated descriptions of the qualifications of the members of the Utility's Board of Directors

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<sup>6</sup> Buckner Rebuttal Testimony, page 10, line 12; Letter referencing TRA Docket 14-00004 from Henry Walker to Sharla Dillion of the TRA transmitting the “rebuttal testimony and exhibits of Robert T. Buckner and Michael Knotts.”

<sup>7</sup> Knotts Testimony, page 2, lines 9-12.

<sup>8</sup> Knotts Testimony, page 1, lines 1-13 and page 2, lines 3-7.

<sup>9</sup> Knotts Testimony, page 2, line 14 through page 4, line 15.

(the “Board”),<sup>10</sup> and the again unsubstantiated steps that Mr. Knotts testifies the new Board has taken and is taking generally and to educate itself about the Utility and the rate case in this Docket.<sup>11</sup>

After those statements, each of which merits further inquiry, the Knotts Testimony drops the aforementioned bombshell and purports to advise the Authority and Consumer Advocate that what the Board wishes to do, essentially, is to abandon the requests in the Petition and, under the New Amendment, simply have the TRA and Consumer Advocate hand the Utility a \$4 per month per customer Capital Improvement Surcharge and a \$1 per month per customer Financial Security Surcharge,<sup>12</sup> without Mr. Knotts or the Board providing to the Authority or the Consumer Advocate appropriate support for the requests presented by the New Amendment. The Consumer Advocate notes the somewhat confusing and contradictory language in the Knotts Testimony and other filings about the Utility’s cash flow need and the Utility’s lack of a cash flow need, and related accounting and financial matters,<sup>13</sup> and looks forward to exploring this further, after the resolution of matters related to this motion, in an appropriate context.

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<sup>10</sup> Knotts Testimony, page 4, line 17 through page 5, line 20.

<sup>11</sup> Knotts Testimony, page 5, line 22 through page 8, line 6. The Consumer Advocate respectfully notes some concern about the Board reaching out to the TRA staff without the attendance of the Consumer Advocate during the pendency of this Docket. Knotts Testimony, page 8, lines 2-6.

<sup>12</sup> Knotts Testimony, page 8, line 8 through page 11, line 3.

<sup>13</sup> For example, an ambiguity in and omission from Mr. Knotts testimony is information about the cash-need time frames to which Mr. Knotts loosely refers – Mr. Knotts apparently believes, without providing support, that the Utility does not need additional revenue for some time period to cover operations, but nowhere does Mr. Knotts state the length of the time periods to which he refers or provide his basis or any other support for his belief. See Knotts Testimony, page 8, lines 17-21. Mr. Buckner appears to both agree and disagree with Mr. Knotts’ belief on this point, with this internal inconsistency being apparently a disagreement over the time frame in which the Utility does not need additional revenue. See Buckner Rebuttal Testimony, page 11, lines 3-6, 9-10, and 16-17.

A number of due process concerns arise from Mr. Knotts' testimony that support the Consumer Advocate's motion to strike the Knotts Testimony. The Knotts Testimony, after virtually abandoning the relief sought in the Petition, wholly amends the Petition to the extent that the Consumer Advocate is denied the benefit of:

- (i) the Utility's direct testimony on the New Amendment by an individual with the appropriate credentials on regulatory accounting and financial matters,
- (ii) appropriate investigation and discovery to learn more about the relief sought in the New Amendment and its implementation, goals, and any safeguards to protect consumers against the intentional or unintentional misuse of the funds collected,
- (iii) the opportunity to present its own direct testimony by an individual with the appropriate credentials on regulatory accounting and financial matters, and
- (iv) the opportunity, after investigating and obtaining and reviewing relevant discovery, to cross-examine Mr. Knotts and any other individual who offers direct testimony (and potentially rebuttal testimony to any direct testimony offered by the Consumer Advocate) on the New Amendment.

The denial of the benefit of these steps runs contrary to the rights of a party in TRA Rule 1220-1-2-.16(5), which gives to any party the right to cross-examine

witnesses and to submit rebuttal testimony. The Consumer Advocate contends that the effective cross-examination of witnesses and filing of rebuttal testimony requires that the Consumer Advocate and the Authority be given the opportunity to benefit from each of the above steps in the ratemaking process.

In addition, the Knotts Testimony raises a number of significant issues about the membership and ownership of the Utility and the Utility's legal form and governance. For example, nowhere in his testimony does Mr. Knotts state the number of members of the purported cooperative, the number of customers (if any) who have stated affirmatively that they do not wish to be members, or the legal characterization and rights of the customers who do not wish to become members. This also is important to an evaluation of who controls the Utility and the relevant impact of that control on customers. Further, there are issues about who represents the Utility's customers and members and the qualification of those representatives. Members of the cooperative would presumably be represented by Mr. Knotts and the other Board members, but left unsaid by Mr. Knotts is who would represent customers who are not members (for whatever reason)<sup>14</sup> -- a role filled in this Docket by the Consumer Advocate on behalf of all customers (whether members or not). Along those lines, issues also arise concerning the apparent inability, since March of 2014, of the Board to meet with all of the relevant homeowners associations in the relevant area.

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<sup>14</sup> Note that the letter from Mr. Knotts to the Utility's ratepayers, dated June 24, omits any statement about the rate design fees, which are clearly intended by the Utility as a rate increase for additional operating revenue, and further, the letter provides wholly inadequate information to ratepayers supporting the New Amendment or the only remaining request. See Knotts Testimony, Appendix Two. The Consumer Advocate respectfully expresses concern about this aspect of the letter because it fails to provide an accurate and complete representation of the Utility's position and its impact on ratepayers.

In view of the above issues, which the Consumer Advocate suggests would need to be addressed in the very short time period before the Panel Hearing, currently set for July 22, 2014, a decision not to grant Consumer Advocate's motion to strike the Knotts Testimony would require the Hearing Officer to order a fifth revised procedural schedule in this Docket and thereby impose wholly unrealistic deadlines with respect to discovery, expert witness direct and rebuttal testimony, relevant conferences, and other matters which could arise. As a comparison to the work done previously, the Knotts Testimony would require that the Authority, Consumer Advocate, and the Utility redo the work of the past five months in the four weeks leading up to the Panel Hearing on July 22, 2014. And the Consumer Advocate would respectfully note that, even if all or some of the issues raised above could be somehow resolved at the pre-hearing conference on July 10, 2014, the possibility of an appeal by a non-prevailing party would likely create substantial confusion and ambiguity for the TRA Directors, TRA Staff, Consumer Advocate, Utility, and other potential participants at the Panel Hearing.

The concerns and issues raised and the unrealistic time deadlines that would be required to resolve those concerns and issues demonstrate that the Consumer Advocate has been substantially prejudiced, the Hearing Officer has been put in an untenable position with respect to a potential fifth revised procedural schedule and accomplishing the goals related thereto, and the Authority has been placed in a position of potentially making a decision on a wholly inadequate, unsupported, and



one-sided record. On the basis of the foregoing, the Consumer Advocate requests that its motion to strike the Knotts Testimony be granted.

#### Buckner Rebuttal Testimony

The Buckner Rebuttal Testimony contains certain questions and responses that do not rebut the Novak Testimony and, consequently, the Consumer Advocate requests that those questions and responses be stricken. As a part of his rebuttal testimony, Mr. Buckner makes statements, in the three questions and related answers beginning on page 10, line 12, and ending on page 11, line 20, of the Buckner Rebuttal Testimony (the “Buckner Amendment Q&A” and attached hereto as Attachment A), that generally provide testimony indicating that Mr. Buckner has read Mr. Knotts’ testimony, that the Utility will be unable to pay depreciation expenses or its cost of debt under the New Amendment, and that Mr. Buckner believes that the Board is looking out for the Utility.<sup>15</sup> The Buckner Amendment Q&A does not rebut the Novak Testimony. The Buckner Amendment Q&A filed on June 24th simply does not address the matters addressed in the Novak Testimony as filed on May 30th and amended thereafter. On that basis, the Consumer Advocate requests that its motion to strike the Buckner Amendment Q&A be granted.

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<sup>15</sup> Mr. Buckner fails to note that the letter from Mr. Knotts to the Utility’s ratepayers, dated June 24, omits any statement about the rate design fees, which are clearly intended by the Utility as a rate increase for additional operating revenue. See Buckner Rebuttal Testimony, page 11, lines 12-20 and Knotts Testimony, Appendix Two. Further, Mr. Knotts’ letter provides wholly inadequate information to customers about the New Amendment or the only remaining request. See Knotts Testimony, Appendix Two.

Further, while Mr. Buckner declares that Mr. Novak's testimony about the requested increase in operating rates is no longer relevant,<sup>16</sup> Mr. Buckner curiously omits the seemingly important fact that the same relevant parts of the Buckner Direct Testimony and even much of the preceding nine pages of the Buckner Rebuttal Testimony would be irrelevant as well under the New Amendment.<sup>17</sup> Even more interesting is Mr. Buckner's failure to provide meaningful support for the Knotts Testimony – and this is especially noteworthy in view of Mr. Buckner's role as the Utility's expert on regulatory accounting and financial matters. Mr. Buckner does make a couple of conclusory, unsupported statements that Mr. Knotts has proposed a short-term fix for the Utility's immediate needs, but presents no capital budget or other support that might have been helpful as support for Mr. Knotts' New Amendment.<sup>18</sup> Apparently, the Utility's own regulatory accounting and financial expert is unable to provide meaningful support for the New Amendment as presented in the Knotts Testimony.

If the Consumer Advocate's motion to strike the Knotts Testimony is granted, the Buckner Amendment Q&A serves no purpose and would create ambiguity with respect to the Buckner Rebuttal Testimony. Further, the Buckner Amendment Q&A fails to support the Knotts Testimony in other than a conclusory, weak

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<sup>16</sup> Buckner Rebuttal Testimony, page 10, lines 15-19.

<sup>17</sup> Mr. Buckner offers no explanation for these omissions.

<sup>18</sup> Buckner Rebuttal Testimony, page 11, lines 9-10 and 16-17. Note also that Mr. Buckner's rebuttal testimony does nothing to provide information about the time frames that Mr. Knotts loosely refers to in the Knotts Testimony – left unstated and unsupported is information about the length of time that Messrs. Knotts and Buckner believe that the Utility's current rates will be sufficient to continue operations. See Knotts Testimony, page 8, lines 17-21 and Buckner Rebuttal Testimony, page 11, lines 9-10.

manner. On that basis, the Consumer Advocate requests that its motion to strike the Buckner Amendment Q&A be granted.

Amendment of the Petition Requiring Restart of the Ratemaking Process

In filing the Knotts Testimony and its New Amendment, the Utility has abandoned its requests for relief in the original Petition and has wholly amended its Petition, save for the only remaining request. Consequently, the Consumer Advocate requests that such wholesale amendment of the original Petition be deemed an amended or new petition requiring a restart of the ratemaking process. By means of the Knotts Testimony, the Utility has made a wholesale withdrawal of the relief requested in the original Petition, thereby rendering moot virtually all of the work previously done by the TRA, Consumer Advocate, and Utility over the last five months. Through the New Amendment, the Utility has drastically changed its requested relief. The filing of a virtually new petition four weeks before the Panel Hearing denies the Consumer Advocate the due process of a clear and unambiguous statement of the relief sought, the benefit of direct testimony by an appropriately credentialed expert, the opportunity to conduct discovery, the opportunity to provide direct testimony from an appropriately credentialed expert, the opportunity to conduct informed cross examination of the Utility's expert, and, with respect to the Consumer Advocate's efforts, to provide relevant and meaningful information to the Authority.<sup>19</sup> The Authority, similarly, would be denied the relevant and meaningful information that it properly needs to make an informed decision. The wholesale withdrawal of the requested relief and amendment of the Petition by the Utility

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<sup>19</sup> See the prior discussion concerning this denial of due process in this Motion, pages 6-7.

forces the Consumer Advocate to request what may appear as drastic relief, but it is not. The Consumer Advocate requests such relief in the form of a restart of the Utility's ratemaking process.

While the Consumer Advocate recognizes the extraordinary nature of its request that the Utility restart the ratemaking process, the Consumer Advocate notes that there is precedent for such action. At the public hearing for a petition by the Tennessee American Water Company ("TAWC"), TRA Docket 13-00130, the Authority noted that certain riders attached to TAWC's petition had been changed and, on counsel's admission that such changes amended the petition, the Authority stated that "[s]ince they are an amendment to the petition, we consider it a new petition and therefore want to basically start the process over again. We would like the parties to file testimony in support of the new petition, the amended petition, and for the hearing officer to establish a procedural schedule to consider this new petition. So that's where we, as the Authority, are coming from on the matter."<sup>20</sup> After further discussion among the relevant parties, Chairman Allison noted that "we don't have the discretion in this type of proceeding that we do in a rate case."<sup>21</sup> While the Utility might quibble with aspects of the application of that proceeding to this proceeding, there would appear to be the clear message in TRA Docket 13-00130 from the Authority that appropriate time must be allowed the Authority to

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<sup>20</sup> Transcript of public hearing on January 13, 2014, in TRA Docket No. 13-00130, petition of Tennessee American Water Company for approval of a qualified infrastructure investment program and economic development investment rider, a safety and environmental compliance rider, and pass-throughs for purchased power, chemicals, purchased water, wheeling water costs, waste disposal, and TRA inspection fee, page 5, line 3 through page 6, line 3.

<sup>21</sup> *Id.* at page 8, lines 9-10.

permit a thorough review of a request for relief and the proceeding must comport with due process, or the ratemaking process must be restarted.

In the current Docket, the Utility made a wholesale withdrawal of the requested relief and amendment of the Petition. As in TRA Docket 13-00130, the Utility's actions in this Docket fail to provide time to comport with due process and thereby prejudice both the Authority and Consumer Advocate. Admittedly, the current Docket started out as a rate case, but then four weeks before the Panel Hearing, the Utility drastically amended the Petition by adding the New Amendment and continuing only the only remaining request – the remainder of the original Petition was abandoned. This has so altered the original Petition and so prejudiced the due process rights of the Authority and the Consumer Advocate that the Consumer Advocate contends that the extraordinary step of restarting the rate case is appropriate and necessary.

Further, the form and substance of the New Amendment and only remaining request raises issues about whether the Utility's ratemaking process in this Docket should be restarted in any event. Both the New Amendment and only remaining request appear to be more like requests for "alternative ratemaking" that would be made under Tenn. Code Ann. § 65-5-103(d),<sup>22</sup> especially since they are effectively made in the absence (after withdrawal of the relief requested by the original Petition) of a regular rate case in which all expenses and revenues are examined.

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<sup>22</sup> Even the Utility's request for the rate design fees would be more appropriately considered under Tenn. Code Ann. § 65-5-103(d) since the Utility clearly considers the addition of these fees as a revenue increase, rather than the fees more appropriate characterization as an element of rate design.

Perhaps recognizing this issue, the Utility withdrew its requests<sup>23</sup> for the Authority to approve, under Tenn. Code Ann. § 65-5-103(d), “a mechanism to true-up expenses for sludge removal, electricity, and chemicals and to pass through to customers the anticipated costs of complying of [sic] state and federal environmental requirements.”<sup>24</sup> The Consumer Advocate contends that the substance of the New Amendment and only remaining request, and even the request for rate design fees, especially in the absence of a regular rate case, are more like requests that should be considered under Tenn. Code Ann. § 65-5-103(d) than requests brought under a regular rate case. Consequently the Utility’s requests should not continue under this regular rate case Docket, and the Utility’s ratemaking process should restart under the alternative ratemaking provisions under Tenn. Code Ann. § 65-5-103(d).

With the wholesale withdrawal of the requested relief and amendment of the Petition, in the context of the restart of the ratemaking process, the Consumer Advocate requests that the Authority take one of two alternative courses of action<sup>25</sup> – first, the case could be deemed a rate case in which the petition has been so drastically altered that it is essentially a new rate case that should start over in the ratemaking process, or second, the case could be deemed as being in form and substance an alternative ratemaking case under Tenn. Code Ann. § 65-5-103(d), and in either case with a new petition having been filed by means of the Knotts Testimony.

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<sup>23</sup> Buckner Rebuttal Testimony, page 8, lines 4-8, as confirmed by Knotts Testimony, page 10, lines 14-15 and page 11, lines 2-3.

<sup>24</sup> Petition, page 2, paragraph 5.

<sup>25</sup> In view of the lack of clarity of certain aspects of the Knotts Testimony, upon the taking of either course of action, the Consumer Advocate would expect to move respectfully for a more definite statement of the petition under TRA Rule 1220-1-2-.03(4).

Conclusion

Accordingly, the Consumer Advocate respectfully requests that its motion to strike the Knotts Testimony in its entirety and the Buckner Amendment Q&A Testimony be granted. Alternatively, the Consumer Advocate respectfully requests that its motion that the Knotts Testimony be deemed an amended or new petition resulting from the wholesale withdrawal of the requested relief and amendment of the Utility's original Petition, thus requiring a restart of the ratemaking process for the Utility, be granted.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Henry Walker  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203

This the 1<sup>ST</sup> day of July, 2014.

  
\_\_\_\_\_  
WAYNE IRVIN



# ATTACHMENT

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1 case and was not asked to investigate the reason for the increase in the  
2 current rate case.<sup>9</sup> The exhibit also highlights the significant increase in the  
3 amount of legal expenses requested by the company in this case over the  
4 amount awarded in the last case. As the Authority and the Consumer  
5 Advocate are aware, the Company has had and continues to have a number  
6 of legal problems relating to billing and collection problems, environmental  
7 issues, and the continuing fall-out from the ten-month period in which the  
8 company believed in good faith that it was not subject to the TRA's  
9 jurisdiction. It is not surprising that the company's legal expenses have  
10 increased.

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12 **Q. Have you read the rebuttal testimony of Mr. Mike Knotts?**

13 **A.** Yes. His proposal to reduce the company's rate request to less than  
14 half of what the company originally sought essentially renders moot most of  
15 the Consumer Advocate's testimony. Since the company has decided to  
16 eliminate any request for an increase in operating expenses (other than the  
17 small amount of additional revenue resulting for the requested tariff  
18 changes), Mr. Novak's testimony about the requested increase in operating  
19 expenses is no longer relevant. As explained by Mr. Knotts, the company is  
20 now seeking only enough additional revenue to create an escrow account to  
21 cover capital costs and to comply with the Authority's financial security y

<sup>9</sup> For example, the Company incurred an increase to Miscellaneous Expense of \$13,682. Approximately \$9,000 of that increase is the result of the Company's decision to bill its customers directly. The purchase and use of Logics software will result in the Company saving money beginning this fall and will reduce billing errors by third parties. The increases to Repairs and Maintenance, Operations Management, and Billing and Collection are largely attributed to the exclusion of labor costs in the last rate case as described in my testimony. The Company's Bad Debt Expense was deemed to fairly represent the on-going level of Bad Debts as calculated by the Company's external auditors.

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3 **Q. If the Authority agrees with Mr. Knotts' proposal, will this provide the**  
4 **company with sufficient revenue to cover its costs?**

5 A. No. (See Appendix D) Under this reduced request, the company will  
6 still be unable to pay its depreciation expenses or its costs of debt. Those  
7 issues will have to be addressed later after the Board has implemented its  
8 cost-cutting measures and, the company hopes, restructured its outstanding  
9 debt. Mr. Knotts has proposed a short-term solution to meet the company's  
10 immediate and most pressing needs.

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12 **Q. Do you have any overall comments on the recommendation of the**  
13 **Consumer Advocate?**

14 A. Yes. In my opinion, Mr. Knotts and the Board of Directors have done a  
15 better job of protecting the company's ratepayers than the Consumer  
16 Advocate. The Board's proposal will allow the company to meet its  
17 immediate needs while planning for its future. The Consumer Advocate's  
18 position seems intended to force the company into insolvency. That is not in  
19 the best interest of the customers the Consumer Advocate purports to  
20 represent.

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22 **Q. Does this conclude your testimony?**

23 A. Yes.

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