

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 22, 2009

IN RE:)	
)	
PETITION OF CARTWRIGHT CREEK, LLC)	DOCKET NO.
TO CHANGE AND INCREASE RATES AND)	09-00056
CHARGES)	

**ORDER RESUSPENDING TARIFF AND PROPOSED RATE INCREASE
AND INITIAL ORDER MODIFYING SCOPE OF RATE CASE**

By Order of the Hearing Officer of August 26, 2009, the revised tariff and proposed rate increase was suspended through October 28, 2009. Due to several delays¹ to the procedural schedule adopted in that Order of August 26, 2009, at a Status Conference held on September 9, 2009, the parties agreed to postpone the statutory deadline an additional two months, from October 28th until December 28, 2009. As such, the revised tariff and proposed rate increase is re-suspended through December 28, 2009.

¹ The *Request for Extension fo [sic] Time to File Response to Waterbridge Development, Inc's Petition to Intervene* was filed by Cartwright Creek on August 28, 2009; Cartwright Creek's request for "a 7-day extension to file its rebuttal testimony to the Consumer Advocate's Direct Testimony of August 23, 2009 and Supplemental Testimony of August 31, 2009" was filed on September 2, 2009; and at the September 9, 2009 Status Conference, Authority Staff asked a number of questions concerning support data, answers to which were filed by Cartwright Creek on September 28, 2009. Since the September 9, 2009 Status Conference, a number of additional delays have occurred: on September 14, 2009, the Consumer Advocate filed its *Motion to Request Limited Additional Discovery and Bifurcation of Waterbridge Special Contract Issues*, with responses and replies filed by all parties over the following week; the *Request to Reset Oral Argument* was filed by Cartwright Creek on September 24, 2009; on October 6, 2009, all parties filed a response to additional Staff questions; on October 9, 2009, the Consumer Advocate asked its additional discovery question, which was responded to by Cartwright Creek on October 20, 2009; and on October 19, 2009, Cartwright Creek filed a supplement to its September 28, 2009 response to Staff's questions. Finally, on October 15, 2009, in Docket No. 09-00173, the *Joint Petition of Cartwright Creek LLC and Waterbridge Development for Approval of Special Contract* was filed.

Pursuant to TRA Rule 1220-1-2-.22, “In any contested case the Authority or the Hearing Officer:...(2) may, on its own motion or the motion of any party, allow amendments, consolidate cases, join parties, sever aspects of the case for separate hearings, permit additional claims or contentions to be asserted, bifurcate or otherwise order the course of proceedings in order to further the just, efficient and economical disposition of cases consistent with the statutory policies governing the Authority....”

According to Response # 1 in the *Cartwright Creek Response to TRA Staff Questions Attached to Notices of 9-23 and 9-30-09*, which was filed on October 6, 2009, Cartwright Creek intends that the proposed tariff in the petition should be applicable to all three wastewater systems (the Grasslands, Waterbridge and Stillwater developments). Nevertheless, Cartwright Creek further responded that the Stillwater development would not transfer to the Cartwright Creek system until mid-2010, and provided no date for the transfer of the Waterbridge development. Based upon the documentation filed to date in this docket by Cartwright Creek, the Hearing Officer is of the opinion that information regarding the revenues and expenses associated with either of these developments is severely lacking and precludes the inclusion of these revenues and expenses in the attrition period of this specific rate case. For this reason, the Hearing Officer finds that the revenues and expenses associated with the Stillwater and Waterbridge developments should be excluded from consideration in this docket and that this case should proceed for the purpose of establishing a tariff only for the Grasslands development. Therefore, only the revenues, costs and expenses associated with the Grasslands development should be considered in setting rates in this docket.

Further, because the transfer and operation of the Waterbridge and Stillwater developments are anticipated in the very near future, rates will need to be established for each of

these developments once their systems are operational. Therefore, upon transfer of the systems of either of these developments, Cartwright Creek is directed to file a tariff with proposed rates for that specific development for the Authority's consideration in a separate docket. All revenues associated with either development and received subsequent to such a transfer shall be recorded in a deferred revenue account, and all expenses from such development shall be recorded with documentation maintained for consideration of recovery in a later proceeding. The information related to deferred revenues and expenses for each development shall be submitted by Cartwright Creek with the filing of a new proposed tariff for each development.

Because this ruling significantly modifies the issues before the panel in this rate case, the Hearing Officer hereby grants permission to the parties for an immediate review of this ruling by the voting panel. Further, this ruling shall not become effective until all parties are afforded an opportunity to be heard pursuant to TRA Rule 1220-1-2-.22(3).

IT IS THEREFORE ORDERED THAT:

1. The revised tariff and proposed rate increase is re-suspended through December 28, 2009.
2. The scope of this rate case is limited to the revenues, costs and expenses associated with the Grasslands development only.
3. Permission is hereby granted for immediate review of this ruling by the voting panel.



Gary Hotvedt, Hearing Officer