


TENNESSEE REGULATORY AUTHORITY



502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

MEMORANDUM

To: Herbert H. Hilliard, Chairman
Robin Morrison, Director
Kenneth C. Hill, Director

From: Shiva K. Bozarth, Chief of Compliance 

Date: February 22, 2016

Re: Docket No. 16-00012 – *Petition of Laurel Hills Water System in Receivership for Approval of Adjustment of its Rates and Charges*

On February 19, 2016, the Compliance Division filed the attached Motion for Clarification with the Chancery Court of Cumberland County, Tennessee. This Motion is set to be heard on March 4, 2016. Since it involves issues that affect this proceeding it is filed for reference in this Docket.

**IN THE CHANCERY COURT OF CUMBERLAND COUNTY, TENNESSEE
THIRTEENTH JUDICIAL DISTRICT
AT CROSSVILLE**

TENNESSEE REGULATORY AUTHORITY)	
)	
Petitioner,)	
)	
v.)	No. 2012-CH-560
)	Chancellor Thurman
LAUREL HILLS CONDOMINIUMS)	
PROPERTY OWNERS ASSOCIATION)	
)	
Respondent.)	
)	

MOTION FOR CLARIFICATION

Comes now the Tennessee Regulatory Authority ("TRA" or the "Authority") Compliance Division by and through counsel and respectfully requests that this Court provide clarification of the Order Appointing Receiver issued by this Court on October 26, 2015.

1. On January 28, 2016, the Receiver appointed in this case filed in TRA Docket No. 16-00012 a Petition For Emergency Relief ("Rate Petition") requesting a change in rates as the Laurel Hills Water System in Receivership. In its Rate Petition the Receiver proposed three different rate structures to the Authority for consideration with the intent that the TRA would utilize its expertise in rate design and recommend a rate to this Court for final approval. Two of those proposed rate structures would include the Receiver's fees as well as other expenses and costs in increased water rates.
2. On February 8, 2016, the Consumer Protection and Advocate Division of the Office of the Attorney General ("Advocate") filed a Petition to Intervene in TRA Docket No. 16-00012, claiming in part that Paragraph 10 of the Order Appointing Receiver states that

the only mechanism for the Receiver recovering its fees and other costs is from the TRA.

3. The Advocate's position is counter to the plain language of this Court's Order Appointing Receiver. The Order Appointing Receiver allows for the expenses of the Receiver to "be paid out of the funds or assets of Laurel Hills' water system...."¹ The Receiver is further empowered to take the steps it deems necessary to rehabilitate the water system including "petition the appropriate regulatory authority or tribunal to address changes in rates charged...."² The Court's Order clearly anticipates that the fees, costs, and expenses of the receivership will exceed the current income of the water system and could require an increase in customer water rates to pay for.
4. The Compliance Division does not argue or request that this Court rule on the inclusion of any specific fee, cost, or expense at this time. Instead the Compliance Division asks that this Court interpret the Order Appointing Receiver to state that the Receiver's fees, costs, or expenses are permitted to be included in rates requested by the Receiver and that this Court will consider any rate proposed by the Receiver after receiving a recommendation on appropriate rates from the TRA.

WHEREFORE the Compliance Division asks this Court to find that nothing in the Order Appointing Receiver prevents or limits the ability of the Receiver to include their hourly rates as well as expenses and costs in the rates charged to customers subject to the approval of this Court.

¹ *Order Appointing Receiver*, paragraph 10, Cumberland County Chancery Court Docket No. 2012-CH-560, (October 26, 2015).

² *Id.* at paragraph 13.

Respectfully submitted,



Shiva K. Bozarth, BPR No.22685
Chief of Compliance
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

Notice of Hearing

This matter is set to be heard at 10:00am on March 4, 2016, at the Putnam County Justice Center on the 2nd Floor.

CERTIFICATE OF SERVICE

I certify that I have served a copy of the forgoing document on the following persons by depositing a copy of same in the U.S. Mail, postage prepaid, addressed to them at the addresses shown below:

Benjamin Gastel
227 Second Avenue North
Fourth Floor
Nashville, Tennessee 37201

Melanie Davis
329 Cates Street
Maryville, Tennessee 37801

Erin Merrick
Vance Broemel
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202

Roger York
456 North Main St. Suite 201
Crossville, Tennessee 38555

Robert Moore
Everett Sinor
Receivership Management Inc.
1101 Kermit Drive, Suite 735
Nashville, Tennessee 37217

This the 17th day of February, 2016.



Shiva K. Bozarth