

IN THE CIRCUIT COURT FOR SUMNER COUNTY, TENNESSEE

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KATHRYN STRONG, CLERK
BY  D.C.

LIVING WATER FULL GOSPEL CHURCH,)
and THE FATHER'S HOUSE)

Plaintiffs,)

v.)

TRI-COUNTY ELECTRIC MEMBERSHIP)
CORPORATION,)

Defendant.)

Case No. 83CC1 - 20 23 - CV- 396

COMPLAINT AND PETITION FOR DECLARATORY JUDGMENT

Plaintiffs Living Water Full Gospel Church ("Living Water") and The Father's House (the "Ministry") allege the following before this Court:

PARTIES

1. Plaintiff Living Water Full Gospel Church is a religious non-profit organization. Its principal location is 1114 Pleasant Grove Road, Westmoreland, Tennessee 37186, where it operates as a church and its facilities house the religious ministry operated by The Father's House.

2. Plaintiff The Father's House is a non-profit religious organization. Its principal location is 1114 Pleasant Grove Road, Westmoreland, Tennessee 37186, where it operates a religious ministry that offers transitional housing for men seeking to escape the trappings of drug and alcohol addiction.

3. Defendant Tri-County Electric Membership Corporation is a Tennessee corporation engaged in the sale and distribution of electric energy in Sumner County among others and is subject to the Electric Cooperative Law of Tennessee as codified in Tenn. Code Ann. § 65-25-101 *et seq.* Its principal location is 405 College St, Lafayette, Tennessee 37083.

JURISDICTION AND VENUE

4. The allegations of all preceding paragraphs are herein incorporated by reference.

5. This Court has jurisdiction over Defendant because Tri-County Electric Membership Corporation (“Tri-County”) is a Tennessee corporation with its principal place of business in Tennessee.

6. This Court has jurisdiction over this suit pursuant to Tenn. Code Ann. § 16-10-101 *et seq.* and Tenn. Code Ann. § 29-14-101 *et seq.*

7. Venue is proper in this Court under Tenn. Code Ann. § 20-4-101 and Tenn. Code Ann. § 20-4-104 because the acts complained of occurred in Sumner County, Tennessee.

FACTS REGARDING THE CHURCH AND MINISTRY

8. The allegations of all preceding paragraphs are herein incorporated by reference.

9. Living Water Full Gospel Church is a Christian church located in Westmoreland, Tennessee that has been serving its community since it opened its doors in 2013. It is pastored by Dewayne and Shanna Taylor.

10. Both Dewayne and Shanna are recovered drug addicts whose lives were drastically changed when they began following the teachings of Christianity. Their faith has empowered them to overcome their own addictions and remain sober for over 13 years.

11. Having experienced firsthand the transformational effect that their Christian faith has had on their own lives, the Taylors now feel called by God to minister to others trapped in drug and alcohol addiction. It is for this reason that the Taylors began pastoring Living Water.

12. Over the past 10 years, Living Water has ministered to hundreds of members of its community, focusing specifically on ministering to those struggling with drug and alcohol addiction. To this end, Living Water is a certified recovery church with the Tennessee Department

of Mental Health and Substance Abuse. A true and correct copy of Living Water's certificate as a recovery church is attached hereto as Exhibit A.

13. In addition to regularly hosting religious services, Living Water also hosts Celebrate Recovery meetings.

14. Living Water owns and resides within a 12,000 square foot structure located at 1114 Pleasant Grove Road, Westmoreland, Tennessee 37186 (the "Property").

15. The Property originally comprised of a brick sanctuary with a basement and full kitchen constructed in early 1970's. In 1999, the City of Westmoreland approved a building permit for the Property to add a two-story addition consisting of 2880 square feet for each floor was added to the Property to include various rooms ranging in size from 156 to 324 square feet. The purpose of this addition was for "Institutional" use by the First Baptist Church of Westmoreland.

16. In 2013, Living Water began leasing the Property for its religious activities. Two years later, Living Water purchased the Property.

17. In the fall of 2021, the Taylors experienced a religious calling from God to do more to help the men in their community struggling with addiction and in need of support and guidance to get back on their feet after they had detoxed and become free of drugs.

18. Out of this religious calling, The Father's House came into existence. With the support of Living Water, The Father's House seeks to turn the Property into a safe haven for men in need of transitional housing as they move from incarceration or a rehabilitation or detox facility to becoming sober and productive members of their communities.

19. The Father's House's mission is "[t]o guide men and their families into a personal relationship with Jesus Christ and with the tools of Christ-Centered Spirituality and 12 step recovery return them to society as productive citizens-reclaimed and filled with hope, purpose, and

a New lease on Life.” (Manual at 4, Ex. B.).¹ With a foundation based in Christianity, The Father’s House seeks to help its residents break the cycle of addiction in which they were trapped.

20. In conjunction with meeting its residents’ spiritual needs, The Father’s House assists its residents with meeting their physical needs. It provides housing for people who have nowhere else to stay along with facilities for the basics of life such as cooking and bathing. Additionally, The Father’s House assists its residents with meeting their practical needs to function in society, including but not limited to assisting residents with acquiring any documentation required to hold a full-time job, obtaining and keeping steady employment, budgeting and maintaining a checking account, and earning a general education diploma.

21. The Ministry’s program is designed to last approximately six months, although the exact amount of time a resident stays in the program is determined on an individual basis. The Ministry assists residents with finding more permanent house when they leave The Father’s House.

22. On or about June 1, 2022, The Father’s House began operating its ministry. It is a certified recovery organization with the Tennessee Department of Mental Health and Substance Abuse Services. A true and correct copy of The Father’s House’s certificate as a recovery organization is attached hereto as Exhibit C.

23. The Father’s House currently houses one resident at the Property.

FACTS REGARDING THE CONDUCT OF DEFENDANT

24. The allegations of all proceeding paragraphs are incorporated herein by reference.

25. In 2013, Mr. Glen Cooper, acting as an agent of Living Water, entered into an agreement with Tri-County to furnish electricity to Living Water at the Property. Pursuant to the

¹ A true and correct copy of a Manual for The Father’s House is attached hereto as Exhibit B.

agreement, Living Water became a customer of Tri-County and a user of electricity supplied by Tri-County. At all times relevant to this suit, Mr. Cooper served as a deacon to Living Water.

26. As a pre-existing member with Tri-County, Mr. Cooper was able to open an account on behalf of Living Water for significantly less money than if the church had opened the account under a different name.

27. At all times relevant to this suit, Tri-County was aware that Living Water's account in Mr. Cooper's name was for furnishing electricity to a church, as indicated in its billing statements. A true and correct copy of an electric bill from Tri-County for electrical services to the Property is attached hereto as Exhibit D.

28. Since opening its account with Tri-County in 2013, Living Water has duly paid all proper bills rendered by defendant for the supply of such electricity by automatic debit through Living Water's bank account. A true and correct copy of an excerpt from Living Water's bank statement for a checking account with South Central Bank reflecting a withdrawal of \$347.97 by Tri-County on March 27, 2023 is attached as Exhibit E.

29. On or about April 21, 2023, Tri-County, through its agents and employees and without notice or justifiable or legal cause, cut off the supply of electricity that had been furnished to the Property.

30. When Living Water inquired about the reason for the power shut off on April 24, 2023, Tri-County claimed the shut off was the result of a failed electrical inspection by the Tennessee Department of Insurance and Commerce ("TDIC").

31. The electrical inspection at issue occurred as part of a fire safety inspection conducted by TDIC on March 14, 2023.

32. In the days or weeks after the inspection, Neal Fisher, an inspector with TDIC, emailed a copy of an electrical inspection report dated March 16, 2023 to Tri-County indicating that Living Water had failed an electrical inspection.

33. Plaintiffs were unaware of the existence of this report until Tri-County presented it to them after shutting off electricity to the Property.

34. Nothing in the report indicated the existence of hazardous conditions requiring the termination of electrical services, nor did TDIC ever request that Tri-County to shut off power to the Property. Indeed, TDIC explicitly approved Living Water's and the Ministry's continued operations while the parties negotiated a plan of remediation of any alleged code violations.²

35. Thus, Tri-County's termination of electricity to the Property was done without TDIC knowledge or acquiescence.

36. Since Tri-County's unlawful shut-off of electricity to the property, Plaintiffs have explained that the basis for Tri-County's termination was mistaken and made numerous requests for their power to be restored. However, Tri-County has refused to do so. Tri-County has maintained its refusal even after TDIC informed Tri-County of its approval of Living Water's and the Ministry's continued operations.

37. Instead of restoring power, Tri-County is insisting that Plaintiffs must either pay Tri-County a substantial deposit or obtain a letter of credit to restore power that was unlawfully shut off by Tri-County.

38. Tri-County's termination of electricity to the Property has resulted in substantial damages to Plaintiffs.

² Living Water and the Ministry dispute the existence of any code violations but are actively working with TDIC to reach an amicable solution.

39. One immediate consequence of the power shut off was that food stored in three refrigerators and two freezers spoiled.

40. Additionally, because Living Water is no longer suitable for human habitation, it has been forced to house its resident in a hotel until power is restored. However, housing the resident in this hotel is threatening the resident's sobriety because it was a site he previously frequented to engage in illicit drug use and because drug use continues to occur at the hotel. As an alternative, Living Water and the Ministry temporarily paid another member of their ministry team to house the resident for a couple of days, but they had no choice but to move the resident back to the hotel on April 26, 2023.

41. Plaintiffs have also suffered loss of the use and enjoyment of the Property for religious purposes. To date, Plaintiffs have been forced to cancel or greatly reduce the size of multiple religious gatherings. Plaintiffs were forced to cancel their weekly Sunday morning Bible study on April 23, 2023. That night, Plaintiffs were forced to significantly reduce the size of their Celebrate Recovery, a religious counseling program, meeting from being open to the public to hosting a few individuals because they only had flashlights to use in the sanctuary. On Monday, April 24, 2023, Plaintiffs were again forced to cancel a Bible study. Plaintiffs will be forced to continue canceling religious services and recovery meetings with each passing day until the power at the Property is restored. While Plaintiffs have purchased a generator and are hoping to continue holding some kind of religious services outside in the interim, any outdoor services are subject to cancellation based on weather conditions.

42. Moreover, this entire ordeal has caused immense emotional and mental anguish upon Living Water's and the Ministry's staff and resident. Pastor Dewayne Taylor has experienced extreme anxiety, nausea, and vomiting. Additionally, he has been forced to double

his blood pressure medication because of the added stress. Additionally, the Ministry's resident is facing pressure of losing the sobriety he has worked so hard to achieve by being forced back into environments riddled with drug use.

43. Tri-County's deliberate indifference to the harm caused by its unlawful termination of electricity to the Property—which was done without any notice whatsoever—has and continues to irreparably harm Plaintiffs. Immediate intervention by this Court is necessary to stop the infliction of additional harm.

COUNT I: BREACH OF CONTRACT

44. The allegations of paragraphs 1–43 are incorporated herein by reference.

45. In 2013, Living Water, acting through its agent Mr. Cooper, entered into a valid enforceable contract, supported by consideration and mutuality of obligation, with Tri-County in which Tri-County agreed to furnish electricity to Living Water at the Property.

46. Since opening the account with Tri-County in 2013, Living Water has complied with all contractual obligations imposed by the agreement with Tri-County and duly paid all proper bills rendered by Tri-County for the supply of such electricity.

47. Tri-County breached its contractual obligations by terminating its provision of electricity to the Property without notice or justifiable or legal cause.

48. As a result of Tri-County's unlawful conduct, Plaintiffs have been damaged in an amount to be proven at trial.

COUNT II: NEGLIGENCE

49. The allegations of paragraphs 1–43 are incorporated herein by reference.

50. “[E]lectric cooperatives in the state of Tennessee enjoy a monopolistic position that spawns certain rights and benefits. A concomitant of these rights and benefits is a duty to use a

corresponding degree of care to protect the public.” *Trigg v. Middle Tennessee Elec. Membership Corp.*, 533 S.W.2d 730, 734 (Tenn. Ct. App. 1975).

51. Among the duties Tri-Electric owes to the public is that electric service cannot be terminated by a utility provider except upon good cause shown and reasonable notice to its customer. *See id.* (finding that a public utility, when terminating service to a customer, must act reasonably when the discontinuance of the service might present an obvious danger of damage to the property of the customer); *see also Smith v. Tri-County Electric Membership Corp.*, 689 S.W.2d 181, 184–85 (Tenn. Ct. App. 1985) (stating that “[a]s in the case of water, electric utility service is a ‘necessity of modern life’ and the defendant is obligated to provide service to all of its members ‘alike, without discrimination, and without denial, except for good and sufficient cause’”); *Cates v. Electric Power Board of Metropolitan Government*, 655 S.W.2d 166, 170 (Tenn. Ct. App. 1983) (holding that an implied term of a contract to furnish utility service is that the service will not be suddenly terminated without reasonable notice).

52. Tri-County has and continues to breach its duties to Plaintiffs by terminating electric service to the Property without notice or justifiable or legal cause.

53. Further, Tri-County’s refusal to restore power to the Property after being informed that the basis for its initial termination was mistaken was done with utter unconcern for the safety of others. Specifically, Tri-County’s conduct shows utter unconcern for the health and safety of the resident of the Property who is in the care of The Father’s House as he seeks to achieve sobriety. As a result of Defendant’s callous conduct, this individual’s sobriety is at risk because he is being forced to reside at hotel riddled with illicit drug use.

54. Defendant’s misconduct is also being done with a reckless disregard for the rights of others that a conscious indifference to consequences is implied in law. Specifically, Tri-County

consciously disregarded its obligation to provide notice before terminating electric services. It further consciously disregarded its obligation to restore power once it was informed by both Plaintiffs and TDIC that its termination of services was erroneous. Moreover, Tri-Country has demonstrated conscious indifference to Plaintiff's right to use and enjoy their property for religious purposes, including their right to minister to those in their community seeking to escape the trappings of drug and alcohol addiction.

55. As a direct and proximate result of Tri-County's conduct, Plaintiffs have suffered and will continue to suffer irreparable harm and damages in an amount to be proven at trial.

COUNT IV: DECLARATORY JUDGMENT

56. The allegations of paragraphs 1–43 are incorporated herein by reference.

57. Courts of record in Tennessee have the power to declare rights, status, and other legal relations, pursuant to Tenn. Code Ann. § 29-14-102. A court may make a declaration which is either affirmative or negative in form and effect, and such declaration shall have the force and effect of a final judgment or decree.

58. Tri-County has a legal obligation to provide electric services to the Property; it breached those obligations by terminating electric service to the Property without notice or justifiable or legal cause.

59. Tri-County continues to breach its legal obligations to provide electric services to the Property by refusing to restore power even after being informed that the basis for its initial termination was mistaken.

59. The Court should declare that Defendants breached their legal obligations to Plaintiffs by terminating electric service to the Property without notice or justifiable or legal cause

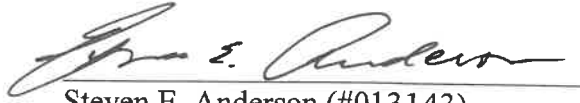
and by refusing to restore power even after being informed that the basis for its initial termination was mistaken.

REQUEST FOR RELIEF

As a result of the Defendant's conduct, Plaintiffs request that this Court:

1. Enter a temporary restraining order and preliminary injunction ordering Tri-County to restore power to the Property;
2. Enter a declaratory judgment stating Defendants breached their legal obligations to Plaintiffs by terminating electric service to the Property without notice or justifiable or legal cause and by refusing to restore power even after being informed that the basis for its initial termination was mistaken;
3. Award Plaintiff compensatory and punitive damages along with its reasonable costs and attorney's fees.

Respectfully Submitted,



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