

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 5, 2007

IN RE:

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

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DOCKET NO.
07-00024

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 the Hearing held on March 12, 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 Blue Sky Bay.

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

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.

principal office is located in Nashville, Tennessee. On January 16, 2007, 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 January 16, 2007, TWS filed its *Petition*² requesting that its service area be expanded to include a portion of Rhea County, Tennessee, known as Blue Sky Bay which is approximately 164 acres located off New Bethel Road in Rhea County. TWS is proposing to provide wastewater service

² On February 6, 2007, TWS filed a corrected page to its pre-filed testimony.

to approximately 100 residential and commercial lots initially requiring 30,000 gallons per day. The Company will serve Blue Sky Bay by a watertight effluent collection, fixed film treatment, and subsurface drip dispersal system to serve the 100 lots in Blue Sky Bay. TWS will own and operate the collection, treatment, and dispersal system and will have a permanent easement on the property that the system occupies. The estimated contributed capital from the developer is \$350,000; therefore, limited funding is needed from TWS to construct the initial wastewater system. TWS is responsible for any future additions to its infrastructure and shows its 2005 Annual Report, on file with the Authority, 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 or private wastewater system currently serves or is seeking to serve this area.

In support of its *Petition*, TWS provided letters from the Mayor of the City of Dayton and the Rhea County Executive stating that they do not intend to provide sewer service to the proposed Blue Sky Bay. Finally, TWS provided a letter from David Petersen of Colten Development Company, LLC, the developer of Blue Sky Bay, requesting that TWS provide service to Blue Sky Bay, thereby demonstrating a public need for wastewater service in the requested area. The Company filed a service area map showing the location of Blue Sky Bay with its *Petition* and states that an application for a Tennessee Department of Environment and Conservation ("TDEC") permit is pending approval. TWS further states that after receiving all required approvals, the system should be completed within approximately sixty days.

The March 12, 2007 Hearing

Public notice of the Hearing in this matter was issued by the Hearing Officer on February 28, 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 March 12, 2007. Mr. Charles Pickney, President of TWS, participated in the hearing, presented testimony and was subject to examination by the panel.

Mr. Matt 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 Blue Sky Bay.

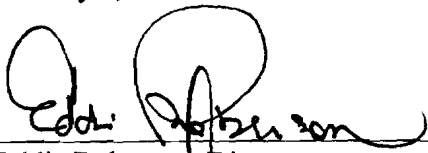
The panel found that TWS had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2006) and TRA Rule 1220-4-13-.04(b), and has sufficient financial, managerial and technical expertise to operate the requested wastewater system. Additionally, the panel took administrative notice of TWS's 2005 annual report filed with the Authority.

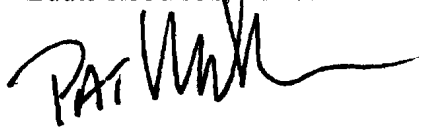
Based upon the evidentiary and administrative record as a whole and relying on the standards set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2006) and TRA Rule 1220-4-13-.04(b), the panel voted unanimously to grant approval of the *Petition*, including the rates filed by the Company.

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 Blue Sky Bay in Rhea County, Tennessee, as shown in the map marked Exhibit "A" attached to the *Petition*, is approved.
2. Tennessee Wastewater Systems, Inc.'s rates for wastewater service for Blue Sky Bay in Rhea County, Tennessee as filed in this docket are approved.


Sara Kyle, Chairman


Eddie Roberson, Director


Pat Miller, Director