

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

IN RE:)	
)	
PETITION OF TENNESSEE)	
WASTEWATER SYSTEMS, INC.,)	DOCKET NO. 16-00139
FOR APPROVAL OF ADJUSTMENT)	
OF ITS RATES AND NEW TARIFF)	

**INFORMAL THIRD DISCOVERY REQUEST
OF THE CONSUMER PROTECTION AND ADVOCATE DIVISION
TO TENNESSEE WASTEWATER SYSTEMS, INC.**

To: Jeff Ridsen, Esq.
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This Third Discovery Request is hereby served upon Tennessee Wastewater Systems, Inc. (Company), pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11. The Consumer Protection and Advocate Division of the Attorney General's Office (Consumer Advocate) requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Protection and Advocate Division, 315 Deaderick Street, 20th Floor, Nashville, Tennessee 37243, c/o Karen H. Stachowski,

on or before 4:00 p.m. (CDT), April 21, 2017, as ordered by the Hearing Officer in the adoption of a procedural schedule in this TRA Docket.

PRELIMINARY MATTERS AND DEFINITIONS

These Additional Discovery Requests incorporate the same Preliminary Matters and Definitions as set forth in the *First Discovery Request of the Consumer Advocate and Protection Division to Tennessee Wastewater System Inc.* sent to TWSI on January 13, 2017, and are to be considered continuing in nature, and are to be supplemented from time to time as information is received by TWSI which would make a prior response inaccurate, incomplete, or incorrect.

THIRD DISCOVERY REQUESTS

3-1. Refer to Exhibits 1 and 2 in the Direct Testimony of Charles Hyatt. Provide revised Exhibits with a Test Period ending December 31, 2016 and Attrition Period ending December 31, 2018.

RESPONSE:

3-2. Refer to the Attachment included by the Company in response to CPAD2-1 for the 2015 and 2016 revenue price-out. Provide this data on a monthly basis from January 2015 through December 2016.

RESPONSE:

3-3. Refer to the Attachment included by the Company in response to CPAD2-1 for the 2015 and 2016 revenue price-out. Indicate the individual billing rates that the Company uses to record

Sewer, Maintenance, Billing & Collecting, Bonding and Escrow Revenues. For example, the Company uses a B&C rate of \$1.5 to calculate the number of customer. What is the source of this charge and the other charge components that the Company uses to record revenues on its books.

RESPONSE:

3-4. Refer to the Attachment included by the Company in response to CPAD2-1 for the 2015 and 2016 revenue price-out. Provide a price-out for the Commercial customer class by month from January 2015 through December 2016 using the individual rate components included in the Company's tariff for Commercial customers with food service and Commercial customers without food service.

RESPONSE:

3-5. Refer to the Attachment included by the Company in response to CPAD2-1 for the 2015 and 2016 revenue price-out. Provide a price-out for the Residential Cabin customer class by month from January 2015 through December 2016 using the individual rate components included in the Company's Commercial tariff for Overnight Rental Units.

RESPONSE:

3-6. Refer to the Company's response to CPAD2-13 regarding developer revenue. The Company's reply to this request appears to be non-responsive in that it did not include the developer contracts that produce the revenue stream for 2010 through 2016. Therefore, provide the developer contracts that produce the revenues associated with Account 421.5.

RESPONSE:

3-7. Refer to the Company's response to CPAD2-13 regarding developer revenue. The Company indicates that "This revenue is not rate based as the expenses are not inclusive either." Identify the expenses that are associated with the revenues in Account 421.5.

RESPONSE:

3-8. Refer to the Company's response to CPAD2-13 regarding developer revenue. Provide all support from the TRA substantiating the Company's claim that developer revenue is not included in utility income.

RESPONSE:

3-9. Refer to Paragraph #9 of the Company's Petition which contains the current and proposed monthly rates. Provide a copy of the Company's current tariff that supports the current monthly rates contained in the Petition.

RESPONSE:

3-10. Refer to the Company's response to CPAD2-120. The Company's reply to this request appears to be non-responsive in that it did not include documentation to support its explanation of the 3% convenience fee. Therefore, please provide documentation such as the current contract or agreement with Bluefin for processing credit cards.

RESPONSE:

3-11. Refer to the Company's response to CPAD2-120 and the Authority's response to the Consumer Advocate's Request for Records dated March 24, 2017. In an email with a subject line of "TWSI Bond True Up", it states that the convenience fee is already being charged. Provide documentation to support your answers to the following:

- a. When did the Company begin assessing the Credit Card Convenience Fee (day/month/year) to its customers?
- b. What was the amount of the initial Credit Card Convenience Fee charged to its customers?
- c. What notice was provided to the Company's customers prior to implementation of this new Credit Card Convenience Fee?
- d. The Company states that the "fee is presented to the customer prior to completing and submitting their payment." Is the only notice provided to the Company's customers of this fee when he/she attempts to pay by credit card online?
- e. What is the total amount collected by year since 2011 when the Company started collecting the Credit Card Convenience Fee?

RESPONSE:

3-12. Regarding the Credit Card Convenience Fee discussed in 3-10 above, answer the following and provide documentation to support your answers:

- a. Did the Company receive multiple bids from vendors for online credit card processing services? If so, how many? If not, what was the process for awarding such contracts?
- b. List all the vendors the Company has contracted over time regarding online credit card processing services and each of the corresponding Credit Card Convenience Fees charged to the Company's customer for each vendor since. Provide copies of any bids and contracts.

- c. If the Company has only had one vendor providing the online credit card processing service, provide the Credit Card Convenience Fees charged to the Company's customers by year since date of implementation.
- d. Who is the point of contact at the current vendor for the Company? Provide the name, address, telephone number, and email address for the contact person
- e. Provide billing statements from the vendor(s) for 2014, 2015 and 2016.

RESPONSE:

3-13. From 2011 (implementation of the Credit Card Convenience Fee) to present, provide a history of the payment options available the Company's customers? For example, customers could also send checks by U.S. mail or pay over the telephone in 2014.

RESPONSE:

3-14. Since 2011 (implementation of the Credit Card Convenience Fee) to present, provide an estimate by year of the number of the Company's customers that utilize the online credit card payment option.

RESPONSE:

3-15. For customers that have limitations on access to the internet, public transportation or credit cards, do you have a payment option that offers a quick and convenient way to pay their bill? List these options.

RESPONSE:

3-16. Since 2011 (implementation of the Credit Card Convenience Fee) provide all customer complaints about the Credit Card Convenience Fees.

RESPONSE:

3-17. Since 2011 (implementation of the Credit Card Convenience Fee), provide all customer complaints about options for payment of bills.

RESPONSE:

3-18. Refer to Company's response to CPAD1-8. The contract provided lists Barrel Investments, LLC as the lessor for property at 1225 Jayell Rd, Sevierville, TN. However, according to the State of Tennessee, Comptroller of the Treasury website, the Property Owner is Robert Pickney (see http://www.assessment.col.tn.gov/RE_Assessment/ParcelDetailIMPACT.aspx). Answer the following and provide documentation to support your answer:

- a. Who owns the property 1225 Jayell Rd, Sevierville, TN?
- b. If Barrel Investments, LLC is not the owner of the property, why is it listed as the lessor of the property?
- c. Erin Elizabeth Pickney is listed as the registered agent of Barrel Investments, LLC. Is Erin Elizabeth Pickney related to any of the board of directors of Adenus Group, LLC—Robert Pickney, Charles Pickney, Thomas Pickney or William Pickney?
- d. Identify the Company's point of contact for Barrel Investments, LLC. Provide the name, address, telephone number, and email address for the contact person.
- e. Barrel Investments, LLC is identified as a member-managed corporation on the Secretary of State's website. Who are the managing members of Barrel Investments, LLC?

- f. Identify other properties considered by the Company prior to contracting to lease this property at 1225 Jayell Rd, Sevierville, TN? Provide the details of those other options, including lease rates.
- g. Identify all employees who have worked at the property by year since the Company started utilizing this property.
- h. Explain the use of the property and the particular structures on the property utilized by the Company.
- i. Has the Company made any improvements to the property? If so, what were the improvements and the associated costs.

RESPONSE:

3-19. Refer to Company's responses to CPAD1-6 through CPAD1-9 regarding written and unwritten contracts with affiliates and non-affiliates respectively. TWSI provided contracts with 3 affiliates: Jeremy Dison, Robert Pickney, and Aviation Parkway Partnership. TWSI provided a contract with one non-affiliate Barrel Investments, LLC. TWSI indicated that there were no unwritten contracts with affiliates or non-affiliates. In the attached Exhibit 3-19A, Robert Pickney identified DRT, LLC as an entity that provides specialized construction to the Company. Answer the following and provide documentation to support your answer:

- a. Why did the company not provide the name of DRT, LLC in response to the Consumer Advocate's First Discovery Request?
- b. There is no listing for DRT, LLC on the Secretary of State's website, but there is a listing for a DRT Services, LLC. Jeremy Dison is the Registered Agent. Is this the

entity that provides specialized construction to the Company as identified by Robert Pickney's attached deposition?

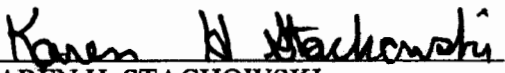
- c. DRT Services, LLC is identified as a member-managed corporation on the Secretary of State's website. Who are the managing members of DRT Services, LLC (or DRT, LLC)?
- d. Provide billing statements from the DRT Services, LLC (or DRT, LLC) for 2014, 2015 and 2016.
- e. Provide copies of the Company's payments to DRT Services, LLC (or DRT, LLC) for 2014, 2015 and 2016.
- f. Identify the Company's point of contact for DRT Services, LLC (or DRT, LLC). Provide the name, address, telephone number, and email address for the contact person.
- g. What was the Company's process for choosing DRT Services, LLC (or DRT, LLC)? If bids were collected or estimates provided, provide copies.
- h. What other vendors did the Company consider before employing DRT Services, LLC (or DRT, LLC)?

RESPONSE:

3-20. Provide copies of any 1099 tax forms the Company filed for 2014, 2015, 2016.

RESPONSE:

RESPECTFULLY SUBMITTED,


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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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This the 7 day of April, 2017.

Karen H. Stachowski
KAREN H. STACHOWSKI

BEFORE THE TENNESSEE DEPARTMENT OF
ENVIRONMENT AND CONSERVATION

TENNESSEE WASTEWATER
SYSTEMS, INC.

Petitioner

)
) DIVISION OF WATER RESOURCES
)
) Docket No. 04.30-128350J
) Case No. WPC14-0092

The deposition of

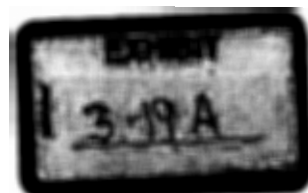
ROBERT PICKNEY

Taken on Behalf of the Respondent

August 30, 2016

WILMA O. HUTCHISON
Licensed Court Reporter
400 Rivercrest Court
Nashville, TN 37214
(615) 889-6288

ORIGINAL



APPEARANCES:**FOR THE PETITIONER:**

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FOR THE RESPONDENT:

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ALSO PRESENT:

Mr. Brad C. Harris

INDEX**PAGE**

Direct Examination by Mr. Bell
Cross-Examination (None)

4

EXHIBITS**PAGE**

1	Deed for land at 7996 River Rd., Nashville	56
2	Contract bet. TN Wastewater & Incred-I-Builders of 1/19/07	70
3	Letter from UCC of 1/14/07 & att. design & construction contract	78
4	Stack of docs. Bates stamped Nos. Summit View 1-663 (coll.)	86
5	Letter of 9/17/14 to Mr. Hyatt & attached director's order	104
6	Letter of 9/4/12 to Mr. Hyatt & att. permit	104
7	Letter to Mr. Hines of 9/3/06 & att. permit for oper. of wastewater treatment facilities	110
8	MOR of 6/2013 showing exceedance in <i>E.coli</i>	119
9	Ltr. of 8/1/14 from TWSI re: NOV response	122
10	Rules of Professional Conduct for Engineers	165
11	Rules of TRA, Wastewater Regulations	166
12	Letter of 6/22/13 from Mr. Pickney to Mr. Dotson	171
13	Letter of 4/17/06 to Mr. Polk from Mr. Pickney	179
14	Packet of info Bates stamped TWSI00001-00121 (coll.)	182

1 The deposition of ROBERT PICKNEY was taken by
2 counsel for the Respondent at Tennessee Department of
3 Environment & Conservation, Third Floor, Conference Room B,
4 Tennessee Tower-William Snodgrass Building, 312 Rosa Parks
5 Boulevard, Nashville, Tennessee, on August 30, 2016, for all
6 purposes allowed under the Tennessee Rules of Civil
7 Procedure.

8 It is agreed that Wilma O. Hutchison, Court
9 Reporter and Notary Public for the State of Tennessee, may
10 swear in the Deponent, take his/her deposition in machine
11 shorthand, and afterwards reduce same to typewritten form and
12 that the reading and signing of the completed deposition by
13 the Deponent is waived.

14 All formalities as to caption, certificate,
15 transmission, filing, et cetera, are waived. All objections
16 except to the form of the question are reserved to on or
17 before the hearing.
18
19
20
21
22
23
24
25

1 there, no.

2 Q. Have there been any ongoing construction projects
3 at all in East Tennessee that would require your presence?

4 A. No.

5 Q. At any of the sites managed by Tennessee
6 Wastewater?

7 A. No.

8 Q. Have you all been doing any repairs at all to your
9 control systems or replacing those?

10 A. Yes.

11 Q. You don't consider that a major project at all?

12 A. Well, it does require -- we've got people that do
13 that all the time.

14 Q. Who does that all the time? Whose responsibility
15 is it?

16 A. Right now it's Charles Myers and Clint
17 Wayman.

18 Q. And what are their titles?

19 A. I don't know if they've got a title.

20 Q. They're not maintenance techs?

21 A. No.

22 Q. They don't work on a day-to-day basis at any of
23 the wastewater sites that you are permitted to operate?

24 A. No.

25 Q. So what are their responsibilities? Are they

1 full-time employees of your business?

2 A. Yes.

3 Q. And they're employed by what entity, Tennessee
4 Wastewater?

5 A. No. They're employed by DRT.

6 Q. DRT?

7 A. Yeah.

8 Q. And who owns DRT?

9 A. Myself, my daughter, and Jeremy Dyson.

10 Q. Is DRT incorporated?

11 A. It's an LLC.

12 Q. And when was it organized? Is it a Tennessee LLC?

13 A. Tennessee LLC. The last couple or three years. I
14 can't tell you exactly.

15 Q. And what is the function of DRT, LLC?

16 A. They do specialized construction.

17 Q. And does it have any contractual relationship with
18 any of the companies that you operate to do specialized
19 construction?

20 A. Yes.

21 Q. And what are those -- describe those contracts.

22 A. Well, if there's things that need to be done, and
23 Tennessee Wastewater doesn't have the ability to do them,
24 Charles will get us to go do what needs to be done.

25 Q. Like what?

1 A. Replacing control systems, upgrading systems,
2 whatever. If it's a big project and the maintenance techs
3 can't handle it, we go down there and take care of it.

4 Q. Building special little houses?

5 A. Building houses, control boxes. We don't build
6 control boxes. We install them. But if the system needs to
7 be upgraded or taken care of where it's over the other guy's
8 head, that's what they do.

9 Q. Explain that process. How does that work?

10 A. I don't understand what your question is.

11 Q. Well, I mean, do you all just have an ongoing
12 contract with them, or do you all do it on a job-by-job
13 basis?

14 A. Job-by-job basis.

15 Q. And how does that happen? I mean, you get a
16 call --

17 A. Charles says he wants to get this done or that
18 done, and they go do it.

19 Q. And then Tennessee Wastewater compensates DRT?

20 A. Sure.

21 Q. Do they cut checks to people individually?

22 A. It goes to DRT.

23 Q. From what entity?

24 A. Whatever entity they're working for.

25 Q. Tennessee Wastewater?

1 A. That's one of them.

2 Q. What other entities? Which other entity do they
3 have ongoing projects with?

4 A. Well, we do contract work in other states, in
5 other areas. We do contract work for Adenus Operations. We
6 do whatever comes up. We do work on property that has
7 wastewater, and we do a whole bunch of stuff.

8 Q. Does DRT hold a state contracting license?

9 A. It does not.

10 Q. Describe how you're compensated, on a job-by-job
11 basis or --

12 A. It's generally cost plus.

13 Q. Cost plus?

14 A. Yes, sir.

15 Q. Do you know if DRT should have a contracting
16 license?

17 A. No, don't need one.

18 Q. Why don't you need one?

19 A. It's just small projects.

20 Q. Some of your Adenus companies are suppliers for
21 DRT. Do you buy some of your supplies for these special
22 projects from Adenus?

23 A. Generally speaking, the products are supplied
24 directly. DRT doesn't buy the products. If there's products
25 needed, they go straight to Tennessee Wastewater, and the

1 guys just install them. So there's no cost-plus products or
2 equipment.

3 Q. When you say cost plus, how are you --

4 A. Just labor.

5 Q. So you're just marking up the labor?

6 A. Marking up the labor, yes.

7 Q. Does DRT have a separate bank account?

8 A. Sure.

9 Q. And who is authorized to sign checks on DRT's bank
10 account?

11 A. I know I am. I can't tell you. I think Suzanne,
12 the bookkeeper, and Jeremy Dyson. I think my daughter is
13 authorized too. I couldn't tell you for sure. Suzanne pays
14 all the bills.

15 Q. What's your daughter's name?

16 A. Erin, E-r-i-n.

17 Q. And what's her last name?

18 A. Pickney.

19 Q. How old is Erin?

20 A. She's mid 30s, 33.

21 Q. Does she have -- who is Erin's mom?

22 A. My wife.

23 Q. And what is her name? Do you remember her?

24 A. Oh, geez, let me back up.

25 Q. And you say Erin, yourself, and who else owns --

1 A. Jeremy Dyson.

2 Q. How was the company capitalized? Did Erin and
3 Jeremy contribute any money to the business --

4 A. I don't remember, George.

5 Q. -- to DRT?

6 A. I don't remember how we did it. I just don't
7 remember. I don't know. There was a lot of capital
8 required, to be honest with you, but I don't remember.

9 Q. Do Charles Myers and Mr. Wayman, do they get paid
10 salaries?

11 A. Sure.

12 Q. And that money is paid primarily by proceeds from
13 your contracts with Tennessee Wastewater or other related
14 entities?

15 A. Well, I mean, obviously the company has to make
16 money. It comes out of whatever they're working on at the
17 time.

18 Q. Do you report them as employees of DRT or one of
19 your Adenus companies?

20 A. No. They're employed with DRT.

21 Q. Do they provide services to the Adenus companies
22 at all?

23 A. Yes.

24 Q. And do they do that also on a contract basis?

25 A. Sure.

1 Q. Do you actually bother to write these contracts
2 down?

3 A. Most of the -- because it's just small stuff.
4 It's not large stuff. "Let's go do this; have them go do
5 that or whatever." It's just an understanding that the cost
6 is based on an hourly rate, and they work based on that
7 hourly rate.

8 Q. So when you go and do what you do through DRT,
9 LLC, do you ever work with any of the maintenance techs for
10 Tennessee Wastewater?

11 A. Generally don't. If they've got a project, they
12 go do it. Might they come around and see something? Sure.
13 I can't speak to that. But they're not there to work with
14 the techs on that project.

15 Q. Is it your testimony that you never involved any
16 maintenance technicians on some of these special projects?

17 A. No, no, no. I'm saying they're around. But if
18 Charles asks us to go upgrade a system some place, then they
19 go do it. Might the maintenance techs come around and see
20 what they're doing? Sure. Might they work with them
21 sometimes? Maybe. But that's not part of what their job is.

22 Q. So Charles actually retained you?

23 A. Sure.

24 Q. You're not actually involved in the planning of
25 upgrading systems. Is that your testimony?