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October 11, 2013

Ms. Sharla Dillon
Dockets and Records Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

RE: Emerson Properties, LLC v. Tennessee Wastewater Systems, Inc.
Docket No. 13-00017 – Direct Testimony of Charles Hyatt

Dear Sharla:

In accordance with the procedural schedule issued September 16, 2013, Tennessee Wastewater files the attached, direct testimony of Charles Hyatt and exhibits.

Sincerely,

BRADLEY ARANT BOULT CUMMINGS LLP

By:

A handwritten signature of Henry Walker in black ink.

Henry Walker

HW/mkc
Enclosure

cc: Mark Troutman
Charlena Autmiller

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DOCKET NO. 13-00017

A. Yes. TWSI holds a certificate of convenience and necessity to provide wastewater service to residents in a development located in Campbell County, Tennessee called "Villages at Norris Lake." That certificate was issued by the Tennessee Regulatory Authority on April 11, 2007, in Docket 06-00277. The previous owner of the development went bankrupt, and the development is now owned by Emerson. Although the contract between TWSI and the previous owner for the provision of wastewater service was set aside by the bankruptcy court, TWSI's certificate to serve that development remains in effect as confirmed by the Davidson County Chancery Court in an opinion issued January 7, 2013 at pp. 4-5. See Tennessee Wastewater Systems v. Tennessee Regulatory Authority, et al., Docket No. 12-0143-II (Davidson County Chancery Court). A copy of the opinion has previously been filed with the Authority. As the Court also affirmed, the certificate grants TWSI the exclusive right to provide wastewater service to this development unless the TRA finds that TWSI is unwilling or unable to meet the reasonable needs of those customers for wastewater service. As stated in my affidavit, TWSI is willing and able to provide wastewater service to meet the reasonable needs of customers located in Villages at Norris Lake in accordance with the rates, terms, and conditions of TWSI's tariffs on file at the TRA.

Q. Does TWSI have a contract with Emerson Properties to provide that service?

A. No. As I said in my affidavit, TWSI remains willing to enter into a contract with Emerson to provide service under reasonable terms and conditions. If the parties cannot agree on contract terms, TWSI agrees that either party may ask the Authority to resolve

the matter. Emerson, however, has made no request of TWSI for wastewater service or for a contract.

Q. Do you believe that TWSI and Emerson can reach an agreement?

A. TWSI has reached agreements with developers to provide service at approximately seventy locations in Tennessee. I believe we can reach an agreement with Emerson Properties. If not, we will submit the matter to the TRA.

Q. Do you have any reason to believe that Emerson is presently constructing a wastewater system at Villages of Norris Lake?

A. As I stated in my affidavit, it appears that Emerson hired a contractor in February, 2013, to install a portion of a wastewater system along Rainbow View Road in the Villages of Norris Lake Development. A copy of a "TN811 Locate Request" dated February 5, 2013, is attached to my affidavit and to this testimony.

Q. Does Emerson Properties have a certificate from the TRA to construct a wastewater system at that location?

A. No. TWSI is the only company holding a TRA certificate to build or operate a wastewater system at that site.

Q. Do you believe that any construction work of the system is still continuing?

A. I do not think so. The Tennessee Department of Environment and Conservation ("TDEC") issued a letter dated March 6, 2013, that any construction work on the project

"should cease." A copy of that letter was sent to counsel for Emerson and has been filed with the Authority.

Q. In light of the TDEC letter, what action do you believe the Authority should take?

A. I believe the Authority should also direct Emerson not to construct a utility system on this property until Emerson and TWSI have reached an agreement for the provision of wastewater service.

Q. Do you have any information indicating that Emerson may be collecting or planning to collect wastewater fees from property owners at Villages of Norris Lake?

A. Yes. In the one meeting that has occurred between TWSI and the owner of Emerson Properties, Mr. Bob Pickney of TWSI was told that Emerson is continuing to sell lots in the development despite the fact that there is no wastewater system available. Mr. Pickney was left with the impression that the lot owners would be asked to pay a wastewater fee either to Emerson or to the homeowners association and that this fee would be used to build the wastewater system. I have also discussed this matter with the president of the homeowners association. He told me that lot owners are currently paying a vacant lot fee which is intended to be used to construct or operate a wastewater system.

Q. What do you believe the Authority should do?

A. I am concerned that the property owners may be charged for wastewater service twice. If the lot owners are paying tap fees or any type of surcharge that is earmarked for wastewater service, that money should be placed in an escrow account and used to

construct and operate a certified wastewater system. Since TWSI is the only utility authorized by the TRA to construct or operate a wastewater system at this location, any customer money should be held in escrow until Emerson and TWSI have reached an agreement and then the money should be spent in accordance with the terms of that contract.

Q. Does TWSI currently own any wastewater facilities at this site?

A. No. As provided in our tariffs, we will work with the developer to construct a wastewater plant that meets our specifications and the requirements of the State Operating Permit issued by TDEC to TWSI to serve this location. Once construction is complete and the system passes inspection, we will take ownership of the system and operate it in accordance with our TRA-approved tariffs. This is the same business model that we follow with virtually all of the systems we have in Tennessee.

Q. Can you think of any reason why TWSI should not be able to provide service to this development in accordance with your certificate and your tariffs?

A. No, I cannot.

Q. Can you think of any reason why Emerson Properties has failed to request wastewater service from TWSI?

A. I believe that the recession in the housing market has impacted this development just as it has impacted developments across the state. I also believe that Emerson Properties thought that because they purchased this development in a bankruptcy proceeding, the

certificate held by TWSI had been canceled. As the Chancery Court held, TWSI's certificate remains in effect regardless of the bankruptcy of the former owner. I had hoped that, in light of the Court's ruling, Emerson Properties would enter into contract negotiations with TWSI. They have not done so but have filed this action instead.

Q. Does that complete your testimony?

A. Yes.

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

EMERSON PROPERTIES, LLC,

Petitioner

v.

**TENNESSEE WASTEWATER
SYSTEMS, INC.,**

Respondent

DOCKET NO. 13-00017

AFFIDAVIT OF CHARLES HYATT

STATE OF TENNESSEE)

COUNTY OF RUTHERFORD)

I, CHARLES HYATT, after first being duly sworn, depose and state as follows:

1. I am a citizen and resident of Lewisburg, Tennessee, and I am over 18 years of age.
2. I am President of Tennessee Wastewater Systems, Inc. ("TWSI") and have held that position with TWSI from 2007 to the present.
3. TWSI is a privately-owned utility that provides public wastewater services in Tennessee pursuant to several Certificates of Public Convenience and Necessity ("Certificates") issued to TWSI by the Tennessee Regulatory Authority "TRA").
4. TWSI is considered to be a "public utility" and is regulated by the TRA with respect to services provided pursuant to the TRA Certificates.

5. In my capacity as President of TWSI, I am familiar with and oversee TWSI's activities in Tennessee, including its provision of public wastewater services in Tennessee to service areas approved by the TRA and all regulatory activities before the TRA.

6. The facts stated in this affidavit are based upon my personal knowledge and my review of the business records of TWSI, including its filings with the TRA.

7. TWSI's business records are made by persons with knowledge of the facts or information contained in those records at or near the time of the acts or events reflected in the records. TWSI's business records are made as part of its regular business practice and kept in the course of its regularly conducted business activity.

8. In 2006, TWSI filed a Petition before the TRA, requesting approval to expand its service area in Tennessee to provide public wastewater services to a portion of Campbell County, Tennessee for a residential development known as Villages at Norris Lake. On April 11, 2007, the TRA entered an Order approving TWSI's Petition.

9. Villages at Norris Lake is located within the service area authorized by the TRA Order Certificate issued to TWSI on April 11, 2007.

10. TWSI is willing and able to provide wastewater services to meet the reasonable needs of customers located in Villages at Norris Lake in accordance with the rates, terms and conditions of TWSI's tariffs on file at the TRA.

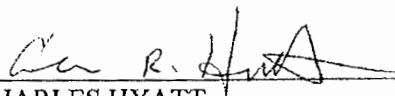
11. As set forth in TWSI's tariffs, TWSI will accept ownership of and responsibility for a wastewater system constructed by a developer if the system meets the requirements of TWSI and the Tennessee Department of Conservation and Environment. As stated in the tariffs, bedding conditions, material specifications, sealing requirements and installation methods must be approved by a TWSI engineer.

12. Based on a "TN811 Locate Request" dated February 5, 2013, it appears that Emerson Properties, LLC has hired a contractor to install a wastewater system at Villages at Norris Lake on Rainbow View Road in Campbell County, Tennessee. See Exhibit 4, attached.

13. TWSI does not have a contract with Emerson to provide wastewater services at Villages at Norris Lake nor has TWSI been asked by Emerson to approve the design or installation of a wastewater system at that location.

14. TWSI agrees to enter into a contract with Emerson Properties LLC to provide wastewater services at Villages at Norris Lake under terms and conditions that are just and reasonable and consistent with TWSI's tariffs. If the parties are unable to agree on a contract, TWSI agrees that either TWSI or Emerson may ask the Authority to resolve the matter.

FURTHER THE AFFIANT SAITH NOT.



CHARLES HYATT
President, Tennessee Wastewater Services, Inc.

SWORN TO AND SUBSCRIBED
BEFORE ME, this the 26th day
of March, 2013.



NOTARY PUBLIC

My Commission Expires: 3-7-2017



Walker, Henry

To: Walker, Henry
Subject: FW: Tennessee One Call Ticket Information

TN811 LOCATE REQUEST

TICKET NUMBER:	130460295	OLD TICKET NUM:	
Message Type:	Normal	For Code:	ONSITEEAST
Hours Notice:	71	Seq Num:	3
Prepared By:	Johnham	Taken Date:	02/15/13 15:53

Excavator Information

Excavator:	BRAEBURN UTILITY CONSTRUCTION SERVICES	Excavator Phone:	(423) 781-6066
Address:	4072 HIDDEN VALLEY RD	Caller:	JEFF BROWNFIELD
City, St, Zip:	CLEVELAND, TN 37312	Caller Phone:	(423) 781-6066
Contact Fax:		Contact:	JEFF BROWNFIELD
Contact Email:		Contact Phone:	(423) 781-6066
Call Back:	423-331-2036		

Work Information

State:	TN	Work To Begin:	02/21/13 AT 16:00
County:	CAMPBELL	Update Date:	
Place:	LA FOLLETTE	Expire Date:	
Address:	RAINBOW VIEW RD		
Intersection:	RAINBOW CIR		
Latitude:	36.3103705271281	Longitude:	-84.055861716545
Secondary Lat:	36.302579189503	Secondary Long:	-84.047704588421
Work Type:	SEWER MAIN, INSTL AND/OR REPL	Explosives:	No
		WhitePaint:	Yes
Done For:	EMERSON PROPERTIES LLC	Directional Boring:	No
Extent:		Add'l Addr In Remarks:	No

Location Information (DIRECTION)

Location Information (REMARKS)

MARK EXISTING SEWER PIPE CROSSING RD. FROM THE MAIN ENTRANCE INTO VILLAGES ON NORRIS LAKE SUBDIVISION. MARK APPROXIMATELY 400' WEST ON NORTH AND SOUTH SIDE OF RD (GOING TOWARD RAINBOW LN). SEWER PIPE IS ESTIMATED TO BE APPROXIMATELY 5-10FT OF EDGE OF NORTH OR SOUTH SIDE OF RD. 201321427.XML

GRIDS: [113M] [114P] [123D] [124A]

Utilities Notified:

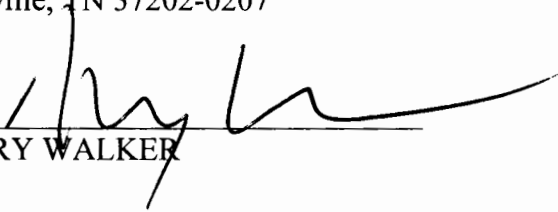
<u>Code</u>	<u>Name</u>	<u>Manually Added</u>
B03	ATT/D-Knox (502)499-6429 - B03	False
LAFOL	Lafollette Water & Sewer	False
ONSITEEAST	Tennessee Wastewater Systems (East) - ONSITEEAS...	False

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October, 2013, a copy of the foregoing document was served on the parties of record, via hand-delivery, overnight delivery or U.S. Mail, postage prepaid, addressed as follows:

C. Mark Troutman (BPR No. 011712)
Troutman & Troutman, P.C.
P.O. Box 757
LaFollette, TN 37766
423-566-6001

Charlena Aumiller (BPR #031465)
Assistant Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202-0207



HENRY WALKER