

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

**IN RE:** )  
 )  
**PETITION OF TENNESSEE ) DOCKET NO. 08-00202**  
**WASTEWATER SYSTEMS, INC. FOR )**  
**APPROVAL TO AMEND ITS RATES )**  
**AND CHARGES**

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**CONSUMER ADVOCATE'S FIRST DISCOVERY REQUESTS**

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Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), hereby serves its First Discovery Requests to Tennessee Wastewater Systems, Inc. ("Tennessee Wastewater" or "Company"):

**PRELIMINARY MATTERS AND DEFINITIONS**

Each discovery request calls for all knowledge, information and material available to the Company, as a party, whether it be the Company's, in particular, or knowledge, information or material possessed or available to the 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 the Company which would make a prior response inaccurate, incomplete, or incorrect. In addition, the Attorney General requests that the 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 and instructions.

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: Tennessee Wastewater Systems, 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 these discovery requests, 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.

#### **REQUESTED INFORMATION AND DOCUMENTARY MATERIALS**

1. Provide a copy all **contracts** between Tennessee Wastewater and all affiliated companies or entities.

**RESPONSE:**

2. Provide a copy of all **contracts** between Tennessee Wastewater and all non-affiliated companies or entities.

**RESPONSE:**

3. Provide a copy of all **contracts** between all companies in the Adenus family of companies other than Tennessee Wastewater and all non-affiliated companies or entities.

**RESPONSE:**

4. Do any companies in the Adenus family of companies that construct or plan the construction of wastewater systems operated by Tennessee Wastewater construct or plan the construction of systems not operated by Tennessee Wastewater; if so provide a list of such projects for the last three years.

**RESPONSE:**

5. Provide all information establishing that transactions between Tennessee Wastewater and all affiliated companies or entities were or are at the **lower of cost or market**.

**RESPONSE:**

6. Provide copies of all tax returns, state and federal, for the past three years for Tennessee Wastewater and all affiliated companies or entities, including but not limited to the following taxes: (a.) Tennessee Gross Receipts Tax Returns; (b.)

Tennessee Franchise and Excise Tax Returns; (c.) Property tax statement Tennessee Ad Valorem Tax Report; (d.) Employer's Quarterly Federal Tax Returns (Form 941).

**RESPONSE:**

7. Provide copies of all **audits** of Tennessee Wastewater for the past three years.

**RESPONSE:**

8. Provide copies of all **audits** of all affiliated companies or entities of Tennessee Wastewater for the past three years.

**RESPONSE:**

9. Provide a copy of the **General Ledger** in electronic format for Tennessee Wastewater [for the period December 2007-December 2008].

**RESPONSE:**

10. Provide a copy of the **General Ledger** in electronic format for affiliated companies or entities of Tennessee Wastewater [for the period December 2007-December 2008].

**RESPONSE:**

11. Provide a **chart of accounts** for Tennessee Wastewater for the past three years.

**RESPONSE:**

12. Provide a **chart of accounts** for affiliated companies or entities of Tennessee Wastewater for the past three years.

**RESPONSE:**

13. Provide a copy of all **financial statements** for Tennessee Wastewater for the past three years.

**RESPONSE:**

14. Provide a copy of all **financial statements** for affiliated companies or entities of Tennessee Wastewater for the past three years.

**RESPONSE:**

15. Provide a **consolidated balance sheet**, or the information needed to prepare a consolidated balance sheet, for the Adenus family of companies set forth in Exhibit 9-A to the testimony of Charles Pickney, Jr. in this case.

**RESPONSE:**

16. Provide for the Adenus family of companies for the past three years the annual regulated and non-regulated income by company; for the non-regulated annual income for each company state why Tennessee Wastewater considers that income non-regulated.

**RESPONSE:**

17. If any officer, director or owner of any company in the Adenus family of companies has an interest in any wastewater company or company related to the wastewater business other than companies in the Adenus family of companies state the name of that company and the interest.

**RESPONSE:**

18. Provide the annual income for the past three years of each board member derived directly or indirectly from the wastewater business and state the source of that income.

**RESPONSE:**

19. Provide for the entity known as Pickney Brothers: names of members of the entity for the past three years; a description of the business of the entity for the past three years;



the relationship of the entity to the Adenus family of companies; the source of income for the entity, particularly any income from the Adenus family of companies; and the financial statements and tax returns of the entity for the past three years.

**RESPONSE:**

20. With regard to the consolidated balance sheet what elements make up “Intangibles,” which increased from 2007 to 2008, and what is the explanation for the change? Also, are ratepayers being charged for any intangibles, such as goodwill?

**RESPONSE:**

21. With regard to affiliates we need to have as complete a picture as possible, especially in light of publicly expressed concerns. Accordingly we need to know more about Adenus Solutions’ contracts and its income and expenses:
- (a) In the Turnberry Homes Design/Build contract you have provided, there is a lump sum payment of \$452,400. In order to track revenue received by the construction affiliate, Adenus Solutions, please provide a copy of every contract entered into by Adenus Solutions for the last three years and a statement of the cost of each project under contract; the purpose of the information is allow the Consumer Advocate to determine the margin of the construction affiliate Adenus Solutions on it projects. The Consumer Advocate understands that the form of the contract may be the same for the various projects but we need to know the amounts for each and want to have a contract for each increment of the construction affiliate’s, i.e., Adenus Solutions’, income; thus, the total amount from all the contracts should equal the total income set forth on the income statements of Adenus Solutions and any others involved in the contract.

- (b) The Turnberry Design/Build contract also had a related Letter of Understanding. If a Letter of Understanding exists for the other contracts please provide those as well. If there is difference between the lump sum amount in the Design/Build and the Letter of Understanding on any project please explain (in the Turnberry case, the Letter of Understanding lists \$754,000, but the Design/Build lists \$452,000; was the price reduced or did the difference go elsewhere? Please explain.).
- (c) Was a CCN obtained by Tennessee Wastewater or any affiliate for the Turnberry project? The Consumer Advocate has a list of TRA docket numbers and the corresponding projects, and we did not see a docket number for this project. Are there instances where the construction affiliate Adenus Solutions does work and someone else obtains the CCN? If so please list them.
- (i) Does any entity other than Adenus Solutions receive income from per lot “development fees”? Please provide the amount of development fees received for the past three years by project and the recipient of the income.

**RESPONSE:**

22. Please explain the relation of a company known as ECS to the Adenus family of companies and describe the nature of ECS’s business.

**RESPONSE:**

23. After a review of the income statements and the tax returns of certain members of the Adenus family of companies, it was determined that the amount of income on the tax forms did not always match the amount on the income statements. Please explain; if the explanation is that one was based on accrual accounting and the

other on cash basis accounting; please explain why the accounting is not consistent.

**RESPONSE:**

24. What is the largest area covered by a CCN for a development served by Tennessee Wastewater? Do any CCN's for Tennessee Wastewater cover an entire county? Please list all complaints received by Tennessee Wastewater regarding the size of its territory covered by a CCN.

**RESPONSE:**

25. Please provide a detailed narrative explaining the responsibility (what each company does) of each affiliate company and how that responsibility relates to the other companies of the Adenus Family.

**RESPONSE:**

26. Please provide a summary of the following allocations performed and the costs or expenses allocated and the statistical basis on which the allocation is made:

- a) Please explain the “**Adenus Group Expense Allocation Method**”: i.e., why costs are allocated to Adenus Utilities Group (16%), Adenus Technologies (30%), Adenus Solutions Group (34%), and Adenus Capacity (20%). What is the basis of that allocation, and why was it chosen rather than another basis?

What are the costs allocated and has that allocation percentage changed over the past three years?

- b) Please explain the “**Adenus Utilities Group Expense Allocation Method**”: i.e., why are costs allocated to Adenus Operations (36.22%), Georgia Wastewater (2.59%), Alabama Wastewater (15.33%) and Tennessee Wastewater (45.86%)? What is the basis of that allocation and why was that basis chosen rather than other basis? What costs are allocated?

**RESPONSE:**

27. Please provide a summary of any other allocations performed allocating costs between the affiliates, such as construction costs. If there are others, please provide the allocation methodology as detailed in the question immediately above.

**RESPONSE:**

28. Please explain the O&M and construction budget development process with respect to the affiliates for the budget year.

**RESPONSE:**

29. Please explain the difference between “regulated” and “unregulated” revenue as well as “regulated” and “unregulated” costs and how they are accounted for by the affiliates.

**RESPONSE:**

30. Please provide a summary of any and all instances where real estate developers engaged Adenus companies to design and construct wastewater systems but complained about the “turn-key” approach of Adenus’ model and then sought another construction company to design, build and operate the system.

**RESPONSE:**

31. Please provide the number and name of systems Adenus companies have designed, and constructed in the Southeast in the past 3 years. Provide the same information for Tennessee only.

**RESPONSE:**

32. Please provide the names of outside contractors employed by Adenus companies to assist in the building of wastewater systems in the past 3 years including the type of services required by the contractor.

**RESPONSE:**

33. Please provide a summary of what services are provided within the “Telemetry Monitoring” phrase. Please state which Adenus affiliate performs this function and provide the names of other firms in Tennessee providing this service.

**RESPONSE:**

34. Please explain what “inspection fees,” “development fees,” and “access fees” are, why they are performed by the company or by an affiliate, and what the total amount for each category is whether or not it is income to Tennessee Wastewater or to an affiliate. If these fees are considered “unregulated” income, please explain why these fees are regarded as “unregulated” by the company. How are the costs for these services charged to the customer and how is it calculated?

**RESPONSE:**

35. Please list all companies that you consider to be competitors of Tennessee Wastewater and all Adenus affiliates.

**RESPONSE:**

36. Provide the trial balances by company for the year ended December 31, 2008 for the following companies:

Adenus Group  
Adenus Solutions Group  
Adenus Capacity  
Adenus Technologies  
Adenus Utilities Group  
Adenus Operations  
Tennessee Wastewater  
Georgia Wastewater  
Commonwealth Wastewater  
Alabama Wastewater

**RESPONSE:**

37. Provide the salaries, wages, and compensation for the year ended December 31, 2008 by employee and/or board member by company per the Adenus Corporate Structure Exhibit 9-A. Indicate in your response the account number(s) charged by employee compensation by company by amount.

**RESPONSE:**

38. Provide the trial balance for the twelve months ended February 28, 2009 for Tennessee Wastewater.

**RESPONSE:**

39. Provide the direct expenses by company for the year ended December 31, 2008 for the following companies:

Adenus Group  
Adenus Solutions Group  
Adenus Capacity  
Adenus Technologies  
Adenus Utilities Group  
Adenus Operations  
Tennessee Wastewater  
Georgia Wastewater  
Commonwealth Wastewater  
Alabama Wastewater

**RESPONSE:**

40. Provide the total expenses subject to allocation by allocating company for the year ended December 31, 2008 to the following companies:

Adenus Group  
Adenus Solutions Group  
Adenus Capacity  
Adenus Technologies  
Adenus Utilities Group  
Adenus Operations  
Tennessee Wastewater  
Georgia Wastewater  
Commonwealth Wastewater  
Alabama Wastewater

**RESPONSE:**



41. Provide the non-recurring expenses by company for the year ended December 31, 2008 for the following companies:

Adenus Group  
Adenus Solutions Group  
Adenus Capacity  
Adenus Technologies  
Adenus Utilities Group  
Adenus Operations  
Tennessee Wastewater  
Georgia Wastewater  
Commonwealth Wastewater  
Alabama Wastewater

**RESPONSE:**

42. Provide the number of wastewater customers at the year ended December 31, 2008 by month by state: Tennessee, Kentucky, Georgia, and Alabama. Indicate in your response, the number of wastewater customers by state, which are with an affiliated company and are with a non-affiliated company.

**RESPONSE:**

43. Provide the average number of customers for the year ended December 31, 2008 for each of the following companies:

Adenus Group  
Adenus Solutions Group  
Adenus Capacity  
Adenus Technologies  
Adenus Utilities Group

Adenus Operations  
Tennessee Wastewater  
Georgia Wastewater  
Commonwealth Wastewater

**RESPONSE:**

44. Provide the average number of customers for the year ended December 31, 2008 for the following companies.

Adenus Group  
Adenus Solutions Group  
Adenus Capacity  
Adenus Technologies  
Adenus Utilities Group  
Adenus Operations  
Tennessee Wastewater  
Georgia Wastewater  
Commonwealth Wastewater  
Alabama Wastewater

**RESPONSE:**

45. Provide the Operating Revenue by account by company (affiliated and non-affiliated) for Adenus Operations, LLC at December 31, 2008.

**RESPONSE:**

46. Provide the Operating Expense incurred by account by company (affiliated and non-affiliated) for Adenus Operations, LLC at December 31, 2008.

**RESPONSE:**

47. Provide the cumulative amount of Net Operating Losses (“NOL”) by year by company through December 31, 2008.

**RESPONSE:**

48. Provide the Operating Budgets for 2009 by company. Include in your response all supporting documentation.

**RESPONSE:**

49. Provide the business reasons for the increase from the 2007 amount of \$391,585 (Exhibit 1-A Charles Hyatt) to \$491,485 in 2008 for Operating Expense Account #736.2 for Tennessee Wastewater.

**RESPONSE:**

50. Provide the business reasons for the increase from the 2007 amount of \$57,898 (Exhibit 1-A Charles Hyatt) to \$152,793 in 2008 for Operating Expense Account #736.12 for Tennessee Wastewater.

**RESPONSE:**

51. Provide the business reasons for the increase from the 2007 amount of \$56,555 (Exhibit 1-A Charles Hyatt) to \$142.483 in 2008 for Operating Expense Account #736.12 for Tennessee Wastewater.

**RESPONSE:**

52. State whether all property referred to in the document entitled Tennessee Wastewater Systems Property 12/31/07 and any other subsequently acquired properties are used and useful in providing wastewater service to Tennessee Wastewater customers.

- a. Does Tennessee wastewater hold title to each of the properties referred to in the document and any other subsequently acquired properties?
- b. Are the properties referred to in the document and any other subsequently acquired properties free of encumbrances or other interests?
- c. Are ratepayers paying property or other taxes on each of the properties?
- d. Can any of the properties be used for anything other than wastewater treatment purposes?

**RESPONSE:**

53. Are any expenses, including but not limited to entertainment and lodging, related to legal expenses, lobbying expenses or consulting expenses (provide amounts)?

**RESPONSE:**

54. In the Deed of Trust by and between Community Bank and Trust and Tennessee Wastewater Systems, Inc., of record at Book 3465, Page 622, Williamson County Register of Deeds Office and as modified at Book 106, Page 768, Tennessee Wastewater received \$800,000 with various properties listed in the Deed of Trust as collateral; please explain:

- a. How were the \$800,000 proceeds referred to in the Deed of Trust used by Tennessee Wastewater and how, with particularity, were the proceeds used to benefit ratepayers;
- b. Where is this debt referred to in any documents filed with the TRA in this rate case;
- c. What company's financial statements currently reflect the \$800,000 debt;
- d. What is the current principal and amount owed and what entity has been making payments on the debt;
- e. What entity or person, if any, has been claiming a tax deduction for any interest payments (please provide copies of any relevant documentation);
- f. Was the TRA informed about this Deed of Trust and was approval for this debt obtained (if so please provide any relevant documentation); if not, why; and
- g. If this debt is not paid and foreclosure proceedings are instituted how will services to ratepayers be affected.

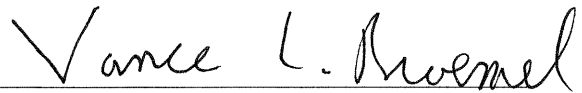
**RESPONSE:**

55. With regard to the corporation known as of Tennessee Wastewater Industry Group, which lists Robert Pickney as President and Charles L. Pickney, Jr., as Secretary, please provide the following:

- a. The purpose of the corporation;
- b. Whether it is an affiliate of Tennessee Wastewater;
- c. The budget of the corporation; any payments made by the corporation; a list of employees and their salaries and any expenses incurred; the names of any person or entity or agent acting on behalf of or at the direction of the corporation and payments made to them and a description of their activities; and a copy of any state or federal tax return filed by the corporation;
- d. Whether there are any charges to Tennessee Wastewater, directly or indirectly, involved in its operation.

**RESPONSE:**

RESPECTFULLY SUBMITTED,



VANCE L. BROEMEL (BPR #11421)  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
(615) 741-8733

Dated: March 5<sup>th</sup>, 2009.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition to Intervene was served via U.S. Mail or electronic mail upon:

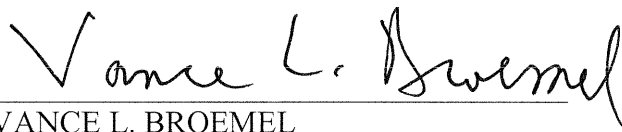
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Charles B. Welch, Jr.  
Farris Mathews Bobango, PLC  
618 Church Street  
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Nashville, TN 37219

This the 5<sup>th</sup> day of March, 2009.

  
VANCE L. BROEMEL