

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TN**

IN RE:)	
)	
PETITION OF TENNESSEE)	DOCKET NO. 18-00037
WASTEWATER SYSTEMS, INC., FOR)	
APPROVAL OF A SPECIAL CONTRACT)	

**OBJECTION TO THE INTERVENTION OF THE
CONSUMER ADVOCATE AND PROTECTION DIVISION**

Tennessee Wastewater Systems, Inc. ("TWS") respectfully requests that the Tennessee Public Utility Commission ("TPUC" or "Commission") deny the Consumer Advocate and Protection Division's (CAD) request to intervene in this special contract proceeding for the reasons stated as follows.

On March 29, 2018 TWS filed its *Petition of Tennessee Wastewater Systems, Inc. For Approval of a Special Contract* requesting the approval of a special contract between TWS and ABS Properties, LLC ("ABS") for the provision of wastewater services to a commercial property in Williamson County, TN being developed by ABS. The provision of service to this property requires a sewer line to be installed under a CSX sewer line. CSX requires TWS to maintain a five-million-dollar insurance policy as a condition for the easement. TWSI currently maintains a two-million-dollar insurance policy so ABS has agreed to pay the difference in the increase of the insurance premium. Other than this additional fee to ABS which is not part of TWS' Commission approved tariff, the contract between the parties is similar to the standard developer agreement entered into between TWS and developers.

CAD filed a *Petition to Intervene* in the case identifying as its reasons the consumer interest in the the insurance coverage required under the CSX agreement and the sale of excess capacity at the treatment facility to the developer through a TWSI affiliate, Adenus Solutions Group, LLC (“ASG”).

CAD is authorized by Tenn. Code Ann. § 65-4-118 to intervene in any matter or proceeding before the Commission in accordance with the Uniform Administrative Procedures Act (the “Act”), Tenn. Code Ann. §4-5-101 *et seq.* and Commission rules. CAD has a statutory duty to represent the interests of the consumers, however, CAD’s right to intervene is not absolute. The Commission is under no obligation to initiate a contested case for the review of a special contract and CAD must satisfy the specific requirements of the Act and Commission Rules for intervention to be proper. The CAD’s petition to intervene should be denied for either of these reasons.

A special contract proceeding does not require a hearing or the convening of a contested case. The Commission special contract rules state that “a copy of such special arrangements shall be filed, subject to review and approval”. Tenn. R. and Reg. 1220-04-01-.07. Because a hearing or contested case is not required, the Commission, in its discretion, may choose to review the contract on its own and decide to approve or reject the contract. TWS believes this special contract request to be a routine matter, one capable of being handled through the Commission’s expertise in evaluating such contractual arrangements, without the intervention of CAD.

Secondly, the Act requires that “petitions to intervene state facts demonstrating that the petitioner’s legal, rights, duties, privileges, immunities, or other legal interests may be determined in the proceeding or that the petitioner qualifies as an intervenor under any law”.

Tenn. Code Ann. §4-5-310(a)(2). CAD's petition is a collection of general statements regarding items contained in TWS' *Petition* or pre-filed testimony about which it may have questions or curiosities, however the petition to intervene fails to state with particularity, as required under Tenn. R. and Reg. 1220-1-2-.08, any facts showing how this proceeding may affect the rights or legal interests of the customer such that CAD would be entitled to intervene in this proceeding.

The CSX contract is a private agreement between the railroad and TWS. CAD has not provided any factual basis to support a customer interest in the private agreement between TWS and the railroad or the special contract between TWS and ABS. The only matter that tangentially relates to the customers is TWS' request that it be allowed to charge ABS the difference in the premium cost between TWS' existing policy and the one required under the CSX agreement. This is done for the consumer's benefit as stated in TWS' *Petition*¹. TWS does not believe the entire customer base should have to incur additional cost due to one commercial customer. If the Commission does not approve the contract, TWS will not provide the service as requested to the convenience store, so there is no concern to the customers of being affected by the insurance requirement of the CSX or developer arrangements.

As for the ownership of the excess capacity in the treatment facility, again, CAD has not stated any facts with particularity to show how customers have an interest in this matter. The developer for Chardonnay, the subdivision served by the treatment facility, paid for all the capacity required to serve the development. The facility was built larger than what the developer required and ASG paid the costs involved in developing that capacity. ASG is free to recoup that investment through the sale of the capacity at the facility. The capacity being sold is "excess",

¹ TWS Petition at Page 2.

meaning it is capacity not needed to serve existing or future customers within the Chardonay subdivision. The capacity is available to whoever may need it.

The Commission is under no obligation to convene a contested case to hear this matter and CAD has failed to show, as required under the Act and Commission Rules, that there is any factual basis for its intervention in this proceeding. For the foregoing reasons, TWS requests that the Commission deny the CAD's petition to intervene. In the event, the Commission, in its discretion, allows for the intervention, TWS requests that CAD be limited solely to those matters to which the Commission determines the customers have a legal interest and that the involvement of CAD does not unduly or unnecessarily delay this matter from coming before the Commission for approval.

Respectfully submitted,

By: _____

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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 17th day of April 2017.

Jeff Ridsen

