

Jason E. Mumpower *Comptroller*

Tennessee Board of Utility Regulation July 19th, 2023

IN THE MATTER OF:)
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EAST SEVIER COUNTY) TENN. CODE ANN. § 7-82-701 et seq.
UTILITY DISTRICT) PUBLIC CHAPTER 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the East Sevier County Utility District ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The city was placed under administrative review by the Utility Management Review Board. The Entity has made progress to remedy its situation, but changes in circumstances and that the previous order lacked deadlines necessitates a new order be entered.

Based on staff's statements and recommendations, the Board orders as follows:

- 1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - A. A review of the capitalization policy, including any recommended modifications;
 - B. A review of the debt management policy, including any recommended modifications;
 - C. The creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
 - D. A review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;

- E. A review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist;
- 2. In addition to any other specific requirements, the rate study shall make a preliminary examination of the feasibility of a merger between the Entity and other nearby utility systems. All original deadlines in the December 21, 2022 Order remain, but Board staff may, for good cause shown, grant a 60 day extension for the Entity to provide a supplemental study, addendum, or other report as to the feasibility of a merger. Any supplemental study, not part of the rate study, must be performed by the Tennessee Association of Utility Districts or other entity approved by Board staff.
- 3. By October 31, 2023 the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1 and 2. 733. By March 31, 2024 the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.

ENTERED this 10 day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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CLEARFORK UTILITY DISTRICT) TENN. CODE ANN. § 7-82-701 et seq.) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the Clearfork Utility District ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. Board staff updated the Board as to their work with the Entity. The Entity initially came under Board supervision for financial distress but has not returned its financial distress questionnaire. In December 2022 the Utility Management Review Board ("UMRB") issued an order for the Entity to contract with a third-party immediately to ensure the financial health of the Entity. The Entity has failed to comply with this order.

The Board should order the following:

- Board staff and Counsel shall issue subpoenas for the Entity's governing body and Manager to appear in-person before the Board during its next meeting.
- 2. The Entity shall contract with TAUD or another qualified expert to study the feasibility of a merger with another utility system in the area by September 31, 2023.
- 3. The Entity shall provide a completed feasibility study to board staff by March 31, 2023.
- 4. Should the Entity complete all the requirements of previous UMRB orders by the next board meeting, the subpoenas shall be withdrawn.

Board staff shall refer this matter to the Office of the Attorney General for the State of Tennessee to enforce this order in chancery court should the Entity fail to comply with this order.

ENTERED this 10 day of August, 2023.

Greg Moody Chair

IN THE MATTER OF:)
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TOWN OF GATES) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the town of Gates ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The Entity has complied with prior board orders and is currently in the update cycle. However, as of the 2022 audit the Entity has had two consecutive years of decrease in net position. A new rate study should be performed to account for any changes that have altered the scope of the previous study. The Entity has failed to show proof that all members of the governing body are in compliance with applicable training requirements.

Based on staff's statements and recommendations, the Board orders as follows:

- 1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - A. A review of the capitalization policy, including any recommended modifications;
 - B. A review of the debt management policy, including any recommended modifications;
 - C. The creation or review of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;

- D. A review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
- E. Verification that all governing body members of the utility are in compliance with all relevant training requirements; and,
- F. A review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist.
- 2. By September 29, 2023, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
- 3. By September 29, 2023, the Entity shall send Board staff proof that all members of the utility system's governing body have complied with the applicable training requirements.
- 4. By June 30, 2024, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.
- 5. Board staff shall issue subpoenas for the Entity's governing body and Manager to appear in-person before the Board at its next meeting if the commissioners do not comply with paragraph 3.
- 6. If the Entity shows that all governing body members are compliant with training requirements and Board staff are unaware of any reason for which the Entity's training violation case should remain under Board supervision, Board staff may close the Entity's training violation case without further action by the Board.

7. Board staff is given the authority to grant one extension of up to six months of the foregoing deadlines upon a showing of good cause by the Entity.

ENTERED this 10 day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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TOWN OF GIBSON) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the town of Gibson ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The Entity has been referred to the Board for financial distress since its fiscal year 2019 audit. Board staff advised that the Entity has not filed its financial distress questionnaire or annual report, and that the Entity's delinquent audits present challenges assessing the Entity's current condition. Board staff also noted that in the Entity's most recent audit the Entity has an outstanding inter-fund balance owed from the General Fund to the Water and Sewer Fund in the amount of \$93,258.

Based on staff's representations and recommendations, the Board orders as follows:

- 1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - A. A review of the capitalization policy, including any recommended modifications;
 - B. A review of the debt management policy, including any recommended modifications;
 - C. The creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;

- D. A review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
- E. Verification that all governing body members of the utility are in compliance with all relevant training requirements;
- F. A review of the leak adjustment policy, including any recommended modifications or the adoption of a leak adjustment policy if one does not exist;
- 2. By August 31, 2023, the Entity shall update Board staff as to the status of their delinquent audits.
- 3. By September 30, 2023, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
- 4. By June 30, 2024, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.
- 5. By September 30, 2023, the Entity shall submit a complete Annual Information Report that is approved by Board staff.
- 6. By August 31, 2023, the Entity shall update board staff as to the Town of Gibson's repayment of money borrowed from the Entity's water and sewer fund and advise as to the Town's plan of repayment if the balance is not fully repaid.
- 7. Board staff is given the authority to grant one extension of up to six months of the foregoing deadlines upon a showing of good cause by the Entity.

8. Should the Entity fail to comply with any directive in this order, Board staff and Counsel shall issue subpoenas for the Entity's governing body and Manager to appear in-person before the Board at its next meeting.

ENTERED this 10 day of August, 2023.

reg Moody, Chair

IN THE MATTER OF:)
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TOWN OF LYNNVILLE) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the town of Lynnville ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. Board staff has experienced difficulty working with the Entity due to turnover the Entity experienced in 2022. The Tennessee Association of Utility Districts ("TAUD") has been contracted to complete the rate study ordered by the Board, but it has been delayed due to inadequate recordkeeping by the Entity. At this time, it is appropriate that a new rate study be conducted, and the rate study should also study the feasibility of a potential merger with a surrounding utility. The Board is not ordering a merger at this time, only that the benefits of a merger be studied. Finally, the Entity has not submitted its most recent annual information report.

Based on staff's statements and recommendations, the Board orders as follows:

- 1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - A. A review of the capitalization policy, including any recommended modifications;
 - B. A review of the debt management policy, including any recommended modifications:

- C. The creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
- D. A review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
- E. Verification that all governing body members of the utility are in compliance with all relevant training requirements;
- F. A review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist;
- G. A justification of the inside and outside the city limit rates, including any recommended modifications to the rate structure;
- H. A feasibility study to evaluate whether merger with a surrounding utility system is feasible and beneficial.
- 2. By September 29, 2023, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who will perform the tasks in paragraph 1.
- 3. By March 30, 2024, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.
- 4. By August 15, 2023, the Entity shall complete the Annual Information Report.
- 5. Should the Entity fail to comply with any directive in this order, Board staff and Counsel shall issue subpoenas for the Entity's governing body and Manager to appear in-person before the Board during its next meeting following non-compliance of this order.

6. Board staff is given the authority to grant one extension of up to six months of the foregoing deadlines upon a showing of good cause by the Entity.

ENTERED this 10 day of August, 2023.

freg Moody, Chairl

IN THE MATTER OF:)
TOWN OF MASON) TENN. CODE ANN. § 7-82-701 et seq Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the Town of Mason's utility system ("the Entity"), pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The Board was advised that Tennessee Department of Environment and Conservation ("TDEC") ordered the Entity to retain a certified operator for both its water and its sewer system by September 1, 2023. While the Board does not regulate environmental matters, its jurisdiction does include an Entity's capacity to comply with applicable laws.

Based on staff representations and recommendation, the Board orders as follows:

1) If the Entity does not retain, hire, contract with, or otherwise legally provide for a certified operator for both water and wastewater, as required by TDEC, by September 1st, 2023, the Entity shall engage a third-party consultant to analyze the feasibility of a merger with surrounding utilities, including Poplar Grove Utility District. If the Town of Mason does not comply with the provisions of this paragraph by September 1, 2023, Board staff shall subpoena the Town of Mason's mayor and board of aldermen and its utility manager, compelling their attendance at the next Board meeting.

2) By December 31, 2023, the Entity shall provide Board staff with a completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.

ENTERED this 30 day of July, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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TOWN OF OLIVER SPRINGS)) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the Town of Oliver Springs ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The Entity is under an administrative review initiated by the Water and Wastewater Financing Board in March 2023. The Entity has timely contracted with a third party to carry out a rate study as requested by Board staff. Board staff has been unable to finish the administrative review report but will update the Board at the next regularly scheduled meeting.

Based on Staff's representations and recommendations, the Board orders as follows:

1. The Entity will contract with a 3rd party professional to study the feasibility of a merger between the Entity (which is only Oliver Springs' utility system) and the utility system of the City of Oak Ridge, in addition to any other surrounding utility systems. This study must be completed and a copy submitted to the Board by March 31, 2024.

ENTERED this 10 day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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CITY OF RED BOILING) TENN. CODE ANN. § 7-82-701 et seq.
SPRINGS) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the city of Red Boiling Springs ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The City has contracted with the Tennessee Association of Utility Districts ("TAUD") to complete a rate study. The study has not been completed for reasons that are not attributable to the Entity. The Entity may be non-compliant with applicable governing body training requirements.

Based on Board staff's representations and recommendations, the Board orders as follows:

- 1. By September 29, 2023, the Entity shall send Board staff proof that all members of the Entity's governing body have met training requirements.
- 2. Board staff shall issue subpoenas for the Entity's governing body and manager to appear before the Board in-person at its next meeting if the commissioners do not comply with paragraph 1.
- 3. If the Entity shows that all governing body members are compliant with training requirements and Board staff are unaware of any reason for which the Entity should remain under Board supervision, Board staff may close the Entity's case without further action by the Board.

4. By December 31, 2023, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.

ENTERED this 10 day of August, 2023.

Gree Moody Chair

IN THE MATTER OF:)
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SOUTH SIDE UTILITY DISTRICT) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the South Side Utility District ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. Board staff identified two primary concerns following the Entity's financial distress questionnaire. First, the Entity has not completed a rate study in five years. Rates were raised in July of 2021. Second, the Entity believes they will be able to alleviate the current financial stress by raising rates. While the rate increase was based on a rate review conducted by the Tennessee Association of Utility Districts ("TAUD"), a more robust rate study is necessary to ensure the viability of the Entity's plan to remedy its financial distress, and to determine rates that are fair and reasonable to the Entity's customers.

Based on staff representations and recommendations, the Board orders as follows:

- 1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - A. A review of the capitalization policy, including any recommended modifications;
 - B. A review of the debt management policy, including any recommended modifications;

- C. The creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
- A review of relevant utility fees including but not limited to connection or tap fees,
 including any recommended modifications;
- E. Verification that all governing body members of the utility are in compliance with all relevant training requirements;
- F. A review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist;
- 2. By September 29, 2023, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
- By June 30, 2024, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.
- 4. Board staff is given the authority to grant one extension of up to six months of the foregoing deadlines upon a showing of good cause by the Entity.

ENTERED this 10 day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
) TENN CODE ANN \$ 7.92.701 of sec
TOWN OF SPENCER) TENN. CODE ANN. § 7-82-701 et seq) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the Town of Spencer's utility system ("the Entity"), pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. The Entity's situation is improving, but the Entity is still experiencing excessive water loss. It is advisable that the Entity take further steps to determine the feasibility and benefits of a merger with the Warren County Utility District.

The Board is not ordering a merger of the entities at this time, only that the feasibility of such a merger be examined. Accordingly, the Board orders as follows:

1) The Entity will contract with a third-party professional to study the feasibility of a merger of the Entity's utilities with the Warren County Utility District.

ENTERED this 3 day of July, 2023.

Greg Mood Chair

IN THE MATTER OF:)
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TARPLEY SHOP UTILITY) TENN. CODE ANN. § 7-82-701 et seq.
DISTRICT) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the Tarpley Shop Utility District ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq.* In December 2022, the Utility Management Review Board (UMRB) ordered staff to conduct an administrative review of the Entity. The Entity has engaged Jackson Thornton to conduct a rate study. The study should include an evaluation of the feasibility of a merger with surrounding utility systems to determine if a merger is in the best interest of the Entity's customers. The Board is not ordering a merger at this time, only an evaluation of the feasibility and benefits of a merger.

Based on Board staff's presentation and recommendations, the Board orders as follows:

1. The previously ordered rate study shall include a feasibility study to evaluate the feasibility of a merger with surrounding utilities.

ENTERED this 10 day of August, 2023.

Gree Moody Chair

IN THE MATTER OF:)
) TENN. CODE ANN. § 7-82-701 et seq
) Public Chapter 0463
CITY OF WATERTOWN)
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the City of Watertown's utility system ("the Entity"), pursuant to Tenn. Code Ann. § 7-82-701 et seq. The Board was advised that the Entity was subject to a number of orders or directives from the Tennessee Department of Environment and Conservation ("TDEC"), and often delayed compliance with those orders and directives. While this Board does not regulate environmental matters, its jurisdiction includes an entity's capacity to comply with applicable laws. The Entity's conduct calls this capacity into question, such that it is appropriate for Board staff to begin an administrative review of the Entity.

Based on staff representations and recommendation, the Board orders as follows:

Board staff will begin an administrative review of the Entity. Should the Entity fail to cooperate with this review then Board staff shall, with the Board's full authority, subpoena the Entity's manager and governing body to attend, in person, the Board's next meeting.

ENTERED this 3 day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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WITT UTILITY DISTRICT) TENN. CODE ANN. § 7-82-701 et seq
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the Witt Utility District ("the Entity") pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. Board staff updated the Board as to the progress meeting with the Entity's commissioners to review evidence mitigating their responsibility for the events outlined in Comptroller's May 17, 2023 report ("the Report"), the underlying facts of which resulted in the criminal indictment of the Entity's manager and his brother.

The Board previously ordered staff to meet with representatives of the Entity, and, if appropriate, to begin a contested case against Commissioners Michael Rouse and Michael Phagan ("the Commissioners") on or after September 1, 2023. Board staff's update revealed that the Commissioners did not provide evidence showing they exercised proper oversight of the Entity during the facts underlying the Report. Board staff also advised that the Entity's staff had been ordered not to turn over documents to Board staff unless directed by counsel. Counsel for the Entity appeared electronically and was given the opportunity to speak.

Based on staff representations and recommendation, the Board orders as follows:

- 1. The Board hereby initiates ouster proceedings against the commissioners, and orders Board staff and counsel to initiate the contested case hearing.
- 2. Board staff may cease or dismiss any proceedings should Commissioners resign.

ENTERED this **Q** day of July, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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AAUT TUDE E ENTEUTES)
MULTIPLE ENTITIES) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the entities below pursuant to Tenn. Code Ann. § 7-82-701 *et seq*. Board staff updated the Board as to the status of the Entities failures to complete and submit the Annual Information Report.

Caryville-Jacksboro Utility Commission

City of Church Hill

City of Copperhill

City of Graysville

Siam Utility District

Town of Surgoinsville

Based on staff representations and recommendation, the Board orders as follows:

- 1. By September 29, 2023, the entity shall file its Annual Information Report.
- 2. Should the Entity fail to comply with any directive in this order, Board staff and Counsel shall issue subpoenas for the Entity's governing body and Manager to appear in-person before the Board during its next meeting following non-compliance of this order.

ENTERED this <u>4</u> day of August, 2023.

Greg Moods, Chair

IN THE MATTER OF:)
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MULTIPLE ENTITIES) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the entities below pursuant to Tenn. Code Ann. § 7-82-701 *et seq*.

Intermont Utility District

Quebeck-Walling Utility District

City of Adamsville

Town of Brighton

City of Gallaway

City of Gleason

Town of Henning

Town of Hollow Rock

City of Tennessee Ridge

City of Tiptonville

Board staff updated the Board as to developments regarding these entities and advised that there were reasons to extend deadlines entered in previous Board orders. Based on staff representations and recommendations, the Board orders as follows:

1. The Board's previous orders in these matters are amended as follows: the deadline for the Entity to provide a completed rate study and show proof of implementation is extended from July 31, 2023, to December 31, 2023. The orders are otherwise unchanged.

ENTERED this <u>3</u> day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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MULTIPLE ENTITIES) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the entities below pursuant to Tenn. Code Ann. § 7-82-701 *et seq*.

City of Celina

City of Kenton

City of Lexington

City of Mitchellville

Town of Mount Carmel

Town of Oakland

Town of Toone

Board staff updated the Board as to the status of the entities' failures to meet applicable training requirements. Based on staff representations and recommendation, the Board orders as follows:

- 1. By September 29, 2023, the entity shall send Board staff proof that all members of the utility system's governing body have complied with the applicable training requirements.
- 2. Board staff shall issue subpoenas for the entity's governing body and manager to appear in-person before the Board at its next meeting if the commissioners do not comply with paragraph 1.
- 3. If the entity shows that all governing body members are compliant with training requirements and Board staff are unaware of any reason for which the entity should

remain under Board supervision, Board staff may close the entity's case without further action by the Board.

ENTERED this <u>3</u> day of August, 2023.

Greg Moody, Chair

IN THE MATTER OF:)
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MULTIPLE ENTITIES) TENN. CODE ANN. § 7-82-701 et seq.
) Public Chapter 0463
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ORDER

On July 19, 2023, the Tennessee Board of Utility Regulation ("the Board") reviewed the entities below pursuant to Tenn. Code Ann. § 7-82-701 *et seq*.

City of Erin

City of Grand Junction

Town of Linden

City of Saint Joseph

Tullahoma Utilities Authority

Board staff advised that the entities had complied with Board requirements and remained under board supervision only long enough to verify their financial stability. Based on staff representations and recommendation, the Board orders as follows:

1. Board staff will review the entities' audited financial statements for compliance until Board staff believes the entity is postured to be released from Board oversight. The entities will continue to follow board directives to ensure compliance with relevant state statutes.

ENTERED this 3 day of August, 2023.

Greg Moody, Chair