

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 21, 2007

IN RE:

PETITION OF TENNESSEE WASTEWATER
TO EXPAND ITS SERVICE AREA TO INCLUDE
A PORTION OF FRANKLIN COUNTY IN
TENNESSEE, KNOWN AS SERENITY POINT

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DOCKET NO.
07-00233

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, at a Hearing held on December 3, 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 Franklin County in Tennessee, known as Serenity Point.

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 Smyrna, Tennessee. On October 5, 2007, 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. 2007), 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's permanent rules for public wastewater utilities became effective on June 12, 2006. TRA Rule 1220-4-13-.04(1)(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 October 5, 2007, TWS filed its *Petition* requesting that its service area be expanded to include a portion of Franklin County, Tennessee, known as Serenity Point. TWS is proposing to provide wastewater service to approximately one hundred residential lots. Therefore, TWS filed residential sewer rates with the *Petition*.² The Company will serve Serenity Point by an effluent collection system, fixed film treatment and subsurface drip dispersal system.

² See *Petition* (unnumbered attachments) (October 5, 2007): Section 4 – Residential Rate Sheet.

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, TWS attached a letter from Sean Miller, the developer of Serenity Point, requesting that TWS provide service to Serenity Point. In addition, TWS attached letters from other potential wastewater service providers stating that none of the potential providers currently serves the area or intends to extend wastewater service to Serenity Point.³ The Company filed a service area map showing the location of Serenity Point, which is marked *Exhibit "A"* to its *Petition*. Finally, TWS states in its *Petition* that an application for a Tennessee Department of Environment and Conservation (TDEC) permit, filed February 10, 2007, is pending approval. TWS further states that the system should be completed within approximately sixty days.

The December 3, 2007 Hearing

Public notice of the Hearing in this matter was issued by the Hearing Officer on November 13, 2007. No person sought intervention prior to or during the Hearing. During the Hearing held on December 3, 2007, Mr. Matt Pickney, Operations Manager of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney's Pre-filed Testimony was entered into the record without objection. The Pre-filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Serenity Point.⁴ Additionally, the panel took administrative notice of TWS's 2006 annual report on file with the Authority, the Secretary of State website reflecting the corporate status of TWS, and the Company's proof of financial security on file with the Authority.

The panel found that TWS had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2007) and TRA Rule 1220-4-13-.04(1)(b). The panel also found that the rates filed by TWS were identical to those rates previously approved by the Authority for other areas served 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. 2007) and TRA Rule 1220-4-13-.04(1)(b), the panel

³ See *Petition* (unnumbered attachments) (October 5, 2007): Richard Stewart, Franklin County Mayor, letter dated September 10, 2007; and John Larkin, Manager of Winchester Utilities, letter dated June 21, 2007.


⁴ Matt Pickney, Pre-Filed Testimony (March 5, 2007).

voted unanimously to grant approval of the *Petition*, including the rates filed by the Company, contingent on the company's receipt of an operating permit from TDEC.

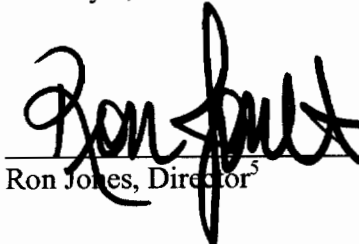
IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Serenity Point in Franklin County, Tennessee, as shown in the map marked *Exhibit "A"* attached to the *Petition*, is approved, contingent upon the company's receipt of an operating permit from TDEC.

2. The Petitioner's rates for wastewater service shall be as listed in the Tariff and rate schedules filed in this docket on October 5, 2007.


Eddie Roberson, Chairman


Sara Kyle, Director


Ron Jones, Director⁵

⁵ Director Ron Jones voted with the majority after offering the following additional findings: that service in the area identified by the petitioner is currently needed but is not being provided by any governmental or private entity or utility district; that the petitioner is registered with the Secretary of State; and that the petitioner has submitted the financial security required by Authority rules.