



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES

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19-00108

Subject: Draft of Proposed Rule 1220-04-01-.13
Extensions of Service to Contiguous Territory

Tennessee Department of Environment and Conservation's (TDEC) Division of Water Resources (DWR) offer the following comments relative to Draft Rule 1220-04-01-.13 pertaining to Extensions of Service to Contiguous Territory.

This rule proposes standards specific to the ability of public utilities governed by Tennessee Public Utility Commission (Commission) to serve areas that are contiguous to an area already served by the utility through a Certificate of Public Convenience and Necessity (CCN).

DWR's primary concern regarding the "contiguous area" concept involves the utility's capacity to manage additional wastewater load from the contiguous area along with the existing and future wastewater load associated with the original system. Almost without exception the wastewater systems subject to the Commission's rules are non-discharging systems that rely on a designated land application area(s) for final treatment and return of the treated wastewater to the environment. These areas are designated at the time of state operating permit (SOP) issuance and rarely have design capacity beyond the development they are intended to support. These systems are typically designed and constructed by the developer and "gifted" to the utility upon construction. Most developers will expect to use the capacity of the land application area within their development to support the homes or structures within their development rather than supporting development on contiguous property.

For example, if a developer designs and constructs a system to support 50 homes, the developer will not likely create fewer than 50 lots. Furthermore, even if a development is not completely built-out, the unused capacity of the land application area should be appropriately reserved with the expectation of complete build-out, and for long-term performance of the land application area.

Specific comments to the proposed rule are as follows:

1. Paragraph 4.
 - a. Delete the words "if applicable" in the opening text of Paragraph (4).
 - b. Subparagraph (a). Modify this subparagraph to read "Provide to the Commission proof that the operating permit for the existing system has been modified and reissued by TDEC to reflect the additional wasteload; or, demonstrate that the existing system design has capacity to support the design flow of the original system and the design flow expected from the contiguous area, and the public notice supporting the original system appropriately announced the intent to serve the contiguous property in question."

- c. Subparagraph (b). The proposed wording for (a) could eliminate the need for (b). Furthermore, technical ability and/or ability to provide service are not subject to TDEC's consideration.
- d. Subparagraph (c). Should be modified to include "or other enforcement action" since Notices of Violation are not the only form of communication that might reflect the operation of the system.

Of primary importance would be to obligate the utility to modify their operating permit to reflect the additional wasteload (which is already a standard requirement in operating permits) and is further addressed by 0400-40-02-.07(1)(d) and 0400-40-05-.07(2)(j).

If you have questions concerning these comments, or if we may be of assistance to you in any way, please contact Britton Dotson at (615) 532-0774 or britton.dotson@tn.gov.

Sincerely,



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