

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 19, 2006

IN RE:

**PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. TO AMEND ITS CCN TO
ELIMINATE DUPLICATION WITH THE SERVICE
AREA REQUESTED BY KING'S CHAPEL CAPACITY**

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**DOCKET NO.
05-00204**

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Ron Jones, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on September 7, 2005 to consider the *Petition of On-Site Systems, Inc. to Amend its Certificate of Convenience and Necessity* ("*Petition of On-Site Systems*") filed by Tennessee Wastewater Systems, Inc.¹ ("TWS" or the "Company") requesting an amendment to the Company's certificate of public convenience and necessity ("CCN").

On April 6, 1994, TWS received a CCN in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee.

On August 6, 1997, TWS filed the *Petition of On-Site Systems, Inc. to Amend its Certificate of Convenience and Necessity* ("*Petition to Amend*") with the Authority requesting that its CCN be amended to include part of the Milcrofton Utility District.² The *Petition to Amend* was unanimously

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by an order issued February 19, 2004 in Docket No. 03-00518.

² See *In re Petition of On-Site Systems, Inc. to Amend its Certificate of Convenience and Necessity*, Docket No. 97-01393, *Petition of On-Site Systems, Inc. to Amend its Certificate of Convenience and Necessity* (August 6, 1997).

approved on September 23, 1997, and an order was issued on March 31, 1998 evidencing such approval

On October 5, 2004, King's Chapel Capacity, LLC ("King's Chapel") filed a *Petition*³ requesting a CCN to provide wastewater service to the Ashby Communities Development in Williamson County, Tennessee. The Authority assigned Docket No. 04-00335 to the Petition. The Ashby Communities Development is within the portion⁴ of the Milcrofton Utility District that is included in the CCN previously granted to TWS in Docket No. 97-01393 to provide wastewater service⁵

On October 11, 2004, TWS filed the *Petition to Intervene of Tennessee Wastewater Systems, Inc*⁶ ("*Petition to Intervene*") requesting that TWS be allowed to intervene in Docket No. 04-00335. In its *Petition to Intervene*, TWS represented that since TWS already possesses a CCN to serve the area, the conflicting request for a CCN filed by King's Chapel must be denied. On November 22, 2004, the panel voted unanimously to grant TWS's *Petition to Intervene*, to appoint a Hearing Officer to hear preliminary matters prior to the Hearing and to set a procedural schedule to completion.⁷

On July 25, 2005, TWS filed a *Notice of Settlement and Withdrawal of Objections*⁸ informing the Authority that the parties had reached a settlement and withdrawing its objection and opposition to the *Petition* filed by King's Chapel, which requested a CCN to provide service to the Ashby Communities Development.

³ See *In re Petition of King's Chapel Capacity, LLC for a Certificate of Convenience and Necessity to Serve an Area in Williamson County, Tennessee Known as Ashby Community*, Docket No. 04-00335, *Petition* (October 5, 2004).

⁴ In response to a Data Request issued by the Authority on August 4, 2005, TWS informed the Authority of the exact portion of the Milcrofton Utility District it sought to eliminate from the Company's service territory

⁵ See *In re Petition of On-Site Systems, Inc. to Amend its Certificate of Convenience and Necessity*, Docket No. 97-01393, *Order Approving Petition of On-Site Systems, Inc. to Amend its Certificate of Convenience and Necessity for Expansion of Service Area* (March 31, 1998)

⁶ See *In re Petition of King's Chapel Capacity, LLC for a Certificate of Convenience and Necessity to Serve an Area in Williamson County, Tennessee Known as Ashby Community*, Docket No. 04-00335, *Petition to Intervene of Tennessee Wastewater Systems, Inc* (October 11, 2004)


⁷ Transcript of Authority Conference, p. 27 (November 22, 2004).

⁸ See *In re Petition of King's Chapel Capacity, LLC for a Certificate of Convenience and Necessity to Serve an Area in Williamson County, Tennessee Known as Ashby Community*, Docket No. 04-00335, *Notice of Settlement and Withdrawal of Objections* (July 25, 2005)

Pursuant to the settlement agreement, TWS filed the *Petition of On-Site Systems* on July 25, 2005 requesting an amendment to the CCN it received from the Authority in Docket No. 97-01393 in order to eliminate duplication of the service area requested by King's Chapel in Docket No. 04-00335.⁹ In a Data Response, TWS clarified that it seeks to be withdrawn from the subdivisions that occupy parcels 22, 40, 43.01 and 43 as shown on Williamson County Map 109.¹⁰ TWS also stated that it does not serve any customers in the areas that it seeks to withdraw from its CCN.¹¹

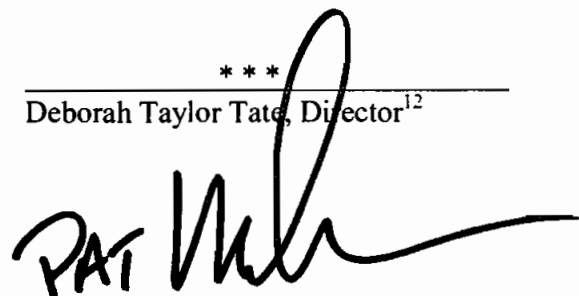
During the Hearing held on September 7, 2005, the panel considered the *Petition of On-Site Systems*. The panel found that this is a voluntary withdrawal of a portion of TWS's CCN and that TWS is not providing service to customers in the subject area and voted unanimously to grant the *Petition of On-Site Systems* and amend the Company's CCN by withdrawing the subdivisions shown on Williamson County Map 109 that are made up of the following parcels: 22, 40, 43 01 and 43.

IT IS SO ORDERED.



Ron Jones, Chairman

Deborah Taylor Tate, Director¹²



Pat Miller, Director

⁹ TWS sent a letter, along with a copy of the *Settlement Agreement*, to the Tennessee Department of Environment and Conservation requesting that TWS's State Operating Permit be transferred to King's Chapel. The letter sent to the Tennessee Department of Environment and Conservation also included a signed acceptance from King's Chapel of the transfer of the State Operating Permit.

¹⁰ Data Response, p. 1 (August 24, 2005).

¹¹ *Id.*

¹² Director Tate voted in agreement with the other directors but resigned her position as director before the issuance of this order.