

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 19, 2011

IN RE:)	
)	
PETITION OF TENNESSEE WASTEWATER)	DOCKET NO.
SYSTEMS, INC. FOR AUTHORITY TO EXPAND)	11-00155
ITS SERVICE AREA TO INCLUDE A PORTION OF)	
MONTGOMERY COUNTY IN TENNESSEE, KNOWN)	
AS THE BLUFF AT BRADBURY FARMS)	

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Kenneth C. Hill, Director Sara Kyle, and Director Mary W. Freeman, the voting panel of the Tennessee Regulatory Authority (the “Authority” or “TRA”) assigned to this docket, at a Hearing held on November 21, 2011 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 Montgomery County in Tennessee known as The Bluff at Bradbury Farms (“Bradbury Farms”).

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ (“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 6, 2011, TWS filed

¹ 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.

the *Petition* in the present matter, along with the Pre-filed Direct Testimony of Matt Pickney. On November 10, 2011, TWS filed pursuant to TRA Rule 1220-4-13-.04(1)(c) documents showing that the Tennessee Department of Environment and Conservation had issued to TWS a State Operating Permit for Bradbury Farms.

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 47 residential units.² The Company proposes a re-circulating trickling filter and subsurface drip dispersal system that has a projected capacity of 15,000 gallons per day that can be expanded if needed.³

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, TWS attached a letter from Keith Burkhart of Lark Investments in Clarksville, Tennessee, requesting TWS provide service to Bradbury Farms.⁴ In addition, TWS attached correspondence from the Gas and Water Department of the City of Clarksville, the other potential wastewater service provider in the area, stating that the City does not currently intend to extend wastewater service to the Bradbury Farms area.⁵ The Company filed service area maps showing the location of the new service area.⁶ TWS further states that the system should be completed within approximately ninety days after approval of the CCN.⁷

November 21, 2011 Hearing

Public notice of the Hearing in this matter was issued by the Hearing Officer on November 10, 2011, with the Hearing being scheduled for the November 21, 2011 Authority Conference. No person sought intervention prior to or during the Hearing. During the Hearing held on November 21, 2011, Mr. Matt Pickney, Operations Manager of TWS, presented testimony and was subject to examination by the panel. The 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 Bradbury Farms.⁸

² *Petition*, p. 1 (Sept. 6, 2011).

³ *Id.*

⁴ *Petition* (unnumbered attachments) (Sept. 6, 2011): Letter from Keith Burkhart dated July 6, 2011.

⁵ *Petition* (unnumbered attachments) (Sept. 6, 2011): Wade H. Rudolph, Operations Manager, Clarksville Gas and Water, letter dated June 13, 2011.

⁶ *Petition*, Exhibits A1-A3 (Sept. 6, 2011).

⁷ *Petition*, p. 1 (Sept. 6, 2011).

⁸ Matt Pickney, Pre-Filed Testimony, pp. 1-2 (Sept. 6, 2011).

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 Company.

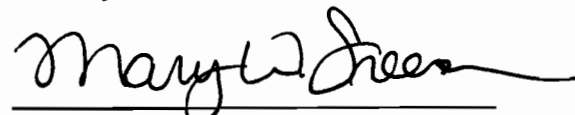
Based upon the evidentiary and administrative record as a whole and relying on the standards set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2008) and TRA Rule 1220-4-13-.04(1)(b), the panel voted unanimously to grant approval of the *Petition*, including the rates filed by the Company.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include The Bluff at Bradbury Farms in Montgomery County, Tennessee, as shown in the maps 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 6, 2011.


Kenneth C. Hill, Chairman


Sara Kyle, Director


Mary W. Freeman, Director