

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 24, 2007

IN RE:

PETITION OF TENNESSEE WASTEWATER SYSTEMS,  
INC. TO AMEND ITS CCN TO EXPAND ITS SERVICE  
AREA TO INCLUDE A PORTION OF RHEA COUNTY IN  
TENNESSEE, KNOWN AS PINEY BAY

)  
)  
)  
)  
)  
)

DOCKET NO.  
06-00275

---

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 January 8, 2007 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the “*Petition*”) requesting that the Authority approve expansion of its service area to include a portion of Rhea County, Tennessee, known as Piney Bay.

**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

---

<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 November 9, 2006, TWS filed the *Petition* in the present matter, along with the Pre-filed Direct Testimony of Matt Pickney.

**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, that 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 November 9, 2006, TWS filed its *Petition* requesting that its service area be expanded to include a portion of Rhea County, Tennessee, known as Piney Bay, parcels 55, 55.01, and 59.01 of tax map 32, which is approximately ten acres on Piney Road in Rhea County. TWS is proposing to provide wastewater service to approximately seven residential lots and seven commercial lots requiring an estimated 4,000 gallons per day. The Company will serve Piney Bay by an effluent collection system, fixed film treatment and subsurface drip dispersal system.

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 \$90,000; therefore, limited funding is needed from TWS to construct the initial wastewater systems. TWS is responsible for any future additions to its infrastructure and proposes to charge rates identical to those previously approved by the Authority in other areas currently served by TWS, and further states that no municipal utility, utility district, private wastewater service or entity currently serves or is seeking to serve this area.

In support of its *Petition*, TWS provided letters from the Mayor of the Town of Spring City, the Rhea County Government and the President of the North Utility District of Rhea County stating that they do not intend to provide sewer service to the proposed Piney Bay property within the next twelve months. Finally, TWS provided a letter from TCB Properties, GP, the developer of Piney Bay, requesting that TWS provides service to Piney Bay, thereby demonstrating a public need for wastewater service in the requested area. The Company filed a service area map showing the location of Piney Bay, which is marked Exhibit "A" to its *Petition*.

TWS states that an application for a Tennessee Department of Environment and Conservation (TDEC) permit is being prepared.<sup>2</sup> TWS further states that after receiving all required approvals, the system should be completed within approximately 60 days.

### **The January 8, 2007 Hearing**

Public notice of the Hearing in this matter was issued by the Hearing Officer on December 28, 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 January 8, 2006. Mr. Matt Pickney, Operations Manager 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 without objection, states that the Company has the managerial, technical and financial ability to provide wastewater services to Piney Bay.<sup>3</sup> Additionally, the panel took administrative notice of TWS's 2005 annual report on file 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-.04(b), the panel voted unanimously to grant approval of the *Petition*. Further, the panel unanimously approved the rates filed by the Company.

---

<sup>2</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."

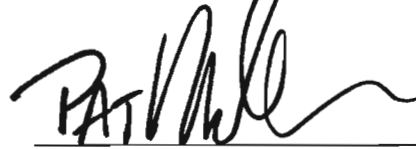
<sup>3</sup> Matt Pickney, Pre-Filed Testimony (November 9, 2006).

**IT IS THEREFORE ORDERED THAT:**

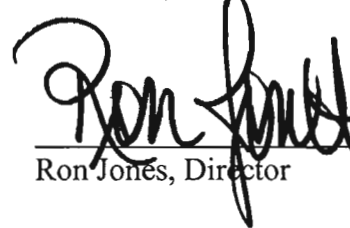
1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Piney Bay in Rhea County, Tennessee, as shown in the map marked Exhibit "A" attached to the *Petition*, is approved.
2. The Petitioner's rates for wastewater service shall be as listed in the Tariff and rate schedules filed in this docket on November 9, 2006.



Eddie Roberson, Director



Pat Miller, Director



Ron Jones, Director