

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

May 19, 2006

PETITION FOR APPROVAL OF TENNESSEE
WASTEWATER SYSTEMS, INC, TO EXPAND
ITS SERVICE AREA TO INCLUDE A PORTION
OF JEFFERSON COUNTY, TENNESSEE, KNOWN
AS KEENE'S ISLAND

DOCKET NO.
06-00021

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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 April 17, 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 Jefferson County, Tennessee known as Keene's Island.

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ ("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 January 25, 2006.

¹ 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 January 25, 2006, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Jefferson County, Tennessee known as Keene's Island. The approximate acreage is 1.5. According to the *Petition*, the Company seeks to provide service to six

condominiums (2 residential and 4 commercial). TWS filed both commercial and residential sewer rates with the *Petition*.² TWS also attached a letter from the developer, L. Douglas Keene, Jr., expressing his desire that TWS provide service to the parcel. 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 Keene's Island.³ The Company also attached a service area map showing the location of Keene's Island.

The April 17, 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 April 6, 2006. No person sought intervention prior to or during the Hearing. During the Hearing held on April 17, 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 Keene's Island.⁴ 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 Tenn. Code Ann. § 65-4-201(a) (Supp. 2005) and TRA Rule 1220-4-13-.04(b). The panel also found that the rates filed by TWS were identical to those rates previously filed by the Company.

² 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.

³ See *Petition* (unnumbered attachments) (January 25, 2006): Letter from Gary W. Holiway, County Mayor of Jefferson County, Tennessee, to Michael Hines (December 6, 2005); Letter from George Gantte, Mayor of the Town of Dandridge, Tennessee, to Michael Hines (November 14, 2005); Letter from Mike Jones, Manager of Shady Grove Utility District, to Michael Hines (November 9, 2005).

⁴ Charles Pickney, Jr., Pre-Filed Testimony, p. 1 (January 25, 2006).

Based upon the evidentiary and administrative record as a whole and relying on the standards set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2005) and TRA Rule 1220-4-13-.04(b), the panel voted unanimously to grant approval of the *Petition*. 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 Keene's Island in Jefferson County, Tennessee, as shown in the map attached to the *Petition*, is approved.
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