

BEFORE THE TENNESSEE REGULATORY AUTHORITY

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IN RE: )  
)  
SHOW CAUSE PROCEEDING AGAINST )  
TENNESSEE WASTEWATER SYSTEMS, )  
INC. FOR MATERIAL NON-COMPLIANCE )  
AND/OR VIOLATION OF TENN. COMP. R. )  
& REGS. 1220-04-13, et. seq. )

DOCKET NO. 14-00041

**OBJECTION TO THE INTERVENTION OF THE  
CONSUMER ADVOCATE AND PROTECTION DIVISION**

Comes now the Tennessee Regulatory Authority ("TRA" or the "Authority") staff participating as a party ("Party Staff") who respectfully request that the hearing officer deny the Consumer Advocate and Protection Division's ("CAD") Motion to Intervene. In support thereof Party Staff would show as follows:

**I. Statement of Facts**

1. Docket No. 13-00017, was a dispute between Emerson Properties, LLC and Tennessee Wastewater Systems, Inc. ("TWSI") over whether TWSI's CCN for the Villages at Norris Lake should be terminated.
2. Neither TWSI nor any other utility system currently offers waste water treatment service to the Villages at Norris Lake.
3. The CAD was allowed an extremely narrow intervention in Docket No. 13-00017.<sup>1</sup>
4. The Authority issued an Order initiating this Show Cause proceeding on March 25, 2014<sup>2</sup>. On April 14, 2014, the Authority reconsidered that Order and determined that the Show Cause proceeding should continue and instructed the Hearing Officer to "expedite this process and set a target hearing date of June 16, 2014."<sup>3</sup> Party Staff and TWSI have committed to being prepared to present this case to the Authority on June 13, 2014, if the Authority is available.

<sup>1</sup> Pre-Hearing Order, November 20, 2013, Docket No. 13-00017

<sup>2</sup> Order Initiating Show Cause Proceeding Against Tennessee Wastewater Systems, Inc.

<sup>3</sup> Transcript of the April 14, 2014, Authority Conference, p. 47

5. On April 22, 2014, the CAD sought intervention in this Show Cause proceeding. The CAD's intervention makes no assurances that they can agree to a timely resolution of this matter or will commit to being prepared to go to hearing on June 13, 2014, or even the June 16, 2014, deadline established by the Directors.

## **II. Statement of Position**

6. Party Staff would assert this is an enforcement action against TWSI for violations of the law.
7. The only parties that are entitled under the law to participate in a Show Cause docket that does not affect utility rates 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...."<sup>4</sup>
8. The Show cause statute does not contemplate third party intervention when the only issue is whether there has been a violation of the law.
9. Additionally, the CAD's originating statute states that they **may** petition the Authority to intervene but it does not grant them blanket intervention or entitle them to intervene in this or any other Show Cause docket.<sup>5</sup>
10. The CAD has given no specific basis for intervention and has instead raised general and unspecified concerns about unknown harm to unidentified consumers.
11. The TRA is authorized to exercise "practically plenary authority over the utilities within its jurisdiction."<sup>6</sup> This broad grant of authority empowers the TRA to conduct an enforcement action relying upon counsel employed by the Authority for that purpose.
12. 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...."<sup>7</sup>
13. An enforcement action is the Authority fulfilling its role of enforcing the law for the public good. The CAD cannot simply intrude into any case it wishes without first

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<sup>4</sup> Tenn. Code Ann. §65-2-106

<sup>5</sup> Tenn. Code Ann. §65-4-118

<sup>6</sup> *Tenn. Cable Television Assoc. v. Tenn. Public Service Comm.* 844 S.W.2d 151, 159 (Tenn. Ct. App., 1992).

<sup>7</sup> Tennessee Regulatory Authority Mission Statement

showing that they have “a right under the provisions of the laws applicable to the authority” to intervene<sup>8</sup>.

**III. Conclusion**

14. Absent a clear basis for intervention no party should be granted intervention in an Authority show cause proceeding.
15. The CAD’s extremely limited involvement in the preceding case does not form a basis for intervention in this Show Cause docket.
16. The CAD’s has failed to articulate any other basis for its intervention.
17. The CAD has failed to indicate that it is capable of complying with the Authority’s directive that this matter be presented on or before June 16, 2014.

WHEREFORE, Party Staff respectfully requests that the Hearing Officer deny the CAD’s Motion to Intervene.

Respectfully submitted,



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<sup>8</sup> Tenn. Code Ann. § 65-2-107

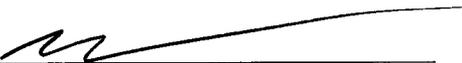
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that I have served a copy of the foregoing document on the following persons by U.S. Mail:

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This the 24<sup>th</sup> day of April, 2014.

  
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Shiva K. Bozarth