### BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

### NASHVILLE, TENNESSEE

**February 9, 2015** 

| IN RE:                               | ) |            |  |
|--------------------------------------|---|------------|--|
| CHOW CALICE PROCEEDING A CAINIST     | ) | DOCKETNO   |  |
| SHOW CAUSE PROCEEDING AGAINST        | ) | DOCKET NO. |  |
| TENNESSEE WASTEWATER SYSTEMS, INC.   | ) | 14-00041   |  |
| FOR MATERIAL NON-COMPLIANCE AND/OR   | ) |            |  |
| VIOLATIONS OF STATE LAW AND/OR TENN. | ) |            |  |
| R. & REGS. §§ 1220-04-13, et. seq.   | ) |            |  |
|                                      |   |            |  |

### NOTICE OF FILING SUPPLEMENTAL DOCUMENTS

The documents listed below and attached hereto in full, were considered relevant, cited, and referenced by the parties and the Authority throughout the proceedings and/or, in part, formed the basis for the Authority's final decisions in Docket Nos. 13-00017 and 14-00041. In order to ensure that a fair, accurate, and complete record of the proceedings is preserved, the Tennessee Regulatory Authority ("Authority"), with the knowledge and agreement of Tennessee Wastewater Systems, Inc., hereby supplements the above-styled docket as follows:

As originally filed in TRA Docket No. 93-09040, In re the Application of On-Site Systems, Inc. for a Certificate of Convenience and Necessity to Provide Sewage Collection, Treatment and Disposal for a Proposed Development in Maury County:

1. **Order** (April 6, 1994) (granting On-Site Systems, Inc., now known as Tennessee Wastewater Systems, Inc., an initial Certificate of Public Convenience and Necessity to provide wastewater service for a designated area in Tennessee).

As originally filed in TRA Docket No. 06-00277, In re Petition of Tennessee Wastewater Systems, Inc. to Amend Its CCN to Expand Its Service Area to Include a Portion of Campbell County in Tennessee known as Villages at Norris Lake:

2. Petition of Tennessee Wastewater Systems, Inc. to Amend Its Certificate of Convenience and Necessity (November 9, 2006);

- 3. Revised Projected Subdivision Buildout Sheet (December 18, 2006);
- 4. Order Approving Petition to Amend Certificate of Public Convenience and Necessity (April 11, 2007).

As originally filed in TRA Docket No. 11-00199, In re Petition of Tennessee Wastewater Systems, Inc. for Declaratory Ruling:

5. Initial Order Declining to Accept or to Set Petition for Declaratory Ruling for Hearing (January 11, 2012).

As originally filed in TRA Docket No. 14-00047, In re Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security:

6. Order Approving Alternative Financial Security (July 8, 2014).

Jean Stone, General Counse

<sup>&</sup>lt;sup>1</sup> This Order is included at the specific request of Tennessee Wastewater Systems, Inc.

# BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION Nashville, Tennessee

APRIL 6, 1994

IN RE:

THE APPLICATION OF ON-SITE SYSTEMS, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWAGE COLLECTION, TREATMENT AND DISPOSAL FOR A PROPOSED DEVELOPMENT IN MAURY COUNTY.

DOCKET NO. 93-09040

### ORDER

This matter is before the Tennessee Public Service Commission upon the application of On-Site Systems, Inc. for a Certificate of Convenience and Necessity as set forth in the above caption.

The matter was set for hearing and was heard on February 23, 1994, before Mack H. Cherry, Administrative Judge. On March 17, 1994 the Administrative Judge issued his Initial Order recommending that the application be granted.

The Commission considered this matter at the Commission Conference held on April 5, 1994. It was concluded after careful consideration of the entire record, including the Administrative Judge's Initial Order and all applicable laws and statutes and particularly the requirements of T.C.A. 65-15-107 that the Administrative Judge's Initial Order should be approved and the authority granted. The Commission further ratifies and adopts the findings and conclusions of the Administrative Judge as its own.

### IT IS THEREFORE ORDERED:

- 1. That the Administrative Judge's Initial Order dated March 17, 1994, in this docket is hereby ratified, adopted and incorporated by reference in this Order as fully as though copied verbatim herein, including the findings and conclusions of the Administrative Judge which the Commission adopts as its own.
- 2. That On-Site Systems, Inc. is hereby authorized to provide sewage collection, treatment and disposal for a proposed

development in Maury County.

- 3. That any party aggrieved with the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within ten (10) days from and after the date of this Order.
- 4. That any party aggrieved with the Commission's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this

ATTEST

Order.

Na. MA

EXECUTIVE DIRECTOR

MAIRMAN

COMMISSIONER

COMMISSIONER

## BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION Nashville, Tennessee March 17, 1994

IN RE:

APPLICATION OF ON-SITE SYSTEMS, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWAGE COLLECTION, TREATMENT AND DISPOSAL FOR A PROPOSED DEVELOPMENT IN MAURY COUNTY

DOCKET NO. 93-09040

### INITIAL ORDER

This matter is before the Tennessee Public Service Commission upon the petition of On-Site Systems, Inc., (On-Site Systems or Petitioner) for a certificate of public convenience and necessity to provide sewage collection, treatment and disposal for a proposed development of a 175 acre parcel of land in Maury County, Tennessee.

The matter was set for hearing and heard on February 23, 1994 before Administrative Judge Mack Cherry, at which time the following appearances were made:

### **APPEARANCES:**

ROBERT J. PINKNEY, 7638 River Road Pike, Nashville, TN 37209, appearing on behalf of the petitioner, pro se

DAVID W. YATES, Assistant General Counsel, Tennessee Public Service Commission, 460 James Robertson Parkway, Nashville, Tennessee 37243-0505, appearing on behalf of the Commission Staff.

A proposed initial order was filed by the Staff March 16.

Certificates of Public Convenience and Necessity are granted pursuant to T.C.A. 65-4-204. Should a certificate be granted, rates approved must be just and reasonable and must conform to the requirements of T.C.A. 65-5-201.

### THE APPLICANT

On-Site Systems is a corporation established to provide sewage collection, treatment and disposal for a proposed development of a 175 acre parcel of land in Maury County, Tennessee. The Petitioner is owned by Robert Pinkney and his two brothers and is based in Nashville. Robert Pinkney testified as President of On-Site Systems. Mr. Pinkney is an engineer with a degree from Tennessee Technological University. He and his brothers have substantial experience in this type of engineering.

Currently there is no sewer service available to the site and none is projected to be available in the future. The Maury County Commission has passed resolutions prohibiting the Utilities from providing sewer service in this area. Individual sewage disposal systems are not possible due to large areas of poor The Petitioner has proposed to serve approximately 65 lots soil. in this development. Mr. Pinkney testifled that the plans for the system include a small diameter gravity collection system, with sub-surface disposal via a low pressure pipe distribution system. The plans will be reviewed and approved by the Division of Ground Water Protection of the Department of Health and Environment. The concept is relatively new in this area. Mr. Pinkney learned of the concept from similar sewer system developments in the western states.

The developer of the property will pay for all design and installation of the sewer system. On-Site Systems, inc. will have no capital investment in the system and the developer will turn the system over upon completion to On-Site Systems, inc.

### Rates

The Company proposed a total monthly rate of \$8.49 plus bond costs. As a condition of approval, the Maury County Planning Commission will require a bond, however, the exact amount and type are not known at this time. According to Mr. Pinkney, the Maury County Planning Commission will determine the amount of the bond after the Tennessee Public Service Commission Issues a final order in this docket. Mr. Brent Bustin, Financial Analyst for the Commission, testified that the \$8.49 flat rate per month is reasonable based on similar charges for other regulated sewer companies and the City of Spring Hill, the closest incorporated area to the proposed system. However, Mr. Bustin recommended that the Commission not set rates based on the future action of the Maury County Planning Commission. Mr. Bustin recommended that the Company file a petition for a rate increase, if necessary, after the bond issue is settled.

### CONCLUSION

Mr. Pinkney appears knowledgeable and well qualified to bring about the utility. The sewer system proposed should serve the interest of the people who come to live in the development as well as the surrounding community. The concept proposed should have application in other areas of the state in the future.

On-Site Systems appears to have satisfied the requirements of T.C.A. 65-4-204. The public convenience and necessity will be well served by a grant of the authority. I also find that the flat rate of \$8.49 per month is just and reasonable.

T.C.A. 4-5-315 provides that all parties shall have an opportunity to appeal initial orders to the Commission. However. the Commission reviews all initial orders, thereby assuring review. All parties may file exceptions in the form of a brief setting forth specific issues. The exceptions and any replies will be considered by the Commission in its review. The Commission will consider the matter in a regularly scheduled Commission Conference. Affected parties may then seek reconsideration of the Commission's Final Order or may appeal the Final Order to the Court of Appeals, Middle Division, within 60 (sixty) days of the Final Order.

initial Order is prepared in conformity with the This Tennessee Uniform Administration Procedures Act, T.C.A. Procedures whereby parties seek review et sea. stay or reconsideration are found in T.C.A. 4-5-315 - 318. Judicial review of Commission orders is described in T.C.A. 4-5-322.

#### IT IS THEREFORE ORDERED:

- That a public certificate of convenience and necessity be granted to On-Site Systems, inc. to provide sewage collection, treatment and disposal for a proposed development in Maury County, Tennessee.
- The rate of \$8.49 per month is reasonable and is hereby approved. On-Site Systems, Inc. is hereby ordered to file a tariff with the Commission containing those rates.

Mack H. Cherry

Administrative Judge

# TENNESSEE WASTEWATER SYSTEMS, INC. A PUBLIC UTILITY CO.

November 8, 2006

filed electronically in docket office on 11/09/06

Honorable Sara Kyle Chairman Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, TN 37243-0505

Docket No. 06-00277

RE: Petition to amend Certificate of Convenience and Necessity

Dear Chairman Kyle:

Tennessee Wastewater Systems, Inc. desires to expand its service area to include a portion of Campbell County in Tennessee, known as Villages at Norris Lake. The attached Petition is in support of our request.

Sincerely,

Matt Pickney, Operations Manager Tennessee Wastewater Systems, Inc.

7638 River Road Pike Nashville TN 37209-5733 (615) 356-2880 Fax (615) 356-7295

# BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

|  | , 2006   |
|--|--|
| IN RE: PETITION OF TENNESSEE WASTEWATER S'INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY |  |
| DC   | OCKET No   |
|  | Petition of Tennessee Wastewater Systems, Inc. To amend its Certificate of Convenience and Necessity |
| Ten  | nessee Wastewater Systems, Inc. ("TWSI") petitions the Tennessee                                     |

Tennessee Wastewater Systems, Inc. ("TWSI") petitions the Tennessee Regulatory Authority ("TRA") to amend TWS's Certificate of Convenience and Necessity to expand its service area to include a portion of Campbell County known as Villages at Norris Lake. The project is located on Rainbow View Road in Campbell County. The property includes parcels shown in orange on the enclosed maps as provided by Campbell County (see attached "Exhibit A"). These parcels encompass in excess of 650 acres.

We are proposing to provide wastewater service to approximately 600 residential and commercial lots at the Villages at Norris Lake. The wastewater system will be designed and constructed to serve 600 lots (approximately 180,000 gallons per day) and can be expanded if needed. The TDEC application for a permit is being prepared. No contracts have been signed at this point. It is the intention of the parties that TWS will own the collection, treatment, and dispersal system and will own a permanent easement on the property that the system occupies.

Also enclosed, are letters from the City of La Follette and the Campbell County Government stipulating that none of these entities will provide sewer service for these parcels. We have also enclosed a letter from the developer, Land Resource Companies, Inc., requesting TWSI to be the public sewer utility provider for the project.

After approval, the construction of the system, which is comprised of a recirculating sand filter and subsurface drip dispersal, will take approximately 60 days to complete. The estimated value of the contribution in aid of construction is approximately \$3,000,000.00.

Respectfully Submitted,

Matt Pickney

Tennessee Wastewater Systems, Inc.

| 1        |   | BEFORE THE TENNESSEE REGULATORY AUTHORITY                                  |  |
|----------|---|--|--|
| 2        |   | NASHVILLE, TENNESSEE   |  |
| 3        |   |  |  |
| 4        |   | _  |  |
| 5        | IN RI   | E:   | )                                      |
| 6        | DETT  | TION OF TENDIECCEE MACCEEMACE  | )                                      |
| 7<br>8   |   | TION OF TENNESSEE WASTEWATER EMS, INC. TO AMEND ITS                        | ) Docket No                            |
| 9        |   | FIFICATE OF CONVENIENCE AND  | )                                      |
| 10       |   | ESSITY   | )                                      |
| 11       | NECI  |  | ,                                      |
| 12       |   |  |  |
| 13       |   | VILLAGES AT NORE   | RIS LAKE                               |
| 14       |   | PRE-FILED DIRECT TESTIMONY   |  |
| 15       |   |  |  |
| 16       |   |  |  |
| 17       | Q.  | State your name for the record and your pos                                | sition with the Petitioner, Tennessee  |
| 18       |   | Wastewater Systems, Inc.   |  |
| 19       |   |  | ·                                      |
| 20       | A.  | Matt Pickney. I am the Operations Manage                                   | r of Tennessee Wastewater Systems,     |
| 21       |   | Inc.   |  |
| 22       | •   | William Con William  |  |
| 23       | Q. What is the business of Tennessee Wastewater Systems, Inc. (the Company)?    |  |  |
| 24<br>25 | A. Providing affordable wastewater service in communities where it is presently |  |  |
| 26       | unavailable.  |  |  |
| 27       |   | unavanaoic.  |  |
| 28       | Q.  | When did the Company receive its first certi                               | ficate from the Authority to operate a |
| 29       | sewer system in Tennessee?  |  |  |
| 30       |   |  |  |
| 31       | A.  | April 4, 1994.   |  |
| 32       |   |  |  |
| 33       | Q.  | How many certificates has the Company rec                                  |  |
| 34       |   | sewer service across the State of Tennessee?                               | ?                                      |
| 35       |   |  |  |
| 36       | A.  | Over 70.   |  |
| 37       | 0   | Will Tanasasa Wastervieter Systems comply                                  | wwith all applicable Tennessee         |
| 38       | Q.  | Will Tennessee Wastewater Systems comply Regulatory rules and regulations? | y with an applicable Telliessee        |
| 39<br>40 |   | Regulatory fules and regulations:  |  |
| 41       | A.  | Tennessee Wastewater Systems will comply                                   | with all applicable Tennessee          |
| 42       | 1 1.  | Regulatory Authority rules and regulations.                                | un upp                                 |
| 43       |   |  |  |
| 44       | Q.  | Does the Company have the management, to                                   | echnical and financial ability to      |
| 45       | `   | provide wastewater service in the area in Se                               | vier County sought in this Petition?   |
| 46       |   |  |  |

| ı  | A.     | Yes.   |
|----|--------|--|
| 2  |        |  |
| 3  | Q.     | Is there a stated public need for wastewater service in this area?               |
| 4  |        |  |
| 5  | A.     | The public need for this service is reflected in the letter from Laurence S.     |
| 6  |        | Courtney, Senior Vice President of Acquisitions & Development for Land           |
| 7  |        | Resource Companies   |
| 8  |        |  |
| 9  | Q.     | How many customers will be served in this development?                           |
| 10 |        |  |
| 11 | A.     | Our company expects to serve approximately 600 residential and commercial lots.  |
| 12 |        |  |
| 13 | Q.     | Does this conclude your pre-filed testimony?                                     |
| 14 |        |  |
| 15 | A.     | Yes.   |
| 16 |        |  |
| 17 |        |  |
| 18 |        |  |
| 19 |        |  |
| 20 |        |  |
| 21 |        |  |
| 22 |        |  |
| 23 | I swea | ar that the foregoing testimony is true and correct to the best of my knowledge. |
| 24 |        |  |
| 25 |        |  |
| 26 |        |  |
| 27 |        |  |
| 28 |        | Mits Dis   |
| 29 | -//    | Mat Picken   |
| 30 |        | Pickney  |
| 31 |        | tions Manager  |
| 32 | Tenne  | essee Wastewater Systems, Inc.   |
| 33 |        |  |
| 34 |        |  |
| 35 |        |  |
| 36 | Subsc  | ribed and sworn to me this 8th day of November, 2006.                            |
| 37 |        | La m VI  |
| 38 | Notar  | y Public Lora M. Kleix   |
| 39 |        | an M. Kin  |
| 40 |        | of Tennessee   |
| 41 |        | y of Wavidson STATE STATE OF TENNESSEE   |
| 42 | Count  |  |
| 43 |        | O NOTARY />  |
| 44 | My C   | ommission Expires My Commission Expires July 25, 2009                            |
| 45 |        | ommission Expires Lity Commission Expires July 25, 2009  NOTARY PUBLIC PUBLIC    |
|    |        |  |

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing Pre-Filed Direct Testimony of Matt Pickney has been served upon the Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN 37243-0505 on this 8th day of November 2006 and delivered by hand.

MATT PICKNEY

# Tennessee Wastewater Systems, Inc. Sewer Service Billing Summary Residential Sewer Rates

| System   | Monthly Charge         |
|--|------------------------|
| Oakwood Subdivision - Maury County - 99-00393 - Sheet 1                      | \$35.55                |
| Southridge Subdivision – Montgomery County – 97-01104 - Sheet 2              | \$24.24 + actual costs |
| Swan Harbor – Roane County – 97-01003 – Sheet 3                              | \$35.55                |
| River Road Utility District - Cheatham County - 97-01394 - Sheet 4           | \$31.54                |
| Milcrofton Utility District – Williamson County – 97-01393 – Sheet 5         | \$46.55                |
| Tall Oaks Subdivision – Blount County – 98-00790 - Sheet 6                   | \$35.55                |
| Yoakum Hollow Dev. (Windsor Pt) – Campbell County – 98-00881 – Sheet 7       | \$35.55                |
| Shreibman Development - Cannon County - 98-00880 - Sheet 8                   | \$35.55                |
| Cornerstone of Mitchell Creek - Overton County - 99-00357 - Sheet 9          | \$35.55                |
| Bolton Area - Shelby County - 99-00724 - Sheet 10                            | \$32.68                |
| Ussery #1- Sevier County – 00-00198 – Sheet 11                               | \$35.55                |
| Harbor Pointe – Dekalb County – 00-00149 - Sheet 12                          | \$35.55                |
| Hidden Springs Resort – Sevier County – 00-00379 - Sheet 13                  | \$35.55                |
| Eagle Crest Development – Sevier County – 01-00234 – Sheet 14                | \$35.55                |
| Legacy Bay - Hawkins County - 00-00622 - Sheet 15                            | \$35.55                |
| Dollywood Project (Dream Catcher Ridge) - Sevier County - 01-00424 - Sheet 1 | 16 \$35.55             |
| Homestead Subdivision – Sevier County – 01-00423 – Sheet 17                  | \$35.55                |
| Rice Property (Blue Water Bay) – DeKalb County – 01-00425 – Sheet 18         | \$35.55                |

Fees: Nonpayment – 5%, Disconnection - \$10, Reconnection - \$15, Return Check - \$20, Access - \$84/yr

Issued: Nov. 8, 2006

Issued By: Charles Pickney, Jr./President

# Tennessee Wastewater Systems, Inc. Sewer Service Billing Summary Residential Sewer Rates

| System  | Mo   | onthly Charge   |
|---|--|---|
| East Stewart – Stewart County – 01-00229            | Lagoon – Sheet 19<br>Fixed Film Treatment – Shee       | \$31.36<br>et 20 \$35.55  |
| Eagle Springs Subdivision – Sevier County – 01-0    | 0445 – Sheet 21  | \$35.55   |
| Jackson Bend Subdivision - Blount County - 01-0     | 0221 – Sheet 22  | \$35.55   |
| Browning Subdivision – Knox County – 01-00492       | - Sheet 23   | \$35.55   |
| Starr Crest II - Sevier County - 01-00755 - Sheet 2 | 24   | \$35.55   |
| City of Coopertown - Robertson County - 00-0112     | 28<br>Lagoon – Sheet 25<br>Fixed Film Treatment – Shee | \$31.36 +<br>3% Franchise fee<br>et 26  \$35.55 +<br>3% Franchise fee |
| Horseshoe Bend – Bedford County – 01-01025 – S      | sheet 27   | \$35.55   |
| Eagle Crest II - Sevier County - 01-01128 - Sheet   | 28   | \$35.55   |
| Eagle Crest Resort – Sevier County – 01-00183 – 5   | Sheet 29   | \$35.55   |
| Gnatty Branch Retreat - Sevier County - 02-00055    | 5 – Sheet 30   | \$35.55   |
| Airbase Road Condominiums - Blount County - G       | 02-00478 - Sheet 31                                    | \$35.55   |
| Goose Creek Area -Williamson County – 02-00172      | 2 - Lagoon - Sheet 32<br>Fixed Film Treatment - Shee   | \$51.33<br>et 33 \$55.46  |
| Falling Waters – Sevier County – 02-00782 – Shee    | et 34  | \$35.55   |
| Stewart County West – Stewart County – 02-0047      | 7 - Sheet 35   | \$35.55   |
| Lighthouse Point Condominiums – Jefferson Coun      | ty - 02-00732 - Sheet 36                               | \$35.55   |

Fees: Nonpayment – 5%, Disconnection - \$10, Reconnection - \$15, Return Check - \$20, Access - \$84/yr

Issued: Nov. 8, 2006

Issued By: Charles Pickney, Jr./President

# Tennessee Wastewater Systems, Inc. Sewer Service Billing Summary Residential Sewer Rates

| System   | Monthly Charge                           |
|--|--|
| The Highlands – Sevier County – 02-00781 – Sheet 37  | \$35.55                                  |
| Highland Cove – Dekalb County – 03-00242 – Sheet 38  | \$35.55                                  |
| Tims Ford State Park Area-Franklin County - 03-00286 - Lagoon - Sheet 39                                 | \$31.36+                                 |
| Fixed Film Treatment – Sheet 40  | bonding costs<br>35.55+<br>bonding costs |
| Black Bear - Sevier County - 03-00192 - Sheet 41   | \$35.55                                  |
| Sunnybrook – Robertson County – 03-00307 – Sheet 42  | \$35.55                                  |
| Sevier County – Sevier County – 03-00045 Lagoon – Sheet 43 Fixed Film Treatment – Sheet 44               | \$31.36<br>\$35.55                       |
| Smoky Cove Subdivision – Sevier County – 03-00377 – Sheet 45   | \$35.55                                  |
| King Branch Road - Sevier County - 03-00386 - Sheet 46   | \$35.55                                  |
| Paris Landing - Henry County - 03-00544 - Lagoon Treatment - Sheet 47<br>Fixed Film Treatment - Sheet 48 | \$31.36<br>\$35.55                       |
| Walnut Grove - Giles County - 04-00054 - Sheet 49  | \$35.55                                  |
| Turner's Landing – Hamblen County – 04-00053 – Sheet 50  | \$35.55                                  |
| Spring Creek Ranch - Shelby County - 04-00123 - Sheet 51   | \$35.55                                  |
| Marion Womack Property (Creekview Estates) – Sumner County – 04-00170                                    | - Sheet 52 \$35.55                       |
| Arbor Crest Subdivision - Davidson County - 04-00171 - Sheet 53  | \$35.55                                  |
| Merril Taylor Subdivision – Blount County - 04-00274 – Sheet 54  | \$35.55                                  |
| Black Bear Ridge Expansion - Sevier County - 04-00045 - Sheet 55   | \$35.55                                  |
| Fees: Nonpayment – 5%, Disconnection - \$10,   |  |

Issued: Nov. 8, 2006

Issued By: Charles Pickney, Jr./President

Reconnection - \$15, Return Check - \$20, Access - \$84/yr

# Tennessee Wastewater Systems, Inc. Sewer Service Billing Summary Residential Sewer Rates

| System   | Monthly Charge              |
|--|-----------------------------|
| Legacy Laurel Branch - Sevier County - 04-00045 - Sheet 56   | \$35.55                     |
| Legacy Mountain - Sevier County - 04-00045 - Sheet 57  | \$35.55                     |
| Legacy the Preserve – Sevier County – 04-00045 – Sheet 58  | \$35.55                     |
| Starr Crest II Phase 4 – Sevier County – 04-00045 – Sheet 59   | \$35.55                     |
| Trailhead – Sevier County – 04-00045 – Sheet 60  | \$35.55                     |
| Wyndsong Subdivision – Blount County – 04-00395 – Sheet 61   | \$35.55                     |
| Huffines Development – Robertson County – 04-00393 – Sheet 62  | \$35.55                     |
| Williamson County West - Williamson County - 04-00394-Lagoon - Sheet 6<br>Fixed Film Treatment - Sheet 6 |                             |
| Trillium Cove Condominiums – Blount County – 05-00030 – Sheet 65   | \$35.55                     |
| Marvin Keys RV Park - Cocke County - 05-00071- Sheet 66  | \$35.55                     |
| Blackberry Ridge Subdivision – Bedford County – 05-00111 – Sheet 67                                      | \$35.55                     |
| Steve Jones Subdivision – Union County – 05-00116 – Sheet 68   | \$35.55                     |
| Grainger's Landing Condominiums – Grainger County – 05-00117 – Sheet 6                                   | 9 \$35.55                   |
| German Creek Marina and Resort – Grainger County – 05-00138 – Sheet 70                                   | \$35.55                     |
| Smoky Village Subdivision – Sevier County - 05-00145 – Sheet 71  | \$35.55                     |
| Fentress Service Area – Fentress County – 05-00162 – Lagoon – Sheet 72<br>Fixed Film Treatment –         | \$31.36<br>Sheet 73 \$35.55 |
| Emerald Pointe -Cocke County - 05-00200 - Sheet 74   | \$35.55                     |

Fees: Nonpayment - 5%, Disconnection - \$10,

Reconnection - \$15, Return Check - \$20, Access - \$84/yr

Issued: Nov. 8, 2006

Issued By: Charles Pickney, Jr./President

# Tennessee Wastewater Systems, Inc. Sewer Service Billing Summary Residential Sewer Rates

| System   | Monthly | Charge                    |
|--|---------|---------------------------|
| Elk Springs Resort – Sevier County –05-00211 – Sheet 75                |         | \$35.55                   |
| Cedar Hill Area – Robertson County - 05-00212 – Sheet 76               |         | \$35.55                   |
| Brigadoon Resort - Roane County - 05-00241 - Sheet 77                  |         | \$35.55                   |
| Cross Plains – Robertson County – 05-00293 – Sheet 78                  | Lagoon  | \$31.36                   |
| Lowe's Ferry Landing – Blount County – 05-00339 – Sheet 79             |         | \$35.55                   |
| Riversedge Subdivision Phase II – Decatur County – 05-00340 – Sheet 80 | )       | \$35.55                   |
| Keene's Island – Jefferson County – 06-00021 – Sheet 81                |         | \$35.55                   |
| Sugarloaf Ridge - Sevier County - 06-00022 - Sheet 82                  |         | \$35.55                   |
| Griffitts Mill – Blount County – 06-00076 – Sheet 83                   |         | \$35.55                   |
| Parott's Bay – Jefferson County – 06-00077 – Sheet 84                  |         | \$35.55                   |
| Summit View - Sevier County - 06-00078 - Sheet 85                      |         | \$35.55                   |
| Settlers Ridge - Sevier County - 06-00081 - Sheet 86                   |         | \$35.55                   |
| Happy Creek – Sevier County – 06-00104 – Sheet 87                      |         | \$35.55                   |
| Richland – Humphreys County – 06-00179 – Sheet 88                      |         | \$35.55                   |
| East Montgomery – Montgomery County (Pending) – 06-00184               |         | \$24.24 +<br>Actual Costs |
| Providence Hills – Sevier County – 06-00198 – Sheet 89                 |         | \$35.55                   |
| Sharondel Estates – Blount County – 06-00204 – Sheet 90                |         | \$35.55                   |
| Villages at Norris Lake – Campbell County                              |         | \$35.55 (N)               |

Fees: Nonpayment - 5%, Disconnection - \$10,

Reconnection - \$15, Return Check - \$20, Access - \$84/yr

Issued: Nov. 8, 2006

Issued By: Charles Pickney, Jr./President

Issued 11-8-06

Issued by: Charles Pickney, Jr. President

Effective Date: Dec. 8, 2006

# Tennessee Wastewater Systems, Inc. Sewer Systems with Commercial Customers

| System                                       | County           |
|--|------------------|
| Townsend Town Square – 99-00659              | Blount County    |
| Coopertown - 00-01128                        | Robertson County |
| Topside Business Park – 01-00220             | Blount County    |
| East Stewart – 01-00229                      | Stewart County   |
| Highway 31 Project (Herndon's BP) - 01-00446 | Robertson County |
| Lyles Texaco - 01-00756                      | Hickman County   |
| Stewart County West - 02-00477               | Stewart County   |
| Sevier County - 03-00045                     | Sevier County    |
| Tims Ford Area – 03-00286                    | Franklin County  |
| Cedar Hill Baptist Church – 03-00287         | Robertson County |
| Sunnybrook - 03-00307                        | Robertson County |
| King Branch Road – 03-00386                  | Sevier County    |
| Weigel's Convenience Store – 03-00519        | Roane County     |
| Paris Landing Area – 03-00544                | Henry County     |
| Black Bear Ridge Expansion – 04-00045        | Sevier County    |
| Legacy Laurel Branch - 04-00045              | Sevier County    |
| Legacy Mountain - 04-00045                   | Sevier County    |
| Legacy the Preserves – 04-00045              | Sevier County    |
| Starr Crest II Phase 4 – 04-00045            | Sevier County    |
| Timber Tops Rental Center – 04-00045         | Sevier County    |
| Trailhead - 04-00045                         | Sevier County    |
| 1 11100/                                     |                  |

Effective Date: Dec. 8, 2006

# Tennessee Wastewater Systems, Inc. Sewer Systems with Commercial Customers

| System  | County            |
|---|-------------------|
| Turner's Landing – 04-00053                           | Hamblen County    |
| Spring Creek Ranch – 04-00123                         | Shelby County     |
| Marion Womack Property (Creekview Estates) – 04-00170 | Sumner County     |
| Arbor Crest Subdivision - 04-00171                    | Davidson County   |
| Merril Taylor Subdivision - 04-00274                  | Blount County     |
| Huffines Development – 04-00393                       | Robertson County  |
| Williamson County West - 04-00394                     | Williamson County |
| Wyndsong Subdivision – 04-00395                       | Blount County     |
| Trillium Cove Condominiums – 05-00030                 | Blount County     |
| Tennessee State Bank-Wears Valley Branch - 05-00042   | Sevier County     |
| Marvin Keys RV Park – 05-00071                        | Cocke County      |
| Brownlee Commercial Building – 05-00078               | Blount County     |
| Grainger's Landing Condominiums – 05-00117            | Grainger County   |
| German Creek Marina and Resort - 05-00138             | Grainger County   |
| Fentress Service Area - 05-00162                      | Fentress County   |
| Emerald Pointe – 05-00200                             | Cocke County      |
| Elk Springs Resort – 05-00211                         | Sevier County     |
| Cedar Hill Area – 05-00212                            | Robertson County  |
| Brigadoon Resort 05-00241                             | Roane County      |
| Cross Plains – 05-00293                               | Robertson County  |
| Keene's Island - 06-00021                             | Jefferson County  |
|   |                   |

Issued 11-8-06

Issued by: Charles Pickney, Jr. President

Effective Date: Dec. 8, 2006

# Tennessee Wastewater Systems, Inc. Sewer Systems with Commercial Customers

| System                                       | County              |
|--|---------------------|
| Sugarloaf Ridge – 06-00022                   | Sevier County       |
| Griffitts Mill – 06-00076                    | Blount County       |
| Parrott's Bay -06-00077                      | Jefferson County    |
| Summit View – 06-00078                       | Sevier County       |
| Settlers Ridge – 06-00081                    | Sevier County       |
| Happy Creek – 06-00104                       | Sevier County       |
| Providence Hills – 06-00198                  | Sevier County       |
| Sharondel Estates – 06-00204                 | Blount County       |
| Ussery #1 – 06-00259 (Pending)               | Sevier County       |
| Hidden Springs – 06-00259 (Pending)          | Sevier County       |
| Eagle Crest – 06-00259 (Pending)             | Sevier County       |
| Starr Crest II – 06-00259 (Pending)          | Sevier County       |
| The Highlands – 06-00259 (Pending)           | Sevier County       |
| Falling Waters – 06-00259 (Pending)          | Sevier County       |
| Black Bear Ridge Resort – 06-00259 (Pending) | Sevier County       |
| Smokey Cove – 06-00259 (Pending)             | Sevier County       |
| Villages at Norris Lake                      | Campbell County (N) |

Issued 11-8-06

Issued by: Charles Pickney, Jr. President

# Villages at Norris Lake Projected Subdivision Build-Out

# Total # of customers

|      |   | Residential   | Commercial   |
|------|---|---------------|--------------|
| 2008 | - | 50 customers  | 5 customers  |
| 2009 | - | 100 customers | 10 customers |
| 2010 | - | 150 customers | 15 customers |
| 2011 | - | 200 customers | 20 customers |
| 2012 | - | 250 customers | 25 customers |

# Estimated System Costs and Revenues for Five Years

|          | 2008   | 2009   | 2010   | 2011    | 2012    |
|----------|--------|--------|--------|---------|---------|
| Costs    | 23,521 | 47,041 | 70,562 | 94,083  | 117,604 |
| Revenues | 25,566 | 51,132 | 76,698 | 102,264 | 127,830 |

Effective Date: July 30, 2006

### **Tariff Rate Sheet**

### Commercial Sewer Rates – without food service

The monthly sewer charge per customer is based on the design daily flow expected from the type of establishment being served. A minimum of \$75 per month will be charged for up to the first 300 gallons per day of design flow expected. (Except off-site which will have a \$73.00 minimum plus pass through costs.) For each additional 100 gallons per day of design flow expected, up to a total of 1,000 gallons per day, an additional charge of \$15.00 per month per 100 gallons will be levied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply.

#### Disposal

# Treatment

|                    | <b>Drip Irrigation</b> | Point Discharge | Off Site                     |  |  |
|--------------------|------------------------|-----------------|------------------------------|--|--|
| Sand-Gravel Filter | \$140.00               | \$165.00        | N/A                          |  |  |
| Lagoon             | \$116.00               | \$140.00        | N/A                          |  |  |
| * Off Site         | N/A                    | N/A             | Pass through costs & \$73.00 |  |  |

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be \$116.00 per 1000 gallons of daily flow.

Additional surcharges will apply when customers exceed their expected design flows. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

| Excess water usage  | Surcharge             |
|---|-----------------------|
| 1 gallon to 1,000 gallons above expected design flow      | \$175.00              |
| 1,001 gallons to 2,000 gallons above expected design flow | \$200.00              |
| Over 2,000 gallons above expected design flow             | \$200.00/1000 gallons |

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage and any capital costs associated with increasing the capacity of the system will be paid by the customer.

\* Off Site means treatment and disposal by another entity such as a city or utility district

**Fees:** Nonpayment – 5%

Disconnection - \$10 Reconnection - \$15

Returned Check - \$20

City of Coopertown Franchise Fees: 3%

Bonding Pass-Through costs of 1.24% will be added to all commercial bills outside of

Williamson County

Issued 6-30-06

Issued by: Charles Pickney, Jr. President

Effective Date: July 30, 2006

### **Tariff Rate Sheet**

# Commercial Sewer Rates - with food service

The monthly sewer charge per customer is based on the design daily flow expected from the type of establishment being served. A minimum of \$100 per month will be charged for up to the first 300 gallons per day of design flow expected. (Except off-site which will have a \$94.00 minimum plus pass through costs.) For each additional 100 gallons per day of design flow expected, up to a total of 1,000 gallons per day, an additional charge of \$18.00 per month per 100 gallons will be levied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply.

### **Disposal**

# **Treatment**

| Disposal           |                 |                 |                              |  |  |
|--------------------|-----------------|-----------------|------------------------------|--|--|
|                    | Drip Irrigation | Point Discharge | Off Site                     |  |  |
| Sand-Gravel Filter | \$170.00        | \$192.00        | N/A                          |  |  |
| Lagoon             | \$142.00        | \$163.00        | N/A                          |  |  |
| * Off Site         | N/A             | N/A             | Pass through costs & \$94.00 |  |  |

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be \$142.00 per 1000 gallons of daily flow.

Additional surcharges will apply when customers exceed their expected design flows. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

| Excess water usage  | Surcharge             |
|---|-----------------------|
| 1 gallon to 1,000 gallons above expected design flow      | \$210.00              |
| 1,001 gallons to 2,000 gallons above expected design flow | \$220.00              |
| Over 2,000 gallons above expected design flow             | \$220.00/1000 gallons |

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage and any capital costs associated with increasing the capacity of the system will be paid by the customer.

\* Off Site means treatment and disposal by another entity such as a city or utility district

**Fees:** Nonpayment – 5%

Disconnection - \$10 Reconnection - \$15

Returned Check - \$20

City of Coopertown Franchise Fees: 3%

Bonding Pass-Through costs of 1.24% will be added to all commercial bills outside of

Williamson County

Issued 6-30-06

Issued by: Charles Pickney, Jr. President



# CITY OF LA FOLLETTE

207 South Tennessee Ave.
La Follette, Tennessee 37766
Phone (423) 562-4961 ● Fax: (423) 562-6565

Mayor Cliff Jennings

Vice-Mayor Hansford Hatmaker

Council Members Shirley Fox Rogers Ken Snodderly Bob Fannon

October 9, 2006

Tennessee Wastewater Systems P.O. Box 22771 Knoxville, TN 37933

To Whom It May Concern:

At this time LaFollette Sewer Department will not be able to provide sewer to the Norris Lake area. There are no plans anywhere in the near future to take on this project.

If you have any additional questions, please contact my office.

Sincerely,

Mayor CJ/lw

1

#### CAMPBELL COUNTY TENNESSEE



P.O. BOX 435 JACKSBORD, TENNESSEE 37737

OFFICE: 423-562-2526 FAX: 423-562-2075

EMAIL: mayor@compbelicountygov.com

October 12, 2006

**FAXED AND MAILED** 

Michael Hines, Vice President Tennessee Wastewater Systems, Inc. P.O. Box 22771 Knoxville, TN 37933-0771

RE: Villages at Norris Lake

Dear Mr. Hines:

In response to your letter dated September 18, 2006, please be advised that Campbell County, TN does not now nor does it plan to provide sanitary sewer service to the Villages at Norris Lake area of Campbell County, TN and in particular does not plan to provide such service to the Villages at Norris Lake residential/commercial development.

Sincerely,

Campbell County Mayor

JLH/tmc



July 21, 2006

RE: Villages at Norris Lake Campbell County, TN

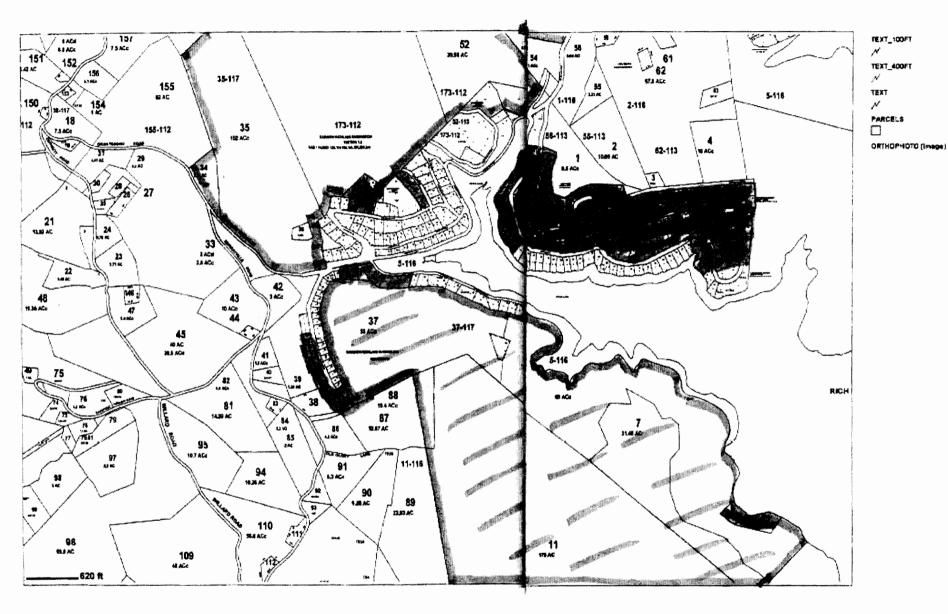
To Whom It May Concern:

We request Tennessee Wastewater Systems, Inc. to be our public utility sewer provider.

Sincerely,

autence S. Courtney

Senior Vice President
Acquisitions & Development

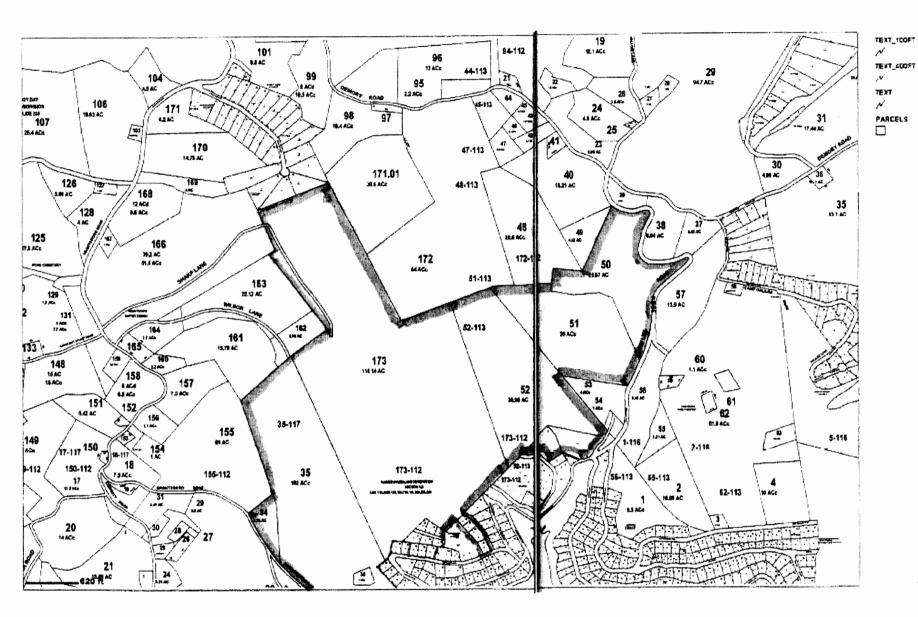






DISCLARGER: THIS HAP IS FOR PROPERTY TAX ASSESSMENT PURPOSES ONLY. IT AMB CONSTRUCTED FROM PROPERTY INFORMATION RECORDED IN THE OFFICE OF THE RECISTER OF DEEDS, AND IS NOT DOMELLISME AS TO LOGATION OF PROPERTY OR LEGAL OWNERSHIP







**CAMPBELL COUNTY, TENNESSEE** 

DISCLAMENT THIS MAP IS FOR PROPERTY TAX ASSESSMENT PURPOSES ONLY IT MAS CONSTRUCTED FROM PROPERTY MECHANISM PROCESSES IN AS OFFICE OF THE RECEITER OF DESIGN, AND IS NOT DOSAULUME AS TO LOCATION OF PROPERTY OF LEGAL OWNERS WE



# TENNESSEE WASTEWATER SYSTEMS, INC. A PUBLIC UTILITY CO.

December 18, 2006

Honorable Sara Kyle Chairman Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, TN 37243-0505

RE: Modification of Petition (Docket #06-00277)

Dear Chairman Kyle:

Tennessee Wastewater Systems, Inc. desires to submit a revised projected subdivision buildout sheet. Please replace the original sheet with the attached sheet.

Sincerely,

Matt Pickney, Operations Manager Tennessee Wastewater Systems, Inc.

7638 River Road Pike Nashville TN 37209-5733 (615) 356-2880 Fax (615) 356-7295

# Villages at Norris Lake Projected Subdivision Bulld-Out

# Total # of customers

|      |   | Residential   | Commercial   |
|------|---|---------------|--------------|
| 2008 | - | 50 customers  | 5 customers  |
| 2009 | - | 100 customers | 10 customers |
| 2010 | - | 150 customers | 15 customers |
| 2011 | - | 200 customers | 20 customers |
| 2012 | - | 250 customers | 25 customers |

The expected buildout when the subdivision is completed is 540 residential customers and 60 commercial customers.

Estimated System Costs and Revenues for Five Years

|          | 2008   | 2009   | 2010   | 2011    | 2012    |
|----------|--------|--------|--------|---------|---------|
| Costs    | 23,521 | 47,041 | 70,562 | 94,083  | 117,604 |
| Revenues | 25,566 | 51,132 | 76,698 | 102,264 | 127,830 |

# BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

**April 11, 2007** 

| IN RE:   | )      |            |
|--|--------|------------|
| PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC. | )<br>} | DOCKET NO. |
| TO AMEND ITS CCN TO EXPAND ITS SERVICE AREA TO | í      | 06-00277   |
| INCLUDE A PORTION OF CAMPBELL COUNTY IN        | )      |            |
| TENNESSEE, KNOWN AS VILLAGES AT NORRIS LAKE    | )      |            |

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

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on January 8, 2007 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 Campbell County, Tennessee, known as Villages at Norris Lake.

### **Background**

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> ("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 Nashville, Tennessee. On November 9, 2006, TWS filed the *Petition* in the present matter, along with the Pre-filed Direct Testimony of Matt Pickney.

<sup>&</sup>lt;sup>1</sup> 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.

## 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. 2005), 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 promulgated permanent rules for public wastewater utilities that became effective June 12, 2006. TRA Rule 1220-4-13-.04(b) sets forth certain requirements for a wastewater 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

On November 9, 2006, TWS filed its *Petition* requesting that its service area be expanded to include a portion of Campbell County, Tennessee, known as Villages at Norris Lake, which is approximately 650 acres located on Rainbow View Road in Campbell County. TWS is proposing to provide wastewater service to approximately 540 residential lots and 60 commercial lots requiring an

estimated 180,000 gallons per day, at full capacity. The Company will serve Villages at Norris Lake by a recirculating sand filter and subsurface drip dispersal system.

TWS states that no contracts have been signed at this point; however, it is the intent of the parties that TWS will own the collection, treatment, and dispersal system and a permanent easement to the property occupied by the system. The estimated contributed capital from the developer is \$3,000,000; therefore, limited funding is needed from TWS to construct the initial wastewater systems. TWS is responsible for any future additions to its infrastructure. TWS proposes to charge rates identical to those previously approved by the Authority in other areas currently served by TWS, and states that no municipal utility, utility district, private wastewater service or entity currently serves or is seeking to serve this area.

In support of its *Petition*, TWS provided letters from the Mayor of the City of LaFollette and the Mayor of Campbell County stating that they do not intend to provide sewer service to the proposed Villages at Norris Lake property within the next twelve months. Finally, TWS provided a letter from Land Resource Companies, the developer of Villages at Norris Lake, requesting that TWS provides service to Villages at Norris Lake, thereby demonstrating a public need for wastewater service in the requested area. The Company filed a service area map showing the location of Villages at Norris Lake, with its *Petition*. TWS states that an application for a Tennessee Department of Environment and Conservation (TDEC) permit is being prepared.<sup>2</sup> TWS further states that after receiving all required approvals, the system should be completed within approximately 60 days.

#### The January 8, 2007 Hearing

Public notice of the Hearing in this matter was issued by the Hearing Officer on December 28, 2006 pursuant to Tenn. Code Ann. § 65-4-201(a) (Supp. 2005). No person sought intervention prior to or during the Hearing, which was held on January 8, 2006. Mr. Matt Pickney, Operations

<sup>&</sup>lt;sup>2</sup> Pursuant to TRA Rule 1220-4-13-.04(c), "Before initiation of service, the public wastewater utility shall file with the Authority, the TDEC approval of the design and permit for the wastewater system."

Manager of TWS, participated in the hearing, presented testimony and was subject to examination by the panel. Mr. Pickney's Pre-Filed Testimony, which was entered into the record without objection, states that the Company has the managerial, technical and financial ability to provide wastewater services to Villages at Norris Lake.<sup>3</sup> Additionally, the panel took administrative notice of TWS's 2005 annual report on file with the Authority.

The panel found that TWS had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2005) and TRA Rule 1220-4-13-.04(b). 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. 2005) and TRA Rule 1220-4-13-.04(b), the panel voted unanimously to grant approval of the *Petition*.

#### 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 Villages at Norris Lake in Campbell County, Tennessee, as shown in the map 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 November 9, 2006.

Sara Kyle, Chairman

Eddie Roberson, Director

Pat Miller, Director

Matt Pickney, Pre-Filed Testimony (November 9, 2006).

# BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

| IN RE:                           | ) |            |
|----------------------------------|---|------------|
|                                  | ) |            |
| PETITION OF TENNESSEE WASTEWATER | ) | DOCKET NO. |
| SYSTEMS, INC. FOR DECLARATORY    | ) | 11-00199   |
| RULING                           | ) |            |

## INITIAL ORDER DECLINING TO ACCEPT OR TO SET PETITION FOR DECLARATORY RULING FOR HEARING

This matter is before the Hearing Officer upon the *Petition of Tennessee Wastewater Systems, Inc. for Declaratory Ruling* ("Petition") filed on November 16, 2011 by Tennessee Wastewater Systems, Inc. ("TWSI"). TWSI is petitioning for a declaratory ruling, pursuant to Tenn. Code Ann. § 4-5-223, concerning the interpretation of Tenn. Code Ann. § 6-51-301 and its application to a dispute between TWSI and the Caryville-Jacksboro Utility Commission ("CJUC") as to which entity can legally provide wastewater service to Villages at Norris Lake in Campbell County, Tennessee. For the reasons set forth below, the Hearing Officer declines to accept the *Petition* or to set the *Petition* for a contested case hearing.

#### **BACKGROUND**

TWSI filed the *Petition* on November 16, 2011, seeking a declaratory ruling concerning the interpretation of Tenn. Code Ann. § 6-51-301. In the *Petition*, TWSI asks for a declaratory order from the Tennessee Regulatory Authority ("Authority" or "TRA") finding:

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

<sup>&</sup>lt;sup>1</sup> Petition of Tennessee Wastewater Systems, Inc. for Declaratory Ruling, p. 1 (November 16, 2011).

right and that, absent such action by the TRA, CJUC is prohibited by state law from providing wastewater services to Villages at Norris Lake.<sup>2</sup>

TWSI requests an interpretation of Tenn. Code Ann. § 6-51-301(a)(1), which provides, in part:

Notwithstanding any other law, public or private, to the contrary, no municipality may render utility <u>water</u> service to be consumed in any area outside its municipal boundaries when all of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee regulatory authority or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render such utility <u>water</u> service. (Emphasis added).

TWSI asserts that, although Tenn. Code Ann. § 6-51-301 uses the term "utility water service", "both the TRA ... and the Tennessee Attorney General ... have concluded that a court would likely interpret [that statute] 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." In support of its contention, TWSI cites TRA Docket Nos. 03-00329/04-00045, and Attorney General Opinion 04-134.<sup>4</sup>

During the December 12, 2011 Authority Conference, the Authority voted to appoint Jean Stone of the Legal Division to act as the Hearing Officer in this matter to make a determination, prior to January 16, 2012, whether to accept the *Petition* and whether to set this matter for a contested case proceeding.<sup>5</sup> On December 19, 2011, the Hearing Officer issued a Procedural Schedule to allow TWSI or any timely intervenor to file a brief no later than January 3, 2012, on the threshold issue of whether it is appropriate for the TRA to accept the *Petition for Declaratory Ruling* under the criteria set forth in Tenn. Code Ann. §§ 4-5-233 and 65-2-104 and TRA Rule 1220-1-2-.05(1). On December 20, 2011, Emerson Properties, LLC ("Emerson") filed a Petition to Intervene, which was granted by the Hearing Officer by an order dated

<sup>&</sup>lt;sup>2</sup> Id. at 3.

<sup>&</sup>lt;sup>3</sup> *Id*.

<sup>4 11</sup> 

<sup>&</sup>lt;sup>5</sup> If the *Petition* is accepted, the Hearing Officer is authorized to resolve any preliminary matters, including the preparation of a Notice to the Secretary of State as required by Tenn. Code Ann. § 4-5-224, and to hear and consider the *Petition* on its merits. See Order Appointing a Hearing Officer (January 6, 2012).

December 21, 2011.

On January 3, 2012, TWSI filed a brief on the issue of the acceptance of the *Petition*, but Emerson did not. In a response to the Hearing Officer's email about its failure to file a brief, Emerson stated that "our positions in this matter relate to the merits and not the Agency's jurisdiction."

### CRITERIA FOR ACCEPTANCE OF PETITION

In making the determination as to whether to accept the *Petition* and to set it for a contested case hearing, the Hearing Officer is bound by the criteria set forth in Tenn. Code Ann. §§ 4-5-223 and 65-2-104 and TRA Rule 1220-1-2-.05(1). Tenn. Code Ann. § 65-2-104 provides that upon a petition filed by an interested party,

...the authority may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the authority.

Tenn. Code Ann. § 4-5-223 provides, in part:

(a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency....

TRA Rules also provide for the filing of requests for declaratory orders or rulings. Tenn. Comp. R. & Regs. 1220-1-2-.05(1) states:

Pursuant to T.C.A. §§ 4-5-223 and 65-2-104, any affected person may petition the Authority for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the Authority.

#### **DISCUSSION**

TWSI asserts in its Petitioner's Brief on Acceptance of Petition that the Authority should issue a declaratory ruling because (1) the Authority has primary jurisdiction over the authorization of a public utility's service area as well as the alteration or revocation of that

<sup>&</sup>lt;sup>6</sup> Email from Mark Troutman to Henry Walker and Jean A. Stone dated January 4, 2012 (January 11, 2012).

service area if service has not been provided within two years after the date of authorization; (2) the Authority has previously considered the meaning of Tenn. Code Ann. § 6-51-301(a) and concluded that it applies to both potable water service and wastewater service; (3) the TRA has jurisdiction pursuant to TRA Rule 1220-4-13-.06 to amend or revoke the service area of TWSI; and (4) the Tennessee courts give "great weight" to the TRA's interpretation of the statutes the agency enforces.<sup>7</sup>

Although TWSI is correct in its assertion that the Authority has primary jurisdiction over the authorization, alteration or revocation of a *public utility's* service area, that jurisdiction is derived from Tenn. Code Ann. § 65-4-201, and not Tenn. Code Ann. § 6-51-301(a). Tenn. Code Ann. § 6-51-301(a) concerns the service area of a *municipality* and, although it references a Certificate of Convenience and Necessity ("CCN") issued by the Authority pursuant to Tenn. Code Ann. § 65-4-201, the statute concerning municipalities is neither enforceable by the Authority nor within the primary jurisdiction of this agency. Simply put, § 65-4-201 authorizes where a public utility may provide service; § 6-51-301(a) tells a municipality where it may not provide service. The former is within the primary jurisdiction of, and enforceable by, the Authority; the latter is not. Therefore, the Authority is without jurisdiction to issue a declaratory ruling interpreting Tenn. Code Ann. § 6-51-301(a).

The Hearing Officer acknowledges that the Authority has previously interpreted Tenn. Code Ann. § 6-51-301(a) and concluded that it applies to both potable water service and wastewater service in TRA Docket Nos. 03-00329/04-00045. However, those dockets were procedurally different from this case in that they did not involve petitions for declaratory ruling

<sup>&</sup>lt;sup>7</sup> Petitioner's Brief on Acceptance of Petition, pp. 1-2 (January 3, 2012).

<sup>&</sup>lt;sup>8</sup> Indeed, TWSI requests the Authority to issue a declaratory ruling that CJUC is prohibited by state law from providing wastewater services to Villages at Norris Lake.

TWSI argues that the courts give "great weight" to the Authority's interpretation of applicable statutes. The Hearing Officer notes that the courts are certainly free to weigh the Authority's interpretation of Tenn. Code Ann. § 6-51-301(a) made in previous dockets.

and the Hearing Officer's and Authority's analyses were done in the context of an application for a CCN pursuant to Tenn. Code Ann. § 65-4-201. Thus, the Authority was not in that instance limited by the statutory criteria for acceptance of a Petition for Declaratory Ruling when making that determination, as discussed above.

For these reasons, the Hearing Officer finds that because Tenn. Code Ann. § 6-51-301(a) is not within the primary jurisdiction of, or enforceable, by the Authority, it would be inappropriate to accept the *Petition* and set it for a contested case hearing under the criteria set forth in Tenn. Code Ann. §§ 4-5-223 and 65-2-104 and TRA Rule 1220-1-2-.05(1). Pursuant to Tenn. Code Ann. § 4-5-223(c), if an agency does not set a petition for declaratory order for a contested case hearing within sixty days after receipt of the petition, the agency is deemed to have denied the petition.

#### IT IS THEREFORE ORDERED THAT:

- 1. The Hearing Officer declines to accept the Petition of Tennessee Wastewater Systems, Inc. for Declaratory Ruling or to set the Petition for a contested case hearing.
- 2. Any party aggrieved by the Hearing Officer's decision in this matter may file a Petition for Reconsideration with the Hearing Officer within fifteen (15) days from the date of this Initial Order.

In consolidated Docket Nos. 03-00329/04-00045, TWSI sought a county-wide CCN for Sevier County, Tennessee. In denying the request for a county-wide CCN, the Hearing Officer made several findings and conclusions regarding the interpretation and applicability of relevant state statutes. The Panel of Directors affirmed the Hearing Officer's conclusion that a court was likely to find that "utility water service", as used in subsection Tenn. Code Ann. § 6-51-301(a), included sanitary sewer service. See In Re: Petition of On-Site Systems, Inc. to Expand Its Service Area to Include an Area Known as Sevier County, Docket No. 03-00329, Order Affirming Hearing Officer's Findings and Conclusions in Initial Order Issued February 4, 2005, p. 13 (May 16, 2006). The Hearing Officer and the Panel analyzed Attorney General Opinion 04-134, which had reached a different result. The Attorney General opined that a court was likely to conclude that "utility water service" as used in Tenn. Code Ann. § 6-51-301(a) does not include a sanitary sewer system. However, the Attorney General concluded that other statutes, such as Tenn. Code Ann. § 7-51-401(c) and Tenn. Code Ann. § 7-82-301(a), could prohibit a city from extending sewer service beyond its boundaries. See Tenn. Op. Att. Gen. No. 04-134 (August 20, 2004).

3. Any party aggrieved by the decision of the Hearing Officer in this matter may file a Petition for Appeal with the Tennessee Regulatory Authority within fifteen (15) days from the date of this Initial Order.

Jean A. Stone, Hearing Officer

#### BEFORE THE TENNESSEE REGULATORY AUTHORITY

#### NASHVILLE, TENNESSEE

**July 8, 2014** 

| IN RE:  | ) |                       |
|---|---|-----------------------|
| PETITION OF TENNESSEE WASTEWATER<br>SYSTEMS, INC. TO POST ALTERNATIVE | ) | DOCKET NO<br>14-00047 |
| FINANCIAL SECURITY  | ) | 14 00017              |

#### ORDER APPROVING ALTERNATIVE FINANCIAL SECURITY

This matter came before Chairman James M. Allison, Director Robin Bennett and Director David F. Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 16, 2014, to hear and consider the *Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security* ("Petition") filed by Tennessee Wastewater Systems, Inc. ("TWSI" or the "Company") on April 23, 2014. In its Petition, TWSI requests approval of its proposal for an alternative form of financial security pursuant to TRA Rule 1220-4-13-.07(5).

#### BACKGROUND AND THE PETITION

On April 6, 1994, TWSI<sup>1</sup> received a Certificate of Public Convenience and Necessity 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.

<sup>&</sup>lt;sup>1</sup> TWSI 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.

TRA Rule 1220-4-13-.07 requires regulated wastewater companies to "furnish to the Authority, prior to providing service to a customer, acceptable financial security using a format prescribed by the Authority." Security "in the amount of one hundred percent (100%) of the gross annual revenue in the most recent Authority Form UD20 or \$20,000, whichever is greater" is to be provided in the form of a "bond issued by any duly licensed commercial bonding or insurance company authorized to do business in Tennessee" or an "irrevocable letter of credit issued by a financial institution acceptable to the Authority." TRA Rule 1220-4-13-.08 provides a "Corporate Surety Bond" form "to be used by public wastewater utilities under the jurisdiction of the Tennessee Regulatory Authority when filing a corporate surety bond pursuant to this Chapter."4 Authority's Wastewater Rules also give the Authority discretion to approve an alternative form of financial security upon petition by the utility, which must be filed with the Authority by May 1 of each year.5

On April 23, 2014, TWSI filed the Petition for approval to post an alternative form of security pursuant to TRA Rule 1220-4-13-.07(5). TWSI has obtained a bond in the amount of \$1,248,882 from Lexon Insurance Company, an insurance company authorized to do business in the State of Tennessee.<sup>6</sup> TWSI's bond deviates from the exact requirements of TRA Rule 1220-4-13-07 because it covers only 78% of TWSI's gross annual revenue of \$1,596,397, and the form differs in certain immaterial respects from the form prescribed by TRA Rule 1220-4-13-.08.<sup>7</sup>

#### FINDINGS AND CONCLUSIONS

At the regularly scheduled Authority Conference held on June 16, 2014, the panel conducted a Hearing in this matter, which was noticed by the Authority on June 6, 2014. At the Hearing, Ms.

Tenn. Comp. R. & Regs. 1220-4-13-.07(1).

Tenn. Comp. R. & Regs. 1220-4-13-.07(2)(a) and (3).

Tenn. Comp. R. & Regs. 1220-4-13-.08.

Tenn. Comp. R. & Regs. 1220-4-13-.07(5).

<sup>&</sup>lt;sup>6</sup> The same bond was previously approved by the Authority in TRA Docket Nos. 11-00187 and 13-00148. See Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security, Docket No. 13-00148, Order Approving Alternative Financial Security, fn. 4 (May 13, 2014).

See Petition, pp. 1-2 (April 23, 2014).

Pat Moskal, Esq. of Bradley Arant Boult Cummings LLP, 1600 Division Street, Suite 700, Nashville, TN 37203, appeared on behalf of TWSI. Mr. Charles Hyatt, President of TWSI, appeared as a witness for the Company and provided a summary of the *Petition*.

The panel considered TWSI's *Petition* and found that the form of the bond TWSI obtained differs only in certain immaterial respects from that prescribed by TRA Rule 1220-4-13-.08. Further, the panel found that the amount of the bond is acceptable even though it equals only 78% of the Company's gross annual revenue, an amount less than the amount required by TRA Rules. The panel reasoned that because TWSI operates a number of isolated, self-contained treatment facilities in various locations around the state, it is not necessary to have funds available to operate all of TWSI's systems, since all of the separate facilities would not be expected to lose operation at the same time.<sup>8</sup>

Therefore, upon finding that the alternative form of the bond and the amount are sufficient under the circumstances of this particular docket and that approval is in the public interest, the panel voted unanimously to grant the *Petition* pursuant to TRA Rule 1220-4-13-.07(5).

#### IT IS THEREFORE ORDERED THAT:

The Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security, as described in its Petition and discussed herein, is approved.

Chairman James M. Allison, Director Robin Bennett and Director David F. Jones concur.

ATTEST:

Earl R. Taylor, Executive Director

<sup>&</sup>lt;sup>8</sup> The purpose of the financial security requirement, and of the Wastewater Regulations as a whole, is to "ensure continued adequate and reasonable service." Tenn. Comp. R. & Regs. 1220-4-13-.01(2). Given the nature of TWSI's entire operation, as described above, the bond is well designed to fulfill this requirement.