

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 1, 2007

IN RE:

PETITION FOR APPROVAL OF TENNESSEE
WASTEWATER SYSTEMS, INC. TO EXPAND
ITS SERVICE AREA TO INCLUDE A PORTION
OF HUMPHREYS COUNTY, TENNESSEE,
KNOWN AS RICHLAND

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DOCKET NO.
06-00179

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Director Eddie Roberson, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a Hearing held on August 7, 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 the service area of Tennessee Wastewater Systems, Inc. to include a portion of Humphreys County, Tennessee known as Richland.

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

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.

Company's principal office is located in Nashville, Tennessee. TWS filed the *Petition* in the instant matter, along with the Pre-filed Direct Testimony of Charles Pickney, Jr., on July 7, 2006.

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 public necessity rules for wastewater, effective December 29, 2005 through June 12, 2006. The permanent TRA Rule 1220-4-13-.04(b) became effective on 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 July 7, 2006, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Humphreys County, Tennessee known as Richland. The area to be served consists of approximately two hundred twenty (220) acres. According to its *Petition*, the Company seeks to provide wastewater service to approximately 150 residential lots, requiring an estimated 45,000 gallons per day. In support of its *Petition*, TWS filed a schedule of residential sewer rates,² and attached a letter from the developer, Mark Sears of McKeough Land Company, Inc., expressing his desire that TWS provide service to the parcel. In addition, TWS attached letters from other potential wastewater service providers confirming that none of the potential providers currently serves the area or intends to extend wastewater service to Richland.³ The Company also attached a service area map showing the location of Richland, which was marked Exhibit “A.” Further, the *Petition* states that a Tennessee Department of Environment and Conservation (TDEC) permit is being prepared by TWS.⁴

The August 7, 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 July 27, 2006. No person sought intervention prior to or during the Hearing. During the Hearing, held on August 7, 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, which was entered into the record, states that the Company has the managerial, technical and financial ability to provide wastewater services

² TWS filed with the *Petition* a Tariff Sheet with residential sewer rates, a billing summary listing the Company’s residential customers, which indicated that the monthly residential rate will be \$35.11.

³ See *Petition* (unnumbered attachments) (July 7, 2006): Letter from David Vaughn, Mayor, City of Waverly, Tennessee (June 13, 2006); Letter from Jaycee Rawlings, County Executive, Humphreys County, Tennessee, (June 15, 2006).

⁴ Pursuant to TRA Rule 1220-4-13-.04(c), “Before initiation of service, the public wastewater utility shall file with the authority the TDEC approval of the design and permit for the wastewater system.”

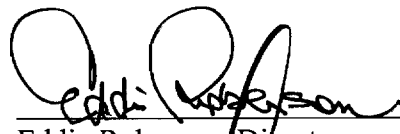
to Richland.⁵ Additionally, the panel took administrative notice of TWS's 2005 annual report filed with the Authority.

The panel found that TWS has 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 are identical to those rates previously filed by the Company.

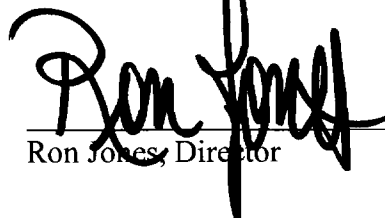
Based upon the evidentiary and administrative record as a whole and relying on the standards set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2005) and TRA Rule 1220-4-13-.04(b), the panel voted unanimously to grant approval of the *Petition*. Further, the panel unanimously approved the rates filed 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 Richland in Humphreys County, Tennessee, as shown in the map marked Exhibit "A" attached to the *Petition*, is approved.
2. The rates of Tennessee Wastewater Systems, Inc. for wastewater service shall be as listed in the Tariff and rate schedules filed with the *Petition*.


Eddie Roberson, Director


Pat Miller, Director


Ron Jones, Director

⁵ Charles Pickney, Jr., Pre-Filed Testimony, p. 1-2 (July 7, 2006).