

BRANSTETTER, STRANCH & JENNINGS, PLLC

ATTORNEYS AT LAW

227 SECOND AVENUE NORTH

FOURTH FLOOR

NASHVILLE, TENNESSEE 37201-1631

CECIL D. BRANSTETTER, SR.  
C. DEWEY BRANSTETTER, JR.  
RANDALL C. FERGUSON  
R. JAN JENNINGS\*  
JOE P. LENISKI, JR.  
DONALD L. SCHOLES  
JAMES G. STRANCH, III  
J. GERARD STRANCH, IV  
JANE B. STRANCH

B. DENARD MICKENS  
J. D. STUART  
MICHAEL J. WALL

\*ALSO ADMITTED IN GA

2008 OCT 31 PM 3:49

T.R.A. DOCKET ROOM

TELEPHONE  
(615) 254-8801

FACSIMILE  
(615) 250-3937

October 31, 2008

*Via Hand Delivery*

Tre Hargett, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Attention: Sharla Dillon

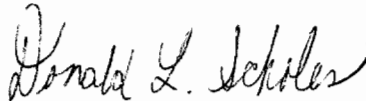
Re: Petition of Lynwood Utility Corporation for Approval of Cost Recovery  
Mechanism for Deferred Odor Elimination Costs  
Docket No. 08-00060

Dear Chairman Hargett:

I have enclosed an original and fourteen copies of the Response of Lynwood Utility Corporation to Consumer Advocate's First Discovery Request in the above-referenced docket.

I would appreciate your returning to me the extra copy stamped filed. Thank you for your assistance.

Sincerely yours,



DONALD L. SCHOLES

Enclosures

c: Ryan McGehee  
Tyler Ring  
Jim Ford

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF LYNWOOD UTILITY</b>	)	<b>DOCKET NO. 08-00060</b>
<b>CORPORATION FOR APPROVAL OF</b>	)	
<b>A COST RECOVERY MECHANISM</b>	)	
<b>FOR DEFERRED ODOR</b>	)	
<b>ELIMINATION COSTS</b>	)	

---

**RESPONSE OF LYNWOOD UTILITY CORPORATION TO CONSUMER  
ADVOCATE'S FIRST DISCOVERY REQUEST**

---

To: Lynwood Utility Corporation  
c/o Donald L. Scholes, Esq.  
Branstetter, Stranch & Jennings, PLLC  
227 Second Avenue North, Fourth Floor  
Nashville, TN 37201-1631

This Discovery Request is hereby served upon Lynwood Utility Corporation, ("Lynwood", or "Company"), pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg 1220-1-2-.11. We request that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Advocate and Protection Division, 425 Fifth Avenue North, Nashville, Tennessee 37243, c/o Ryan McGehee, on or before October 31, 2008.

## **PRELIMINARY MATTERS AND DEFINITIONS**

Each discovery request calls for all knowledge, information and material available to Company, as a party, whether it be Company's, in particular, or knowledge, information or material possessed or available to Company's attorney or other representative.

These discovery requests are to be considered continuing in nature, and are to be supplemented from time to time as information is received by Company which would make a prior response inaccurate, incomplete, or incorrect. In addition, the Attorney General requests that Company supplement responses hereto with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert at hearing, the subject matter on which the expert is expected to testify, and the substance of the expert's testimony.

These discovery requests are to be interpreted broadly to fulfill the benefit of full discovery. The singular of any discovery request includes the plural and the plural includes the singular. To assist you in providing full and complete discovery, the Attorney General provides the following definitional guidelines.

The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to include any information that might otherwise be construed outside the scope of these requests.

The term "communication" means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise.

For purposes of these discovery requests, the term "you" shall mean and include:

Lynwood Utility Corporation, Tennessee Contractors, Inc., and all employees, agents and representatives thereof.

The term “person” or “persons” as used herein refers to any natural person, corporation, firm, company, sole proprietorship, partnership, business, unincorporated association, or other entity of any sort whatsoever. Where a company or organization is the party being served, all responses must include the company’s response. Moreover, the company’s designated person for responding must assure that the company provides complete answers. *A complete answer must provide a response which includes all matters known or reasonably available to the company.*

The term “identity” and “identify” as used herein, with respect to any person, means to provide their name, date of birth, current residence address, current residence telephone number, current business address, current business telephone number, and the occupation or job title of that person; with respect to an entity, those terms mean to provide the name by which said entity is commonly known, the current address of its principal place of business, and the nature of business currently conducted by that entity; with respect to any document, those terms mean to provide the date of the document, the nature of the document, the title of the document, the reference number (if any) of the document, and the current location of the document, including the identity of the person or entity in possession of the document.

The term “document” as used herein, means any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, workpaper, spreadsheet, note, photograph,

tape recording, computer disk or record, or other data compilation in any form without limitation. Produce the original and each copy, regardless of origin or location, of any book, pamphlet, periodical, letter, note, report, memorandum (including memoranda, note or report of a meeting or conversation), spreadsheet, photograph, videotape, audio tape, computer disk, e-mail, or any other written, typed, reported, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer, in your possession, custody, or control. If any such document was, but no longer is, in your possession or control, state what disposition was made of it and when. If a document exists in different versions, including any dissimilar copies (such as a duplicate with handwritten notes on one copy), each version shall be treated as a different document and each must be identified and produced.

If you produce documents in response to these discovery requests, produce the original of each document or, in the alternative, produce a copy of each document and identify the location of the original document. If the “original” document is itself a copy, that copy should be produced as the original.

If any objections are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege asserted.

If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

If any of the interrogatories are not answered on the basis of privilege or immunity, include in your response to each such interrogatory a written statement evidencing:

- (a) the nature of the communication;

- (b) the date of the communication;
- (c) the identity of the persons present at such communication; and
- (d) a brief description of the communication sufficient to allow the Authority to rule on a motion to compel.

If, for any reason, you are unable to answer a discovery request fully, submit as much information as is available and explain why your answer is incomplete. If precise information cannot be supplied, submit 1) your best estimate, so identified, and your basis for the estimate and 2) such information available to you as comes closest to providing the information requested. If you have reason to believe that other sources of more complete and accurate information exist, identify those sources.

If any information requested is not furnished as requested, state where and how the information may be obtained or extracted, the person or persons having knowledge of the procedure and the person instructing that the information be excluded.

### **FIRST DISCOVERY REQUESTS**

1. Identify any and all expert witnesses the Company intends to call in support of the petition in this docket, and for each expert witness:

**RESPONSE:** Jim Ford, Financial Consultant. All of Mr. Ford's opinions and facts upon which his opinions are based are in his pre-field testimony.

2. Identify any and all non-expert witnesses the Company intends to call in support of the petition in this docket and any position(s) their testimony is intended to support.

**RESPONSE:** Tyler Ring. Mr. Ring's position is set forth in his pre-filed testimony.

3. Please produce copies of all documents -- including, without limitation, workpapers, spreadsheets, summaries, charts, notes, exhibits, articles, journals, treatises, periodicals, publications, reports, records, statements, Internet web pages, or financial information -- that Lynwood contends support the factual assertions, conclusions, or opinions of any Lynwood witness in this matter.

**RESPONSE:** All such documents have already been produced and provided to the Consumer Advocate.

4. Please produce copies of all hearing exhibits that you will introduce, use, or reference during the hearing for this matter.

**RESPONSE:** All such documents have already been produced and provided to the Consumer Advocate.

5. Please reference pages 4 and 5 of the Direct Testimony of Tyler Ring in responding to this request. Does Lynwood consider items such as a power generator as plant/plant addition or an expense?

**RESPONSE:** If the Company purchases a power generator and other items referenced on pages 4 and 5 of Mr. Ring's testimony to try to reduce odor in the operation of its sewer system. The Company considers these items as capital assets and plans to include the

annual depreciation expense each year for the five year life of these capital assets in the cost recovery mechanism proposed in this docket.

6. Please reference pages 4 and 5 of the Direct Testimony of Tyler Ring in responding to this request. Does Lynwood consider a power generator, a trailer generator with back up pump station, concrete slab for sludge boxes, new sludge boxes and an increased digester items suitable for recovery from the mechanism the company seeks in this docket?

**RESPONSE:** Yes.

7. Please admit or deny: It is the company's position that due to the nature and operation of a sewage treatment plant, a "certain amount of odor" will always occur.

**RESPONSE:** Yes.

8. Please reference page 4 of the Direct Testimony of Jim Ford and page 6 of the Direct Testimony of Tyler Ring in responding to this request. Furthermore, in responding to this request, assume the Tennessee Regulatory Authority approves the company's request as to continuing the mechanism for recovery of odor control expenditures after the initial six month period. At what point in time does Lynwood foresee that the need for the mechanism would cease?

**RESPONSE:** The Company will continue the mechanism for recovery of odor control expenditures for as long as the TRA continues to request the Company to reduce the odor from its sewer treatment and collection system, and the Company must continue to incur

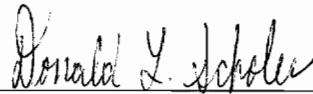


expenses and make capital purchases and improvements to try to meet these requests to reduce in odor in the operation of its sewer system.

9. Does the company consider odor control a quality of service issue? For example, does the company consider excessive odor as an element that lowers the quality of the service it provides to consumers.

**RESPONSE:** The Company is unable to answer this question as stated. The Company is unaware of any federal or state rule or standard which defines what constitutes excessive odor in the operation of its sewer treatment plant and collection system. The Company is willing to try to eliminate as much odor in the operation of its system as it can as directed by the TRA.

Respectfully submitted,



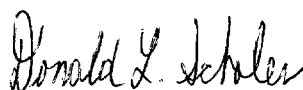
---

DONALD L. SCHOLES BPR #10102  
Branstetter, Stranch & Jennings, PLLC  
227 Second Avenue North, Fourth Floor  
Nashville, TN 37219  
615-254-8801  
Attorney for Lynwood Utility Corporation

**Certificate of Service**

I hereby certify that a true and exact copy of the foregoing Response to First Discovery Request of Consumer Advocate has been mailed, postage prepaid, on this 31<sup>st</sup> day of October, 2008, to the following:

Ryan McGehee  
Counsel for Consumer Advocate  
Office of the Tennessee Attorney General and Reporter,  
Consumer Advocate and Protection Division  
425 Fifth Avenue North  
Nashville, TN 37243



---

Donald L. Scholes