

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 17, 2020

IN RE:)	
)	
PETITION OF CARTWRIGHT CREEK, LLC TO)	DOCKET NO.
AMEND SERVICE TERRITORY TO INCLUDE)	19-00042
THE WILSON PARCEL AND GARRETT PARCEL)	
FOR THE TROUBADOUR DEVELOPMENT IN)	
WILLIAMSON COUNTY)	

ORDER DENYING REQUEST FOR WAIVER

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Supplemental Information in Support of the Petition and Request for Waiver of Some Filing Requirements (“Waiver Request”)* filed by Cartwright Creek, LLC (“Cartwright Creek” or the “Company”) on May 10, 2019.

RELEVANT BACKGROUND

Cartwright Creek filed a *Petition of Cartwright Creek, LLC to Amend Service Territory to Include the Wilson Parcel and Garrett Parcel for the Troubadour Development in Williamson County (“Cartwright Creek Petition”)* seeking to amend its service territory to include two proposed parcels, the Wilson Parcel and the Garrett Parcel, for the Troubadour Development in Williamson County. Cartwright Creek states the parcels are adjacent to the east of the Company’s present service territory.

WAIVER REQUEST

On May 10, 2019, Cartwright Creek filed its *Waiver Request* asking that the Hearing Officer allow the company to “forego certain filing requirements either under the ‘law of the case’ doctrine

or if the utility and the agency staff agree that the information is not needed to evaluate the utility's request to expand its service area."¹ Cartwright Creek states that the "development formerly known as 'Stillwater,' then 'Hideaway' and now 'Troubadour,' has recently been redesigned to make it a more upscale community by reducing the total number of houses to 375 and increasing the total amount of land in the development through the addition of two, adjacent parcels that lie just outside the utility's service area."² According to Cartwright Creek, the "sole purpose of this Petition is to ask the Commission to adjust the boundaries of the utility's service area to include the two adjacent parcels."³ The Company maintains that "[s]ince the Commission has already authorized Cartwright Creek to serve this development most of the voluminous filings normally required of a wastewater company seeking to serve a new area (*see*, T.P.U.C. rule 1220-04-13-.17) are unnecessary)."⁴ Cartwright Creek argues it is only adjusting the boundary lines established in Docket No. 07-00180, and in that docket, the Commission determine the Company had the technical, managerial, and financial capabilities to provide wastewater services to more homes than its currently planning to serve with the addition of the two parcels. According to Cartwright Creek, those findings remain in effect and are the "'law of the case' and cannot be re-litigated by any party or reconsidered by the agency absent a substantial change in the law or the facts since the earlier decision."⁵ The Hearing Officer scheduled a Status Conference on June 27, 2019, during which Cartwright Creek argued its *Waiver Request*. In an effort to allow the docket to move along expeditiously, on July 2, 2019, the Hearing Officer informed Cartwright Creek that the *Waiver Request* was denied, and a written order would be issued later. The Hearing Officer reasoned that knowing the *Waiver Request* was denied would allow Cartwright Creek to begin filing the minimum filing requirements set forth in

¹ *Waiver Request*, p. 1 (May 10, 2019).

² *Id.* at 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 3.

Commission Rule 1220-04-13-.17. However, Cartwright Creek did not file documents required in Rule 1220-04-13-.17. Prior to entry of an order denying the *Waiver Request*, Cartwright Creek filed a *Petition of Cartwright Creek, LLC for a Declaratory Ruling* (“*Petition for Declaratory Order*”) on July 22, 2019 in Docket No. 19-00061, asking the Commission to issue a declaratory ruling regarding the applicability of Tenn. Code Ann § 65-4-201(a) to the facts in the current docket.⁶ On September 30, 2019 in the current docket, the Hearing Officer issued the *Order Holding Proceedings in Abeyance* holding the proceedings in abeyance until a determination is made on the *Petition for a Declaratory Order*. On January 16, 2020, the Hearing Officer, issued an *Initial Order* in the *Petition for Declaratory Order*.

FINDINGS AND CONCLUSIONS

In the *Initial Order* issued in Docket No. 19-00061, the Hearing Officer ruled that pursuant to Tenn. Code Ann. § 65-4-201(a) Cartwright Creek is not required to obtain a certificate to serve the Wilson parcel. However, the Hearing Officer also concluded that pursuant to the Commission’s broad authority over the utilities it regulates, Cartwright Creek must comply with requests for information from Commission Staff regarding providing service to the Wilson parcel.

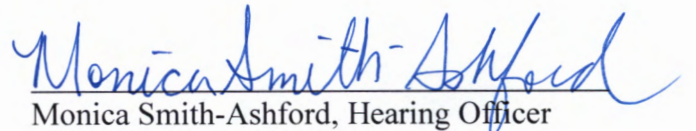
Therefore, consistent with the ruling in the related *Petition for Declaratory Order* in Docket No. 19-00061, the Hearing Officer concludes the *Waiver Request* should be denied. Cartwright Creek shall provide information requested by Commission Staff pertaining to the provision of service to the Wilson and Garret parcels.

IT IS THEREFORE ORDERED THAT:

1. The Request for Waiver of Some Filing Requirements filed by Cartwright Creek, LLC is denied.
2. Cartwright Creek, LLC shall cooperate with Tennessee Public Utility Commission

⁶ See *In re: Petition of Cartwright Creek, LLC for Declaratory Ruling*, Docket No. 19-00061, *Petition of Cartwright Creek, LLC for a Declaratory Ruling* (July 22, 2019) (hereinafter *Petition for Declaratory Order*).

Staff by providing requested information regarding its service to the Wilson and Garrett parcels for the Troubadour Development in Williamson County.


Monica Smith-Ashford, Hearing Officer