

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE

2008 MAY 12 PM 3:00  
CLERK OF COURT  
DAVIDSON COUNTY CHANCERY CT  
D.C.&M.

FILED

TENNESSEE CABLE )  
TELECOMMUNICATIONS ASSOCIATION, )  
 )  
Plaintiff, )  
v. )  
 )  
ELECTRIC POWER BOARD )  
OF CHATTANOOGA, )  
 )  
Defendant. )

Case No. 07-2145-III

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PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT

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Pursuant to Rule 59.04 of the Tennessee Rules of Civil Procedure, Plaintiff Tennessee Cable Telecommunications Association ("TCTA") hereby moves the Court to Alter or Amend its April 14, 2008 Memorandum and Order (the "Order"). As grounds for the Motion, TCTA states:

1. TCTA contends that the plan that the Defendant Electric Power Board of Chattanooga ("EPB") submitted to the Comptroller of the Treasury (the "Comptroller") in Davidson County calls for the electric system to impermissibly cross-subsidize the cable/Internet division in violation of the Cable Act, Tenn. Code Ann. §§ 7-52-601 et seq.

2. The Court held in the Order that TCTA could not pursue its lawsuit in Davidson County because the statutory requirement that a plan be filed with the Comptroller was directory. The Court further held that the filing of a plan, even an illegal or noncompliant plan, did not vest this Court with subject matter jurisdiction or make venue proper. Finally, the Court stated that TCTA's claims were not ripe and that TCTA did not have standing.

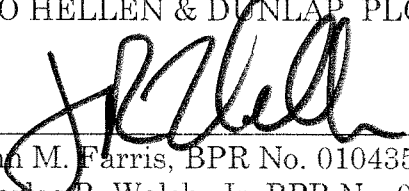
3. TCTA respectfully submits that the Court erred in its rulings and should set aside the Order. First, TCTA has stated one or more claims that are ripe for adjudication. Second, the Cable Act's requirement that a municipal utility file a plan with the Comptroller is mandatory, not directory. The Court should permit TCTA to pursue its claims in Davidson County. The Court should also hold that TCTA has standing to bring claims on behalf of its member franchisees or should, in the alternative, allow TCTA to amend its Complaint to substitute a member franchisee. At a bare minimum, the Court should alter or amend its Order to make clear that any dismissal is without prejudice to any TCTA member's pursuit of claims against EPB outside of Davidson County.

4. TCTA submits herewith a Memorandum of Law setting forth more fully the reasons it is entitled to the relief requested and a Notice of Filing containing various evidentiary materials.

Respectfully submitted,

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BOBANGO HELLEN & DUNLAP PLC

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**THIS MOTION HAS BEEN SET FOR HEARING AT 9:00 A.M. ON FRIDAY,  
JUNE 20, 2008. FAILURE TO FILE AND SERVE A TIMELY RESPONSE MAY  
RESULT IN THE MOTION BEING GRANTED WITHOUT A HEARING.**

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been delivered to the following:

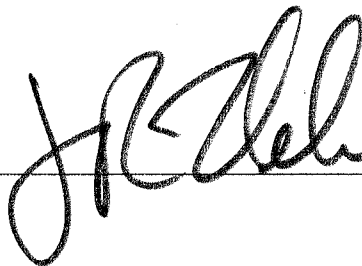
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*Attorneys for Electric Power  
Board of Chattanooga*

This the 17<sup>th</sup> day of May, 2008.



A handwritten signature in black ink, appearing to read "Joe A. Conner", is written over a horizontal line.