

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**March 2, 2010**

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

---

**ORDER APPROVING SETTLEMENT AGREEMENT  
AND DETERMINING CONTESTED ISSUES**

---

This matter came before Chairman Sara Kyle, 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 regularly scheduled Authority Conference held on December 14, 2009, for deliberations on the *Petition* to change and increase rates and charges filed on April 28, 2009 by Cartwright Creek, LLC ("Cartwright Creek" or "Company").

**I. TRAVEL OF THE CASE**

At a regularly scheduled Authority Conference held on May 18, 2009, the voting panel assigned to the docket voted unanimously to suspend the proposed revised tariff from its effective date of June 1, 2009, ninety days to August 29, 2009, convene a contested case proceeding, and appoint the General Counsel or his designee as Hearing Officer. On June 1, 2009, the Consumer Advocate filed its *Petition to Intervene*, which was unopposed by Cartwright Creek and subsequently granted by the Hearing Officer during the Status Conference held on July 1, 2009. Also, at the July 1, 2009 Status Conference, the Hearing Officer adopted the procedural schedule proposed by the parties.

The parties proceeded through discovery and the filing of pre-filed testimony. On August 24, 2009, Waterbridge Development, Inc. (“Waterbridge”) filed a *Petition to Intervene*.<sup>1</sup> On August 26, 2009, the Hearing Officer issued the *Order Resuspending Tariff and Proposed Rate Increase and Modifying Procedural Schedule* in which the proposed tariff was suspended through October 28, 2009. On August 31, 2009, the Hearing Officer issued the *Notice of Status and/or Pre-hearing Conference* which was set for September 9, 2009. At the Status Conference held on September 9, 2009, the parties agreed to a further resuspension of the tariff. On October 22, 2009, the Hearing Officer issued the *Order Resuspending Tariff and Proposed Rate Increase and Initial Order Modifying Scope of Rate Case* in which the proposed tariff was suspended through December 28, 2009.<sup>2</sup> The Hearing Officer’s Order also restricted the applicability of this proceeding to customers in the Grassland Development Service territory of Cartwright Creek.

On October 27, 2009, Cartwright Creek filed a copy of the Public Notice which had been published in *The Tennessean*, Williamson County A.M. Section, on October 15, 2009. On October 28, 2009, the Hearing Officer issued a *Notice of Hearing and Pre-hearing Conference*. The parties submitted a *Proposed Settlement Agreement Between Cartwright Creek, L.L.C. and the Consumer Advocate and Protection Division* (“Settlement Agreement”) on November 4, 2009, and the Hearing Officer issued a *Notice Rescheduling Hearing* on November 6, 2009, which set the hearing on the merits for November 30, 2009.

---

<sup>1</sup> Waterbridge and Cartwright Creek ultimately entered into a special contract for wastewater services which was approved by the Authority. *Joint Petition of Cartwright Creek, LLC and Waterbridge Development for Approval of Special Contract*, Docket No. 09-00173, *Order Granting Approval of Special Contract* (December 15, 2009). Subsequently, Waterbridge withdrew its intervention petition in the instant case on November 12, 2009.

<sup>2</sup> The Hearing Officer’s order clarified that this rate case only pertained to the residents of the Grassland development.

On November 23, 2009, the parties filed the *Joint Stipulation Regarding Issues Not Resolved by Proposed Settlement Agreement*, and the Consumer Advocate filed a *Statement of Position on Issues Not Resolved by Proposed Settlement Agreement* on November 25, 2009.

#### **THE HEARING AND POST HEARING FILINGS**

The Hearing was held on November 30, 2009. Post-Hearing Briefs were filed on December 7, 2009. The panel heard testimony from Company witnesses: Bruce Meyer and Robert Ian Cochrane. Dave Peters testified for the Consumer Advocate. The Company was represented by Tom Kolschowsky, Esq. and the Consumer Advocate was represented by Mary White, Esq. and Scott Jackson, Esq. No member of the public sought intervention prior to or during the Hearing.

#### **PROPOSED SETTLEMENT AGREEMENT**

The proposed *Settlement Agreement* filed on November 6, 2009 by Cartwright Creek and the Consumer Advocate included, among other provisions, the following:

1. Effective upon TRA approval, rates will be implemented to increase Cartwright Creek's annual revenue by \$98,054, or no more than forty percent rather than the approximately seventy-five percent requested by the Company in its *Petition*. The average monthly increase per customer will range from \$31.82 to \$43.52.
2. The Company will be allowed a 6.5% operating margin.
3. None of the rate case costs in this filing will be borne by the Grassland area ratepayers in any subsequent Company rate petition.
4. Consumer protection provisions will be included in the tariff related to budget re-payment plans, clear notice of returned check fees, ability to waive fees, prompt reconnection, and alternate address notification.
5. The Company will seek to prevent large rate requests in the future by actively analyzing Company data.
6. Company financial records will be kept in accordance with Generally Accepted Accounting Principles and TRA regulation.<sup>3</sup>

---

<sup>3</sup> *Settlement Agreement*, pp. 4-7.

The *Settlement Agreement* was considered by the voting panel at the November 30, 2009 Hearing. Tom Kolschowsky, counsel for Cartwright Creek, provided a brief overview of the *Settlement Agreement* and responded to questions from the panel. The attorney for the Consumer Advocate expressed support for the *Settlement Agreement*. After hearing from all of the parties and providing an opportunity for members of the public to comment, the panel voted unanimously to accept the *Settlement Agreement*.

## **CONTESTED ISSUES**

### **A. Positions of the Parties**

During the Hearing on November 30, 2009, the parties presented evidence on the issues remaining before the Authority. The primary contested issues and the positions of the parties on each is set out below.

#### **1. Amount and treatment of tap fees**

Cartwright Creek: Tap fees should be treated as contributions in aid of construction and should not be considered revenue. Tap fees should be in the amount of \$9000. If such fees are less, there will be an inadequate amount of funds to repair and upgrade the system. Current customers will suffer if the needed repairs and upgrades cannot be made. The Company is seeking an increase in its tap fee to offset the need to increase future rates to continue making repairs and improvements and is prepared to set-up an escrow account to insure the funds will be used for that purpose.<sup>4</sup> Finally, the Company is not seeking to collect a tap fee from those customers that can demonstrate that they have previously paid a tap fee but not yet connected to the system.<sup>5</sup>

Consumer Advocate: The Company's proposal to increase tap fees from \$2,750 to \$9,000 in order to fund maintenance and improvements on the Company's aging facility is

---

<sup>4</sup> *Post Hearing Brief of Cartwright Creek, LLC*, pp. 4-5 (December 7, 2009) (hereinafter "*Cartwright Creek Brief*").

<sup>5</sup> Transcript of Hearing, pp. 35-38 (November 30, 2009).

unjustified. The Company admitted that the requested increase is not related to increased costs for connecting a customer to the system. Rather, the Company divided the estimated amount of repair costs by the number of potential customers willing to tap into the system. This methodology is speculative at best as there is no evidence of verifiable cost estimates or potential customers willing to tap onto the system. The requested amount is also substantially higher than the average tap fee, \$3,700, charged by similarly situated wastewater companies in the surrounding area.<sup>6</sup>

The tap fees should be treated as revenue for rate making purposes. The Authority adopted this position in its *Final Order* in Docket No. 09-00034<sup>7</sup> which involved a neighboring wastewater utility. The Authority has consistently held that tap fees should be recorded as revenue. Cartwright Creek has provided no authority which would permit tap fees to be treated as anything other than revenue. If the Authority finds that an escrow account is necessary to ensure the financial security of Cartwright Creek, the creation of any such account should follow the requirements in TRA Rule 1220-4-13-.07(8)-(9).<sup>8</sup>

## **2. Proposed sewer access fees**

Cartwright Creek: The Company requests a sewer access fee for customers who have purchased a tap but chosen not to connect to the system. However, such fee will not be charged if the Company denies connection to the system,<sup>9</sup> or the customer has not connected because of system limitations.<sup>10</sup>

---

<sup>6</sup> *Post Hearing Brief of the Consumer Advocate*, pp. 4-6 (December 7, 2009) (hereinafter “*Consumer Advocate Brief*”).

<sup>7</sup> *See In re: Petition of Lynwood Utility Corporation to Change and Increase Rates and Charges*, Docket No. 09-00034, *Final Order* (November 3, 2009).

<sup>8</sup> *Post Hearing Brief of the Consumer Advocate*, pp. 6-8 (December 7, 2009).

<sup>9</sup> *Cartwright Creek Brief*, p. 5.

<sup>10</sup> Transcript of Hearing, p. 79 (November 30, 2009).

Consumer Advocate: The proposed tariff should be amended to exclude liability for a sewer access fee to those customers who have been denied a connection by the Company or for whom the Company does not have the current ability to provide connection.<sup>11</sup>

### **3. Proposed increase in reconnect and disconnect fees**

Cartwright Creek: The Company requests to increase its reconnect and disconnect fees from \$15 and \$10, respectively, to \$100 each because it can not physically shut off service, and thus collection options are limited to sending out collection letters, legal assistance, and the like. The cost of these efforts would exceed \$100.<sup>12</sup>

Consumer Advocate: The proposed disconnection and reconnection fees in the proposed tariff are unjustified because Cartwright Creek does not physically turn off service for nonpayment. The Company is able to recover all costs associated with disconnection or reconnection through the legal process.<sup>13</sup>

### **4. Rate Design**

Cartwright Creek: The Company proposes to continue billing residential customers based upon the number of bedrooms in the residence because it does not have the resources to bill residential customers based on flow. The Company proposes to investigate in 2010 what resources would be required to convert to a flow-based billing system. Commercial customers' bills will be based on flow.<sup>14</sup>

Consumer Advocate: The Company has not presented any evidence to suggest that the number of bedrooms is directly related to the number of residents in a home. This approach is unfair to small families living in larger homes or using bedrooms for other purposes. This approach also does not encourage conservation. Generally, the Consumer Advocate believes that

---

<sup>11</sup> *Consumer Advocate Brief*, p. 8.

<sup>12</sup> *Cartwright Creek Brief*, p. 7.

<sup>13</sup> *Consumer Advocate Brief*, p. 9.

<sup>14</sup> *Cartwright Creek Brief*, pp. 5-6.

volumetric billing is of greater benefit to customers but the Company has not provided any information regarding the feasibility of adopting such. The TRA should require the Company to research the feasibility of volumetric billing and present its findings to the Authority by a date certain so this can be considered in future rate cases.<sup>15</sup>

## **B. Findings and Conclusions**

The panel deliberated the contested issues at the regularly scheduled Authority Conference held on December 14, 2009. Based on the testimony at the hearing and the entire record, the panel made the following determinations.

1. The panel voted unanimously to deny the proposed tariffs filed by Cartwright Creek with its original petition.

2. The panel further voted unanimously to approve a \$120 sewer access fee after finding that such fee was reasonable and that the Authority has allowed such a fee in other wastewater tariffs as well as in the special contract approved between the Company and Waterbridge.

3. The panel found the Company's arguments for increasing reconnection and disconnection fees unpersuasive and voted unanimously to deny the requested increases for said fees.

4. The panel found that an increase in tap fees for new customers is warranted and would help address the needed repairs to the system. However, the panel found that the proposed \$9000 amount is much higher than the tap fees charged by other utilities in the area. The panel found that the highest tap fee in the area was \$5000 charged by the City of Brentwood. Thereafter, the panel voted unanimously to approve a tap fee of \$5,000 applicable to new customers. Those persons demonstrating that they have previously paid a tap fee for wastewater

---

<sup>15</sup> *Consumer Advocate Brief*, pp. 11-12.

service would not be required to pay the new tap fee amount nor the difference between the new tap fee amount and the tap fee amount previously paid.

5. The panel voted unanimously that for regulatory purposes the revenue from tap fees should be booked as revenue consistent with the holding of the Authority in Docket No. 09-00034.<sup>16</sup> The panel further voted unanimously that the tap fee revenue that was being increased to \$5,000 should be set aside in an escrow account dedicated to the necessary system repairs and upgrades and that the Company shall be required to file a request for preapproval by the Authority before funds can be expended from the escrow account.

6. The panel voted unanimously to require the Company to perform a feasibility study concerning changing to volumetric billing rather than billing based on the number of bedrooms in a home. The results of the study shall be provided to Authority Staff within six months of these deliberations, or by no later than June 14, 2010. Within sixty days of receipt of the information, Authority Staff shall prepare and file in this docket a report to the Authority regarding the feasibility of partial volumetric rate design.

**IT IS THEREFORE ORDERED THAT:**

1. The *Settlement Agreement* filed by Cartwright Creek, LLC and the Consumer Advocate and Protection Division of the Office of the Attorney General of Tennessee, attached hereto as Exhibit 1, is accepted and approved and is incorporated into this Order as if fully rewritten herein.

2. The proposed tariffs filed by Cartwright Creek, L.L.C. with its original petition are hereby denied.

3. A \$120 sewer access fee on a going-forward basis is hereby approved.

4. The proposed increase to disconnection and reconnection fees is hereby denied.

---

<sup>16</sup> See *In re: Petition of Lynwood Utility Corporation to Change and Increase Rates and Charges*, Docket No. 09-00034.



5. A tap fee of \$5,000 applicable to new customers is hereby approved.<sup>17</sup> The revenues from such new fee shall be booked as revenue and placed in an escrow account dedicated to the necessary system repairs and upgrades. The Company shall file a request for preapproval by the Authority before funds can be expended from the escrow account.

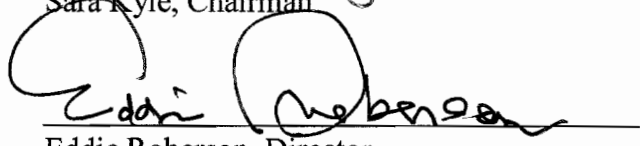
6. The Company shall perform a feasibility study concerning changing to volumetric billing. The results of the study shall be filed with the Authority no later than June 14, 2010.

7. Any party aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.



---

Sara Kyle, Chairman



---

Eddie Roberson, Director



---

Mary W. Freeman, Director

---

<sup>17</sup> The Company agreed in these proceedings that persons demonstrating that they have previously paid tap fees, though not yet customers, would not be required to pay the new tap fee nor any difference between the amount of the tap fee paid and the new tap fee amount.

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

**IN RE:**

**PETITION OF CARTWRIGHT CREEK,  
L.L.C. TO CHANGE AND INCREASE RATES  
AND CHARGES**

**No. 09-00056**

---

**PROPOSED SETTLEMENT AGREEMENT BETWEEN CARTWRIGHT CREEK,  
L.L.C. AND THE CONSUMER ADVOCATE AND PROTECTION DIVISION**

---

For the sole purpose of settling this case, Tennessee Regulatory Authority ("TRA" or "Authority") Docket Number 09-00056, Robert E. Cooper, Jr., the Tennessee Attorney General and Reporter, through the Consumer Advocate and Protection Division ("Consumer Advocate"), and Cartwright Creek, L.L.C. ("Cartwright Creek" or "Company") (collectively referred to as "Parties" herein) respectfully submit this Proposed Settlement Agreement ("Settlement Agreement") for TRA approval and consideration.

**PROCEDURAL BACKGROUND**

1. Cartwright Creek is a public utility as defined by T.C.A. § 65-4-101 and its public utility operations are subject to jurisdiction of this Authority. Cartwright Creek is engaged in the business of offering wastewater services to customers located in Williamson County, Tennessee. Its principal office is located at 2033 Richard Jones Road, Nashville, Tennessee 37215.

2. Cartwright Creek is owned ninety percent (90%) by Sheaffer International, L.L.C., a Delaware limited liability company ("Sheaffer"), with the remaining ten percent (10%) owned by MRS, L.L.C., a Tennessee limited liability company. Sheaffer is the

managing member of the Company. Cartwright Creek serves approximately 500 residential and commercial customers in Williamson County, Tennessee.

3. The Company has properly published and posted notice of its petition for a rate increase in accordance with the TRA's rules.

4. On April 28, 2009, Cartwright Creek filed a petition for an increase in its rates and approval of other revisions to its tariffs. This is Cartwright Creek's first request for a rate increase since 1996. In its petition in the present case, Cartwright Creek sought a rate increase of approximately 75%; the average increase per customer sought is from approximately \$31.82 to \$56.99 per month.<sup>1</sup> The annual revenue increase sought was \$182,833.<sup>2</sup>

5. Cartwright Creek has been pursuing a growth strategy to expand the overall customer base of the facility in order to lessen the high administrative burden, or fixed costs, paid by the approximately 500 customers; however, the slowdown of the housing industry has delayed and even cancelled construction in the sought after subdivisions.<sup>3</sup> As a result, Cartwright Creek's plan to triple their customer base within seven years was unattainable and the Company has requested relief by filing a 75.15% rate increase to its tariffs.

6. On June 1, 2009, the Consumer Advocate filed a petition to intervene in the rate case. The petition was subsequently granted without objection.

7. The Parties to this Settlement Agreement have engaged in substantial discovery and have undertaken extensive discussions to resolve all disputed issues in this case. As a result of the information obtained during discovery and the discussions between the Parties, and for

---

<sup>1</sup> Exhibit A, Petition of Cartwright Creek To Change and Increase Certain Rates and Charges at page 10 (April 28, 2009).

<sup>2</sup> First Data Response of Cartwright Creek to TRA Staff, at page 1 (July 7, 2009).

<sup>3</sup> Direct Testimony of Robert Cochrane, at page 3 (April 28, 2009).

the purpose of avoiding further litigation and resolving this matter upon acceptable terms, the Parties have reached this Settlement Agreement subject to TRA approval.

8. The Settlement Agreement includes only those revenues and expenses associated with the Grasslands area development as required by the October 22, 2009 TRA *Order Resuspending Tariff and Proposed Rate Increase and Initial Order Modifying Scope of Rate Case*. The revenues and expenses associated with the Waterbridge and Stillwater Developments (as described in the original petition) will be reviewed and considered upon the filing of a new rate case in a separate docket as required by that Order.

#### **SETTLEMENT TERMS**

9. Subject to TRA approval, in furtherance of this Settlement Agreement, the Parties have agreed to the settlement terms set forth below.

10. The Parties jointly request that the TRA consider this Settlement Agreement at its next available conference, a date prior to the hearing date or on the date of the scheduled rate-hearing. To prevent additional rate case costs from being incurred by the Parties, the Parties request if the TRA determines testimony should be presented or a hearing on the merits needs to occur in this docket, that any such hearing should be set at least ten (10) business days after the consideration of the Settlement Agreement. Cartwright Creek agrees to extend the existing tariff if necessary to meet the above.

11. While the Consumer Advocate prefers that rates not increase for customers, especially in this tough economic climate, the statutory standards indicate a rate increase is appropriate to provide a fair rate of return to the Company.

12. Effective upon approval by the TRA, rates will be implemented to increase Cartwright Creek's annual revenue by \$98,054, or no more than 40%. The Company will

clearly and conspicuously notify its consumers of the approved rate increase and effective dates in a clear and conspicuous manner on each of its monthly billings.

13. Through negotiations, certain adjustments have been made to the figures submitted in the Company's Petition which reduced the revenue deficiency from \$182,833 to \$98,054. Those adjustments and subsequent calculations are shown in Exhibit 1 of the Settlement Agreement, as attached. As a result of this Settlement Agreement, if approved by the TRA, rates will increase by no more than 40%, allowing the company a 6.5% operating margin.

14. In the testimony of Consumer Advocate witness Dave Peters, filed in this case, the Consumer Advocate found a revenue deficiency of approximately \$76,547. As a result of this Settlement Agreement, the Company is agreeing to the Consumer Advocate's position with regard to the following expense classifications:

- (a) purchased power expense of \$24,708 versus the Company's purchased power expense of \$31,104;
- (b) materials and supplies of \$8,161 versus the Company's materials and supplies of \$9,161;
- (c) rent of \$0 versus the Company's rent of \$7,800;
- (d) postage expense of \$2,044 versus the Company's postage expense of \$2260;
- (e) depreciation expense of \$0 versus the Company's depreciation expense of \$27,645;
- and
- (f) an operating margin not to exceed 6.5%.

15. For the purposes of settlement, the Consumer Advocate has agreed to the Company's position with regard to the Insurance Expense of \$19,805 and has agreed to increase its initial determination of plant management expense to include an additional \$11,416 for employee Bob Winfrey, resulting in a total plant management expense of \$81,558.

16. Under the terms of this Settlement Agreement, the average increase for customers will be no more than 40% rather than the initial request of a 75.15% rate increase. As a result, the average increase per customer will be from approximately \$31.82 to \$43.52 per month.

17. According to the testimony of Consumer Advocate witness Dave Peters, the cumulative rate of inflation since 1996, the date Cartwright Creek's rates were last set, has been 28.81%.<sup>4</sup>

18. The Parties agree none of the rate case costs in this filing will be borne by the Grassland area ratepayers in any subsequent Company rate petition.

19. The Parties further agree that the rate increase requests of Cartwright Creek, filed as a result of this Settlement Agreement, will also include the following tariff changes and requirements for the protection of ratepayers:

- a. Budget Re-Payment Plans. The Company shall establish and implement a process to offer a budget re-payment plan to its customers to pay for any past due amounts and any associated charges. Specifically, the Company shall provide their customers with the opportunity (and promote the budget re-payment plan program) to pay the past due bill, including returned check fees and other charges, disconnection and reconnection charges in a payment plan, with no interest, over no less than a three (3) month billing cycle. The Company shall be ordered to only require that the customer pay the first installment payment in order to have service restored. The Company would not be required to provide customers utilizing a payment plan a second payment plan for a full calendar year from the date the first initial payment plan is implemented. Provided

---

<sup>4</sup> Direct Testimony of Dave Peters at page 5:13-15 (August 24, 2009).

however, if a customer or household member of the customer is able to demonstrate a unique financial distress situation or the customer is disabled or a member of the customer's household is disabled, the Company shall be required to again consider permitting the customer to have additional installment plan(s) during the same calendar year. If a customer on a payment plan fails to pay a monthly installment as per the terms of the plan and is more than fifteen (15) business days late on any payment, then the customer's service is subject to disconnection and all past due charges in addition to disconnect/reconnect fees would be due and payable prior to having service restored. The Company shall be required to provide all the same disconnection notices required for any disconnection prior to disconnecting the customer.

- b. Clear Notice of Returned Check Fees. The Company shall provide a clear and conspicuous notice of any returned check fee charge and other charges and fees, including the amount of the charge, on its monthly billings to customers.
- c. Ability to Waive Fees. The Company shall implement and establish a process to permit waiving all fees associated with late payment including, but not limited to, disconnection, reconnection, and late fees, in special circumstances such as financial distress or for disabled customers, family members of customers or customers with a unique situation.
- d. Prompt Reconnection. The Company shall provide prompt and timely reconnection service for all customers within no more than two (2) days of receiving the first installment payment from the past due customer.

- e. Alternate Address Notification. The Company shall establish and implement a process to permit and notify customers of the opportunity to provide an alternate address for notification of a potential disconnection. If a customer has provided such an alternate address, the Company shall be required to provide the required notice of disconnection to that address in addition to the customer's primary billing address.

20. In light of the settlement terms set forth herein as a whole, the Parties contend that the agreed-upon revenue requirement and operating margin are fair and reasonable and will provide Cartwright Creek with a reasonable opportunity to earn a fair rate of return.

21. The Company agrees to work toward preventing large requests in the future by actively analyzing Company data.

22. The Company agrees to work toward ensuring all of their financial records are kept in accordance with Generally Accepted Accounting Principles and TRA regulations.

23. All pre-filed testimony and exhibits are introduced into evidence without objection, and the Parties waive their right to cross-examine all witnesses with respect to all such prefiled testimony and exhibits. If, however, questions should be asked by any person, the Parties may present testimony and exhibits to respond to such questions and may cross-examine any witnesses with respect to such testimony and exhibits. Further, the Parties agree to support the Settlement Agreement at the hearing for approval.

24. The provisions of this Settlement Agreement are agreements reached in compromise and solely for the purpose of settlement of this matter. They do not necessarily reflect the positions asserted by any party, and no party to this Settlement Agreement waives the right to assert any position in any future proceeding, in this or any other jurisdiction. None of the signatories to this Settlement Agreement shall be deemed to have acquiesced in any



ratemaking or procedural principle, including without limitation, any cost of service determination or cost allocation or revenue-related methodology. This Settlement Agreement shall not have any precedential effect in any future proceeding or be binding on any of the Settling Parties in this or any other jurisdiction except to the limited extent necessary to implement the provisions hereof.

25. The terms of the Settlement Agreement have resulted from extensive negotiations between the signatories and the terms hereof are interdependent. If the TRA does not accept the settlement in whole, the Parties are not bound by any position set forth in this Settlement Agreement. Specifically, and without limiting the scope of this provision, the Consumer Advocate expressly reserves the right to withdraw from this Settlement Agreement in the event of any change to this Settlement Agreement by the TRA. In the event of any change or similar action by the TRA, within twenty (20) business days, any of the signatories to this Settlement Agreement would be entitled to give notice of exercising its right to terminate this Settlement Agreement; provided, however, that the signatories to this Settlement Agreement could, by unanimous consent, elect to modify this Settlement Agreement to address any modification required by, or issues raised by, the TRA. Should this Settlement Agreement terminate, it would be considered void and have no binding precedential effect, and the signatories to this Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their initial agreement subject to TRA approval to the terms of this Settlement Agreement.

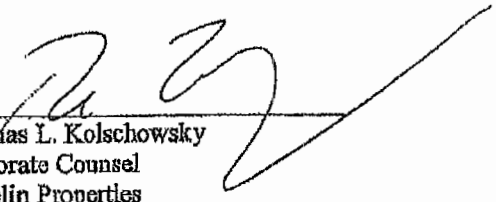
26. This Settlement Agreement does not limit in any way the Consumer Advocate or TRA's statutory rights and the provisions of this Settlement Agreement shall not in any way affect such rights.

27. This Settlement Agreement sets forth the entire agreement between the Parties, and there are no representations, agreements, arrangements, or understandings, oral or written, between the Parties relating to the subject matter of the Settlement Agreement which are not fully expressed herein or attached hereto.

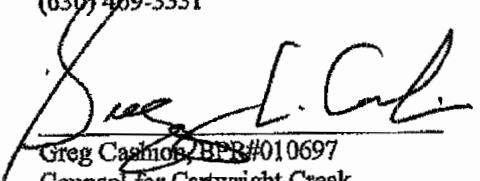
28. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee, notwithstanding conflicts of law provisions.

This the 4<sup>th</sup> day of November, 2009.

**FOR CARTWRIGHT CREEK SERVICE, L.L.C.**

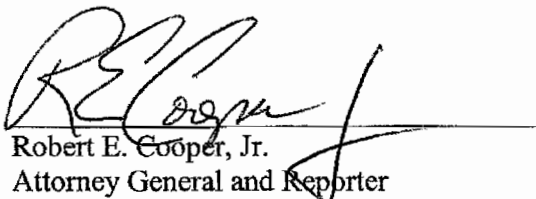


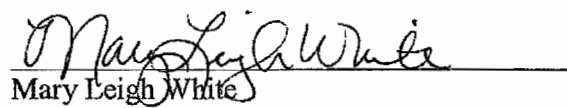
Thomas L. Kolschowsky  
Corporate Counsel  
Stahelin Properties  
800 Roosevelt Road  
Building A, Suite 120  
Glen Ellyn, IL 60137  
(630) 469-3331



Greg Cashion, BPR #010697  
Counsel for Cartwright Creek  
Smith Cashion & Orr, PLC  
231 Third Avenue North  
Nashville, TN 37201  
(615) 742-8553

**FOR THE CONSUMER ADVOCATE AND PROTECTION DIVISION**

  
Robert E. Cooper, Jr.  
Attorney General and Reporter  
State of Tennessee

  
Mary Leigh White  
BPR # 026659  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
(615) 741-4567

CERTIFICATE OF SERVICE

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

Thomas L. Kolschowsky  
Corporate Counsel  
Stahelin Properties  
800 Roosevelt Road  
Building A, Suite 120  
Glen Ellyn, IL 60137

Gregory L. Cashion  
Smith Cashion & Orr, PLC  
231 Third Avenue North  
Nashville, TN 37201

This the 4<sup>th</sup> day of November, 2009

  
\_\_\_\_\_  
MARY LEIGH WHITE

# Exhibit 1

**Cartwright Creek L.L.C. TRA Docket #09-00056**  
**Index To Schedules**  
**Settlement Agreement**  
**Test Year Ending December 31, 2008**

Revenue Deficiency	1
Comparison of Rate Making Components	2
Income Statement at Current Rates	3
Income Statement at Proposed Rates	4
Operation & Maintenance Expenses	5

Cartwright Creek L.L.C. TRA Docket #09-00056

Schedule 1

Revenue Deficiency  
Settlement Agreement  
For 12 Months Ending December 31, 2009

Line No.		<u>Settlement Agreement</u>	<u>Original Petition</u>	<u>Difference</u>
2	Operating Income at Present Rates	(\$75,747)	(\$173,499)	\$97,752
4	Fair Rate of Return	6.50%	8.25%	-1.75%
5	Required Operating Income	\$22,307	\$9,334	\$12,974
6	Operating Income Deficiency	\$98,054	\$182,833	(\$84,779)
7	Gross Revenue Conversion Factor	<u>0</u>	<u>0</u>	<u>0</u>
8	Revenue Deficiency (Surplus)	<u>\$98,054</u>	<u>\$182,833</u>	<u>(\$84,779)</u>
<b>Rate Increase</b>		<b>40.00%</b>	<b>75.00%</b>	



Cartwright Creek L.L.C. TRA Docket #09-00056  
Comparison of Rate Making Components  
Settlement Agreement  
For 12 Months Ending December 31, 2009

Schedule 2

Line #		Company 2009 Proposed	ADJUSTMENTS	Settlement Agreement
1	Residential revenues	\$331,871	\$65,843	\$266,028
2	Bonding Fee Surcharge	\$0	\$2,400	\$0
3	Commercial revenues	\$04,739	\$18,936	\$75,803
4	Other Revenues	\$1,359	\$0	\$1,359
5	Total Revenues	\$427,969	\$87,179	\$343,190
6	Sludge removal expense	\$68,463	\$0	\$68,463
7	Purchased power	\$34,104	\$9,396	\$24,708
8	Chemicals	\$10,354	\$0	\$10,354
9	Materials & supplies	\$9,101	\$1,000	\$8,161
10	Plant Management	\$138,048	\$56,490	\$81,558
11	Accounting	\$30,400	\$0	\$30,400
12	Repairs & Maint to plant	\$31,191	(\$0)	\$31,191
13	Rents	\$7,800	\$7,800	\$0
14	Transportation expenses	\$4,436	\$0	\$4,436
15	Telephone	\$1,535	(\$0)	\$1,535
16	Insurance expenses	\$19,805	\$0	\$19,805
17	Postage	\$2,260	\$216	\$2,044
18	Rate Case Expense	\$8,000	\$0	\$8,000
19	Regulatory commission expense	\$707	(\$0)	\$707
20	Bad debt expense	\$500	\$0	\$500
21	Interest Exp - Short Note	\$16,339	\$0	\$16,339
22	Bank charges	\$3,811	(\$0)	\$3,811
23	Miscellaneous expense	\$2,637	\$0	\$2,637
24	Industry association dues	\$520	\$0	\$520
25	Depreciation	\$27,645	\$27,645	\$0
26	Amortization exp - other	\$8,333	\$3,280	\$5,053
27	Permits & Taxes other than income	\$17,000	\$0	\$17,000
28	Interest & dividend income	\$0	\$0	\$0
29	Total Expenses	\$ 420,710	\$ 106,827	\$ 320,883
30	Net Operating Income (Before Taxes)	\$ 1,259	\$ (18,648)	\$ 22,307
		\$411,371.00	#####	\$305,544.33

7798340493

Cartwright Creek L.L.C. TRA Docket #09-00056

Schedule 3

Income Statement at Current Rates

Settlement Agreement

For 12 Months Ending December 31, 2008

<u>Line No.</u>		<u>Settlement Agreement</u>	<u>Company</u>	<u>Difference</u>
1	Residential revenues	\$189,641	\$189,641	\$0
2	Bonding Fee Surcharge	\$2,400	\$2,400	\$0
3	Commercial revenues	\$54,137	\$54,137	\$0
4	Other Revenues	<u>\$9,359</u>	<u>\$9,359</u>	<u>\$0</u>
	Total Revenue	\$255,536	\$255,536	\$0
			\$182,833	
3	Other Operating and Maintenance	\$285,177	\$376,057	(\$90,881)
4	Depreciation and Amort. Exp.	\$8,333	\$35,978	(\$27,645)
5	Permits And Taxes	\$17,000	\$17,000	\$0
8	Total Operating Expense	<u>\$310,510</u>	<u>\$429,035</u>	<u>(\$118,526)</u>
9	Net Operating Income (Before Taxes)	<u>(\$54,974)</u>	<u>(\$173,499)</u>	<u>\$118,526</u>

**Cartwright Creek L.L.C. TRA Docket #09-00056**  
**Income Statement at Proposed Rates**  
**Settlement Agreement**  
**For 12 Months Ending December 31, 2009**

**Schedule 4**

Line No.		Company Proposed Rates	Adjustments	Settlement Agreement
1	Water Service Revenues	<u>\$426,610</u>	<u>\$84,779</u>	<u>\$341,831</u>
2	Miscellaneous Revenues	<u>\$1,359</u>	<u>\$0</u>	<u>\$1,359</u>
3	Total Revenue	<u>\$427,969</u>	<u>\$84,779</u>	<u>\$343,190</u>
4	Operation and Maintenance	<u>\$373,732</u>	(\$74,902)	<u>\$298,830</u>
5	Depreciation	<u>\$35,978</u>	(\$30,925)	<u>\$5,053</u>
6	Taxes Other Than Income	<u>\$17,000</u>	<u>\$0</u>	<u>\$17,000</u>
7	Total Operating Expense	<u>\$426,710</u>	<u>(\$105,827)</u>	<u>\$320,883</u>
8	Net Operating Income for Return	<u><u>\$1,259</u></u>	<u><u>\$190,606</u></u>	<u><u>\$22,307</u></u>

**Operation Maintenance Expenses**  
**Settlement Agreement**  
For 12 Months Ending December 31, 2009

<u>Line No.</u>		<u>Settlement Agreement</u>	<u>Company</u>	<u>Difference</u>
	(Maintenance Expenses)			
1	Sludge removal expense	\$68,463	\$68,463	(\$0)
2	Purchased power	\$24,708	\$34,104	(\$9,396)
3	Chemicals	\$10,354	\$10,354	(\$0)
4	Materials & supplies	\$8,161	\$9,161	(\$1,000)
5	Plant Management	\$81,558	\$138,048	(\$56,490)
6	Accounting	\$30,400	\$30,400	\$0
7	Repairs & Maint to plant	\$31,191	\$31,191	\$0
8	Rents	\$0	\$7,800	(\$7,800)
9	Transportation expenses	\$4,436	\$4,436	(\$0)
11	Total Operations Maintenance	\$259,271	\$333,957	(\$74,686)
12	Telephone	\$1,535	\$1,535	\$0
13	Insurance expenses	\$19,805	\$19,805	\$0
14	Postage	\$2,044	\$2,260	(\$216)
15	Rate Case Expense	\$8,000	\$8,000	\$0
16	Regulatory commission expense	\$707	\$707	\$0
17	Bad debt expense	\$500	\$500	\$0
18	Interest Exp - Smith Note	\$15,339	\$15,339	\$0
19	Bank charges	\$3,811	\$3,811	\$0
20	Miscellaneous expense	\$2,637	\$2,637	\$0
21	Industry association dues	\$520	\$520	\$0
22	Depreciation	\$0	\$27,645	(\$27,645)
23	Amortization exp - other	\$5,053	\$8,333	(\$3,280)
24	Permits & Taxes other than income	\$17,000	\$17,000	\$0
25	Total Expenses	<u>\$336,222</u>	<u>\$442,049</u>	<u>(\$105,827)</u>