

<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. 2006), 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. . . .

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 Sevier County, Tennessee, known as Mountain Folks Community which is approximately eighty (80) acres located on Mountain Folk Way in Sevier County. TWS is proposing to provide wastewater service to approximately 6 residential lots and 6 commercial lots requiring an estimated 10,000 gallons per day when fully built. The Company will serve Mountain Folks Community 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 \$160,000; therefore, limited funding is needed from TWS to construct the initial wastewater system. TWS is responsible for any future additions to its infrastructure and provided its 2005 annual report as evidence of its financial condition. TWS proposes to charge rates identical to those previously approved by the Authority in other areas currently served by TWS and 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 Sevier County Mayor and the Pigeon Forge City Manager stating that they do not intend to provide sewer service to the proposed Mountain Folks Community within the next twelve months. In response to a data request issued by the Authority, the Secretary-Treasurer of East Sevier County Utility District filed a letter dated January 20, 2007, stating that the Utility District does not wish to provide services to Mountain Folks Community. Finally, TWS provided a letter from Richard J. Balk General Contractor, the developer of Mountain Folks Community, requesting that TWS provides service to Mountain Folks Community, thereby demonstrating a public need for wastewater

service in the requested area. The Company filed a service area map showing the location of Mountain Folks Community with its *Petition*, and filed an amended map on December 18, 2006. TWS states that an application for a Tennessee Department of Environment and Conservation (TDEC) permit is pending approval.<sup>2</sup> TWS further states that after receiving all required approvals, the system should be completed within approximately 60 days.

### **The February 5, 2007 Hearing**

Public notice of the Hearing in this matter was issued by the Hearing Officer on January 25, 2007 pursuant to Tenn. Code Ann. § 65-4-201(a) (Supp. 2006). No person sought intervention prior to or during the Hearing, which was held on February 5, 2007. 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, states that the Company has the managerial, technical and financial ability to provide wastewater services to Mountain Folks Community.<sup>3</sup> Additionally, the panel took administrative notice of TWS' 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. 2006) 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. 2006) and TRA Rule 1220-4-13-.04(b), the panel voted unanimously to grant approval of the *Petition*, which includes the rates filed by the Company.

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<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."

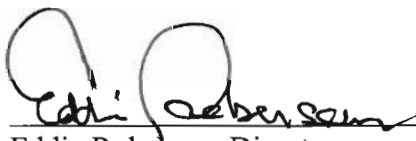
<sup>3</sup> Matt Pickney, Pre-Filed Testimony (November 9, 2006).


**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 Mountain Folks Community in Sevier County, Tennessee, as shown in the replacement map filed on December 18, 2006, is approved, contingent on approval of its Tennessee Department of Environment and Conservation permit.

2. The Petitioner's rates for wastewater service shall be as listed in the Tariff and rate schedules filed with the Authority on November 9, 2006.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Ron Jones, Director