

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 26, 2008

IN RE:

PETITION OF TENNESSEE WASTEWATER  
SYSTEMS, INC. TO EXPAND ITS SERVICE AREA  
TO INCLUDE A PORTION OF MONROE COUNTY IN  
TENNESSEE KNOWN AS THE LAKESIDE MEADOWS

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DOCKET NO.  
08-00162

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ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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This matter came before Chairman Tre Hargett, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on November 10, 2008 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 Monroe County in Tennessee known as the Lakeside Meadows.

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> ("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 September 3, 2008, TWS filed the *Petition* in the present matter, along with the Pre-filed Direct Testimony of Matt Pickney. On October 7, 2008,

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<sup>1</sup> 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.

TWS filed additional pages to the *Petition* which include a copy of the current Letter of Credit as proof of the financial security required pursuant to TRA Rule 1220-4-13-.07.

**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. 2008), 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***

TWS is proposing to provide wastewater service to forty-nine residential, forty-nine overnight rental customers and two commercial customers when the project is complete.<sup>2</sup> The Company proposes a recirculating trickling filter and subsurface drip dispersal system that has a

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<sup>2</sup> *Petition*, p. 1.

projected capacity of 30,000 gallons per day.

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, TWS attached a letter from George Brown and Cecil Proffitt, Straw Hat Partnership, requesting TWS provide service to Lakeside Meadows in Monroe County.<sup>3</sup> 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 the Lakeside Meadows in Monroe County.<sup>4</sup> The Company filed a service area map showing the location of the Lakeside Meadows.<sup>5</sup> TWS further states that the system should be completed within approximately sixty days. Finally, TWS filed notice that the Tennessee Department of Environment and Conservation issued permit No. SOP-08-048 on September 30, 2008.<sup>6</sup>

#### **November 10, 2008 Hearing**

Public notice of the Hearing in this matter was issued by the Hearing Officer on October 24, 2008. No person sought intervention prior to or during the Hearing. During the Hearing held on November 10, 2008, Mr. Matt Pickney, Operations Manager of TWS, 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 the Lakeside Meadows in Monroe County.<sup>7</sup>

The panel found that TWS had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2008) 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

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<sup>3</sup>See *Petition* (unnumbered attachments) (September 3, 2008): Letter from George Brown, Partner, and Cecil Proffitt, Partner, dated March 7, 2008.

<sup>4</sup>See *Petition* (unnumbered attachments) (September 3, 2008): J. Allan Watson, Monroe County Mayor, letter dated July 31, 2008; Fred J. Tallent, Mayor, Town of Vonore, letter dated April 4, 2008; Alfred McClendon, Mayor, City of Madisonville, letter dated April 7, 2008; and Mark Clinton, Superintendent, Tellico Area Services System, letter dated July 31, 2008.

<sup>5</sup>See *Petition* (Exhibit A) (September 3, 2008): Service area map showing the Lakeside Meadows.

<sup>6</sup>Letter from Vojin Janjic, TDEC Manager, Permit Section, Division of Water Pollution Control, dated September 30, 2008.

<sup>7</sup>Matt Pickney, Pre-Filed Testimony (September 3, 2008).

Company.

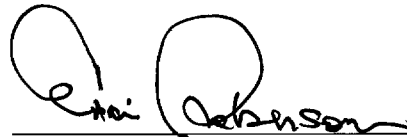
Based upon the evidentiary and administrative record as a whole and relying on the standards set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2008) and TRA Rule 1220-4-13-.04(1)(b), the panel voted unanimously to grant approval of the *Petition*, as amended including the rates filed by the Company.

**IT IS THEREFORE ORDERED THAT:**


1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity*, as amended, to expand its service area to include the Lakeside Meadows in Monroe 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 September 3, 2008.



Tre Hargett, Chairman



Eddie Roberson, Director



Mary W. Freeman, Director