

IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE:

PETITION OF CARTWRIGHT  
CREEK, LLC TO EXTEND CAPITAL  
IMPROVEMENTS SURCHARGE

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Docket No. 19-00097

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PETITION TO INTERVENE

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Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (Consumer Advocate), pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (TPUC or Commission) to grant the Consumer Advocate's intervention into this proceeding because consumers' interests, rights, duties, or privileges may be determined or affected by the *Petition of Cartwright Creek, LLC to Extend Capital Improvements Surcharge (Petition)*. For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in any matter or proceeding before TPUC in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.*, and TPUC rules.

2. Cartwright Creek, LLC (Cartwright Creek or Company) is a public utility regulated by TPUC, and it currently provides wastewater service through four separate wastewater systems located in the following communities in Williamson County, Tennessee: Arrington Retreat, Grasslands, Hardeman Springs, and Troubadour (formerly "Hideaway").

3. Cartwright Creek is a Tennessee limited liability company. Its principal office and place of business is at 800 Roosevelt Road, Suite A120, Glen Ellyn, Illinois, 60137-5846.

4. In TPUC Docket No. 16-00127, the Commission authorized a Capital Improvement Surcharge (Surcharge) in the amount of \$7.50 per month.<sup>1</sup> The Commission set a time limit of 36 months on this Surcharge.

5. The Company's *Petition* seeks to extend the Surcharge of \$7.50 per month for an additional 36 months.<sup>2</sup>

6. In TPUC Docket No. 16-00127, the Company explained that it needed to address repairs and system upgrades to three of its systems.<sup>3</sup> The list of projects includes:

- a. Treatment system replacement of the Grasslands system estimated at a cost of \$3-4 million;<sup>4</sup>
- b. Collection System Infiltration Reduction Project of the Grasslands system estimated at a cost of \$500,000;<sup>5</sup> and
- c. Various repairs and upgrades at all three systems estimated at a cost of \$448,000.<sup>6</sup>

7. In its current *Petition*, the Company explains that the environmental problems at the Grasslands system have continued.<sup>7</sup> In fact, the Tennessee Department of Environment and

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<sup>1</sup> The three systems were Arrington Retreat, the Grasslands, and Troubadour. *Order Approving Rate Increase, In Re: Joint Petition of Cartwright Creek, LLC and TRA Staff (As a Party) to Increase Rates and Charges*, pp. 5-6, TPUC Docket No. 16-00127 (January 10, 2017). The Commission also adopted the terms and conditions set out in ¶6, pp. 3-5 of the *Joint Petition* in TPUC Docket No. 16-00127 for the purpose of adequately safeguarding the funds collected.

<sup>2</sup> *Petition* at p. 5.

<sup>3</sup> *Exhibit of the Direct Testimony of Bruce Meyer*, TPUC Docket No. 16-00127 (November 11, 2016). It should be noted that the system repairs and upgrades are primarily to the Grasslands system. At the time of the 2016 Staff Assisted Rate Case, the Hardeman Springs development was not in existence. A State Operating Permit was issued to the Company on June 26, 2017. SOP-17002 can be accessed at the TDEC Dataviewer at [http://tdec.tn.gov:8080/pls/enf\\_reports/f?p=9034:34051::NO:34051:P34051\\_PERMIT\\_NUMBER:SOP-17002](http://tdec.tn.gov:8080/pls/enf_reports/f?p=9034:34051::NO:34051:P34051_PERMIT_NUMBER:SOP-17002).

<sup>4</sup> *Exhibit of the Direct Testimony of Bruce Meyer*, p. 6, Item 23, TPUC Docket No. 16-00127 (November 11, 2016).

<sup>5</sup> *Id.* at p. 6, Item 22.

<sup>6</sup> *Id.* at pp. 1-5, Items 1-21. In its response to the Consumer Advocate's Discovery Request No. 2-5 in TPUC Docket No. 19-00034, the Company has spent approximately \$157,000 towards the list of projects set out in Items 1-21.

<sup>7</sup> *Petition* at p. 2.

Conservation (TDEC) issued a Director's Order and Assessment to the Company due to violations of the *Tennessee Water Quality Control Act*.<sup>8</sup> The Company is negotiating a settlement with TDEC with a goal of "achieving substantial compliance" with its National Pollution Discharge Elimination System Permit for the Grasslands system by December 31, 2023.<sup>9</sup>

8. Recently, the Company filed a petition seeking approval from the Commission to spend a total of \$550,000 from both its Surcharge account and its tap fee escrow account<sup>10</sup> "in order to rehabilitate selected areas of the utility's Grasslands Collection system."<sup>11</sup> In its filings, the Company explained that there is currently not enough money in both accounts to fully fund the proposed repairs.<sup>12</sup>

9. The interests of consumers, including without limitation, the extension of the time period of the Surcharge, the list of capital projects for three of the Company's systems and how these capital projects will be financed, may be affected by determinations and orders made by the Commission in this matter.

10. Only by participating as a party to this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

Wherefore, the Consumer Advocate requests TPUC grant this *Petition to Intervene*.

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<sup>8</sup> *In the Matter of Cartwright Creek, LLC*, Director's Order No WPC18-0100 (April 29, 2019). This order can be accessed at [http://tdec.tn.gov:8080/pls/enf\\_reports/f?p=9001:651:::NO:651:P651\\_ORDER\\_ID:29349](http://tdec.tn.gov:8080/pls/enf_reports/f?p=9001:651:::NO:651:P651_ORDER_ID:29349).

<sup>9</sup> *Petition* at p. 2

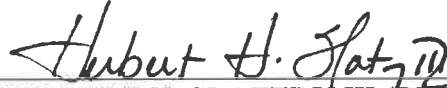
<sup>10</sup> The tap fee escrow account was created in TPUC Docket No. 09-0056.

<sup>11</sup> *Petition of Cartwright Creek, LLC Requesting Approval of Proposed Capital Improvements*, p. 1, TPUC Docket No. 19-00049 (May 13, 2019) (*Petition 19-00049*). Cartwright Creek accepted the lowest bid for the proposed Collection System Infiltration Reduction Project, which amounts to \$458,650. *Cartwright Creek, LLC Lowest Bid and Contract*, TPUC Docket No. 19-00049 (August 13, 2019).

<sup>12</sup> *Petition of Cartwright Creek, LLC Requesting Approval of Proposed Capital Improvements*, p. 2, TPUC Docket No. 19-00049 (May 13, 2019). The current Surcharge account balance is \$189,028 and the tap fee escrow account balance is \$148,082, which is a total of \$337,110. Direct Testimony of Bruce Meyer, p. 3, A8, TPUC Docket No. 19-00097 (October 21, 2019).

Consumer Advocate's Petition to Intervene  
Tennessee Public Utility Commission Docket No. 19-00097  
Signature Page

RESPECTFULLY SUBMITTED,



HERBERT H. SLATTERY III (BPR #009077)  
Attorney General and Reporter  
State of Tennessee



KAREN H. STACHOWSKI (BPR #019607)

Assistant Attorney General

VANCE L. BROEMEL (BPR #011421)

Senior Assistant Attorney General

Office of the Tennessee Attorney General

Financial Division, Consumer Advocate Unit

P.O. Box 20207

Nashville, Tennessee 37202-0207

Phone: (615) 741-8733

Fax: (615) 741-1026

Email: [karen.stachowski@ag.tn.gov](mailto:karen.stachowski@ag.tn.gov)

Email: [vance.broemel@ag.tn.gov](mailto:vance.broemel@ag.tn.gov)

by  
Vance  
Broemel

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:

Henry Walker, Esq.  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203  
Telephone: (614) 252-2363  
Email: [hwalker@babco.com](mailto:hwalker@babco.com)

This the 29<sup>th</sup> day of October, 2019.

  
KAREN H. STACHOWSKI  
Assistant Attorney General