



JASON E. MUMPOWER
Comptroller

MINUTES
of the
UTILITY MANAGEMENT REVIEW BOARD, SPECIAL CALLED MEETING
June 16, 2023
10:00 am

Greeting:

Chairman Moody detected a quorum and called to order the meeting of the Utility Management Review Board (“UMRB”) in the Volunteer Conference Center on the 3rd Floor of the Cordell Hull Building in Nashville, TN at 10:00 a.m. (CDT).

Board Members Present and Constituting A Quorum:

Greg Moody, Chair
Tom Moss, Vice-Chair
Phillip Combs
Anthony Pelham
Steve Stone
Bruce Giles

Board Members Participating Online:

Kevin Botts

Board Members Absent:

Rebecca Hunter
Dan Coley

Staff Present:

Ross Colona, Comptroller’s Office
Meghan Huffstutter, Comptroller’s Office
Ben Johnson, Comptroller’s Office

Counsel Present:

Seth May, Comptroller’s Office

Others Present & Addressing the Board

Jerry Hayes, Customer of East Sevier County Utility District
Charles Rogers, Customer of East Sevier County Utility District
Heather Fromm, Customer of East Sevier County Utility District
Louis Fromm, Customer of East Sevier County Utility District

Ronald Cooley, Former Board Member of East Sevier County Utility District
 Lisa Hawthorne, Customer of East Sevier County Utility District
 Eddie Crosby, Board Member of East Sevier County Utility District
 Ben Harris, Manager of Witt Utility District
 Dewey Branstetter, Attorney of Witt Utility District

Conflict of Interest Statement:

Counsel Seth May read the following statement: “The Board was created to act for the public welfare and in furtherance of the legislature’s intent that utility systems be operated as self-sufficient enterprises. Board members are not authorized to participate in the discussion of or to vote on matters involving entities in which the Board member has a financial interest, with which the Board member has a conflict of interest, with which the Board member has a contract of employment, or if there is any appearance of impropriety.”

Chairman Moody asked if anyone needed to recuse themselves. There were no comments made.

Witt Utility District:

Mr. Colona read the staff summary and recommendation from the board packet. He reminded board members that the meeting was not about indictments, but about the board members of Witt Utility District. It is the UMRB’s job to protect rate payers from fraud, waste, or abuse. Mr. Moss asked if the contested case would be held in Nashville or in the county where Witt is located. Mr. May responded that it would be held in Nashville, Davidson County. Mr. Giles asked Chairman Moody if he could ask questions to clear the record. Chairman Moody okayed the request.

Mr. Pelham stating for the record why was the special meeting necessary: there is concern from board members that the meeting for TBOUR would not have been able to happen soon due to waiting on appointments from the governor’s office. And that it was good to get this matter done since the UMRB is still in existence.

Mr. Pelham asked if the overtime number in the investigative report was a typo. Mr. Colona confirmed it was not a typo.

Mr. Pelham stated the UMRB acted in December to remove ESCUD board members and Alliance, but the topic today has no bearing on ESCUD, or the indictment related to Witt UD. This is just regarding Witt UD Board Members.

Mr. Colona confirmed and noted that things have improved at ESCUD, and there are still some issues but that it is not the topic for today.

Mr. Pelham: Witt UD is small but saw on the news that the state comptroller’s office made threats or intended to remove licenses of operators – is that even possible?

Mr. Colona confirmed that the Comptroller’s office does not have the power to remove licenses. Mr. Moss noted that that revocation would come from TDEC, and that they are not looking at revoking licenses at Witt UD.

Mr. Stone asked what the Comptroller’s office would expect from the Board at Witt UD if a contested case hearing was held. Mr. May communicated that we do not control someone’s

presentation of a defense. Mr. Giles asked if there are any controls in place. Mr. Colona said there are standard controls in place, but the matter before us was if they were actually followed. Mr. Pelham asked about training requirements and Mr. Colona noted that 2 of the 3 board members had been serving for a while and had completed training. One gentleman is new but has attended training.

Mr. Giles asked about a secret fund that the Comptroller's office had to help ESCUD or Witt UD. Mr. Colona stated that we do not have money that Witt or ESCUD would be eligible for. We have a utility revitalization fund, but that is for a board ordered merger. ESCUD does not have that order.

Mr. Pelham asked Mr. Colona if he had any part or initiated the 2020 investigation with Witt or if he had any personal agenda. Mr. Colona stated that a letter from the mayor of Witt UD was sent to the Comptroller's office due to local issues. That information was presented to the UMRB by his predecessor, John Greer. He noted that he did not author a report or a letter. He also noted he did not have any agenda or personal relationship with Mr. Ben Harris, he did not meet Mr. Harris until the TAUD conference in August of 2022.

Mr. Combs asked if there is anything illegal with another utility helping another utility, like a mutual aid agreement. Mr. Colona said no we see instances of this often. Nothing was illegal about the arrangement with Witt UD and ESCUD.

Mr. Giles asked what happened to ESCUD if Witt UD leaves. Mr. Colona said he did not know exactly, he had spoken to several utilities offering help. Newport specifically was willing to help. It is important to consider all options.

Mr. Moss noted that ESCUD has applied for rural development to drill a new well, so they're trying to fix that.

Mr. Pelham asked how the relationship with ESCUD and Witt begin, how did they get involved. And Mr. Colona stated that it was his understanding that the relationship started in March, when Alliance left ESCUD. They were going to help utilities pump wells.

Mr. Combs asked if commissioners were being compensated. Mr. Colona deferred to Witt to answer when they speak later in the meeting.

There were questions surrounding Mr. Harris' switch from hourly to salary and about the roof project, and Mr. Colona said they should let the audience respond and have their questions answered.

Mr. Louis Framm addressed the Board sharing that the Board was told by Mr. Colona to engage with TAUD and had not done so. He was in support of the agenda.

Ms. Heather Fromm addressed the Board. She was in support of the agenda and also commented about her water conditions

Mr. Cooley addressed the Board. He noted that he was a former Board Member of ESCUD. He said if you cannot do things right or legally it's time to go. He noted Witt UD has all the finances for ESCUD. He noted Mr. Harris has been making trips to English Mountain since June or July. There have been meetings at Mr. Hays house. Board is responsible for oversight. He was in support of the agenda.

Ms. Lisa Hawthorne addressed the Board. She was against the agenda. She stated that if it were not for Jerry Hayes and Ben Harris they would have nothing.

Mr. Charles Rogers addressed the Board. He said the investigative report is incorrect and the board packet is not true. He was against the agenda.

Mr. Eddie Crosby addressed the Board. He is the newest of the 3 ESCUD board members. He said they have now had water for 140 days straight. Witt has fixed pipes and leaks, replaced valves and pumps. He also said he'll pray over every meeting. He was against the agenda.

Mr. Jerry Hayes addressed the Board. He is a commissioner for ESCUD. He was in support of Witt UD.

Mr. Ben Harris and attorney for Witt UD, Mr. Dewey Branstetter addressed the Board. Mr. Harris shared all the work he had done for ESCUD and his work schedule for Witt.

The Board then opened up questioning Mr. Harris.

Mr. Harris answer several lines of questioning from the Board surrounding his background, experience, and choices that were made. Several of the questions were related to Mr. Harris' recent indictment, some Mr. Harris was unable to answer.

Mr. Branstetter addressed the Board as well imploring the Board for more time to sort through the report and the indictment. There were several clarifying questions from the Board.

Board Discussion:

The Board finished hearing from the audience. Mr. Pelham addressed Mr. Harris saying that the allegations looked bad and charged him with being a better steward.

Mr. Colona stated he stood by the current staff recommendation. Mr. Pelham made a motion to go with staff recommendations with changes. He moved to postpone the beginning of a contested case hearing until September 1. This would be contingent upon staff getting answers to questions around the investigative report. It would also be a contested case hearing just to oust 2 of the 3 commissioners and omit and the one commissioner who had only been with the UD for one year. Mr. Moss seconded the motion.

Vote was done by roll call:

Chairman Moody - no
Mr. Moss - yes
Mr. Botts (online) - no
Mr. Giles - no
Mr. Combs - abstain
Mr. Pelham - yes
Mr. Stone – yes

3 ayes, 3 no's, 1 PNV

Mr. May clarified that due to Mr. Bott's attending virtually he was not able to vote on matters. Therefore the vote count was 3 ayes, 2 no's, 1 PNV. Motion carried.

Adjournment:

Chairman Moody moved to adjourn the meeting; Mr. Stone seconded. Chairman Moody adjourned the meeting at 12:54 am.