

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

PETITION OF TENNESSEE WASTEWATER)
SYSTEMS, INC. FOR DECLARATORY RULING)

DOCKET NO. 06-00277

PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC.
FOR DECLARATORY RULING

Tennessee Wastewater Systems, Inc. ("TWSI"), petitions the Tennessee Regulatory Authority for a declaratory ruling, pursuant to T.C.A. §4-5-223, concerning the interpretation of T.C.A. §6-51-301 and its application to a dispute between TWSI and the Caryville-Jacksboro Utility Commission as to which entity can legally provide wastewater service to Villages at Norris Lake in Campbell County, Tennessee.

In support of his petition, TWSI submits the following:

Statement of Facts

1. TWSI provides wastewater services in Tennessee pursuant to several certificates of convenience and necessity issued by the TRA. One such certificate, TRA Docket No. 06-00277, issued April 11, 2007, authorizes TWSI to provide wastewater service at a development known as Villages at Norris Lake in Campbell County, Tennessee. As required by state law, TWSI has also obtained a State Operating Permit (SOP-07001) from the Tennessee Department of Environment and Conservation ("TDEC") which permits TWSI to operate a wastewater system at Villages at Norris Lake. Pursuant to the TRA certificate and TDEC permit, sewer connections for 180 lots and 17,000 feet of sewer main, have been installed at the site. TWSI

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has also spent substantial amounts of money in regulatory and engineering expenses in order to provide service to this development.

2. Caryville-Jacksboro Utility Commission ("CJUC") is a municipal utility serving the municipalities of Caryville and Jacksboro, Tennessee. CJUC is located at 585 Main Street, P.O. Box 121, Jacksboro, Tennessee 37757. CJUC has obtained a State Operating Permit (No. SOP-10051) from TDEC authorizing CJUC to operate a wastewater system to provide service to Villages at Norris Lake. Villages at Norris Lake is located wholly outside the city limits of Caryville and Jacksboro.

3. The SOP issued to CJUC states that TDEC's Division of Water Pollution Control, which issued the permit, "is not in a position to regulate service area" and that the issuance of SOPs to both TWSI and to CJUC to provide wastewater service to the same development "does not convey any property rights...or any exclusive privileges, nor does it authorize any...infringement of...state...laws or regulations."

4. Under Tennessee law, T.C.A. §6-51-301(a), "no municipality may render utility water service to be consumed in any area outside its municipal boundaries when all of such area is included within the scope of a certificate...of the Tennessee Regulatory Authority."

5. Both the TRA (Docket Nos. 03-00329 and 04-00045, Order issued May 16, 2006) and the Tennessee Attorney General (Opinion No. 04-134, issued August 20, 2004) have concluded that a court would likely interpret T.C.A. §6-51-301(a) as prohibiting a municipal utility from providing wastewater service to customers located outside the boundaries of the municipality and inside the service area of a certificate granted by the TRA.

Relief Sought

Based on the foregoing facts and law, TWSI asks the TRA to issue a declaratory ruling that TWSI has a legally protected right to provide wastewater services to Villages at Norris Lake, subject to the TRA's power to modify or revoke that right and that, absent such action by the TRA, CJUC is prohibited by state law from providing wastewater service to Villages at Norris Lake.

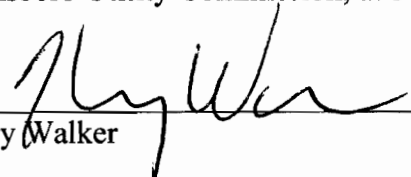
Respectfully submitted,



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Certificate of Service

I certify that a copy of this petition has been sent by first class mail on November 15, 2011, to Elizabeth Asbury, counsel for the Caryville-Jacksboro Utility Commission, at 567 Main Street, Jacksboro, Tennessee 37757.



Henry Walker