

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	January 6, 2006	)	
		)	
PETITION FOR APPROVAL OF TENNESSEE		)	DOCKET NO.
WASTEWATER SYSTEMS, INC, TO EXPAND		)	05-00241
ITS SERVICE AREA TO INCLUDE A PORTION		)	
OF ROANE COUNTY, TENNESSEE, KNOWN		)	
AS BRIGADOON RESORT		)	

---

ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

---

This matter came before Director Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, as part of the Hearing Calendar heard on October 17, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the “*Petition*”) requesting that the Authority expand its service area to include a portion of Roane County, Tennessee known as Brigadoon Resort.

**Background**

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> (“TWS” or “Company”) received a Certificate of Public Convenience and Necessity (“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. The Company’s principal office is located in Nashville, Tennessee.

---

<sup>1</sup> Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA’s order of February 19, 2004, in Docket No. 03-00518.

TWS filed the *Petition* in this matter on August 24, 2005. The Authority issued a Data Request on September 23, 2005. TWS provided a response to the Data Request in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on September 26, 2005.

### **Legal Standard for Granting Certificate of Public Convenience and Necessity**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (2004), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . . .

### **The *Petition***

On August 24, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Roane County, Tennessee known as Brigadoon Resort. According to the *Petition*, the Company initially seeks to provide service to approximately 47 commercial and residential lots. Therefore, TWS filed both commercial and residential sewer rates with the *Petition*.<sup>2</sup> TWS also attached a letter from the developer expressing its desire that TWS provide service to the property. In addition, TWS attached letters from other potential wastewater service providers stating that none of the potential providers currently serves the area or intends to extend wastewater service to Brigadoon Resort.<sup>3</sup> The Company also attached a service area map showing the proposed location of Brigadoon Resort.

---

<sup>2</sup> TWS filed with the *Petition* a Tariff Sheet with commercial sewer rates and a billing summary listing the Company's residential customers and indicating that the residential rate will be \$35.11.

<sup>3</sup> See *Petition* (unnumbered attachments) (August 24, 2005): Letter from James M. Maynor, Plant Manager, Roane County Wastewater Systems (July 29, 2005); Letter from James Hines, City Recorder, City of Rockwood, to Michael Hines, Vice-President, Tennessee Wastewater Systems, Inc. (July 20, 2005).

### **The October 17, 2005 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-201(a) (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on September 27, 2005. No person sought intervention prior to or during the Hearing. During the Hearing held on October 17, 2005, Mr. Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney's Pre-Filed Testimony was entered into the record in this matter. The Pre-Filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Brigadoon Resort.<sup>4</sup> At the time of the Hearing, TWS had not yet received a final approved permit from the Tennessee Department of Environment and Conservation ("TDEC") for the system.

Based upon the evidentiary and administrative record as a whole and relying on the legal standards set forth in Tenn. Code Ann. § 65-4-201(a) (2004), the panel voted unanimously to grant approval of the *Petition* subject to receipt of a final approved permit from TDEC evidencing its approval of the Company's application to provide service to Brigadoon Resort. The panel also ordered that TWS notify the Authority in writing at the time it receives a permit from TDEC for Brigadoon Resort.

#### **IT IS THEREFORE ORDERED THAT:**

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Brigadoon Resort in Roane County, Tennessee, as shown in the map attached to the *Petition* is approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.
2. The Petitioner's rates for wastewater service shall be as listed in the Tariff and rate schedules filed with the *Petition*.

---

<sup>4</sup> Charles Pickney, Jr., Pre-Filed Testimony, p. 1 (September 26, 2005).

3. Tennessee Wastewater Systems, Inc. shall provide written notification to the Authority once it has received a final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Brigadoon Resort in Roane County, Tennessee.

\*\*\*  
Deborah Taylor Tate, Director<sup>5</sup>

  
Pat Miller, Director

  
Sara Kyle, Director

---

<sup>5</sup> Director Tate voted in agreement with the other directors but resigned her position as director before the issuance of this order.