

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

**August 11, 2014**

<b>IN RE:</b>	)	
	)	
<b>SHOW CAUSE PROCEEDING AGAINST</b>	)	<b>DOCKET NO.</b>
<b>TENNESSEE WASTEWATER SYSTEMS, INC.</b>	)	<b>14-00041</b>
<b>FOR MATERIAL NON-COMPLIANCE AND/OR</b>	)	
<b>VIOLATIONS OF STATE LAW AND/OR TENN.</b>	)	
<b>R. &amp; REGS. §§ 1220-04-13, et. seq.</b>	)	

---

**DISSENT OF DIRECTOR KENNETH C. HILL**

---

On June 16, 2014, the voting panel assigned to this docket convened to consider the *Order Requiring Tennessee Wastewater Systems, Inc. to Appear and Show Cause Why the TRA Should Not Take Action to Terminate, Amend, or Revoke It's CCN to Provide Wastewater Service to the Portion of Campbell Co., Tennessee, Known as the Villages at Norris Lake, and to Impose Civil Penalties and Seek Additional Relief Against It for Its Material Non-compliance and/or Violations of State Law and Tenn. R. & Regs. §§1220-04-13, et. seq. ("Show Cause Order")*. At the conclusion of the deliberations, a majority of the panel concluded that Tennessee Wastewater Systems, Inc.'s ("TWSI") amendment to its Certificate of Convenience and Necessity ("CCN") to serve the Villages at Norris Lake should be revoked. For the reasons set forth below, I respectfully dissent.

I believe that a show cause proceeding before the Tennessee Regulatory Authority ("Authority" or "TRA") should not only be punitive in nature but also be corrective. It is the responsibility of this agency to make sure that the public utilities under our jurisdiction comply with the law. If a utility fails to do so, then the TRA has the duty to address the noncompliance.

In doing so, the Authority may punish the utility for the violations, but it is also in our discretion to require such utility to come into compliance with the law. In fact, TRA Rule 1220-4-13-.09(4) state that except in certain limited circumstances, a utility in violation should be given an opportunity to correct the violations before the Authority takes action against the utility.

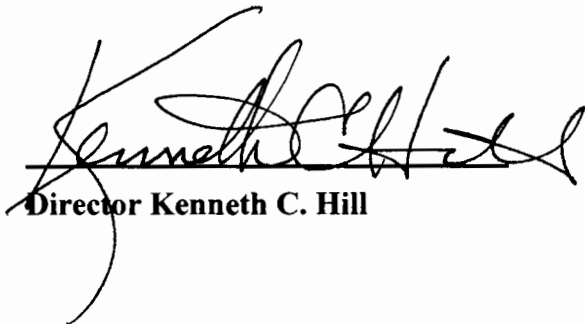
TWSI is attempting to take steps to comply with the law. Charles Hyatt, President of TWSI, testified that TWSI has made mistakes in its dealings with Emerson and did not handle the situation properly. Both TWSI and Emerson should have been proactive in trying to come to a resolution, but they were not. TWSI is now seeking an opportunity to move forward and has even changed its business model so that it can provide service to The Villages. Because of the far-reaching implications of this docket, I was persuaded by TWSI's proposal for a resolution, and I believe the best course of action is to give the parties an opportunity to come to an agreement. To my knowledge, the proposal presented by TWSI was first presented to Emerson at the hearing. I think Emerson should have an opportunity to consider TWSI's offer outside of the hearing where emotions ran high. TWSI should be given an opportunity to live up to the commitments it made at the hearing.

In addition to my opinion that TWSI should be given time to reach an agreement with Emerson, I am also very concerned that it will not be a viable option for The Villages to receive service from CJUC. CJUC has stated that although it has the State Operating Permit from the Tennessee Department of Environment and Conservation ("TDEC"), Emerson will contract with an outside operator to actually operate and maintain the wastewater system. I do not know how long CJUC can continue to be liable for parties over which it has no control to comply with the State's rules and operate the system in a safe and efficient manner. CJUC asserts that it works very closely with the operator and conducts its own inspections, but absent some type of contract

between CJUC and the operator, CJUC has no way of ensuring that the operator complies with the law. According to CJUC, this type of arrangement has worked well in the past, but I have serious concerns about whether CJUC will continue to be an option for The Villages to obtain wastewater service.

For these reasons, I could not vote with the majority. I think it would be better for all involved to accept the proposal of the parties to give TWSI an additional thirty (30) days to show progress toward obtaining the wastewater system at The Villages, whether by agreement or through eminent domain. I think TWSI should be required to file proof of such progress in this docket file, and if it has not made progress in thirty (30) days or cannot demonstrate that progress will be made within the remaining month of the proposed 60-day deadline to begin providing service, then TWSI's amendment to its CCN to serve The Villages should be revoked.

For the foregoing reasons, I respectfully dissent from the majority's decision.

A handwritten signature in black ink, appearing to read "Kenneth C. Hill", is written over a horizontal line. Below the line, the text "Director Kenneth C. Hill" is printed in a bold, sans-serif font.

**Director Kenneth C. Hill**