

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

ALLEGED VIOLATIONS OF
THE STATUTES AND RULES
REGULATING WATER UTILITIES
BY MOY TOY, LLC

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DOCKET NO. 15-00118

MOTION TO AMEND PETITION

Comes now the Tennessee Regulatory Authority (“TRA” or “Authority”) Staff Appointed as Party (“TRA Party Staff” or “Party Staff”) and provides this *Motion to Amend Petition* (“*Motion*”). Party Staff respectfully requests that it be allowed to amend its original Petition filed on December 30, 2015 in this cause. Additionally, Party Staff has filed concurrently with this *Motion* a *Proposed Amended Petition* for the Hearing Officer’s consideration should the Hearing Officer find that this Motion is well taken. In support of this *Motion*, Party Staff submits the following:

In its original *Petition* in this cause, Party Staff alleged in the first numbered paragraph that “Respondent (Moy Toy, LLC) owned and operated the water system on Renegade Mountain.” Based on its *Answer to Petition* and its *Response to Party Staff’s First Request for Discovery*, it appears that Moy Toy, LLC’s (“Moy Toy” or “Respondent”) defense to this show cause proceeding is based upon its narrow reading of this allegation and its claim that it did not operate the water system on Renegade Mountain. While Party Staff desires to have this allegation remain in its Petition, it also desires to amend its Petition to also allege that

Respondent owned the Renegade Mountain water system for a period of time without necessarily operating it. Party Staff believes that it has accomplished this by revising Paragraph 1 as follows:

1. Respondent either owned, operated, or owned and operated, the water system on Renegade Mountain in or near Crab Orchard, Tennessee as a public utility from an as yet unknown date until on or about May 1, 2011 when it sold the water system to Laurel Hills Condominiums Property Owners Association.¹

Party Staff wants to make it clear that it alleges that Respondent either owned the system, operated the system, or owned and operated the system; any of which would have required Respondent to secure a Certificate of Public Convenience and Necessity (“CCN”) under Tenn. Code Ann. § 65-4-201. A plain reading of Tenn. Code Ann. § 65-4-201 demonstrates that what is necessary to invoke the requirement of obtaining a CCN is ownership or operation of a public utility. Tenn. Code Ann. § 65-4-201 reads: “No public utility shall...establish service...or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate.” The statute clearly envisions a CCN requirement of both owners and/or operators of public utilities.

Accordingly, Party Staff requests the Hearing Officer enter an Order granting this *Motion*, and ordering that the Respondent be required to answer the above described allegations as well as any new allegations contained within the proposed *Amended Petition* within thirty (30) days.

¹ *Petition of Laurel Hills Condominiums Property Owners Association for a Certificate of Public Convenience and Necessity*, p. 1 and Exhibit 1, April 10, 2012.

Respectfully submitted,

TRA PARTY STAFF

By: 

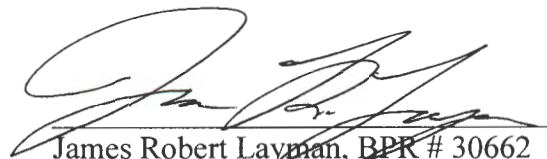
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 19th day of September, 2016, an exact copy of the foregoing was served on the following parties by United States Postal Service, postage prepaid to:

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