

REPLY TO LYNWOOD UTILITY CORPORATION'S RESPONSE
TO PETITION FOR RECONSIDERATION

REGULATORY AUTH.
OFFICE OF THE
EXECUTIVE SECRETARY

June 14, 2000

Re: Docket #99-00507

1. Lynwood Utility states that the Petition for Reconsideration was not timely filed, because it was filed more than ten days after the May 10 Order Approving Rate Increase was entered by the Authority.

While the Order was dated May 10, it was not posted on the Authority's web site until approximately May 23. The Order stated that "any aggrieved party has fifteen days from the date of this order to petition the Authority for Reconsideration." Chris Martin notified David Waddell, Executive Secretary of the Authority, on May 24 that he was "aggrieved." Mr. Waddell advised Martin of the process required to petition the Authority for reconsideration of its decision, and stated that Martin's e-mail message of May 24 would be accepted as timely notice. Copies of those e-mail messages are attached as Exhibit 1.

2. Lynwood Utility states that "Mr. Martin has no standing to file a Petition for Reconsideration" based on his being a private citizen and failing to intervene previously.

Mr. Martin's rights as a private citizen notwithstanding, since early April 2000, he has met with and communicated with the Cottonwood Homeowners' Association Board of Directors. Further, on May 24, Martin communicated with Jeff Clark, President of the Homeowners' Association, and provided him a copy of the proposed Petition for Reconsideration. Mr. Clark stated that the ideas expressed in the petition were in alignment with the current sentiment of the Cottonwood Homeowners' Association Board of Directors. On June 5, Martin was asked to serve as the Cottonwood Board's liaison with Lynwood Utility and the TRA on this matter.

As stated in the Petition for Reconsideration, the Cottonwood Homeowners' Association had engaged in numerous contacts and meetings with David Terry and Davis Lamb over the past several years. The overriding impression left with the Association based on those contacts was that, in regard to Lynwood Utility's rates, Cottonwood homeowners would benefit from the various actions of David Terry, Davis Lamb, Legends Ridge Properties, LLC., Smith Crowe, Wilson, Lumbermen's Investment Corp., River Landing subdivision, etc. As a practical matter, the misleading actions and statements to the Cottonwood Board lulled them into a false sense of security and trust that the actions of Mr. Terry and Mr. Lamb and the companies they represent would not cause a large increase to the sewer rates paid by Cottonwood residents. The Cottonwood Homeowners' Association Board of Directors, relying on the information provided to it by Mr. Terry and Mr. Lamb, were unaware of the details of Lynwood Utility Corporation's dealing with the Tennessee Regulatory Authority

until after the rate increase was announced. The Board, therefore, along with most of the residents of Cottonwood was unaware of the significant change to their sewer rates until they received their first billing under the new rate schedule.

In support of its argument that Mr. Martin lacks grounds as an individual citizen to file the Petition, Lynwood states, "Historically, the Authority has not permitted individual customers of a regulated utility to intervene in a pending rate case absent some special interest of such customer." While this may or may not be the case, the TRA web site is a fairly recent development that has substantially improved the ability of individual customers to monitor activities of the Authority and the utilities it regulates. Giving more public access to TRA activity through its web site will inevitably result in more individual citizen involvement. This is a very positive step in a democracy. Simply because only someone with "special interest" has "historically" been able to intervene in TRA proceedings does not make that desirable, and it is certainly not the intent mandated by the creation of regulatory bodies like the TRA. Societal and technological changes that result in increased citizen awareness and involvement in government must be encouraged, not discouraged.

3. Lynwood Utility states "Mr. Martin's letter states no valid grounds for reconsideration." Reasons extracted from the letter are that the new rates are too high in comparison to other utilities in the vicinity and Lynwood "misleading" and not having "good faith dealings" with Cottonwood homeowners.

Subj: Lynwood Utility Rate Increase (docket #99-00507)
Date: Wednesday, May 24, 2000 4:25:09 PM
From: JoMart
To: dwaddell@mail.state.tn.us
cc: skyle@mail.state.tn.us, mmalone@mail.state.tn.us,
lgreer@mail.state.tn.us

EXHIBIT 1
6/14/00
(1 of 2)

Dear Mr. Waddell,

I wrote you and the directors in early April expressing my concern about the Lynwood Utility rate increase. You were kind enough to respond and provide me information that enabled me to access the various documents on your web site regarding this case.

To the best of my ability as a lay person, I have reviewed the documents, and there is a great deal to be disturbed with in regard to the events that led to the filing by the current owners for a huge rate increase.

I do not want to go into the lengthy details at this time, but I want to address my concern with the "Order Approving Rate Increase" dated May 10, 2000 that appeared on your web site in the past few days, and which I just read this morning.

It is astounding to me that the Authority has approved Lynwood Utility's petition in light of their history of disregard for the rules and regulations of the Authority as well as the unresolved issues and information that is still outstanding.

From my reading of your own documents, Lynwood Utility failed to get the required Authority approval prior to taking out a \$305,000 loan from First Tennessee Bank and, also, prior to its change in ownership. Given the interlocking connections and self interest exhibited by the various parties involved, ie. David Terry, Legends Ridge, LLC., First Tennessee Bank, Lumbermens Investment Corporation, Smith Crowe Wilson, LLC., Southern Utility Corporation, and possibly others, I do not believe it was prudent for the Authority to act on their petition at this time.

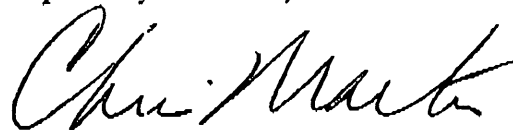
Among the many things that are of great concern to me is the issue of David Terry's testimony before the Authority. He appears to be a central character, and Davis Lamb and Donald Scoles appear to lay much of the blame for mismanagement that led to the financial problems at Lynwood

Implied in Lynwood's response is the suggestion that engaging in misleading conduct and not dealing in good faith are acceptable practices. Particularly as that conduct relates to the lack of focus by Cottonwood homeowners on this matter as it was pending before the Authority, Lynwood's behavior certainly invites further scrutiny by the Authority and raises a myriad of questions about the validity of their stated grounds for a rate increase.

In addition, the Petition for Reconsideration raised a number of other financial and legal issues relating to debts incurred and changes in ownership of Lynwood Utility and the manner and timing of communication of relevant matters with the Authority. Also, there are numerous questions about David Terry's actions that substantially impacted Lynwood Utility which have not been fully explored by the Authority by taking the deposition of Mr. Terry.

Lynwood Utility engaged in a pattern of conduct that deterred Cottonwood homeowners from being attentive to a planned rate increase that has a significant financial impact on well in excess of 500 households. The intent of the Petition for Reconsideration is to request the Authority to be responsive to the concern of Lynwood Utility rate payers that they are subsidizing the business ventures of property developers and/or compensating those developers for errors they may have made.

Respectfully submitted,



Jacob C. (Chris) Martin
306 Cypress Court
Franklin, TN 37069

Reply

Date: Wednesday, May 24, 2000 5:41:03 PM
From: dwaddell@mail.state.tn.us
To: JoMart@aol.com

EXHIBIT 1
6/14/00
(2 of 2)

Dear Mr. Martin:

If you would like the Directors to formally reconsider their action memorialized in their order please file a written request stating the grounds for the reconsideration. Please serve the company with a copy of your request.

I will accept the e-mail dated today as a request that will toll the deadline for filing.

If you have any questions please give me a call.

thank you.

David Waddell

----- Headers -----

Return-Path: <AA01010@langate.tnet.state.tn.us>

Received: from rly-yg01.mx.aol.com (rly-yg01.mail.aol.com [172.18.147.1])

by air-yg01.mail.aol.com (v73.13) with ESMTTP; Wed, 24 May 2000

13:41:03 2000

Received: from snmpmgr.state.tn.us (snmpmgr.state.tn.us [170.142.1.74])

by rly-yg01.mx.aol.com (v71.10) with ESMTTP; Wed, 24 May 2000

13:40:53 -0400

Received: from langate.tnet.state.tn.us ([170.142.236.73])

by snmpmgr.state.tn.us (8.10.1/8.10.1) with SMTP id e40HaYn18465