

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

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

**STATEMENT OF POSITION ON ISSUES NOT RESOLVED BY PROPOSED
SETTLEMENT AGREEMENT**

Robert. E. Cooper, Jr., the Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division ("Consumer Advocate"), respectfully provides the following position paper to address the outstanding issues in Docket 09-00056, as described by the *Joint Stipulation Regarding Issues Not Resolved by Proposed Settlement Agreement*, filed in the Tennessee Regulatory Authority ("TRA" or "Authority") on November 23, 2009.

The Consumer Advocate and Cartwright Creek filed with the Authority a Proposed Settlement Agreement on November 4, 2009. The parties then stipulated to which remaining issues were not governed by the Proposed Settlement Agreement and were outstanding issues to be determined at the November 30, 2009, Hearing on the Merits. The Consumer Advocate submits the following positions in relation to those stipulated issues:

Whether there is justification for the proposed increase of the tap fee as listed on Exhibit A of the Proposed Tariff, and if so, what is the appropriate tap fee amount.

The Consumer Advocate is of the opinion that insufficient evidence exists within the record to justify a 227% increase in tap fees. Cartwright Creek has neither provided an estimate

of expenses associated with connecting a customer to their system, nor have they demonstrated why the current tap fee of \$2,750 is insufficient to cover such costs.

Within what time frame must the company connect a customer that has paid a tap fee to the system?

The Consumer Advocate is of the opinion that Cartwright Creek should be required to act diligently in connecting any customer who has paid the requisite tap fee and make every effort to connect the customer. In the event that Cartwright Creek is unable to connect a customer who has previously paid a tap fee, the Company should be required to communicate to the customer, the TRA and the Consumer Advocate why making the connection is not feasible and provide an immediate refund upon customer request.

Whether tap fee proceeds, or any other tariff fees, should be escrowed or treated as revenue (or a combination thereof), as proposed by their Petition.

The Consumer Advocate is of the opinion that Cartwright Creek should be required to classify any tap fee proceeds as revenue, consistent with the Authority's *Final Order* in TRA Docket No. 09-00034.

Whether Cartwright Creek should be afforded an escrow account, and if so, on what terms and what ratepayer dollars will be held in the account.

The Consumer Advocate is of the opinion that the creation of any escrow account should adhere to the requirements set forth in TRA Rules 1220-4-13.07(8)-(9), the rule governing the financial security of wastewater utility companies.

Whether there is justification for the “Sewer Access Fee” as described by 23(a)(ii) on page 8 and as listed on Exhibit A of the Proposed Tariff, and if so, what is the appropriate “Sewer Access Fee” amount.

The Consumer Advocate is of the opinion that should a “Sewer Access Fee” be approved as presented in the Proposed Tariff, this fee should only affect those customers who have been granted access to tap onto Cartwright Creek’s system, but have not made a “Service Connection” as defined on Page 2 of the Proposed Tariff. These customers should be differentiated from those customers who have requested to tap onto the system but have been denied a “Service Connection” by Cartwright Creek.

Whether there is justification for the “Net Tap Fee Increase” as described by 23(a)(iv) on page 8 of the Proposed Tariff, and if so, what is the appropriate “Net Tap Fee Increase” amount.

The Consumer Advocate is of the opinion that the approval of the “Net Tap Fee Increase” as described in the Proposed Tariff would be in violation of the prohibition against retroactive ratemaking, as such a fee would be seeking to use current rates to recover past losses.

The appropriateness of the rate design as described on Exhibit A of the Proposed Tariff and whether such rate design should reflect volumetric or flat fee billing.

The Consumer Advocate is of the opinion that insufficient evidence exists within the record to determine whether a volumetric billing approach would benefit consumers. While the Consumer Advocate believes consumers should be afforded the opportunity to conserve water usage in order to reduce their monthly bill, Cartwright Creek has not provided any information with regard to the feasibility of implementing volumetric billing at this time. The Consumer Advocate recommends Cartwright Creek continue to investigate the feasibility of volumetric billing and consider eliminating the flat fee billing mechanism from future tariffs.

The adequacy of Cartwright Creek's treatment and resolution of customer complaints or inquiries including, but not limited to, customers who have claimed to have paid tap fees under the existing tariff but have not yet commenced service, and whether such complaints should be resolved by a third party.

The Consumer Advocate is of the opinion that Cartwright Creek should be required to establish and adhere to a process for handling customer complaints. That process should include, but not be limited to, establishing a means for customers to provide proof of previously paid tap fees. Should Cartwright Creek be unable to resolve a customer complaint, the Consumer Advocate is of the opinion that such complaints should be arbitrated by a neutral third party, such as the Consumer Services Division of the TRA.

The clarification and justification of the "Disconnection and Reconnection Fees" as described by 8(b) on page 3 and as listed on Exhibit A of the Proposed Tariff.

Cartwright Creek's Petition contains two conflicting positions with regard to the proposed Disconnection and Reconnection Fees. On page 3 of the Proposed Tariff, the proposed fees are \$40/\$50, respectively. However, Exhibit A of the Proposed Tariff lists the proposed fees as \$100/\$100, respectively. Should it be Cartwright Creek's intent to request an increase in such fees to \$100/\$100, the Consumer Advocate is of the opinion that the record is insufficient to justify the proposed increase.

The Consumer Advocate submits this position paper in accordance with the facts and evidence currently stated within the record. The Consumer Advocate reserves the right to alter or amend its position should additional facts and evidence be provided at the November 30, 2009, Hearing on the Merits.

Respectfully submitted,

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Dated: Nov. 25th, 2009.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via first-class U.S. Mail, postage prepaid, or electronic mail upon:

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This the 25th day of November, 2009.


Mary L. White
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