

Henry M. Walker
Partner
hwalker@bradley.com
615.252.2363 direct



June 26, 2026

Electronically Filed in TPUC Docket
Room on June 26, 2026 at 9:53 a.m.

Tennessee Public Utility Commission
502 Deaderick St. 4th Floor
Nashville, TN 37243
Attn: Ectory Lawless

In Re: Docket No. 26-00039

Dear Ms. Lawless,

Attached for filing in the above-captioned docket are the responses of Berry's Chapel Utility to the Consumer Advocate's first set of discovery requests in the above-captioned docket. Email me at hwalker@bradley.com if you have any questions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Henry Walker". The signature is fluid and cursive, written over a white background.

Henry Walker (B.P.R. 000272)
Bradley Arant Boulton Cummings LLP
1221 Broadway, Suite 2400
Nashville, Tennessee 37203
Tel: (615) 252-2363
hwalker@bradley.com

HW/cc

BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE

Responsible Witness: William H. Novak

Question:

1-1. Rate of Return: Reference, Novak Direct at 3:20-12, Workpapers Debt 2 Tab, Workpapers Debt-5 Tab, Ledger-1 Tab, accounts 233.1, 250.1 and 780.

Provide the source of the values in Column L.

- a. Provide copies of the bonds/loans upon which the interest in 233.1 is being paid.
- b. Confirm that the maturity date of the Promissory Note in Debt-5 tab is April 12, 2014.
- c. Identify the maturity dates of the bonds.
- d. Identify the use of the funding from these bonds.
- e. Identify the interest rates on the funding source.

RESPONSE:

- a. The original loans upon which the interest in Account 233.1 is being accrued are the two loans shown in the workpapers on the "Debt-4" tab for \$250,000 and the "Debt-5" tab for \$1,200,000. Complete copies of these loans are included in the workpapers on these two tabs.
- b. Confirmed. The original maturity date of the loan in the "Debt-5" tab is April 12, 2014. However, refer further to the *Judgment* from the Williamson County Chancery Court of May 22, 2015 shown on the "Debt-6" tab of the workpapers, and note the following paragraphs.
 - 1A. *That the Trustee is the holder of an Amended Promissory Note dated April 20, 2009 in the principal amount of \$1,200,000 and issued by the predecessor to BCUI (the "2009 Note") and of a Renewal Promissory Note dated December 12, 2011 in the principal amount of \$250,000 and issued by BCUI (the "2011 Note), both secured by the deed of trust described in paragraph 8 of the Complaint.*
 5. *The Court finds, consistent with the above, and based on the record before it, that no genuine of material fact exists as to any material fact and that the Trustee is entitled to a judgment as a matter of law. Consistent with the findings, the Court hereby GRANTS JUDGMENT in favor of the Trustee, and against BCUI, in the amount of \$1,742,692.92 plus \$384.71 per day from March 31, 2015 through the date this judgment is entered, plus \$14,433.20 in attorney's fees and costs. All court costs are taxed against BCUI.*

In summary, the original loans included on the "Debt-4" tab and "Debt-5" tab have been converted to judgments by the Williamson County Chancery Court with no maturity date.

BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE

- c. The original loans included on the "Debt-4" tab and "Debt-5" tab have been converted to judgments by the Williamson County Chancery Court with no maturity date.
- d. The funding from the original loans shown on the "Debt-4" and "Debt-5" tabs of the workpapers were used by the previous owners to support the plant construction of Berry's Chapel Utility.
- e. The interest rate for the original \$250,000 loan shown on the "Debt-4" tab of the workpapers is 6.50%. The interest rate for the original \$1,200,000 loan shown on the "Debt-5" tab of the workpapers is 7.50%. The annual interest expense related to current value for both of these loans is shown on the "Debt-3" tab of the workpapers.

BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE

Responsible Witness: William H. Novak

Question:

1-2. Rate of Return: Refer to the Confidential Attachment Workpapers, Revenue Def-1 Tab, Fair Return. Confirm that the fair return number is the annual interest payments from Confidential Working Papers Debt-2 tab, and account 780.

RESPONSE:

Confirmed. For Berry's Chapel, the cost of capital is equivalent to only the Company's accrued interest expense in Account 780. There is no equity cost included in the Company's rate case.

BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE

Responsible Witness: William H. Novak

Question:

- 1-3. Williamson County Chancery Court Order Dated May 22, 2025. Reference, Confidential Attachment Workpapers Debt-6 tab.
- a. Confirm that the tab contains a copy of a motion for extended [sic] for an additional ten years in Case No. 43835.
 - b. Provide a copy of the May 22, 2015, Final Judgment referenced in paragraph number 1.
 - c. Provide a copy of any court order addressing the motion in the Debt-6 tab.

RESPONSE:

- a. Confirmed.
- b. See Attachment 1-3a.
- c. See Attachment 1-3b.

**BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE**

Responsible Witness: William H. Novak

Question:

- 1-4. Refer to page 3 of Mr. Novak's direct testimony. Explain in a narrative format the methodology utilized to develop the rate of return and what role the annual debt costs play in the calculation.

RESPONSE:

For Berry's Chapel Utility, the cost of capital is equivalent to accrued interest expense of \$95,955 in Account 780 as shown on the "Debt-2" tab of the workpapers. There is no equity cost included in the Company's rate case, so only debt cost is considered in the rate of return calculation. Therefore, the appropriate rate of return in this case would be 9.98% as shown below.

Accrued Interest Expense	\$95,955
Rate Base	961,322
Fair Rate of Return	9.98%

**BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE**

Responsible Witness: William H. Novak

Question:

1-5. Refer to Exhibit A of Mr. Novak's direct testimony. In the context of office supplies expense for a small wastewater utility, please provide an explanation in narrative format for the forecasted "office supplies expense" proposed.

RESPONSE:

For context, the forecast for Office Supplies Expense is \$49,135 and is presented in the Company workpapers, "Office Supplies-1" tab. As shown below, this forecast is calculated by taking the four-year average of Office Supplies expense to reach a normalized expense level and then adjusting this average expense by a GDP inflation factor of 5.30% to estimate the anticipated expense for the attrition period.

Period	Amount
12 Months Ended June 30, 2022	\$39,507
12 Months Ended June 30, 2023	38,086
12 Months Ended June 30, 2024	49,361
12 Months Ended June 30, 2025	59,693
Normalized Average	\$46,662
Inflation Factor	1.0530
Attrition Period Expense	\$49,135

**BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE**

Responsible Witness: James Savage

Question:

- 1-6. Provide an explanation in narrative format for how customers are billed.
- a. Are customers billed electronically, mail, or both?
 - b. If a third-party bills on behalf of the utility, please provide a copy of the agreement between the utility and the third party.

RESPONSE:

- a. Customers have the option of either electronic or physical mail billing – but not both.
- b. There is no third-party billing used by Berry's Chapel Utility.

**BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE**

Responsible Witness: William H. Novak

Question:

1-7. Non-Residential Customers. Reference: Savage Direct at 4:6 & 7: Berry's Chapel also provides wastewater service to two non-residential customers. And in the *Petition* at 1: three non-residential customers: Clarify the number of non-residential customers.

RESPONSE:

See Company response to Minimum Filing Requirement #17. Berry's Chapel has two non-residential customers, but one customer has two accounts. Specifically, Berry's Chapel Church of Christ has one account for the church, and a separate account for the parsonage.

**BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE**

Responsible Witness: James Savage

Question:

1-8. What is the process (email, telephone number etc.) available to customers to report a problem or contest a bill?

RESPONSE:

Customers may contact the office by phone or send an email message via the portal on the Harpeth website at www.harpethcoop.com.

BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE

Responsible Witness: William H. Novak

Question:

- 1-9. Rate Increase: Reference: Savage Direct at 4:18 & 19, and Novak Direct at 6:17 & 18.
- a. Explain reason that Berry's Chapel is requesting an increase that is less than half of its revenue deficiency.
 - b. How long will Berry's Chapel be able to continue to operate at a loss?

RESPONSE:

- a. As shown in the Company workpapers, "Revenue Def-1" tab, Berry's Chapel has unilaterally adjusted its calculated revenue deficiency from \$216,161 to a requested revenue deficiency of \$97,687. This adjustment was made to limit the impact on customer rates to less than a 10% increase.
- b. After this rate case concludes, Berry's Chapel will reevaluate its earnings and decide when to file its next rate case. At this time, no decision has been made about this timeline.

BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE

Responsible Witness: William H. Novak

Question:

- 1-10. Annual Rate Adjustment: Reference: *Petition* at 2: Following this rate case, the Company intends to request an annual rate adjustment plan that will permit the Company to adjust its charges annually based on inflation.
- a. When does Berry's Chapel anticipate filing for an annual rate adjustment plan?
 - b. Does Berry's Chapel expect the annual rate adjustment plan to increase rates to eliminate the deficiency?
 - c. Does Berry's Chapel expect that the revenue deficiency not being requested in this docket will be a permanent deficiency?

RESPONSE:

- a. T.C.A. § 65-5-103(d)(6)(B) requires that a utility must have engaged in a general rate case pursuant to § 65-5-101 and subsection (a) within the last five years to be eligible to make an election to opt into an annual rate review. At this time, Berry's Chapel Utility intends to file for a rate adjustment plan shortly after this current rate case concludes.
- b. No. The annual rate adjustment plan will not eliminate the remaining revenue deficiency from this current case. Instead, the annual rate adjustment plan will only adjust the Company's rates for the impacts of inflation going forward.
- c. No. Berry's Chapel Utility does not expect the revenue deficiency not being requested in this docket to be a permanent deficiency. After this rate case concludes, Berry's Chapel will reevaluate its earnings and decide when to file its next rate case. At this time, no decision has been made about this timeline.

**BERRY'S CHAPEL UTILITY
DOCKET NO. 26-00039
FIRST SET OF DISCOVERY REQUESTS OF THE CONSUMER ADVOCATE**

Responsible Witness: William H. Novak

Question:

1-11. Rate Design: Reference: Petition at 2 paragraph 3.

- a. Provide the revenue requirement and rate design analysis and reasoning for maintaining a rate design where the non-residential customers who account for 9% of total wastewater treatment contribute approximately 1% of revenue.
- b. Explain how the rates producing the results in a above are just and reasonable.

RESPONSE:

- a. The current rates for Berry's Chapel Utility were set by the Commission in Docket No. 11-00198. In this current case, the Company has proposed an across-the-board increase to minimize and equalize the rate impact for all customers.
- b. The current rates for Berry's Chapel Utility were set by the Commission in Docket No. 11-00198.

11

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
21ST JUDICIAL DISTRICT, WILLIAMSON COUNTY

FILED
WILLIAMSON COUNTY
CLERK & MASTER

2015 MAY 14 AM 8:44

ENTERED 5-22-15

CRAIG V. GABBERT, JR. TRUSTEE,)
)
 Plaintiff,)
)
 v.)
)
 BERRY'S CHAPEL UTILITY, INC.,)
)
 Defendant.)

Case No.: 43835

JUDGMENT

The Court finds and rules as follows:

1. The Complaint was served on defendant Berry's Chapel Utility, Inc. ("BCUI") on January 26, 2015. Plaintiff Craig V. Gabbert, Jr., Trustee ("Trustee") moved for summary judgment on March 30, 2015. The Trustee submitted with his motion evidence establishing:

A. That the Trustee is the holder of an Amended Promissory Note dated April 20, 2009 in the principal amount of \$1,200,000 and issued by the predecessor to BCUI (the "2009 Note") and of a Renewal Promissory Note dated December 12, 2011 in the principal amount of \$250,000 and issued by BCUI (the "2011 Note"), both secured by the deed of trust described in paragraph 8 of the Complaint;

B. That BCUI has defaulted under the 2009 Note and under the 2011 Note;

C. That the 2009 Note and the 2011 Note were accelerated pursuant to the terms of those Notes by written notice from the Trustee to BCUI dated December 5, 2014;

D. That, as of March 30, 2015, the unpaid principal and interest balance of the 2009 Note was \$1,443,186.07, with interest continuing to accrue at \$339.94 per day, and the unpaid

STATE OF TENNESSEE
WILLIAMSON COUNTY
I, THE UNDERSIGNED CLERK & MASTER, DO
HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL OF THIS INSTRUMENT
FILED IN THIS CAUSE.

Sharon Jones
CLERK & MASTER

A
2

principal balance of the 2011 Note was \$299,506.85, with interest continuing to accrue at \$44.77 per day; and

E. That both the 2009 Note and the 2011 Note provide that the borrower will pay the lender's collection-related attorney's fees and costs.

2. Consistent with the Notice of Hearing entered on March 31, 2015, the Court held oral argument on the Trustee's motion on May 8, 2015. As of the time of that hearing, BCUI had not filed an Answer or other form of responsive pleading to the Complaint. Nor had BCUI filed a response to the summary judgment motion as contemplated by Tennessee Rules of Civil Procedure 56.04 and 56.06; specifically, BCUI had not presented competent evidence of specific facts showing that there is a genuine issue for trial. BCUI had, however, filed a Motion to Hold the Case in Abeyance pending a ruling by the Tennessee Regulatory Authority on BCUI's January 16, 2014 request for a rate increase, as well as a Rule 56.07 Motion for Discovery and to Continue Consideration of Plaintiff's Motion for Summary Judgment.

3. The Court denies BCUI's Rule 56.07 Motion. BCUI has not made the showing required for relief under Rule 56.07. While BCUI has suggested that it believes it might have a basis to eventually make mismanagement allegations against two non-parties, namely John and Tyler Ring, such allegations would not give BCUI a legally viable defense in this lawsuit. In short, BCUI has not identified facts that would justify opposition to the summary judgment motion and explained the reason BCUI has not been able to present those identified facts by competent evidence in the 38 days since the motion was filed.


4. The Court also denies BCUI's Motion to Hold the Case in Abeyance. The rate BCUI may charge its customers, which is the issue properly before the Tennessee Regulatory Authority, has no bearing on BCUI's liability under the 2009 and 2011 Notes, which is the issue

properly before this Court. The Court therefore declines to postpone the outcome of this case while the Tennessee Regulatory Authority considers BCUI's pending request for a rate increase.

5. The Court finds, consistent with the above, and based on the record before it, that no genuine of material fact exists as to any material fact and that the Trustee is entitled to a judgment as a matter of law.

Consistent with these findings, the Court hereby GRANTS JUDGMENT in favor of the Trustee, and against BCUI, in the amount of \$1,742,692.92, plus \$384.71 per day from March 31, 2015 through the date this judgment is entered, plus \$14,433.20 in attorney's fees and costs. All court costs are taxed against BCUI.¹

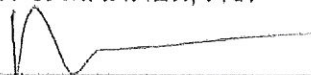
IT IS SO ORDERED this 22^d day of May, 2015.



JAMES G. MARTIN, III
JUDGE

Submitted for Entry By,

HARWELL HOWARD HYNE
GABBERT & MANNER, P.C.

By: 

Glenn B. Rose (TN No. 10598)
D. Alexander Fardon (TN No. 13787)
R. Alex Payne (TN No. 31387)
333 Commerce Street, Suite 1500
Nashville, Tennessee 37201
Telephone: (615) 256-0500
Facsimile: (615) 251-1059
Email: gbr, daf or rap@h3gm.com

Attorneys for Craig V. Gabbert, Jr., Trustee

BK: 6500 PG: 306-308
15027528

3 PGS:AL-JUDGMENT	
391111	
07/06/2015 - 08:05 AM	
BATCH	391111
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	15.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	17.00
STATE OF TENNESSEE, WILLIAMSON COUNTY	
SADIE WADE	
REGISTER OF DEEDS	

¹ On April 27, 2015, the State of Tennessee filed a Motion to Intervene. The State of Tennessee had not set that motion for hearing as of the May 8, 2015 hearing on the Trustee's summary judgment motion. The Court nevertheless allowed counsel for the State of Tennessee to participate in the May 8, 2015 argument. Given the Court's other findings, the Court otherwise denies the Motion to Intervene as moot.

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
21ST JUDICIAL DISTRICT, WILLIAMSON COUNTY**

CRAIG V. GABBERT, JR. TRUSTEE,

Plaintiff,

v.

BERRY’S CHAPEL UTILITY, INC.,

Defendant.

)
)
)
)
)
)
)
)
)
)

Case No. 15CV-43835

**ORDER GRANTING PLAINTIFF’S MOTION TO EXTEND
JUDGMENT FOR AN ADDITIONAL TEN YEARS**

Plaintiff Craig Gabbert, Jr. (“Plaintiff”), filed a Motion to Extend Judgment For An Additional Ten Years on March 13, 2024 (the “Motion”), which seeks an Order extending the Final Judgment entered in this matter on May 22, 2015 (the “Final Judgment”) in favor of Plaintiff against Defendant Berry’s Chapel Utility, Inc., now doing business as Harpeth Wastewater Cooperative (“Defendant”), for an additional ten years.

The Court finds as follows:

1. The procedures of Tenn. R. Civ. P. 69.04 have been met as Plaintiff mailed Defendant and Defendant’s attorney a copy of the Motion to their last known address; no response or opposition has been filed demonstrating why the judgment should not be extended an additional ten years pursuant to Tenn. R. Civ. P. 69.04; and per Tenn. R. Civ. P. 69.04, when a judgment has not been satisfied, the judgment creditor may file a motion for extension within 10 years of entry of the judgment.

It is, therefore, **ORDERED, ADJUDGED, AND DECREED** that the Motion is **GRANTED** and the Final Judgment awarded to Plaintiff in the original amount of \$1,742,692.92,

plus accrued and accruing post-judgment interest against Defendant is hereby extended and shall remain in effect until May 22, 2035.

Submitted for entry by:

s/ Alfonso Cuen

Glenn B. Rose (TN Bar No. 010598)

Alfonso Cuen (TN Bar No. 041389)

BASS, BERRY & SIMS PLC

150 Third Avenue South, Suite 2800

Nashville, TN 37201

Telephone (615) 742-6200

Facsimile (615) 742-6293

grose@bassberry.com

alfonso.cuen@bassberry.com

Attorneys for Craig V. Gabbert, Jr., Trustee

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this 15th day of May 2024.

Berry's Chapel Utility, Inc. d/b/a Harpeth Wastewater Cooperative
106 Mission Court, Suite 104A
Franklin, TN 37067

Judgment Debtor

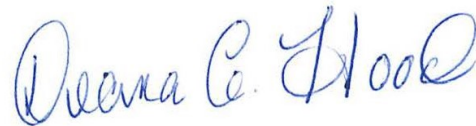
William L. Norton III
BRADLEY ARANT BOULT CUMMINGS, LLOP
1221 Broadway, Suite 2400
Nashville, TN 37203
bnorton@bradley.com

Attorneys for Defendant Berry's Chapel Utility, Inc., d/b/a Harpeth Wastewater Cooperative

s/ Alfonso Cuen _____

Case Title: Craig V. Gabbert Jr Trustee vs Berry's Chapel Utility Inc
Case Number: 15CV-43835
Type: ORDER

SO ORDERED



DEANA C. HOOD