

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

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| IN RE: | August 17, 2016 |) | |
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| PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC. FOR APPROVAL OF CAPITAL IMPROVEMENT SURCHARGES AND FINANCING ARRANGEMENTS | |) | DOCKET NO. 14-00136 |

**ORDER APPROVING JOINT MOTION TO OPEN A NEW DOCKET REGARDING
MAPLE GREEN, CEDAR HILL, AND SMOKY VILLAGE**

This matter came before Chairman David F. Jones, Vice Chairman Robin L. Morrison, and Director Herbert H. Hilliard of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on August 8, 2016, for consideration of the *Joint Motion to Open a New Docket Regarding Maple Green, Cedar Hill, and Smoky Village* (“*Joint Motion*”) filed on July 13, 2016 by Tennessee Wastewater Systems, Inc. (“TWSI” or the “Company”) and the Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General and Reporter (“CPAD” or “Consumer Advocate”) (collectively the “Parties”).

RELEVANT BACKGROUND

On November 18, 2014, TWSI filed a Petition with the Authority seeking approval of a capital improvement surcharge to allow the Company to make TDEC-ordered repairs and improvements to its treatment facilities at four sites: Maple Green, Cedar Hill, Smoky Village, and Summit View.¹ On December 8, 2014, the Consumer Advocate petitioned to intervene, and this request was granted by the Hearing Officer by an Order issued January 28, 2015. On June 2, 2015,

¹ *Petition*, pp. 1-2 (November 18, 2014).

the Summit View Homeowners' Association ("SVHOA") also petitioned to intervene, which was granted by the Hearing Officer in an Order dated June 30, 2015. In its Petition to Intervene, SVHOA asserted legal interests in the proposed repairs and improvements at Summit View but did not assert any legal interest in the repairs and improvements at Maple Green, Cedar Hill, and Smoky Village.² Since that time, the parties have engaged in discovery and, on July 13, 2016, the CPAD and TWSI filed their *Joint Motion*. SHVOA, who is represented by counsel, did not oppose the *Joint Motion*.

THE JOINT MOTION

According to the *Joint Motion*, TWSI and CPAD have engaged in extensive settlement discussions of all issues regarding Maple Green, Cedar Hill, and Smoky Village.³ However, according to TWSI, it is unlikely that a settlement will be reached with SHVOA regarding Summit View.⁴ Therefore, in order to facilitate and encourage settlement in regards to Maple Green, Cedar Hill and Smoky Village without further delay, the Parties filed their *Joint Motion* requesting that the Hearing Officer enter an order opening a new docket and transferring to that docket TWSI's request for relief in regards to Maple Green, Cedar Hill and Smoky Village.⁵ The Parties ask that the entire record in this case, as it currently exists, be incorporated by reference into the new docket and that the CPAD be made a party to the new docket, consistent with the Hearing Officer's January 28, 2015 Order.⁶ The Parties assert that the opening of a new docket to address Maple Green, Cedar Hill and Smoky Village will not predetermine any issues that may arise concerning TWSI's request for relief in regards to Summit View, nor will it prejudice the rights or interest of any party in regards to Summit View.⁷

² *Petition to Intervene Filed on Behalf of Summit View Resorts Homeowners' Association*, pp. 1-2 (June 2, 2015).

³ *Joint Motion to Open a New Docket Regarding Maple Green, Cedar Hill, and Smoky Village*, p. 2 (July 13, 2016).

⁴ *Id.*

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* at 2.

FINDINGS AND CONCLUSIONS

In their *Joint Motion*, the Parties have asked the Authority to open a new docket regarding three of the four properties at issue in the *Petition*; Maple Green, Cedar Hill, and Smoky Village. Based on a review and consideration of the *Joint Motion* and the entire administrative record, the panel found that approval of the *Joint Motion* advances judicial economy and is in the public interest. The panel further found that the CPAD should be made a party to the new docket and that the entire administrative record of this docket, Docket No. 14-00136, as it exists on August 8, 2016, be incorporated by reference into the new docket. Finally, the panel found that the Authority's General Counsel or her designee should be appointed as Hearing Officer to prepare the matter for hearing. Thereafter, the panel voted unanimously to grant the *Joint Motion*.

IT IS THEREFORE ORDERED THAT:

1. The *Joint Motion to Open a New Docket Regarding Maple Green, Cedar Hill, and Smoky Village* filed on July 13, 2016 by Tennessee Wastewater Systems, Inc. and the Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General and Reporter is granted.
2. The Docket Manager is directed to open a new docket file. This Order shall be placed in that docket file and the entire administrative record as it existed on August 8, 2016 is hereby incorporated by reference into this new docket file.
3. The Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General and Reporter is hereby made a party to the new docket file consistent with the Hearing Officer's order of January 28, 2016. Further, the Authority's General Counsel or her designee is hereby appointed as Hearing Officer to prepare the matter for a hearing.
4. Any person who is aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.

5. Any person who is aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Chairman David F. Jones, Vice Chairman Robin L. Morrison and Director Herbert H. Hilliard concur.

ATTEST:



Earl R. Taylor, Executive Director