

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

April 19, 2006

PETITION FOR APPROVAL OF TENNESSEE  
WASTEWATER SYSTEMS, INC, TO EXPAND  
ITS SERVICE AREA TO INCLUDE A PORTION  
OF ROBERTSON COUNTY, TENNESSEE, KNOWN  
AS CROSS PLAINS

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) DOCKET NO.  
) 05-00293  
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ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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This matter came before Chairman Ron Jones, 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 February 21, 2006 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 Robertson County, Tennessee known as Cross Plains.

**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. TWS filed the *Petition* in this matter, along with the Pre-filed Direct Testimony of Charles Pickney, Jr., on October 20, 2005.

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<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.

### **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) (Supp. 2005), 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 Authority promulgated wastewater rules effective December 29, 2005 through June 12, 2006. TRA Rule 1220-4-13-.04(b) sets forth certain requirements for a CCN applicant as follows:

(b) Any public wastewater utility requesting a Certificate of Public Convenience and Necessity (CCN) authorizing such public utility to construct and/or operate a wastewater system or to expand the area in which such a system is operated, shall file an application in compliance with Rule 1220-1-1-.03 and this rule. All applicants shall demonstrate to the Authority that they are registered with the Secretary of State, have obtained the financial security required under 1220-4-13-.07, and possess sufficient managerial, financial, and technical abilities to provide the wastewater services for which they have applied. Each application shall justify existing public need and include the required financial security consistent with Tenn. Code Ann. § 65-4-201 and these rules.

### **The Petition**

On October 20, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Robertson County, Tennessee known as Cross Plains. The Company seeks to provide service to approximately 50 commercial and 150 residential customers.

Therefore, TWS filed both commercial and residential sewer rates with the *Petition*.<sup>2</sup> TWS also attached a letter from the developer, B & P Investments, expressing its desire that TWS provide service to the subdivision. 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 Cross Plains.<sup>3</sup> The Company also attached a map showing the location of the Cross Plains service area.

### **The February 21, 2006 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-201(a) (Supp. 2005), public notice of the Hearing in this matter was issued by the Hearing Officer on February 2, 2006. No person sought intervention prior to or during the Hearing. During the Hearing held on February 21, 2006, Mr. Charles Pickney, Jr., 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 Cross Plains.<sup>4</sup> Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority.

The panel found that TWS had met the requirements of TRA Rule 1220-4-13-.04(b), except that the Company has until March 13, 2006 to file the financial security required by TRA Rule 1220-4-13-.07. The panel also found that the rates filed by TWS were identical to those rates previously filed by the Company.

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<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 monthly residential rate will be \$35.11.

<sup>3</sup> See *Petition* (unnumbered attachments) (October 20, 2005): Letter from Barry Faulkner, Mayor of the City of Cross Plains, Tennessee, to Charles Pickney (August 5, 2005); Letter from Howard R. Bradley, County Executive of Robertson County, Tennessee, to Keith Townsend (September 26, 2005).


<sup>4</sup> Charles Pickney, Jr., Pre-Filed Testimony, p. 1 (October 20, 2005).

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) (Supp. 2005), the panel voted unanimously to grant approval of the *Petition*, conditioned upon the filing by TWS of the financial security required by TRA Rule 1220-4-13-.07 by March 13, 2006. Further, the panel unanimously approved the rates filed by the Company.

**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 Cross Plains in Robertson County, Tennessee, as shown in the map attached to the *Petition*, is approved subject to the Company filing the financial security required by TRA Rule 1220-4-13-.07 by March 13, 2006.

2. The Petitioner's rates for wastewater service shall be as listed in the Tariff and rate schedules filed with the *Petition*.

  
Ron Jones, Chairman

  
Pat Miller, Director

  
Sara Kyle, Director