

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 5, 2007

IN RE:

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

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DOCKET NO.  
06-00204

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ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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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 September 25, 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 Blount County, Tennessee known as Sharondel Estates.

**Background**

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> ("TWS" or the "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

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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.

Company's principal office is located in Nashville, Tennessee. On August 9, 2006, TWS filed the *Petition* in this matter, along with the Pre-filed Direct Testimony of Charles Pickney, Jr. On August 31, 2006, TWS filed a data response stating that TWS has not been the subject of any written complaints within the past twelve (12) months.

**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 permanent rules for public wastewater utilities which 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 August 9, 2006, TWS filed its *Petition* requesting that its service area be expanded to include a portion of Blount County, Tennessee, known as Sharondel Estates, which is located off Morgantown Road in Blount County. TWS is proposing to provide wastewater service to approximately 60 residential and commercial lots on 50 acres of land requiring an estimated fifteen thousand (15,000) gallons per day. TWS states that no contracts have been signed at this point; however, it is the intent of the parties that TWS will own the collection, treatment, and dispersal system and a permanent easement to the property occupied by the system. The estimated contributed capital from the developer is two hundred thousand dollars (\$200,000); therefore, limited funding is needed from TWS to construct the initial wastewater systems. TWS is responsible for any future additions to its infrastructure. TWS provided its 2005 annual report as evidence of its financial condition. In its *Petition*, TWS proposes to charge rates identical to those previously approved by the Authority in other areas and states that no municipal utility, utility district, private wastewater service or entity in this area is seeking to serve this area. In support of its *Petition*, TWS attached several letters including a letter from the Blount County Mayor stating that Blount County has no plans to provide sewer service to the proposed Sharondel Estates property within the next twelve (12) months, a letter from the Director of Water Quality Control for the City of Maryville stating that the city had no plans to extend sewer service to the area around the Sharondel Estates within the next twelve (12) months, a letter from the District Manager for South Blount County Utility District stating that they do not provide sewer service, and a letter of intent from the developer, Ivens Realtors, requesting TWS to

provide service to Sharondel Estates<sup>2</sup> thereby demonstrating a public need for wastewater service in the requested area. TWS also filed a service area map showing the location of Sharondel Estates with its *Petition*. TWS states that an application for a Tennessee Department of Environment and Conservation (TDEC) permit is being prepared.<sup>3</sup> TWS further states that after receiving all required approvals, the system should be completed within approximately sixty (60) days.

### **The September 25, 2006 Hearing**

Public notice of the Hearing in this matter was issued by the Hearing Officer on September 8, 2006 pursuant to Tenn. Code Ann. § 65-4-201(a) (Supp. 2005). No person sought intervention prior to or during the Hearing, which was held on September 25, 2006. Mr. Charles Pickney, Jr., President of TWS, participated in the hearing, 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 to Sharondel Estates.<sup>4</sup> Additionally, the panel took administrative notice of TWS's 2005 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.

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-

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<sup>2</sup> See *Petition* (unnumbered attachments) (August 8, 2006): Letter from Dr. Robert L. Ramsey, Acting Blount County Mayor, Blount County, Tennessee (June 13, 2006); Letter from Jeffrey A. Rose, P.E., Director of Water Quality Control for the City of Maryville (July 18, 2006); Letter from Henry Durant, District Manager of the South Blount County Utility District (June 9, 2006); and Letter from Ronnie Ratledge, Owner of Ivens Realtors.

<sup>3</sup> 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."


<sup>4</sup> Charles Pickney, Jr., Pre-Filed Testimony (August 9, 2006).

.04(b), the panel voted unanimously to grant approval of the *Petition*. Further, the panel unanimously approved the rates filed by the Company.

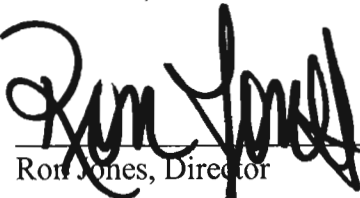
**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Sharondel Estates in Blount 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 Revised Tariff and rate schedules filed with the Authority on August 9, 2006.

  
Eddie Roberson, Director

  
Pat Miller, Director

  
Ron Jones, Director