

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 19, 2007

IN RE:

**PETITION OF CARTWRIGHT CREEK, LLC TO
AMEND ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
SERVICE TO THE STILLWATER DEVELOPMENT
IN WILLIAMSON COUNTY**

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DOCKET NO. 07-00180

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Eddie Roberson, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket (“Panel”), at a Hearing held on October 22, 2007, to consider the *Petition to Amend Cartwright Creek LLC’s Certificate of Convenience and Necessity* (the “*Petition*”) requesting that the Authority expand its service territory to include an area of Williamson County, Tennessee known as the Stillwater Development.

Background

In March 1975, the Tennessee Public Service Commission granted Cartwright Creek Utility Company, Inc. (“Cartwright Utility Co.”) the authority to provide wastewater services in Tennessee.¹ Following certification, Cartwright Utility Company began operating a wastewater treatment facility in the 7th Civil District of Williamson County, Tennessee.

¹ See *In Re: Petition to Amend Cartwright Creek’s CCN and Petition to Intervene in Tennessee Wastewater Systems, Inc.’s Petition to Amend CCN*, TRA Docket No. 04-00358, *Order Approving Petition to Amend Certificate of Public Convenience and Necessity*, p. 2, footnote 1 (July 12, 2005).

On September 22, 2004, Cartwright Creek Utility Co., together with Cartwright Creek, LLC (“Cartwright Creek” or “Cartwright”), filed a *Petition to Transfer Authority to Provide Utility Services* requesting that the TRA approve a transfer of the authority to provide wastewater utility services in Tennessee from Cartwright Utility Co. to Cartwright Creek. The TRA approved the transfer on November 8, 2004.²

On January 10, 2005, the TRA approved Cartwright Creek’s petition to amend its certificate of convenience and necessity (“CCN”) to expand its service area to include the planned growth area known as PGA 5, in Williamson County.³

The Petition

On July 31, 2007, Cartwright Creek filed its *Petition* requesting that its service area be expanded to include an area of Williamson County, Tennessee known as the Stillwater Development, as shown on the maps in Exhibit 1 of the *Petition*. Cartwright Creek is proposing to provide wastewater service to approximately 500 residences and a golf course clubhouse. Cartwright Creek supplemented its *Petition* with responses to data requests from the TRA Staff, including a revised tariff. Included within its revised tariff, Cartwright Creek notes an estimated \$8.33 pass-through amount for the cost of the Williamson County bonding requirement.

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 TRA. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code. Ann. § 65-4-201(a) (2007), which states as follows:

² *In Re: Petition for Approval to Transfer Cartwright Creek Utility Company, Inc.’s Authority to Provide Wastewater Utility Service to Cartwright Creek, LLC*, Docket No. 04-00307, *Order Approving Transfer of Authority* (December 10, 2004).

³ Docket No. 04-00358, *Order Approving Petition to Amend Certificate of Public Convenience and Necessity* (July 12, 2005).

. . .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's rules for wastewater utilities 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 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 Hearing

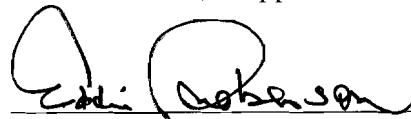
Pursuant to Tenn. Code Ann. § 65-4-201(a), the Authority issued a public *Notice of Hearing* in this matter on October 12, 2007. On October 17, 2007, Tennessee Wastewater Systems, Inc. ("TWS") filed a *Petition to Intervene* alleging that there may be some overlap between its service territory and the territory proposed to be served by Cartwright Creek. On October 19, 2007, TWS filed a *Motion to Withdraw its Petition to Intervene* stating that it had determined that there was no overlap between the service area held by TWS and the area that Cartwright Creek proposes to serve. At the hearing on October 22, 2007, the TRA granted TWS' *Motion to Withdraw its Petition to Intervene*. Representatives of Cartwright Creek

testified that there was a public need for the service, and that Cartwright Creek possesses the managerial, financial, and technical capabilities to provide the applied for wastewater services. The Company also presented an additional map, which was marked as Exhibit A, illustrating the boundaries of the proposed service area for the Stillwater Development and the boundaries of certain other existing utilities in Williamson County.

The panel found that Cartwright Creek met the requirements of Tenn. Code Ann. § 65-4-201(a) 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) and TRA Rule 1220-4-13-.04(b), the panel voted unanimously to grant approval of the *Petition*, including the tariff, subject to Cartwright Creek obtaining the required state-operating permit from the Tennessee Department of Environment and Conservation. Further, the panel ordered Cartwright Creek to refile its tariffs to reflect any difference between the estimated bonding pass-through amount and the actual amount obtained subsequent to final acquisition of the bond.

IT IS THEREFORE ORDERED THAT:

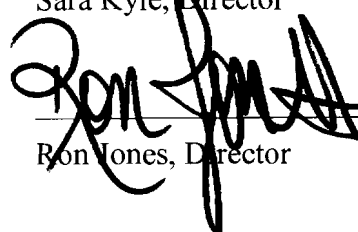
The *Petition of Cartwright Creek, LLC to Amend its Existing Certificate of Convenience and Necessity* to expand its service area to include the Stillwater Development in Williamson County, Tennessee, as shown in the maps attached to the *Petition*, is approved.



Eddie Roberson, Chairman



Sara Kyle, Director



Ron Jones, Director