

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

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|-----------------------------------|---|----------------------------|
| IN RE: |) | |
| |) | |
| PETITION OF BERRY'S CHAPEL |) | |
| UTILITY, INC. FOR A |) | DOCKET NO. 14-00075 |
| DECLARATORY ORDER |) | |

**MOTION TO COMPEL TYLER L. RING AND JOHN D. RING
TO ANSWER THE DISCOVERY REQUESTS OF
THE CONSUMER ADVOCATE AND PROTECTION DIVISION**

The Consumer Advocate and Protection Division ("Consumer Advocate"), respectfully moves the Tennessee Regulatory Authority ("TRA" or "Authority") to compel Tyler L. Ring and John D. Ring (collectively, the "Rings") to fully and completely respond to the Discovery Requests of the Consumer Advocate and Protection Division To Tyler L. Ring and John D. Ring ("Discovery Requests") as served on counsel to the Rings and filed in this Docket on December 3, 2014, and as attached hereto as Exhibit A. In support thereof, the Consumer Advocate would show:

1. On August 5, 2014, Berry's Chapel Utility, Inc. ("Berry's Chapel") filed a Petition of Berry's Chapel Utility, Inc. for a Declaratory Order ("Petition") asking the Authority to issue a declaratory order finding that (i) Tenn. Code Ann. § 65-4-109 is applicable to certain promissory notes issued on September 1, 2010, by Berry's Chapel to Tyler L. Ring and John D. Ring ("Ring Notes"), (ii) in the absence of TRA approval, the issuance of the Ring Notes violated Tenn. Code Ann. § 65-4-

109, and (iii) since the Ring Notes were issued in violation of Tennessee state law, the Ring Notes are not enforceable against Berry's Chapel.¹

2. On August 8, 2014, the Rings, through counsel, filed at the TRA a Petition to Intervene and Commence Contested Case ("Ring Petition"), seeking an order from the TRA permitting the Rings to intervene and requesting the commencement of a contested case.² In support for the Ring Petition, the Rings asserted that if the TRA were to grant the relief sought by Berry's Chapel, the Rings' "legal rights and interests will be determined in this proceeding without an opportunity for hearing."³ The Rings further asserted that "a full contested case hearing before the Authority is necessary to permit the discovery of and presentation of evidence, arguments of counsel, and to adequately protect the interests of all interested parties to this proceeding."⁴

3. On September 15, 2014, the Authority convened a contested case, appointed a Hearing Officer, and granted the petitions to intervene of the Rings and the Consumer Advocate.⁵

4. On December 3, 2014, pursuant to an Order Establishing Procedural Schedule ("Procedural Schedule Order") entered in this Docket on December 2, 2014, the Consumer Advocate served the Discovery Requests on counsel to the Rings and filed the same in this Docket.

¹ Petition, page 2.

² Ring Petition, page 2.

³ Ring Petition, page 1, paragraph 3.

⁴ Ring Petition, page 2, paragraph 8.

5. As of the time of the filing of this Motion to Compel, the Rings have not responded to or otherwise answered the Discovery Requests.

WHEREFORE, the Consumer Advocate requests the Hearing Officer to enter an order compelling the Rings to produce full and complete answers to the Discovery Requests on or before December 16, 2014, or within such other time as the Hearing Officer may deem reasonable.

RESPECTFULLY SUBMITTED,



WAYNE IRVIN (BPR #30946)
Assistant Attorney General
Office of the Tennessee Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202-0207
(615) 741-8733

Dated: December 12th, 2014.

⁵ Order Accepting Petition, Granting Petition to Intervene, Convening a Contested Case and Appointing a Hearing Officer (September 24, 2014).

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, Esq.
Bradley Arant Boult Cummings LLP
1600 Division Street, Suite 700
PO Box 340025
Nashville, Tennessee 37203

Craig V. Gabbert, Jr., Esq.
R. Alex Payne, Esq.
Harwell Howard Hyne Gabbert & Manner, P.C.
333 Commerce Street, Suite 1500
Nashville, Tennessee 37201

This the 12th day of December, 2014.



Wayne Irvin

EXHIBIT A

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

IN RE:

**PETITION OF BERRY'S CHAPEL
UTILITY, INC. FOR A DECLARATORY
ORDER**

)
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) **DOCKET NO. 14-00075**
)
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)

**DISCOVERY REQUESTS
OF THE CONSUMER ADVOCATE AND PROTECTION DIVISION
TO TYLER L RING AND JOHN D. RING**

To: Mr. Tyler L. Ring
Mr. John D. Ring
c/o Craig V. Gabbert, Jr., Esq.
R. Alex Payne, Esq.
Harwell Howard Hyne Gabbert & Manner, P.C.
333 Commerce Street, Suite 1500
Nashville, Tennessee 37201

This Discovery Request is hereby served upon Tyler L Ring ("TLR") and John D. Ring ("JTR"), pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11. We request that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Advocate and Protection Division, 425 Fifth Avenue North, Nashville, Tennessee 37243, c/o Wayne Irvin, on or before 2:00 p.m. (CDT), December 10, 2014.

PRELIMINARY MATTERS AND DEFINITIONS

Each discovery request calls for all knowledge, information and material available to TLR and/or JTR as a party, including all knowledge, information and material available to any of TLR and/or JTR's affiliates, agents, and assigns, or any corporation, firm, company, sole proprietorship, partnership, business, unincorporated association, trust, or other entity of any sort whatsoever directly, indirectly, or beneficially owned by TLR and/or JTR, or knowledge, information and material possessed or available to TLR and/or JTR by or through their respective attorneys or other representatives.

These discovery requests are to be considered continuing in nature, and are to be supplemented from time to time as knowledge, information and material are received by TLR and/or JTR which would make a prior response inaccurate, incomplete, or incorrect. In addition, the Attorney General requests that TLR and/or JTR supplement responses hereto with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert at hearing, the subject matter on which the expert is expected to testify, and the substance of the expert's testimony.

These discovery requests are to be interpreted broadly to fulfill the benefit of full discovery. The singular of any discovery request includes the plural and the plural includes the singular. To assist you in providing full and complete discovery, the Attorney General provides the following definitional guidelines.

The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to include any information that might otherwise be construed outside the scope of these requests.

The term “communication” means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise.

For purposes of these discovery requests, the term “you” shall mean and include: TLR and/or JTR and all employees, agents and representatives thereof, as well as any subsidiary, affiliate or parent companies associated with TLR and/or JTR.

The term “person” or “persons” as used herein refers to any natural person, corporation, firm, company, sole proprietorship, partnership, business, unincorporated association, trust, or other entity of any sort whatsoever. Where a company or organization is the party being served, all responses must include the company’s response. Moreover, the company’s designated person for responding must assure that the company provides complete answers. *A complete answer must provide a response which includes all matters known or reasonably available to the company.*

The term “identity” and “identify” as used herein, with respect to any person, means to provide their name, date of birth, current residence address, current residence telephone number, current business address, current business telephone number, and the occupation or job title of that person; with respect to an entity, those terms mean to provide the name by which said entity is commonly known, the current address of its principal place of business, and the nature of business currently conducted by that entity; with respect to any document, those terms mean to provide the date of the document, the nature of the document, the title of the document, the reference number (if any) of the document, and the current location of the document, including the identity of the person or entity in possession of the document.

The term “document” as used herein, means any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, work paper, spreadsheet, note, photograph, tape recording, computer disk or record, or other data compilation in any form without limitation. Produce the original and each copy, regardless of origin or location, of any book, pamphlet, periodical, letter, note, report, memorandum (including memoranda, note or report of a meeting or conversation), spreadsheet, photograph, videotape, audio tape, computer disk, e-mail, or any other written, typed, reported, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer, in your possession, custody, or control. If any such document was, but no longer is, in your possession or control, state what disposition was made of it and when. If a document exists in different versions, including any dissimilar copies (such as a duplicate with handwritten notes on one copy), each version shall be treated as a different document and each must be identified and produced.

If you produce documents in response to these discovery requests, produce the original of each document or, in the alternative, produce a copy of each document and identify the location of the original document. If the “original” document is itself a copy, that copy should be produced as the original.

If any objections are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege asserted.

If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

If any of the interrogatories are not answered on the basis of privilege or immunity, include in your response to each such interrogatory a written statement evidencing:

- (a) the nature of the communication;
- (b) the date of the communication;
- (c) the identity of the persons present at such communication; and
- (d) a brief description of the communication sufficient to allow the Authority to rule on a motion to compel.

If, for any reason, you are unable to answer a discovery request fully, submit as much information as is available and explain why your answer is incomplete. If precise information cannot be supplied, submit 1) your best estimate, so identified, and your basis for the estimate and 2) such information available to you as comes closest to providing the information requested. If you have reason to believe that other sources of more complete and accurate information exist, identify those sources.

If any information requested is not furnished as requested, state where and how the information may be obtained or extracted, the person or persons having knowledge of the procedure and the person instructing that the information be excluded.

In the event TLR and/or JTR has a technical objection to a discovery request or cannot provide the specific information requested, the Consumer Advocate will make available the consultants it has employed for this docket to have discussions with the responding witnesses of TLR and/or JTR in order to resolve any technical matter pertaining to the discovery requests.

Provide all responses in the format which they are maintained such as Microsoft Excel or Microsoft Word format with all formulas intact.

DISCOVERY REQUESTS

1. Please confirm that Exhibits A and B to the Petition for Declaratory Order (“Petition”) filed in this docket are complete and accurate copies of each promissory note referenced in paragraphs 3 and 4 of the Petition and that all supporting or related documents for each such promissory note are included in each such exhibit or, in the alternative, please provide a complete and accurate copy of each promissory note and all supporting or related documents for each such promissory note referenced in paragraphs 3 and 4 of the Petition.

RESPONSE:

2. For each promissory note referenced in paragraphs 3 and 4 of the Petition, state and describe fully the consideration paid or contributed to the issuer of such promissory notes in exchange for such promissory notes. If such consideration was other than cash, please provide any document supporting or relied upon by TLR and/or JTR in determining the value of the property contributed in exchange for such promissory notes.

RESPONSE:

3. For each promissory note referenced in paragraphs 3 and 4 of the Petition, provide a list of each payment directly, indirectly, or beneficially received by TLR and/or JTR as principal or interest on each such promissory note, with a description of the amount and type of such payment as received. If any principal and/or interest payment on either such promissory note has not been paid when due, please explain fully the reasons each such payment was not paid when due during the period from the issuance of the promissory note until April 2014.

RESPONSE:

4. Was it the position of TLR and/or JTR at the time that each promissory note referenced in paragraphs 3 and 4 of the Petition was issued that Berry's Chapel was a nonprofit corporation that was not subject to TRA jurisdiction? If so, please explain fully the steps taken by TLR and/or JLR to assure compliance with the statutes and rules applicable to nonprofit entities in the State of Tennessee at that that time. If not, please explain fully the basis for such position.

RESPONSE:

5. Please identify each person whom TLR and/or JTR expects to call as an expert witness at the hearing on the merits of this matter, and for each such person state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and the grounds for each opinion. Please provide curriculum vitae for each such expert.

RESPONSE:

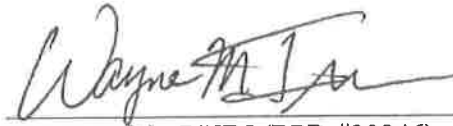
6. Please provide all workpapers, calculations, and documents that support the opinions, conclusions, proposals, and recommendations made by each person that TLR and/or JTR expects to call as an expert witness at the hearing on the merits of this matter. The workpapers and calculations should be in Excel working format with numbers, formulas, and linked files provided.

RESPONSE:

7. Please produce copies of all hearing exhibits that TLR and/or JTR plan to introduce, use, or reference at the hearing on the merits of this matter.

RESPONSE:

RESPECTFULLY SUBMITTED,

A handwritten signature in dark ink, appearing to read "Wayne M. Irvin", is written over a horizontal line.

WAYNE M. IRVIN (BPR #30946)
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202-0207
(615) 741-8733

Dated: December 3rd, 2014.

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

Craig V. Gabbert, Jr., Esq.
R. Alex Payne, Esq.
Harwell Howard Hyne Gabbert & Manner, P.C.
333 Commerce Street, Suite 1500
Nashville, Tennessee 37201

This the 3rd day of December, 2014.



WAYNE M. IRVIN