

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 4, 2007

IN RE:

PETITION OF TENNESSEE WASTEWATER  
SYSTEMS, INC. TO RECLASSIFY SPECIFIC  
RESORT AREAS IN SEVIER COUNTY FROM  
RESIDENTIAL TO COMMERCIAL

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DOCKET NO.  
06-00259

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ORDER ESTABLISHING A PROCEDURAL SCHEDULE

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This matter came before the Hearing Officer on April 30, 2007, at which time a Status Conference was convened in this docket for the purpose of establishing a procedural schedule and discussing preliminary matters, including discovery and pre-filed testimony.

**BACKGROUND**

On October 10, 2006, Tennessee Wastewater Systems, Inc. ("TWS" or the "Company") filed its *Petition* in which the Company seeks to reclassify certain properties from a residential to a commercial classification, which would effectively result in an increase in rates for those customers who are reclassified. The *Petition* states that certain commercial resort properties "were improperly classified as residential developments."<sup>1</sup> On March 8, 2007, TWS filed several revised tariffs containing effective dates of May 1, 2007, which by Order of April 5, 2007 have been suspended until July 1, 2007.

**STATUS CONFERENCE**

The Status Conference was convened on April 30, 2007 at 2:10 p.m. Appearance at the Status Conference for the following parties was made by counsel:

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<sup>1</sup> *Petition*, p. 1 (October 10, 2006).

Lynn E. Hedrick, Smokey Cove Log Home and HP Development – **Jason Beddingfield, Esq.**, Garner and Conner, PLLC, 250 High Street, P.O. Box 5059, Maryville, TN 37802-5059 (telephonically).

Starr Crest Resorts II and USSERY No. 1 – **Robert G. Wheeler, Jr., Esq.**, P.O. Box 110971, Nashville, TN 37222-0971.

Tennessee Wastewater Systems, Inc. – **Henry Walker, Esq.**, Boulton, Cummings, Conners & Berry, PLC, 1600 Division Street, Suite 700, P.O. Box 340025, Nashville, TN 37203.

#### **PETITIONS TO INTERVENE**

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

Under TRA Rule 1220-1-2-.06, any party opposing a motion in a contested case must file and serve a response to the motion within seven days of service of the motion.

On April 4, 2007, a *Petition to Intervene* was filed on behalf of Lynn E. Hedrick, Smokey Cove Log Home Resort, and HP Development. On April 9, 2007, a *Petition to Intervene and to Request a Continuance* was filed on behalf of Starr Crest Resorts II, and Ussery #1. These petitions to intervene satisfied the criteria set forth in Tenn. Code Ann. § 4-5-310(a) and were not opposed by TWS. For these reasons, the Hearing Officer granted the petitions noted above at the April 30, 2007 Status Conference.

There have also been several letters from rate-payers that have been filed in this Docket; however, none of their authors made an appearance either in person or by telephone at the April 30, 2007 Status Conference. As these letters do not satisfy the criteria set forth in Tenn. Code Ann. § 4-5-310(a), and there has been no additional substantiation offered, the Hearing Officer cannot grant intervention to the authors, nor consider the authors as formal parties to this action at this time. Nevertheless, the letters are a part of the official administrative record and may be considered by the Authority during the course of this proceeding. Furthermore, all members of the public will be permitted an opportunity for public comment during the hearing, and rate-payers are not foreclosed from the opportunity to specifically petition for limited intervention. (See attached Exhibit A, Procedural Schedule concerning June 12, 2007 Status Conference).

#### **PROCEDURAL SCHEDULE**

The intent of the Status Conference was to set a procedural schedule to move this docket toward Hearing on the issues by July 9, 2007, and to provide the parties a reasonable and adequate amount of time to conduct discovery, prepare and submit pre-filed testimony and prepare for such Hearing. The Hearing Officer is appreciative of the efforts of the parties in proposing a procedural schedule that expedites the process and provides for thorough discovery and preparation.

The Procedural Schedule, attached as Exhibit A, governs discovery and the filing of testimony.<sup>2</sup> As with any schedule, the effectiveness of this Procedural Schedule is directly dependent upon the extent of cooperation or delay on the part of the parties in meeting the individual benchmark dates.

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

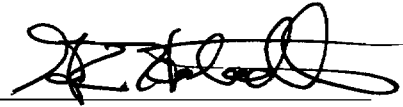
1. Lynn E. Hedrick, Smokey Cover Log Home Resort, and HP Development is hereby granted leave to intervene and receive copies of any notices, orders or other documents filed herein.

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<sup>2</sup> All parties are reminded to timely file one copy of all discovery requests and responses, as well as all pre-filed testimony, with the Authority's Docket Room.

2. Starr Crest Resorts II and Ussery #1 is hereby granted leave to intervene and receive copies of any notices, orders or other documents filed herein.

3. The Procedural Schedule, attached as Exhibit A, is hereby adopted and is in full force and effect.

A handwritten signature in black ink, appearing to read "Gary Hotvedt", written over a horizontal line.

Gary Hotvedt, Hearing Officer

**PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC.  
TO RECLASSIFY SPECIFIC RESORT AREAS IN SEVIER COUNTY FROM  
RESIDENTIAL TO COMMERCIAL  
TRA DOCKET NO. 06-00259**

**PROCEDURAL SCHEDULE**

<b>May 7, 2007</b>	<b>Petitioner's Discovery Requests Due</b>
<b>May 14, 2007</b>	<b>Intervenor's Discovery Requests Due</b>
<b>May 21, 2007</b>	<b>Intervenor's Discovery Responses Due</b>
<b>May 29, 2007</b>	<b>Petitioner's Discovery Responses Due</b>
<b>June 12, 2007</b>	<b>Telephonic Status Conference – 11 a.m.</b> All parties and any other interested persons should telephone (615) 532-7746 at 10:50 a.m., Tuesday, June 12, 2007, to discuss any remaining issues concerning discovery, pre-filed testimony, and pre-hearing briefs.
<b>June 12, 2007</b>	<b>Intervenor's Pre-Filed Direct Testimony Due</b>
<b>June 26, 2007</b>	<b>Petitioner's Pre-Filed Rebuttal Testimony Due</b>
<b>July 2, 2007</b>	<b>Telephonic Pre-Hearing Conference – 2 p.m.</b>
<b>July 9, 2007</b>	<b>Hearing on the Merits – beginning at 2 p.m. on July 9, 2007 and continuing July 10, 2007 (as required)</b>

**EXHIBIT A**