

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2007

IN RE:)	
)	
PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC.)	DOCKET NO.
TO AMEND ITS CCN TO EXPAND ITS SERVICE AREA TO)	06-00277
INCLUDE A PORTION OF CAMPBELL COUNTY IN)	
TENNESSEE, KNOWN AS VILLAGES AT NORRIS LAKE)	

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Pat Miller 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 Campbell County, Tennessee, known as Villages at Norris Lake.

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ (“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 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.

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.

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 June 12, 2006. TRA Rule 1220-4-13-.04(b) sets forth certain requirements for a wastewater 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 Campbell County, Tennessee, known as Villages at Norris Lake, which is approximately 650 acres located on Rainbow View Road in Campbell County. TWS is proposing to provide wastewater service to approximately 540 residential lots and 60 commercial lots requiring an

estimated 180,000 gallons per day, at full capacity. The Company will serve Villages at Norris Lake by a recirculating sand filter 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 \$3,000,000; therefore, limited funding is needed from TWS to construct the initial wastewater systems. TWS is responsible for any future additions to its infrastructure. TWS 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 Mayor of the City of LaFollette and the Mayor of Campbell County stating that they do not intend to provide sewer service to the proposed Villages at Norris Lake property within the next twelve months. Finally, TWS provided a letter from Land Resource Companies, the developer of Villages at Norris Lake, requesting that TWS provides service to Villages at Norris Lake, thereby demonstrating a public need for wastewater service in the requested area. The Company filed a service area map showing the location of Villages at Norris Lake, with its *Petition*. TWS states that an application for a Tennessee Department of Environment and Conservation (TDEC) permit is being prepared.² 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

² 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."

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 Villages at Norris Lake.³ 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). 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*.

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 Villages at Norris Lake in Campbell 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 Tariff and rate schedules filed in this docket on November 9, 2006.


Sara Kyle, Chairman


Eddie Roberson, Director


Pat Miller, Director

³ Matt Pickney, Pre-Filed Testimony (November 9, 2006).