

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

IN RE:)	
PETITION OF LHWS WATER SYSTEM)	
IN RECEIVERSHIP FOR APPROVAL)	DOCKET NO. 16-00012
OF ADJUSTMENTS OF ITS RATES AND)	
CHARGES)	

**FIRST DISCOVERY REQUEST OF THE CONSUMER ADVOCATE AND
PROTECTION DIVISION TO TENNESSEE REGULATORY AUTHORITY ("PARTY
STAFF")**

To: Tennessee Regulatory Authority ("Party Staff")
c/o Shiva Bozarth, Esq.
502 Deaderick Street
Nashville, TN 37243

This Discovery Request is hereby served upon Tennessee Regulatory Authority ("Party Staff"), (hereinafter "Party Staff"), 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, 315 Deaderick Street, 19th Floor, UBS Tower, Nashville, Tennessee 37243, c/o Erin Merrick, on or before 4:00 p.m. Central time, March 11, 2016.

PRELIMINARY MATTERS AND DEFINITIONS

These discovery requests are to be considered continuing in nature, and are to be supplemented from time to time as information is received by Party Staff which would make a prior response inaccurate, incomplete, or incorrect. In addition, the Attorney General requests that

Party Staff 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: Party Staff and all employees, agents and representatives thereof, as well as any subsidiary, affiliate or parent companies associated with Party Staff.

The term "person" or "persons" as used herein refers to any natural person, corporation, firm, company, sole proprietorship, partnership, business, unincorporated association, 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 Party Staff 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 Party Staff 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.

FIRST DISCOVERY REQUESTS

1. Who or what entity is the Party Staff representing in this matter and where in your *Petition to Intervene* is a description of that representation set forth?

RESPONSE:

2. With reference to Tenn. Code Ann. § 4-5-310, the statute governing intervention in administrative law cases, what “legal rights, duties, privileges, immunities or other legal interest” does the Tennessee Regulatory Authority (“TRA” or “Authority”) Party Staff have in this matter? Were any such “legal rights, duties, privileges, immunities or other legal interests” set forth in your *Petition to Intervene* and if so, where?

RESPONSE:

3. Pursuant to Tenn. Rules and Regs. 1220-1-2-.21(5) has anyone from the Compliance Division been named as participating as a party in this matter, Docket No. 16-00012 (as distinguished from TRA Docket No 12-00030 and Docket No. 12-00077), and if so, by whom? Please provide a copy of the requisite notice and name such person(s).

RESPONSE:

4. Will anyone from the Compliance Division participate in this case in an advisory capacity? If yes, please name such person(s).

RESPONSE:

5. Paragraph 12 of the Party Staff's *Petition to Intervene* states as follows: "Party Staff requests this intervention in order to ensure that the Authority is aware that the consumers as well as the Advocate were aware that the appointment of a receivership would increase costs to the consumers through higher rates."

a. If this is the basis for intervention, will the Party Staff's participation be limited to the attempt to ensure the Authority is so aware?

b. Was Party Staff likewise "aware that the appointment of a receivership would increase costs to the consumers through higher rates"?

c. State the bases for your assertion that "the consumers as well as the Advocate were aware that the appointment of a receivership would increase costs to the consumers through higher rates."

d. Provide all documents that support your assertion that "the consumers as well as the Advocate were aware that the appointment of a receivership would increase costs to the consumers through higher rates."

e. Will Party Staff testify to the facts, beliefs, or other bases that support this same assertion?

RESPONSE:

6. Does the TRA plan to object to the *Receiver's Second Report and Motion for Approval of Fees and Expenses and Interim Taxation of Costs* filed in Cumberland County Chancery Court on Feb. 25, 2016? Explain.

RESPONSE:

7. Your *Petition to Intervene* in this Docket states at Paragraph 13 that your petition "is also a request that Party Staff be instructed to request that the Authority be released from its obligation to pay the [R]eceiver's fees pursuant to the Receivership Order if rates are not increased to allow recovery of receivership fees." Is approval by the TRA Directors and/or the TRA Executive Director necessary before Party Staff can make a request to the Chancery Court to release the Authority from its obligation? Explain and cite with specificity the legal authority that supports your response.

RESPONSE:

RESPECTFULLY SUBMITTED,



ERIN MERRICK (BPR #033883)
Assistant Attorney General
Vance L. Broemel (BPR #011421)
Senior Counsel
Consumer Protection and Advocate Division
P.O. Box 20207
Nashville, Tennessee 37202-0207
(615) 741-8722
(615) 741-1026 – FAX

Dated: 3/3/10

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:

Robert E. Moore, Jr., Esq.
Receivership Management, Inc.
1101 Kermit Drive, Suite 735
Nashville, TN 37217
Phone: 615-370-0051
Fax: 615-373-4336
Email: rmoore@receivermgmt.com

G. Everett Sinor, Jr.
Attorney at Law
3504 Robin Road
Nashville, Tennessee 37204
Phone: 615-969-9027
Email: Everett.Sinor@gmail.com

LHWS Water System in Receivership
Post Office Box 25
Crossville, Tennessee 38555

Tennessee Regulatory Authority ("Party Staff")
Shiva Bozarth, Esq.
502 Deaderick Street
Nashville, TN 37243

on this the 3rd day of March, 2016.


Erin Merrick