

**TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

*In Re: Petition Of Laurel Hills Water System In Receivership
For Approval Of Adjustment Of Its Rates And Charges
TRA Docket No. 16-00012*

BEFORE PRESIDING PANEL:

**HERB HILLIARD, CHAIRMAN
KENNETH C. HILL, DIRECTOR
ROBIN MORRISON, DIRECTOR**

SHARLA DILLON, DOCKET MANAGER

**OFFICIAL
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RECORD**

**TRANSCRIPT
VOLUME I of I**

***In Re: Petition Of Laurel Hills Water System In Receivership
For Approval Of Adjustment Of Its Rates And Charges***

TRA Docket No. 16-00012

**CONFERENCE TRANSCRIPT
Volume I of I**

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In The Matter Of:
Tennessee Regulatory Authority

Authority Conference
May 9, 2016

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BEFORE THE TENNESSEE REGULATORY AUTHORITY

TRANSCRIPT OF AUTHORITY CONFERENCE

Monday, May 9, 2016

APPEARANCES:

For Consumer Advocate:	Ms. Erin Merrick Mr. Wayne Irvin Mr. Vance Broemel
For Receivership Mgmt:	Mr. Everett Sinor
For Tennessee American Water:	Mr. Melvin Malone
For Atmos Energy:	Mr. Scott Ross
For Aqua Green Utility:	Mr. Dart Kendall
For Sirius XM Radio:	Mr. Knox Walkup
For TRA Staff:	Ms. Sharla Dillon Mr. Shiva Bozarth

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1 (The aforementioned Authority
2 Conference came on to be heard on Monday, May 9, 2016,
3 beginning at approximately 1:00 P.M., before Chairman
4 Herbert Hilliard, Vice Chairman David F. Jones,
5 Director Robin Morrison, and Director Kenneth
6 C. Hill, when the following proceedings were had,
7 to-wit:)

8 CHAIRMAN HILLIARD: Good afternoon.
9 You may be seated. Welcome.

10 Do we have anyone joining us by phone?

11 MS. DILLON: We do. Mr. Chairman,
12 Directors, we have Clay Friedman with Sirius XM Radio.

13 CHAIRMAN HILLIARD: Okay. We will
14 start, Madam Clerk.

15 MS. DILLON: Section 1, Authority
16 Business. There was a directors meeting held before
17 the Authority Conference at 12:00 P.M. in the fourth
18 floor conference room at 502 Deaderick Street,
19 Nashville, Tennessee.

20 Section 2, Directors Hill, Morrison,
21 and Hilliard.

22 Docket No. 16-00012, Laurel Hills Water
23 System In Receivership.

24 Petition of Laurel Hills Water System
25 In Receivership for approval of adjustment of its rates

1 and charges. Hear and consider petition.

2 CHAIRMAN HILLIARD: I'll call this
3 hearing to order. This matter was duly noticed for
4 hearing on April 29, 2016, and is being conducted in
5 accordance with the Uniform Administrative Procedures
6 Act.

7 will the parties please come forward
8 and introduce yourselves for the record.

9 Let's make sure we have everyone close
10 to a microphone. And if you would, start from my left
11 and go to the right.

12 MR. SINOR: Everett Sinor, counsel for
13 Receivership Management, Inc.

14 MR. MOORE: Rob Moore, chief operations
15 officer for Receivership Management, Inc.

16 MS. MERRICK: Erin Merrick for the
17 Consumer Advocate.

18 MR. BROEMEL: Vance Broemel with the
19 Consumer Advocate.

20 CHAIRMAN HILLIARD: All right. SIG-NOR
21 [phonetic]? Am I pronouncing that right?

22 MR. SINOR: SIGN-ER [phonetic], like
23 you're signing a document, is the best way to think
24 about it.

25 CHAIRMAN HILLIARD: All right. I

1 apologize.

2 Mr. Sinor, would you like to make any
3 opening statement?

4 MR. SINOR: I would, please, sir.
5 Thank you.

6 As I said, my name is Everett Sinor,
7 and I'm counsel for Receivership Management. And
8 Receivership Management is the receiver for the water
9 system up on Renegade Mountain, the Laurel Hills Water
10 System In Receivership which is your petitioner here
11 today.

12 Mr. Robert Moore serves as the chief
13 operations officer for Receivership Management, and you
14 will hear from him here shortly.

15 Receivership Management, I'll sometimes
16 refer to them as the receiver or RMI, is the
17 court-appointed receiver for this water system having
18 been so appointed by the Cumberland County Chancery
19 Court to that office when the receivership estate was
20 created.

21 RMI's duties and reporting
22 responsibilities as the receiver of this water system
23 are to the receivership court. RMI received that
24 appointment at the insistence and recommendation of the
25 Authority, and I know that your confidence in RMI,

1 specifically Mr. Moore, is greatly appreciated.

2 To say that the story of the water
3 system on Renegade Mountain has been convoluted really
4 doesn't do that term justice. That story is well known
5 to the directors and staff members of the agency, so I
6 won't rehash it here.

7 For purposes of this hearing, here are
8 the pertinent facts. This agency and the Laurel Hills
9 Condominium Property Owners Association entered into a
10 settlement agreement earlier in 2015 for the placement
11 of the water system on Renegade Mountain into
12 receivership. That order was entered by the
13 receivership court on October 26th, 2015, and RMI took
14 over as receiver of the system on that date.

15 Prior to the institution of the
16 receivership, first Moy Toy LLC and then Laurel Hills
17 Condominiums POA, had been operating the water system
18 without a certificate of public convenience and
19 necessity as required by law. A rate of \$33.10 per
20 month per customer had been established for the water
21 system by order of the receivership court.

22 It quickly became apparent to RMI that
23 this rate was inadequate to meet the needs of the water
24 system. First, there was no provision for the ongoing
25 maintenance and repair of the water system.

1 Second, the water system appeared to
2 have no intrinsic marketable value and thus there was
3 no viable asset to sell at the end of the day to offset
4 receivership estate costs and any other costs incurred.

5 Third, there was no provision for the
6 upgrade and refurbishment of the major components of
7 the water system. I'm referring to the supply pipe
8 running up the mountain and also the water tower at the
9 top. Thus you have the emergency rate filing before
10 you today.

11 I would note that this is an emergency
12 filing, not a filing that is anticipated to establish a
13 rate that will be in place after the completion of the
14 receivership. No provision was made for the repair of
15 the supply pipe. No provision was made for the
16 refurbishment of the water tower.

17 For reasons that will be elicited in
18 Mr. Moore's testimony here today, those repairs cannot
19 be made, at least at this time. This new rate is
20 intended to be instituted on an emergency, temporary
21 basis until the receivership plan is fulfilled and the
22 estate is terminated.

23 Furthermore, this filing seeks a
24 recommendation on a rate from this agency. It will be
25 the receivership court that establishes a final rate.

1 It is the receiver's intention to very quickly file a
2 motion with the receivership court to institute a new
3 rate. That filing will exhibit this agency's
4 recommendation that's made today.

5 Mr. Moore will provide a summary of his
6 written testimony and note a few rating items where
7 there have been significant changes since the filing of
8 the petition. He will also provide additional
9 information concerning the legal, operational, and
10 financial aspects of the water system, and will, of
11 course, be available to the directors and staff members
12 of the agency for questions. He should be the only
13 witness called by the petitioner.

14 Now, as I understand it, the Consumer
15 Protection and Advocate Division of the Attorney
16 General's office will take issue with some of the
17 expenses incurred by the receiver and its independent
18 contractors, and that there will be an argument that
19 some of those expenses should be disallowed.

20 Unlike other rate petitions this agency
21 considers, the burden on disallowance of these expenses
22 will be borne by this agency and not the petitioner as
23 receivership costs that cannot be paid by the estate
24 are taxed on an interim basis to the Authority by order
25 of the receivership court. This procedure is set up in

1 the amended order appointing receiver which has been
2 made a part of the record in this case.

3 RMI does not intend to take any
4 position with respect to the Attorney General's
5 argument other than to reiterate what is said in its
6 statement of position in this matter which is this:
7 The TRA, as the agency responsible for the regulation
8 of public utilities in this state, should have
9 discretion to make any recommendation to the
10 receivership that it chooses. Thank you.

11 CHAIRMAN HILLIARD: All right.
12 Consumer Advocate, you may proceed with your opening
13 statement.

14 MS. MERRICK: Thank you, Directors.
15 One of the objectives of state regulation generally is
16 to protect state citizens. And the citizens we're
17 interested in particularly here are the water consumers
18 on Renegade Mountain. This case raises an interesting
19 dichotomy that is pretty novel for what we see at the
20 TRA. That's because the interest of the protector and
21 the regulator, being the Authority, and the interest of
22 the protected parties, being the consumers, are
23 diametrically opposed to one another.

24 Someone is going to pay for
25 receivership fees and costs. It's either going to be

1 the Authority or it's going to be the consumers, and
2 that's just where we are.

3 The consumers have already been victims
4 of private market abuses by Laurel Hills that have been
5 well documented in this and other dockets with which we
6 are all familiar. So at this point, to pass on
7 receivership fees and costs to consumers who have
8 already borne financial burdens and been victims of
9 abuses would really just continue to make them victims
10 of regulation rather than the beneficiaries of it.

11 For this reason, the Consumer Advocate
12 would strongly encourage you to recommend Proposal C
13 from the petitioner's petition. That is the only
14 option that does not pass on receivership fees and
15 costs to consumers, and we feel that is appropriate in
16 this instance. Thank you.

17 CHAIRMAN HILLIARD: All right.

18 Mr. Sinor, you may call your first witness.

19 MR. SINOR: I call Mr. Robert Moore.

20 CHAIRMAN HILLIARD: Mr. Moore, will you
21 raise your right hand. Are you prepared to testify at
22 this time?

23 MR. MOORE: I am.

24 (Witness sworn.)

25 CHAIRMAN HILLIARD: All right.

1 Counsel, you may proceed.

2 ROBERT MOORE,
3 called as a witness, having been duly sworn, was
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. SINOR:

7 Q. Mr. Moore, state your name and occupation
8 for the record, please, sir.

9 A. Robert Eugene Moore, Jr. I'm the chief
10 operations officer at Receivership Management in
11 Nashville, Tennessee.

12 Q. Okay. And what is the status of
13 Receivership Management in this case?

14 A. It is the court-appointed receiver over the
15 water system asset of Laurel Hills Property Owners
16 Association, Condominium Property Owners Association.

17 Q. And it's the petitioner in this matter?

18 A. Yes.

19 Q. And this is an unusual rate hearing. So I
20 want you to, before the summary, just very briefly
21 describe your experience in receivership matters.

22 A. I've been with Receivership Management since
23 2004. We have had five receiverships and over 60 ERISA
24 retirement plans that we have supervised the
25 termination and distribution of assets over.

1 Prior to 2004, I was employed by the
2 Department of Commerce and Insurance as the chief
3 counsel of insurance, securities, consumer affairs, and
4 TennCare, and served as the deputy general counsel at
5 that department.

6 I worked at the Department of Commerce and
7 Insurance for 14 and a half years. In and during that
8 period of time I was involved in receiverships that the
9 department sought over Franklin American Life Insurance
10 Company, Access MedPLUS, Sanus Health Plan. I was also
11 involved in securities receiverships that involved
12 securities fraud where the securities company was
13 placed into receivership here in Davidson County.

14 At Receivership Management we have been
15 involved in the receiverships of Sentinel Trust Company
16 which was a non-FDIC trust company regulated by the
17 Tennessee Department of Financial Institutions. We're
18 also federal receivers over three charities that were
19 alleged to have been fraudulently operated, and we were
20 appointed by the federal district court in Phoenix,
21 Arizona. We receive appointments nationwide.

22 Q. Okay. And the president of RMI,
23 Receivership Management, is Jeanne Bryant. And what is
24 her background with the insurance department and what
25 does she do there?

1 A. Ms. Bryant is the president of Receivership
2 Management. She currently holds a designation as a
3 certified insurance receiver from the International
4 Association of Insurance Receivers. She is an attorney
5 and has been licensed to practice law in this state
6 since 1976. And she was the director of receiverships
7 for almost 20 years while at the Department of Commerce
8 and Insurance.

9 Q. Mr. Moore, please provide a summary of your
10 written testimony.

11 A. As the directors understand, the testimony
12 has been prefiled, but I would like to draw attention
13 to the filing. I would like to turn your attention to
14 page 7 of the prefiled testimony. Of the submitted
15 rates, there are three proposals there, and I'll
16 briefly touch on those.

17 The first proposal which is, I guess it's
18 subparagraph A, this proposal basically sets a customer
19 use rate of \$104.49 per month; a pump repair special
20 assessment of \$6.55 per month for four months; a
21 customer cap fee of \$1,000 per connection; connection
22 charge or reconnection charge, previous unpaid customer
23 use rate amounts.

24 This proposal assumes that the Tennessee
25 Regulatory Authority will not recoup the

1 pre-receivership costs but will recoup the postdate of
2 approval of these rates. So when I talk about
3 pre-receivership, that's predate, whatever the approval
4 of these rates. So the TRA would not recoup that in
5 this proposal, but would recoup anything after these
6 rates were done.

7 Section B, this proposal sets forth a use
8 rate of \$104.49 per month; a \$16.55 per month special
9 repair assessment; a previous loss special assessment
10 of \$16.74 for 24 months; and customer tap rate for
11 \$1,000 per connection.

12 I would like to note that the \$16.64 amount
13 assume that the recoupment was for a, I believe,
14 four-month period and thought that these rates would
15 have been approved in March. Since it's now May, that
16 figure would increase to \$22.32 if the TRA is to recoup
17 all of the receivership costs.

18 And Item B is where both the amounts spent
19 by the TRA on receivership costs before the rates go in
20 and after are collected from the ratepayers.

21 Item C, the customer use rate is \$42.95 per
22 month; special assessment of \$6.55 per month for four
23 months; a thousand dollars per connection; and the
24 connection/reconnection charge is previous unpaid
25 customer use rate amounts.

1 This proposal basically says that the TRA's
2 only source to recover the expenses that it has paid
3 for the receivership through the sale of the asset, the
4 water system.

5 Now, I would like to touch on that for a
6 brief moment. This body entered into a settlement
7 agreement with Laurel Hills Condominium Association,
8 and they were, under certain terms, to turn over
9 certain assets to me, the receiver, to my company. And
10 I must say that what has been turned over to me is not
11 exactly what was contemplated by the settlement
12 agreement.

13 Essentially what I've been given -- and I
14 was given it by Moy Toy who is not a party to the
15 receivership and not a party to the settlement
16 agreement. But what I have been given would largely be
17 characterized as use permits.

18 while I've been given a quitclaim for a
19 water tower and property, been given a quitclaim for
20 pumps and pipes, I've been given an irrevocable license
21 for where the pipes lay in the ground in the
22 development, those use rights are limited. The use
23 rights are limited as follows.

24 First, I'm to utilize these grants to serve
25 existing customers. That term's not been defined. I

1 don't know what an existing customer is. In light of a
2 letter that I was copied on that was sent by Moy Toy
3 counsel to developer Eagles Nest LLC, Mr. Harkleroad,
4 there are questions as to whether or not Moy Toy
5 intends for new houses to be allowed to tap to the
6 water system because Moy Toy is the entity that granted
7 me irrevocable license for where the ground -- where
8 the pipes lie in the ground.

9 Second, it says the existing system. Well,
10 there are areas that may become developed, I don't
11 know, that the system might be able to be extended to
12 or might actually still be in the ground. The question
13 remains whether or not that comports with Moy Toy's
14 limiting language in the documents that they've given
15 to me which is to provide services to existing
16 customers, the system as it exists today.

17 Lastly, the water tower and the property
18 that the water tower sits on, I've been given a
19 quitclaim deed for. We have not verified the nature of
20 what Moy Toy's ownership interest is. But that
21 quitclaim was given to me, but it has in there a
22 reversionary clause that says if the system -- if the
23 tower is not used as a part of the water system, then
24 title reverts back to the grantor.

25 Those elements don't seem to equate to the

1 Language that was in the settlement agreement. But
2 then, again, Moy Toy was not a party to the settlement
3 agreement.

4 So I have use permits. I'm not sure of the
5 marketability of use permits. Therefore, the issue of
6 whether there's something for me to sell remains
7 clouded in question, which also means there may not be
8 a source of revenue from the sale to replenish the cost
9 that this agency has borne for the receivership. And
10 that may be something that this agency wants to take
11 into consideration.

12 I understand the position of the Consumer
13 Advocate, and they are going to probably question me
14 here in a little bit.

15 But my statement to you-all is this. There
16 are a limited number of customers up there. I'm not
17 exactly clear as to whether if a pipe is sitting there
18 and somebody wants to build a house on a piece of land
19 that adjoins that pipe that would just normally
20 connect, whether Moy Toy's grant of a license to me
21 allows them to connect through to their land because
22 they're not a, quote, existing customer. I don't know
23 what the term means. And I have sent a letter to Moy
24 Toy's counsel and I've not received a response. So
25 there's a question there.

1 One other thing that I think is important to
2 bear out is can I still deliver water up there. The
3 answer to that question is yes, but the system is not
4 operating like it was designed to operate.

5 When I was here before this board I said,
6 you know, the water tower was an integral part of how
7 the system was designed, but it is designed with that
8 water tower to serve approximately 1,500 customers.
9 well, there's only 131, I believe, up there today.

10 And a representative of Moy Toy basically
11 has said that they don't believe that it will ever
12 fully develop because they own those lands. And I
13 don't believe Moy Toy has an intention of developing a
14 resort community up there. I don't know what their
15 intention to develop is, but I don't believe it is to
16 develop a resort community.

17 So that begs the question of how am I going
18 to reform and revitalize the system which is the
19 instruction from Chancellor Thurman. And I'm very
20 limited to what I can do. If I'm only to serve
21 existing customers, I can't expand the system, then my
22 customer base is basically this static number of people
23 that are already existing and connected.

24 Now, Eagles Nest was connected by virtue of
25 two things, first Eagles Nest had sought their own

1 relief against Moy Toy and other parties and received a
2 Court order granting them certain rights.

3 I, on the other hand, also submitted a
4 request for approval to connect Eagles Nest to the
5 system. Both orders were granted into the affirmative.
6 However, Moy Toy, in their letter to Mr. Harkleroad and
7 a copy to me, raise a question in that Eagles Nest --
8 I'm sorry, Mr. Harkleroad with Eagles Nest raised
9 questions. Moy Toy's counsel raised questions to
10 Mr. Harkleroad about those approvals.

11 So I don't know where Moy Toy's position
12 will be with regard to Eagles Nest, but that spec home
13 has already been connected to the system. And the
14 pipes that are in the Eagles Nest area have been
15 dedicated to the water system because he added piping
16 to develop the lots that he has. So straight line cove
17 area.

18 So there are those questions as to the
19 ability to reform and revitalize.

20 Now, I'm kind of going back to the rate
21 proposal now because I would like to at least address
22 what I think are some potential questions that might be
23 given to me.

24 First is what the tap fee is, you know, the
25 thousand dollar proposed tap fee. As we have

1 submitted, the tap fee means an actual physical tap,
2 that your property is not connected to the system, and
3 that's what it would be. It wouldn't be if someone
4 purchased a home that was already on the system, that
5 tap fee won't be charged to them.

6 Now, the question that may come up is, well,
7 what about the reconnection charge? It says connection
8 charge, reconnection charge, previous unpaid customer
9 use rate. Our proposal here basically says that from
10 the date that these rates are approved, unpaid bills
11 associated with that particular home residence property
12 that have not been paid on the monthly basis, that's
13 what your reconnection charge is. You pay those unpaid
14 amounts, monthly amounts.

15 It doesn't predate the rates. In other
16 words, somebody might come in and say are you saying
17 that they have to pay 2013 and 2014 and 2015? No. I'm
18 saying from the date that these rates are approved by
19 the receivership court they will start calculating
20 then.

21 One other thing along that same line, we are
22 requiring everyone that is connected to the system to
23 pay a monthly fee. It's a resort community. It's not
24 a measured system. Now, there may be people that will
25 come forward and say, well, it's not really a resort

1 community anymore. A lot of people live up there and
2 they live full time up there. There's not a measured
3 metered service on every residence. And the system was
4 not really designed to begin with -- it was designed to
5 be a resort community, so a resort-based approach has
6 been taken. You have a connection to the system.
7 whether you use the water or not, you get a monthly
8 bill. You have that convenience before you even pay
9 for it. It's existing. It's there. They pay for it.
10 For them not to pay for it would be an unjust thing on
11 others who are paying.

12 Currently we have five customers who are
13 connected to the system who do not pay. If this rate
14 is approved, they will begin paying.

15 Also we have a timeshare group, the actual
16 Laurel Hills Condominiums, who have, I believe, a total
17 of 10 units -- I'm sorry, eight units. They have eight
18 units, and they have just recently put three online.
19 But it would be our proposal in this rate filing that
20 since all eight are connected to the system, all eight
21 get billed a water bill every month. Again, I think
22 that's only fair.

23 The current rate at \$33.10, on the basis of
24 an accrual accounting, the system is losing about a
25 thousand dollars a month. And the rate, the \$33.10

1 rate, doesn't include an allocation for insurance. It
2 doesn't include an allocation for maintenance. It
3 doesn't include any kind of capitalization for any
4 major repairs that might need to be made.

5 And the condition of the system today is
6 that it is leaking still about 50 percent of the water
7 through the system. We've been able to reduce that.
8 When we took it over it was leaking about 80 percent of
9 the water being pumped through the system. We've
10 gotten it down to 50 and we're still working to get
11 that under control.

12 The extent to which we can get it under
13 control is largely dependent upon where the leaks are
14 and the cost of repairing those leaks.

15 One of the things that has been raised as a
16 major concern about the condition of the current system
17 is the supply pipe that runs up the hill from Crab
18 Orchard Utility District. And I shouldn't say hill
19 because I've walked it myself and I will tell you it's
20 a steep mountain.

21 700 feet of the pipe is exposed on top of
22 the ground, and it's just laid on top of the ground.
23 There have been efforts to control some of the side
24 lateral stresses that are on the pipe; some of those
25 have been effective.

1 But it is -- it was installed in 1972 and
2 has not been replaced. There have been repairs made to
3 it. There's been no maintenance to this system to
4 say -- significant maintenance that a system like this
5 would require over the years of its operation.

6 We have two pumps, one is the original pump
7 that was installed in 1972. It's a 75-horsepower pump,
8 and it stands as a backup simply because it's not
9 needed because the tank isn't on line.

10 The other pump, the 35-horsepower pump, is
11 running now, has been every hour since I was appointed
12 receiver except for one time when we had a catastrophic
13 leak and we had to shut it down. And it's running now,
14 and it will be running tonight, tomorrow, and every day
15 because that's the only way the system has pressure
16 because they're not utilizing the tank.

17 And to create what I would consider minimum
18 pressure, PSI of possibly 65 at the very top of the
19 hill -- at the pump station where the Crab Orchard
20 Utility District ties in, we've got pressure at 385
21 PSI. Think about that.

22 So to quote the engineer at Crab Orchard
23 Utility District, there are a number of potential
24 catastrophic failures that could occur at any time with
25 the system.

1 And it's my understanding from a letter from
2 Crab Orchard's attorney that they're unwilling to take
3 anything with this system because of the risks that are
4 inherent with taking it over. They're not going to
5 subject their current utility district to the
6 catastrophic expense concerns that this system would
7 suddenly thrust upon them if they took the system at
8 Renegade Mountain.

9 There is a proposal by statutory provision
10 at TCA-65-5-103(b)(1) that talks about a bond in
11 connection with a rate submission. We are asking that
12 this bond be waived. We are a court-supervised
13 receivership, and if there are surplus funds, I believe
14 Chancellor Thurman will direct us on how those funds
15 should be handled.

16 We have received an insurance quote. The
17 system's insurance was either allowed to lapse or was
18 canceled. I worked with the insurance agency in
19 Crossville to attempt to renew that. The company
20 stated that they didn't want to renew it because they
21 were unsure of the financial ability of the system to
22 make its premium payments since it was placed into
23 receivership. A receivership is a red light word to
24 any creditor, including insurance companies.

25 So through the efforts of Arthur J.

1 Gallagher, we have received a quote from CNA. It is an
2 annual premium of \$15,157 for minimum coverage. That
3 premium cost would add \$9.75 per month per customer to
4 the proposed rate.

5 I will tell you that we at Receivership
6 Management believe that insurance on this system is a
7 critical element to our continued role with this
8 project.

9 Lastly, I want to say this. We had
10 experience with the TRA, successful experience, with a
11 gas utility company. And many of the things I think
12 that went into the idea behind this proceeding were
13 drawn from that proceeding. There are common elements
14 among the two receiverships; however, they are
15 dissimilar in the following ways.

16 First, I had full title and ownership and
17 easements with regard to the gas utility. I do not
18 have that here.

19 Second, I had a large commercial consumer of
20 gas in that utility. I do not have that in this water
21 system.

22 And, lastly, we had marketable assets,
23 clearly marketable assets in the gas utility which
24 provided the source of recoupment to this agency who
25 took a direct leadership role in making sure that the

1 gas up there was not turned off to those customers in
2 February.

3 Here, this agency has taken a leadership to
4 make sure that people have water at their homes as they
5 expected to have it. But, unfortunately, some of the
6 dynamics that are in this proceeding were not in the
7 Red Boiling Springs proceeding, and that was a
8 successful one. There are certain challenges here with
9 this one that will need to be addressed.

10 That concludes my testimony.

11 MR. SINOR: I've got a few
12 clarification questions, Mr. Chairman, if that's
13 permitted.

14 CHAIRMAN HILLIARD: That's permitted.

15 MR. SINOR: Okay.

16 BY MR. SINOR:

17 Q. Mr. Moore, you talked about it being a
18 resort community and everyone tapped on regardless.

19 A. Yes.

20 Q. What about undeveloped land? Will people
21 who own undeveloped land on the main line be required
22 to pay a fee?

23 A. If --

24 Q. Unimproved, I mean.

25 A. If they want to tap into the system and pay

1 \$1,000. But the question remains whether or not
2 Moy Toy may take the position that the irrevocable
3 license I have doesn't permit that property owner to
4 cross into that area of land that our pipe sits on.

5 Q. Okay. And what about past due reconnection
6 charges, meaning will you be assessing and want this
7 rate to apply to those persons right now even if they
8 don't want to be connected?

9 A. No. I am not proposing that unconnected
10 property be assessed the fee. If they are already
11 connected, they should pay a fee.

12 Q. Okay. Is any rate of return or profit being
13 requested in this rate filing?

14 A. No.

15 Q. And I think I want to clarify something
16 because I think it was not quite -- I didn't hear it
17 the right way, I don't think.

18 You had indicated that Moy Toy owned the
19 rights to the quitclaim deed and to the licenses. My
20 understanding is that Moy Toy owned the water tower and
21 parcel and that those were conveyed to you via the
22 quitclaim deed; that Moy Toy had issued a revocable
23 license prior to the institution of receivership which
24 granted licensure rights to Laurel Hills Condos POA;
25 that that was converted to an irrevocable license post

1 receivership, and that Laurel Hills Condos POA conveyed
2 by a bill of sale those items to you as receiver; is
3 that correct? That's my understanding.

4 A. Yes, that's correct. But just to draw on
5 that, there are elements that continue to develop along
6 those lines, and one of them specifically, the supply
7 pipe. I spoke earlier about the supply pipe.

8 I was under the impression, and through
9 information, that Moy Toy and/or Laurel Hills owned the
10 continuous ground, if you will, of where the supply
11 pipe is situated.

12 Lately I've been made aware -- we've not
13 investigated this but we believe that there is a
14 potential that part of the ground is owned by an entity
15 called "Terra Mountain." Terra Mountain, it's my
16 understanding, is a conservancy that was created
17 through entities that may have been affiliated with
18 Moy Toy and Laurel Hills and, therefore, Moy Toy may
19 have deeded those lands to Terra Mountain. That would
20 impact the effectiveness of my license on those
21 portions of the pipe that sit on Terra Mountain land
22 because I have gotten nothing from Terra Mountain.

23 Q. Have you also been given information
24 concerning portions of the main line which may also
25 have not been conveyed to the receiver that you have

1 not investigated?

2 A. There are some areas we are looking at, but
3 I'm a little less clear about the allegations with
4 regard to the main line. These have been raised by
5 some of the residents up there, and so they will bear
6 some amount of investigation.

7 Our focus in this whole process has been
8 mainly just to establish -- which is a normal part of a
9 receivership, establish what the receiver owns, what do
10 we have, and to focus on those elements which is not an
11 unusual part of any receivership.

12 Q. Okay. Has Roger York, on behalf of Crab
13 Orchard Utility District, sent a letter indicating what
14 COUD, that's Crab Orchard Utility District, what they
15 would require in order to obtain the system?

16 A. I was provided a copy of a letter that was
17 directed to, I believe, the compliance counsel for the
18 TRA which outlined or was a response to something that
19 this agency must have sought from the Crab Orchard
20 Utility District. And Mr. York, as their counsel,
21 indicated that their board had, either through
22 resolution or official action, set forth conditions on
23 which they would take ownership and control of the
24 Laurel Hills asset and those involved, both full title
25 to all the water system including the water tower, and

1 a payment by the state of Tennessee of \$500,000.

2 Q. Did Mr. York indicate any other conditions
3 to that money specifically concerning title?

4 A. I'd have to refer to the letter.

5 Q. You've indicated there were, as I understand
6 your testimony, two significant deviations in facts
7 since the filing of this petition in January, one being
8 the insurance where you've indicated you testified it
9 would be an additional \$9.75 per month per customer and
10 also an additional approximately two months in post
11 receivership losses which would raise the special
12 assessment to \$22.32 per month per customer. Did I
13 understand that testimony correctly?

14 A. Yes.

15 Q. Have you gotten any indication as far as the
16 wholesale water and electricity expense, whether they
17 are consistent with your initial filing?

18 A. They're running a little bit higher than the
19 initial filing. We did have one month where we had a
20 catastrophic leak that almost doubled the bill to Crab
21 Orchard Utility District. It went from approximately
22 \$2,200 almost to \$4,300. And we didn't receive a
23 discount on that.

24 Q. And one other item having to do with the
25 rate. You had -- in your filing you had filed for a

1 repair of the pump as an emergency special assessment.
2 Is the pump in emergency need of repair at this time?

3 A. The source of that was -- I was advised that
4 what's called a controller on the pump was failing and
5 would have been a special assessment to replace and/or
6 repair. Actually it was to replace the controller.

7 The engineer that's employed by us through
8 the system was able, through a repair of the check
9 valve, to bring the pump back on line so, at this
10 point, the controller for the bump is operating. But,
11 again, this pump is running 24/7.

12 Q. I've got one other question, if the Chairman
13 permits.

14 I want to just clarify my understanding
15 about the number of customers. There was 122 billed
16 customers at the time of the institution of the
17 receivership in October of 2015. At this time, and
18 this is including both Eagles -- the one Eagles Nest
19 home, as well as three units in Laurel Hills
20 Condominiums, that number has been raised to 131.

21 You anticipate adding, by virtue of this
22 rate filing, an additional six units that are currently
23 vacant but they are physically tapped, two units that
24 are physically tapped but are currently using well
25 water, and the five other Laurel Hills Condominium

1 units which would bring the total customer base to 144
2 customers. Is that your understanding? Have I stated
3 that correctly?

4 A. Yes. But we don't have an indication on
5 actual, how many customers will start paying the new
6 rate.

7 Q. And my question is billed.

8 A. Yes.

9 Q. And, again, you've got five people who are
10 not routinely paying their bill, and you've got two
11 factors, it seems like, which may lower that.
12 Number 1, the raising of the rate; and, Number 2, the
13 fact that these folks have not been paying previously.
14 Is that your understanding?

15 A. Yes.

16 Q. Have I stated that correctly?

17 A. Yes.

18 MR. SINOR: Can I have just one moment,
19 please?

20 CHAIRMAN HILLIARD: Yes.

21 MR. SINOR: That concludes our case in
22 chief.

23 CHAIRMAN HILLIARD: All right.

24 Ms. Merrick.

25 MS. MERRICK: Thank you.

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CROSS-EXAMINATION

BY MS. MERRICK:

Q. Mr. Moore, the Consumer Advocate filed an amended statement of position in this case that included some work papers as an attachment. Did you have the opportunity to review the work papers the Consumer Advocate filed?

A. I did.

Q. And do those work papers accurately reflect the receivership expenses and hourly work for which you're seeing reimbursement in this matter?

A. They do.

MS. MERRICK: That's all. Thank you.

CHAIRMAN HILLIARD: Okay. Do my fellow directors have any questions?

DIRECTOR MORRISON: No.

DIRECTOR HILL: Mr. Chairman, as it pertains to today, perhaps not. But my question, I guess, goes to the heart of the matter.

When you have pieces of paper that are worthless, that are telling you that you can't sell things and you don't control things, and you don't operate things unless at the whim of some outfit that we don't even deal with, what are we going to do to get a handle on this thing? Do we go to court? Is that

1 the only remedy we have and bring people into court
2 that are not even named yet?

3 THE WITNESS: well, I'll address your
4 question in the sense of the receivership. What the
5 TRA agency does is not my area to do. But I will --

6 DIRECTOR HILL: You want to address it
7 from the receivership point so that you can do your
8 job. That's what I'm looking for.

9 THE WITNESS: Sure. Here are the
10 options, I think, that are available that we, as a part
11 of the receivership, we will be filing a plan of
12 receivership. And there aren't many, but they are as
13 follows.

14 It's possible that the residents up
15 there could form a cooperative and seek, I think, a CCN
16 here and operate the system. It's a use permit to
17 existing people. It's there. It becomes basically
18 their problem, and how they deal with it, if there's a
19 catastrophic loss, they have to cover it, those kinds
20 of things.

21 Whether or not Moy Toy would object to
22 the transfer of those or not, I don't know. I don't
23 think they would but, obviously, there would be
24 something addressed by the receivership court, not
25 here.

1 Another possibility, somewhat remote
2 but still a possibility, is that the residents in that
3 particular area seek to become some type of utility
4 district. I've not investigated that. I've not spent
5 receiver money to do that, but it's certainly something
6 that would give a certain level of authority and a
7 certain level of rights.

8 Another option which I don't think -- I
9 think is highly remote is that through the receivership
10 we litigate to clear title and do all of those things,
11 you know, to uncloud the circumstances of what we have.
12 That can prove rather expensive, and I'm not quite sure
13 that the citizens of this state speaking through the
14 general assembly have elected to do that.

15 The last thing that could possibly
16 happen, the Chancellor could look at this. I mean, at
17 this point, you know, should a receiver stay involved?
18 Should a special master or something like that be
19 employed just to basically oversee what my office is
20 overseeing at this point, certainly at a reduced cost.
21 That may be something that Chancellor Thurman may take
22 up as well.

23 But as far as what had happened at
24 Red Boiling Springs which is a buyer came forward, a
25 price was established through an appraisal, a price

1 paid, funds recouped, I don't see that happening here.
2 I think it's important for the TRA to understand they
3 issued an order of divestiture. That order was appealed
4 with the court of appeals. The Authority's authority
5 to do that was reinforced. But divestiture doesn't
6 mean you just give it away, it means you give it and
7 they get some value for it.

8 The defendant party in that case
9 couldn't find anybody, and they agreed to this
10 receivership proceeding. But at the time they did it,
11 they didn't really own anything of consequence. And so
12 I'm not sure what was intended from the divestiture
13 point of view actually could have happened.

14 But even applying that to the
15 affiliated entity, Moy Toy, again, their asset, they
16 paid money for it, they own it, and they're subject to
17 whatever regulations that come about as a result of
18 state law. But, again, divestiture doesn't mean, you
19 know, you give it away.

20 In Red Boiling Springs, the gentleman
21 that owned that gas utility company, he would have been
22 owed the value of the utility company once it had been
23 reformed. He chose not to pay that. Had there been
24 money over and above what the cost of the receivership
25 and the TRA's expense along those lines had come in, he

1 would have received that.

2 So Moy Toy is basically -- I'm not
3 going to put words in their mouth. But they would
4 probably say we've given the receiver use permits.
5 They can do what the receiver can do which is make sure
6 that water gets to those residents on that hill. The
7 rest of it is not our problem. And I believe where
8 you're at is either a utility district, a cooperative,
9 or a master.

10 DIRECTOR HILL: Mr. Chairman, basically
11 what we have is intertwining relationships -- I mean,
12 this is what it looks like to me having followed this
13 now for years -- intertwining relationships between
14 Moy Toy, Laurel Hills, etc., etc.

15 And they pulled everything out that
16 they could possibly pull out, but it wasn't working
17 well enough to do what they wanted to do. So,
18 therefore, you've got a golf course that's nonexistent,
19 you've got a water park that's nonexistent, you've got
20 a resort that's nonexistent as a resort, but you have
21 people who live there who spent their money. They
22 spent their money trusting Moy Toy, Laurel Hills,
23 whatever it was, whatever, various groups.

24 And we got in on the tail end of it
25 because we got in simply because the organization that

1 was there was refusing to provide essential services
2 that they had no right to provide anyway under law but
3 they were providing.

4 So it's a mess all the way around, so
5 the question is how do you pick out the various parts
6 of the garbage and separate it so that you can recycle.
7 That's basically what we're looking at here.

8 So, Mr. Chairman, I'm not trying to
9 pontificate but I'm trying to put it in perspective.

10 We're coming in at a time when all the
11 corruption has been done, and then as a state agency
12 we're expected to make the flower bloom properly. But
13 we've got to have help to do that. That's, of course,
14 why you're there and why you're doing what you're
15 doing.

16 Good faith has to be on the part of Moy
17 Toy and Laurel Hills and everybody else. And the
18 question is -- and I'm not impugning anybody's
19 character here. But the question is, was there good
20 faith in all of the transactions up to that point.
21 Apparently in the court cases the Judge decided, no,
22 you can't do those things, you've got to do these
23 things.

24 So it makes for a difficult -- as a
25 regulator, it makes it difficult for me because I want

1 those people to have their water, and I don't want them
2 to have to pay \$1,000 a month to get water. And the
3 question is, how can they do that, and you've given us
4 some ideas, and I appreciate that. Thank you.

5 CHAIRMAN HILLIARD: Does the staff have
6 any questions?

7 (No response.)

8 CHAIRMAN HILLIARD: I guess the thing
9 that I'm wrestling with the most is, as I look at this,
10 and using Dr. Hill's comments, it's kind of a mess.

11 I'm always interested in how do you get
12 out of this circle that we're in right now. And I'm
13 not hearing a good explanation of how we get out of the
14 circle. How do we finally get -- the ultimate
15 objective should be that for you to get it running, get
16 it where it looks good, and then someone buys it, takes
17 it over, and runs it, and we no longer have to have a
18 receiver there. I don't see that end game down the
19 road.

20 Maybe you can help me understand. How
21 do we get to that point?

22 THE WITNESS: well, let's talk about
23 that. So we've been given these documents. I can
24 attempt to seek grants. I'm certainly not going to be
25 able to sell what I have as a system because let's say

1 I sold it to -- I sold the documents I have and got
2 some sort of compensation for it. They decide that
3 they want to expand the system. Can't do that. They
4 want to repair the water tower. What's their
5 collateral?

6 I sat on the board of directors of the
7 National Bank for almost 20 years. And I can tell you,
8 it wouldn't be my bank loaning money to somebody that
9 doesn't have full title ownership on that tower or the
10 money to repair it.

11 So I would say that as it is right now,
12 the receiver could run to ground the availability of
13 grants under the terms of these documents and certainly
14 report that to the Court.

15 Absent that, it's not going to be made
16 pretty because there isn't any money to make it pretty.
17 And the end game basically is either a cooperative
18 takes the system and it's run for the benefit of those
19 customers up there as a cooperative -- and I don't know
20 that those residents will want to do that.

21 We are looking, after this hearing, at
22 setting a community meeting date where we can meet with
23 all the communities, as many people as will show up,
24 and I will stay as late as it takes to explain to them
25 what it is, what the system is and what their choices

1 are.

2 It's pretty much like a city that's
3 gone out of business and people are living there and
4 they need water. So we're going to have to get
5 together and do it ourselves.

6 These documents will allow them to do
7 it themselves. I think Moy Toy's position would be
8 we've not done anything that would prevent existing
9 customers from getting water. But you're not going to
10 develop 1,200 lots up there. That's not going to
11 happen. Those aren't existing customers. I'm assuming
12 that's their position.

13 You're not going to extend pipes,
14 mainline pipes to areas of Renegade Mountain that could
15 have been developed but we're not going to. And in a
16 recent court case, it's my understanding Moy Toy was
17 named as the developer of Renegade Mountain, so they
18 have a certain level of rights under those development
19 documents.

20 So I would still say that the end game
21 is the residents either through organization themselves
22 or under a court-supervised master. You're not going
23 to need a receiver to look after the system like this.

24 I can't reform it. I can't revitalize
25 it. I can't do anything to do those kinds of things.

1 I will, as a part of our appointment, investigate and
2 provide the information both to this body or interested
3 people, but mostly Chancellor Thurman who will want to
4 know are grants available to make the tower come on
5 line. Are these things needed to be done. Are there
6 parties that are frustrated in their abilities to do
7 this in a way that they're going beyond their own
8 rights.

9 Moy Toy was not a party to this
10 receivership. And I think that's about the fifth time
11 I've said that phrase. And, therefore, the ability to
12 look at them is limited in the receivership.

13 I will say that the best approach to
14 this as it currently stands is that the customers that
15 are there receiving water today, if there's a
16 catastrophic failure, those customers will have to pay
17 for the costs of repairs and things of that nature.
18 And that may be the very best that can be done.

19 CHAIRMAN HILLIARD: Based upon my
20 understanding of what's happening right now, if there
21 is a catastrophic incident that happens, then what's
22 currently in the proposed rates, any of these
23 particular rate categories, wouldn't solve that
24 problem.

25 THE WITNESS: I don't think so. We do

1 have a proposal in there, I believe, to, as a component
2 of the rate, to accrue certain things for maintenance,
3 but I don't know that it would accrue enough in a short
4 term to address that kind of catastrophic loss.

5 My understanding on the supply pipe is
6 that there's been several estimates on that. But
7 basically from what I'm getting from two engineers who
8 were kind enough to do these kinds of things without
9 costs to us, is that you're talking about blasting and
10 replacing and more properly addressing the installation
11 of that supply pipe, and we're talking, you know, in
12 excess of \$500,000 for that.

13 CHAIRMAN HILLIARD: I didn't know the
14 number. But if we approve a rate today in any of these
15 particular scenarios, it would not take care of that
16 type of situation?

17 THE WITNESS: No, Mr. Chairman.

18 CHAIRMAN HILLIARD: Okay. All right.
19 Any further questions from the staff or my fellow
20 directors? If not, the witness is excused.

21 Counsel, would you like to move the
22 docket filings into the record?

23 MR. SINOR: Yes, sir.

24 CHAIRMAN HILLIARD: All right. Any
25 objection?

1 MS. MERRICK: No.

2 CHAIRMAN HILLIARD: Then they are
3 moved.

4 Mr. Sinor, would you like to make any
5 concluding remarks?

6 MR. SINOR: Just very briefly. Again,
7 there is a concern being expressed by the Consumer
8 Advocate that the receiver does not take issue with.
9 We're indifferent to how those are handled by the
10 Authority and eventually by the Cumberland County
11 Chancery Court.

12 Again, I would reiterate as this is in
13 receivership, there's no rate of return being
14 requested, so there's no profit being obtained. This
15 is all being done at cost, and so we would request that
16 an adequate rate be recommended by this body. Thank
17 you.

18 CHAIRMAN HILLIARD: Do you have any
19 closing remarks?

20 MS. MERRICK: Yes. Sure. We are
21 clearly in a world of hurt. I think every party here
22 that has been involved in this docket in one way or
23 another is very excited for it to be over and resolved
24 in some way, hopefully in a way that does allow
25 consumers to have the reliable and adequate service

1 that they need on Renegade Mountain.

2 But in order to get that service,
3 consumers should not be paying for the receivership
4 fees and costs. This experience and the rate request
5 that we see in Proposals A and B which would tax some
6 of the receivership fees and costs onto consumers
7 really is a horrible flashback.

8 As you recall, the original market
9 abuses to which Laurel Hills was a party, among those
10 were exorbitant rate increases.

11 If you look at Proposals A and B that
12 would tax some of the receivership fees and costs to
13 consumers, the minimum rate increase is 216 percent.
14 The maximum possible rate increase for some periods is
15 286 percent. Increases that large are in the realm
16 that the Chancellor has observed to be patently unjust.

17 Consumers have gained virtually nothing
18 from this receivership, and that's not the receiver's
19 fault. We've heard the receiver talk about how he
20 doesn't have the assets that he needs, can't get the
21 assets that he needs for all the reasons discussed.
22 The receiver doesn't have the necessary property rights
23 to fix the system.

24 Much of this is a result of the
25 unfulfilled settlement agreement that we saw in

1 Docket 1277. And that resolution did nothing for
2 consumers to improve their situation. It did nothing
3 for the receiver to empower him to do what he needs to
4 do to make this situation better.

5 So now if we were to charge consumers
6 receivership fees and costs, all you're doing is making
7 them pay for the expensive regulation that was
8 ostensibly for their benefit but from which they've
9 seen absolutely no real benefit at all.

10 The parties have heard in this docket
11 and in the companion cases in chancery court that the
12 TRA doesn't have the money to pay for these expenses.
13 I'm going to suggest to you that I think, in fact, you
14 may.

15 In the last fiscal report, TRA's public
16 utility reserve account had \$4,398,000 in it. To put
17 that in perspective, the requested receivership fees
18 and costs are less than 1 percent of this amount which
19 is a stark contrast to the 286 percent increase the
20 consumers may face in their own rates.

21 On March 1st of this year the TRA
22 appeared before the Finances ways and Means Committee.
23 And Chairman Hilliard may recall receiving some
24 questions about why the public Utilities reserve
25 account was so robust. And I would suggest that the

1 Chairman's responses indicated that a robust account
2 was necessary to cover expenses that were not budgeted.
3 Among such unbudgeted expenses were receivership fees
4 and costs.

5 That suggests to the Consumer Advocate,
6 at least, that the Authority does consider it proper to
7 spend down this reserve in the receivership case rather
8 than forcing consumers to absorb an excessive rate
9 increase.

10 And we understand that there may be
11 various approvals and various hoops to jump through in
12 order to do that. But I further suggest that the
13 circumstance on Renegade Mountain, that we have all
14 described as a mess today, is the quintessential case
15 where we need to tap into this reserve account. This
16 is what it is for rather than having consumers face
17 exorbitant rate increases.

18 It is possible that you may draw the
19 opposite conclusion from the Consumer Advocate and
20 conclude that consumers should continue to be the
21 financial victims of all that has transpired on
22 Renegade Mountain. If that is your position then we
23 will alternatively suggest that certain expenses be
24 disallowed from consumer recovery.

25 We do not suggest that the consumer not

1 be able to recover those. We do suggest, however, that
2 consumers not be taxed certain of the receivership fees
3 and costs. In particular, those would be expenses that
4 are associated with the unfulfilled settlement
5 agreement in Docket 1277.

6 As we all know from what we've heard
7 today and from past experience with this, that
8 settlement agreement did not turn out as anyone had
9 hoped. We have Laurel Hills which can't fulfill its
10 obligations. We have a receiver that doesn't have the
11 necessary property rights, and perhaps most striking,
12 we had bad actors who escaped liabilities and penalties
13 under that agreement because that settlement was
14 strictly between Laurel Hills and the Authority to the
15 exclusion of the consumers.

16 Consumers should not bear costs that
17 are associated with that unfulfilled settlement
18 agreement.

19 The Consumer Advocate's work papers
20 that are filed in this docket show that over \$10,000 in
21 expenses should be disallowed from consumer recovery.
22 This will only increase as we obtain invoices going
23 forward.

24 So, in conclusion, consumers were the
25 victims of Laurel Hills and Moy Toy. And if you pass

1 receivership fees and costs on to them now, we contend
2 that they will also be the victims of TRA regulation.
3 Thank you.

4 CHAIRMAN HILLIARD: Thank you. As this
5 is a public hearing, at this time, is there any member
6 of the public who would like to make a comment on this
7 matter?

8 If you would, please come forward to
9 the mic over here and state your name and address.

10 MR. JOHN MOORE: Yes. My name is John
11 Moore, 848 Livingston Road, Crossville, Tennessee. The
12 mailing address, 95 Hickory Trail on Renegade Mountain,
13 is my physical address.

14 As you may have recognized, I've led
15 the effort of about 110 customers of the 131 or so
16 through the docket, the previous Docket 12-00030 and
17 12-00077.

18 I'm here today to appeal to the TRA on
19 behalf of the residents, or most of the residents,
20 receiving water on the mountain. I represent
21 approximately 109 of the 130 plus water customers of
22 Laurel Hills Water System In Receivership, the entity
23 that supplies water to Renegade Mountain.

24 It was almost five years ago that the
25 subdivision developer illegally, and without notice,

1 raised our water rates to about 300 percent.

2 Since 2012, when the same developers
3 cut our water off multiple times which you're aware of,
4 we have spent over \$30,000 in legal fees and countless
5 hours intervening in Docket 12-00030. As you might
6 remember, we were here until 11:30 that night
7 adjudicating that case. We helped to prove why these
8 developers should not be granted a CCN to operate the
9 water system.

10 First, let me say that the TRA is the
11 only -- let me repeat that -- the only state agency
12 that has come and aggressively intervened on our
13 behalf. We have got nothing from any other state
14 agency virtually to speak of. So without your
15 assistance we would all be worthless property owners on
16 a beautiful mountain at this point. So we do
17 appreciate what you've done so far and thank you.

18 Second, let me say that although
19 well-intentioned by the TRA staff, the settlement
20 agreement between the TRA and Laurel Hills Condominium
21 Property Owners Association in Docket 12-00077 was not
22 a well thought-out document.

23 The resulting agreement left the
24 receiver with a clouded title and incomplete licensing
25 agreement on all the pipes, unworkable restrictions on

1 the water tower property, and an inability to expand
2 the system or connect all the existing lots.

3 while we know that we are in the middle
4 of some longstanding issue between the TRA and the
5 Consumer Advocate regarding their inability to
6 intervene into the fines and penalty phases of a case,
7 with respect to Docket 12-00077, it came to fruition.
8 It was a mistake not to allow the parties to intervene
9 and to relate facts and knowledge unbeknownst to the
10 TRA staff.

11 The customers, if allowed to intervene,
12 knew of, or would have known of, the majority of these
13 problems before any agreement was reached. We had done
14 research for four years on these guys and what was in
15 and what was out and so forth. But because they were
16 not allowed to intervene, they had no official method
17 to notify the TRA of what they knew or to share their
18 knowledge in that case. And the result is certainly an
19 incomplete settlement agreement.

20 Sometime during the argument against
21 allowing intervention into Docket 12-00077, the TRA
22 made a statement to the effect that none of these
23 actions or proceedings will affect the ratepayers'
24 water rate in any way. And that was part of the
25 argument made that there was no intervention required

1 in that case. Yet here we are, like five years
2 earlier, discussing almost 300 percent water increases
3 for all the customers.

4 The customers do not object to paying
5 for the day-to-day operation and management of the
6 water system which seems to be reflected by the
7 proposed \$46 rate. We have gone over and over and
8 over. We know that it costs between \$40 and \$45 to
9 operate a system to run water around that mountain to
10 the current customer base.

11 We know that some things were
12 disallowed in the \$33.10 rate, and we're appreciative
13 of that, but we knew that they were disallowed probably
14 for the wrong reasons.

15 So the \$46 rate is in line with what we
16 figured out four or five times previously as to the
17 water rate it would take to run water around that
18 mountain. So we don't object to paying that.

19 We do, however, strenuously object to
20 the inclusion of costs and expenses related to the
21 clouded title, incomplete licensing agreement, and
22 other actions taken by the receiver who, by the way,
23 has done a great job. We have no problems with the
24 receiver whatsoever. We've cut water losses, the
25 system has not had any outages, we've operated better

1 than it has done in years.

2 But, as stated before, the customers
3 were not allowed to intervene on their behalf in these
4 matters, and if allowed to intervene would have
5 identified most, if not all, of the flaws prior to the
6 execution of the settlement agreement.

7 So where are we today? Due to the
8 unworkable restrictions placed on the water tower --
9 and only a few were mentioned here today. There are
10 many other obstructionist restrictions placed on that
11 water tower -- the local utility district is reluctant,
12 to say the least, to take over the system.

13 In addition to much higher rates, the
14 customers, or any other private entity, cannot purchase
15 or operate the water system without borrowing money
16 against the assets.

17 So several options were brought up here
18 today about the cooperative, about the utility
19 district, but think about it. The only way that you
20 could -- you could get enough input money to get the
21 system going, but then you would have to borrow against
22 the assets. No one is loaning any money against any
23 asset that we've talked about today, so there's no way
24 to get past the first portion of repairs on the system
25 either from a cooperative or a business entity.

1 The second part of that is we're
2 looking at \$100,000 in legal fees on day one just to
3 clear up the title, just to get where you could
4 possibly expand the system or work the system or be
5 confident that the system could be working.

6 So the problems have mounted over time
7 and an inconsistent settlement agreement. Everybody
8 had good intentions. There's no bad parties in this
9 room. Everybody had good intentions, but it just kind
10 of got out of control.

11 At this point -- well, let me back up.
12 To the customer, the proper and fair solution -- the
13 easiest solution is just to pass everything onto the
14 customers; people will move, people won't build, the
15 development will die, and that would be the end of
16 that.

17 But the fair and more prudent solution
18 would be to get the only people that aren't in the room
19 that were the bad actors in this situation back before
20 the Chancellor and let him deal with them. And he's
21 offered that up several times in court. And maybe we
22 should get the bad actors back before Court and see
23 what they have to say about this and why they raped and
24 pillaged the system before they gave it over in
25 receivership. So that would be our recommendation on

1 how that gets done.

2 At this point we have a set of
3 customers who are financially broke and weary from the
4 five-year fight to save our water system, making their
5 intervention into this docket impossible and,
6 therefore, we must rely on the Consumer Advocate for
7 our interests in this matter.

8 In conclusion, it remains crystal clear
9 that either an unstable water system and/or water rates
10 well in excess of \$100 per month will destroy all the
11 ability of the 530 plus owners to fully develop the
12 1351 lots within Renegade Resort.

13 Now, we've had talk about the existing
14 system to a potential 141 homes or 144 customers, or
15 something like that. But there are other landowners
16 that have purchased land all along, another 1100, that
17 fully expect that water will be available to their
18 property either for them to build or for the resale
19 value of their lot tomorrow or the next day. Because
20 if there's no water in front of their lot, the value of
21 their lot just decreased by 99 percent.

22 So it goes much further than just the
23 140 people that we're talking about here. We have 530
24 owners, 1351 lots that are available to be built.

25 Therefore, the customers place their

1 future and the future of the Renegade Mountain
2 Community Club into the hands of Tennessee Regulatory
3 Authority. We're out of money, and we're out of fight.

4 Everyone, I want to thank you again for
5 the generous work that you've done for us so far, and
6 we hope that we can get everything turned out. And you
7 have our cooperation in anything from getting the
8 shovel and digging a hole to digging up research to
9 whatever needs to be done so that we can continue to
10 live on a beautiful place in Tennessee. Thank you very
11 much.

12 CHAIRMAN HILLIARD: Thank you.

13 If my fellow directors are ready to
14 deliberate, I have a motion.

15 The petition presents three rate
16 options for the Authority's conditions and
17 recommendation to the Chancery Court. Based on the
18 pleadings and the evidentiary record in its entirety, I
19 find that Rate Option D-1, as presented in the
20 petition, is just and reasonable and in the public
21 interest.

22 Approval of Rate Option D-1 will
23 provide the receiver with sufficient funds to operate
24 the Laurel Hills water system and to make necessary
25 system repairs.

1 Specifically, this will allow recovery
2 of operating expenses of \$3,584 per month; a provision
3 of \$2,000 per month for system repairs and maintenance;
4 and a provision of \$8,000 per month for ongoing
5 receivership fees and costs.

6 I also find that any collections in the
7 monthly provisions for maintenance and repairs and
8 receivership fees and costs in excess of actual such
9 expenses be maintained in the utility's reserves and be
10 available for future utility expenses.

11 Recovery of these expenses results in a
12 monthly water rate of \$104.49, which I find is just and
13 reasonable and in the public interest.

14 Further, approval of the Rate Option
15 D-1 will allow the receiver to collect a separate
16 surcharge of \$6.55 per month for four months in order
17 to make necessary pump repairs which I also find to be
18 reasonable.

19 Finally, under Rate Option D-1, the
20 Authority will pay receivership fees and costs from
21 inception of the receivership estate until the date the
22 new rates under Rate Option D-1 become effective.

23 Based upon these findings, I move that
24 Rate Option D-1, as set forth in the petition, be
25 approved for recommendation to the Chancery Court for

1 implementation. I so move.

2 DIRECTOR MORRISON: Second. Vote aye.

3 DIRECTOR HILL: Mr. Chairman, before I
4 vote, I would like to make a statement or two, if I
5 may.

6 First of all, I've been in this thing
7 from the start, basically. This is one of the
8 calamities that we come across occasionally, and
9 there's no way to win.

10 I mean, everybody is getting hurt. We
11 understand that. The TRA is going to take it, you
12 know, if we pay the receivership costs up till now. So
13 we've got skin in the game. Consumers are going to be
14 at \$104 instead of \$6 or so as Mr. Moore was talking.

15 And yet this is the process. We're not
16 at perfection here, I don't think, with this, but we're
17 in the process. And that's where the receiver is going
18 to be helping, hopefully. We're all here to help the
19 consumers and make sure that they have the water that
20 they need. So this is part of the process.

21 So I would ask Mr. Moore and the
22 consumers not to be discouraged at this point because
23 we're in process. And sometimes it takes a while to
24 get it right. We're not there yet, but we're working
25 toward it.

1 And I think that we're doing as best we
2 can, Mr. Chairman, with your motion, and I'll vote for
3 it. I vote aye.

4 CHAIRMAN HILLIARD: Thank you.

5 Next item.

6 MS. DILLON: Next we have
7 Docket No. 16-00024, Kentucky Utilities Company.

8 Petition of Kentucky Utilities Company
9 for an order authorizing the issuance of securities and
10 the assumption of liabilities. Consider petition.

11 CHAIRMAN HILLIARD: Based on the
12 record, I move approval of Kentucky Utilities'
13 application pursuant to Tennessee Code Annotated
14 65-4-109 based on the following findings.

15 Number 1, the financing transaction is
16 subject to Authority approval pursuant to Tennessee
17 Code Annotated Section 65-4-109.

18 Number 2, the transaction is being made
19 in accordance with the laws and enforceable by this
20 agency.

21 Number 3, the transaction is in the
22 public interest because it allows Kentucky Utilities to
23 finance its operations.

24 In addition, Kentucky Utilities shall
25 be bound by the same filing requirements imposed by

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REPORTER'S CERTIFICATE

I, Susan D. Delac, Licensed Court Reporter, Registered Professional Reporter, Certified Court Reporter, and Notary Public for the State of Tennessee, hereby certify that I reported the foregoing proceedings at the time and place set forth in the caption thereof; that the proceedings were stenographically reported by me; and that the foregoing proceedings constitute a true and correct transcript of said proceedings to the best of my ability.

I FURTHER CERTIFY that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of office this 13th day of May, 2016

Susan D. Delac


SUSAN D. DELAC, LCR, RPR, CCR
AND NOTARY PUBLIC FOR THE STATE
OF TENNESSEE

LCR No. 137 Expires 6/30/2016

Notary Commission Expires 1/6/2020

1 Minutes of the Authority Conference of
2 Monday, May 9, 2016, stand approved.
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6 CHAIRMAN HERBERT HILLIARD
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10 VICE CHAIRMAN DAVID F. JONES
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13 _____
14 DIRECTOR ROBIN MORRISON
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17 _____
18 DIRECTOR KENNETH C. HILL
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CERTIFIED OFFICIAL ADMINISTRATIVE RECORD

*In Re: Petition Of Laurel Hills Water System In Receivership
For Approval Of Adjustment Of Its Rates And Charges*

TRA Docket No. 16-00012

**OFFICIAL ADMINISTRATIVE RECORD VOLUMES I-II
CONFERENCE TRANSCRIPT VOLUME I OF I**

Certified by:

**Sharla Dillon
Docket Manager**

**Tennessee Regulatory Authority
Andrew Jackson State Office Building
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243
770-6850**

CERTIFICATE OF OFFICIAL ADMINISTRATIVE RECORD

I, Sharla Dillon, Docket and Records Manager of the Tennessee Regulatory Authority, Nashville, Tennessee, do hereby certify that the following items herewith transmitted to the Court of Appeals are originals or true and correct copies of the designated papers on file in my office in the captioned case:

*In Re: Petition Of Laurel Hills Water System In Receivership
For Approval Of Adjustment Of Its Rates And Charges*

TRA Docket No. 16-00012

The official administrative record consists of 362 pages contained in two (2) volumes, one (1) conference transcript bound in one (1) volume.

This the 23rd day of May, 2016



Sharla Dillon
Docket Manager

