

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 15, 2015

IN RE:)	
)	DOCKET NO.
PETITION OF TENNESSEE WASTEWATER)	14-00136
SYSTEMS, INC. FOR APPROVAL OF CAPITAL)	
IMPROVEMENT SURCHARGE AND)	
FINANCING ARRANGEMENTS)	

**ORDER GRANTING REQUEST TO ALTER PROCEDURAL SCHEDULE
AND ESTABLISHING REVISED PROCEDURAL SCHEDULE**

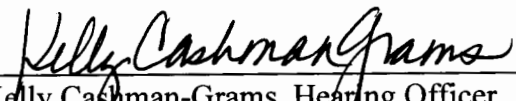
This matter is before the Hearing Officer of the Tennessee Regulatory Authority ("Authority" or "TRA") upon the request of Tennessee Wastewater Systems, Inc. ("TWSI") and the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General ("Consumer Advocate") to alter the procedural schedule. On June 26, 2015, on behalf of TWSI and the Consumer Advocate, TWSI sent an email to inform the Hearing Officer that a new issue had arisen in the case and requested that the procedural schedule be amended to accommodate additional discovery and a target hearing date in August. Subsequently, on June 30, 2015, the Hearing Officer granted the *Petition to Intervene* filed by Summit View Resort Homeowners' Association ("Summit View"). Since that time, the parties have attempted, unsuccessfully, in coming to an agreement concerning the parameters of a revised procedural schedule.

On July 13, 2015, the Hearing Officer held an informal telephone conference with the parties to discuss revising the procedural schedule. During the conference, TWSI indicated that it had no objection to allowing additional time and opportunity for Summit View to participate in discovery and file pre-filed testimony. While TWSI does not object to postponing action on its

petition as to Summit View and Cedar Hill, which, according to TWSI, are not ripe for TRA consideration until a corrective action plan has been approved by the Tennessee Department of Environment and Conservation ("TDEC") for those sites, TWSI further proposed that the TRA convene a hearing to separately consider two of the four subdivision service areas at issue in its petition, Maple Green and Smoky Village. Upon conclusion of the conference, the Hearing Officer agreed to extend the procedural schedule to allow Summit View a limited time for informal discovery and to file pre-filed testimony that accommodates a September target hearing date before the presiding panel. The Hearing Officer informed the parties that TWSI's proposal for an earlier August hearing on a portion of its petition would be taken under consideration. Following the informal conference, additional inquiry of the parties was made concerning the implications of bifurcating the issues and/or petition as a whole. TWSI and Summit View responded, and those responses are attached to this Order as **Exhibit A**.

Upon due consideration of the comments of the parties, the Hearing Officer finds that, at this time, a resolution of the petition, as filed by TWSI, serves to maintain the progress and efficiency of the proceedings. Thus, the Hearing Officer crafts a schedule that permits a limited time for informal discovery, allows Summit View to file pre-filed testimony and TWSI to respond to such pre-filed testimony, while maintaining a reasonable timeline for a September hearing before the Authority panel. Therefore, the Hearing Officer hereby establishes the Revised Procedural Schedule attached to this Order as **Exhibit B**.

IT IS HEREBY ORDERED.



Kelly Cashman-Grams, Hearing Officer

Kelly Grams

From: Kelly Grams
Sent: Tuesday, July 14, 2015 3:52 PM
To: 'Walker, Henry'; Chuck Welch (cwelch@farrismathews.com); 'Rachel Newton'
Subject: RE: TWSI Docket No. 14-00136/Follow-up

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Counsel,

Just a couple of questions on the proposal made during our telephone conference that the TRA move forward with a hearing on Maple Green and Smoky Village in August, while holding off on a hearing on Summit View and Cedar Hill until September --

Do the parties contemplate that such action would be a bifurcation of the issues, and not a bifurcation of the petition or docket as a whole?

And, in the event that the panel were to deliberate the merits of TWSI's financing request as to Maple Green and Smoky Village separately from Summit View and Cedar Hill, depending on the outcome of the deliberations of course, is it the case that TWSI would need a final Order in order to move forward on its loan financing (as described in the petition)?

Your confirmation/feedback is appreciated. Thanks.

Kelly Cashman-Grams
Deputy General Counsel/Hearing Officer
Tennessee Regulatory Authority

From: Walker, Henry [<mailto:HWALKER@babco.com>]
Sent: Monday, July 13, 2015 5:00 PM
To: Kelly Grams; Chuck Welch (cwelch@farrismathews.com); 'Rachel Newton'
Subject: RE: TWSI Docket No. 14-00136/Follow-up

No problem/ thanks for the update

From: Kelly Grams [<mailto:Kelly.Grams@tn.gov>]
Sent: Monday, July 13, 2015 4:37 PM
To: Walker, Henry; Chuck Welch (cwelch@farrismathews.com); 'Rachel Newton'
Subject: TWSI Docket No. 14-00136/Follow-up

Counsel,

FYI -- I am waiting on confirmation from key Utilities Division Staff members before entering a revised procedural schedule in this matter. As those Staff members are out of the office the next couple of days, it may be the end of the week before I get back with you on this. Thanks for your patience-

Kelly Cashman-Grams
Deputy General Counsel/Hearing Officer
Tennessee Regulatory Authority

(EXHIBIT A)

Kelly Grams

From: Walker, Henry [HWALKER@babco.com]
Sent: Tuesday, July 14, 2015 5:56 PM
To: Kelly Grams; Chuck Welch (cwelch@farrismathews.com); 'Rachel Newton'
Subject: RE: TWSI Docket No. 14-00136/Follow-up

See below

From: Kelly Grams [mailto:Kelly.Grams@tn.gov]
Sent: Tuesday, July 14, 2015 3:52 PM
To: Walker, Henry; Chuck Welch (cwelch@farrismathews.com); 'Rachel Newton'
Subject: RE: TWSI Docket No. 14-00136/Follow-up

Counsel,

See below

Just a couple of questions on the proposal made during our telephone conference that the TRA move forward with a hearing on Maple Green and Smoky Village in August, while holding off on a hearing on Summit View and Cedar Hill until September –

As I mentioned in our call, we can't start work on Cedar Hill until we get an approved Corrective Action Plan from TDEC. That may take a few months because TDEC has said they want to see if our proposed remedial plan works at Maple Green before approving it for Cedar Hill. I believe that TWSI has appealed that decision but in the meantime it would be premature to discuss Cedar Hill until TDEC has approved the CAP. As for Summit View, I am told that we expect to have an approved CAP for Summit View by the end of July. Therefore, while I assume Summit View will be ready to be heard in September, it might be prudent to wait before making a final decision on Summit View until after the CAP is approved by TDEC. If, as expected, the CAP is approved by the end of the month, we can go ahead with a hearing in September. At that time, if we have an approved CAP for Summit View but nothing on the horizon for Cedar Hill, I will suggest either another split or I can withdraw the request for Cedar Hill and refile it after the CAP is approved.

Do the parties contemplate that such action would be a bifurcation of the issues, and not a bifurcation of the petition or docket as a whole?

That's a good question. After giving the matter some thought, it seems to me that since TWSI needs to have a decision made in Maple Green and Smokey Village sooner rather than later, it is best to split the docket. As I mentioned, we have approved CAPs for both sites and are under orders from TDEC to move forward with the work at both places. If we keep them all in one docket, that might result in having a hearing on the first two in August and then leaving the record open while we await hearings on the other two sites. Therefore, I think the most practical solution is to split Docket 14-000136 into two dockets: one docket for Maple Green and Smokey Village and another for Summit View and Cedar Hill. Of course, all testimony that has been filed thus far should be put into both dockets.

And, in the event that the panel were to deliberate the merits of TWSI's financing request as to Maple Green and Smoky Village separately from Summit View and Cedar Hill, depending on the outcome of the deliberations of course, is it the case that TWSI would need a final Order in order to move forward on its loan financing (as described in the petition)?

Yes—The bank has told TWSI that the company can't borrow money to fund these projects until they get final order from the TRA approving a rate increase to cover the amount loaned. The order should separately address each site and approve a rate increase (or an assessment on the property owners) for the amount necessary to fix that site. The

money will only be borrowed as it is needed. Therefore, as described above, I think it's best to split the docket so that we can get a final order regarding Maple Green and Smokey Village without waiting for the conclusion of hearings on the other two sites.

Your confirmation/feedback is appreciated. Thanks.

Thanks for bringing these issues up. This is new to all of us. The company initially discussed presenting these cases separately but during a preliminary meeting with the staff, the staff suggested, "if you are doing one, you might as well do them all at once." That made a lot sense if one believed that the proceedings would not be protracted. Now that it has become evident that this is, in a fact, a protracted proceeding and it is becoming increasingly clear that the circumstances at each site are unique, it makes more sense to handle them in two, if not three, separate dockets.

Kelly Cashman-Grams
Deputy General Counsel/Hearing Officer
Tennessee Regulatory Authority

From: Walker, Henry [<mailto:HWALKER@babco.com>]
Sent: Monday, July 13, 2015 5:00 PM
To: Kelly Grams; Chuck Welch (cwelch@farrismathews.com); 'Rachel Newton'
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Kelly Cashman-Grams
Deputy General Counsel/Hearing Officer
Tennessee Regulatory Authority

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Kelly Grams

From: Chuck Welch [cwelch@farris-law.com]
Sent: Tuesday, July 14, 2015 10:51 PM
To: Kelly Grams; 'Walker, Henry'; 'Rachel Newton'
Cc: jjones.law.615@gmail.com
Subject: RE: TWSI Docket No. 14-00136/Follow-up

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Hearing Officer Grams:

I need to go on the record that I have no authority from my client to agree to a bifurcation of the issues or the petition/docket. Although the service problems are not necessarily identical in each of the 4 cases, it appears there are a substantial number of TWSI customers involved and a global resolution would be in the best interest of the utility and the consumers.

Obviously, the hearing will necessarily need to be held in a manner to consider the service problems of each system separately. However, the overreaching issue is the equitable allocation of costs to correct the deficiencies in TWSI's systems.

Henry and I, Henry longer than I, have been involved in these type cases for what seems to be a very long time. This particular petition seems to be loaded with difficult issues-some of which may involve others not parties to this proceeding.

I suggest we amend the procedural schedule to allow for further investigation, discovery and testimony and have a hearing to resolve the service problems in all 4 locations as now consolidated.

Thank you for the questions and an opportunity to respond.

Charles B. Welch Jr.
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Revised Procedural Schedule

Docket No. 14-00136 (July 15, 2015)

Due Date	Filing/Action
	Informal Discovery Exchanged (with copy filed in Docket File)* Copies of all discovery exchanged between the parties shall be filed with the Authority contemporaneously with the exchange of information between the parties. All spreadsheets shall be filed in Excel format with working formulas.
July 30, 2015	Summit View Pre-Filed Direct Testimony
August 4, 2015	Consumer Advocate Statement or Supplemental Testimony (limited to issues raised in Summit View testimony and any supplemental discovery responses to the Consumer Advocate's requests by TWSI filed after June 15, 2015, if any)
August 13, 2015	Utility Pre-Filed Rebuttal Testimony*
August 24, 2015	Pre-Hearing Motions (if any)**
August 27, 2015	Responses to Pre-Hearing Motions**
TBD	Hearing on the Merits (Target Date: September Authority Conference – (Time TBD/Andrew Jackson Bldg. HR G.201)

* General Filings & Testimony are to be filed no later than 4:00 p.m. CST on the due date.

** Motions & Responses to Motions must be filed by 2:00 p.m. CST on the due date.