

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 25, 2020

IN RE:

**JOINT PETITION OF TENNESSEE
WASTEWATER SYSTEMS, INC. AND
TPUC STAFF (AS A PARTY) TO INCREASE
RATES AND CHARGES**

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**DOCKET NO.
20-00009**

ORDER

This matter came before Chair Robin L. Morrison, Commissioner Herbert H. Hilliard, and Commissioner David F. Jones of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on June 15, 2020,¹ for consideration of the *Joint Petition* (“*Joint Petition*”) filed on January 31, 2020 by Tennessee Wastewater Systems, Inc. (“TWSI” or “Company”) and TPUC Staff (“Party Staff”) (collectively, the “Joint Parties”). In the *Petition*, the Parties seek Commission approval of an increase of rates and charges for the purpose of recovering the Company’s costs of providing wastewater services.

¹ Due to the state of emergency declared by Governor Bill Lee relative to the Coronavirus Disease 2019 (“COVID-19”) pandemic in Tenn. Exec. Order No. 14 on March 12, 2020, (superseded by Tenn. Exec. Order No. 15 on March 19, 2020 which was extended until June 30, 2020 in Tenn. Exec. Order No. 36 on May 12, 2020), the Commission Conference was held electronically via WebEx. The public health emergency places limitations on public gatherings and meetings in order to prevent the spread of COVID-19. In convening the Commission Conference electronically, the Commission relied upon Tenn. Exec. Order No. 16 (March 20, 2020), which was extended until June 30, 2020 by Tenn. Exec. Order No. 34 (May 6, 2020), and affirmed on the record that the electronic meeting was necessary to conduct the essential business of the agency and to protect the health, safety, and welfare of Tennesseans.

BACKGROUND AND *JOINT PETITION*

TWSI is a public utility providing wastewater services to approximately 2,760 residential customers and 804 commercial customers in multiple service territories across Tennessee. The Company's most recent rate case was Docket No. 08-00202, which established rates by an order entered on July 8, 2009.²

On January 31, 2020, TWSI and Party Staff filed a *Joint Petition* requesting an increase to TWSI's rates and charges, alleging that the Company's revenues and revenue projections are not sufficient to allow TWSI to recover its reasonable operating costs and a fair and reasonable net operating income under the Company's current rates.³ Along with the *Joint Petition*, the Joint Parties filed a proposed tariff and the Pre-Filed Direct Testimony of Company witness, Suzanne Christman, and Party Staff witnesses, Joe Shirley and Kevin McClenathan. TWSI filed a corrected tariff on February 5, 2020 resolving errors in the original filing.

The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General ("Consumer Advocate") filed a *Petition to Intervene* on February 20, 2020. The Hearing Officer entered an *Order Granting the Petition to Intervene Filed by the Consumer Advocate* on March 13, 2020. TWSI submitted the Pre-Filed Supplemental Testimony of Suzanne Christman on May 14, 2020. In addition, Party Staff submitted supplemental testimony of its witnesses, Joe Shirley and Kevin McClenathan. TWSI also filed a revised proposed tariff based upon agreed financial adjustments and additional accounting and reporting requirements presented in the supplemental testimonies of the Parties.

² *Joint Petition*, pp. 1-2 (January 31, 2020).

³ The Commission filed a Notice on January 23, 2020 designating the following TPUC Staff employees as Party Staff: Ryan McGehee, Senior Counsel; Joe Shirley, Director, Utility Audit and Compliance; Michelle Mairs, Assistant Director, Utility Division; Kevin McClenathan, Utility Rate Specialist; and Darlene Standley, Utilities Consultant. *Notice of Designation of Staff as a Party* (January 23, 2020).

The Consumer Advocate filed correspondence to the Chair on May 15, 2020. The letter indicated that the Consumer Advocate had engaged in cooperative discussions and information exchanges with the Joint Parties. Further, based upon consideration of the entire record and the submission of the revised tariff and supplemental testimonies of Suzanne Christman, Joe Shirley, and Kevin McClenathan, “there remain no outstanding disputes between the parties with respect to this Docket....”⁴ The Consumer Advocate stated since there are no contested issues, the Consumer Advocate would not be filing testimony and the parties agreed that the matter should be resolved in favor of the positions set forth in the *Joint Petition*, as revised in the Pre-Filed Testimony of the witnesses.⁵ No other parties sought to intervene in this matter.

Attached as an exhibit to the Pre-Filed Testimony of Suzanne Christman is an affidavit of Ms. Christman indicating the Company’s compliance with TPUC Rule 1220-04-01-.05. Ms. Christman certifies that customers were provided a copy of a summary of proposed changes as an insert with their January 31, 2020 bill and is available on the Company website until the conclusion of the hearing on the matter.⁶ A copy of the customer bill insert was also provided with Ms. Christman’s testimony.⁷

THE HEARING

The Hearing on the *Joint Petition* was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on June 15, 2020, as noticed by the Commission on May 29, 2020. Participating in the Hearing were the following parties and their respective counsel:

Tennessee Wastewater Systems, Inc. – Jeff Risdan, Esq., 851 Aviation Parkway, Smyrna, Tennessee 37167.

⁴ Letter to Chairman Morrison from Karen H. Stachowski, Consumer Advocate (May 15, 2020).

⁵ *Id.*

⁶ Pre-Filed Direct Testimony of Suzanne Christman, p. 2 and Exh. (January 31, 2020).

⁷ *Id.*

Consumer Advocate Unit in the Financial Division of the Attorney General's Office – Karen H. Stachowski, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, Tennessee 37202-0207.

Tennessee Public Utility Commission Party Staff – Ryan McGehee, Esq., Tennessee Public Utility Commission, 502 Deaderick Street, 4th Floor, Nashville, Tennessee 37243.

The parties in this matter waived opening and closing statements, summaries of Pre-Filed Testimony, and cross-examination of the witnesses. Counsel for the parties provided an update on the status of the case and indicated the agreement of the parties. Witnesses were made available to the panel for questions.⁸ The panel solicited comments from the public, but no member of the public sought to be heard.⁹

CRITERIA FOR ESTABLISHING JUST AND REASONABLE RATES

The Commission has jurisdiction to set the rates of public utilities operating in the State of Tennessee.¹⁰ In pertinent part, Tenn. Code Ann. § 65-5-101 provides:

(a) The Tennessee public utility commission has the power after hearing upon notice, by order in writing, to fix just and reasonable individual rates, joint rates, tolls, fares, charges or schedules thereof... .

In addition, Tenn. Code Ann. § 65-5-103 states, in part:

(a) When any public utility shall increase any existing individual rates, joint rates, tolls, fares, charges, or schedules thereof, or change or alter any existing classification, the commission shall have power either upon written complaint, or upon its own initiative, to hear and determine whether the increase, change or alteration is just and reasonable. The burden of proof to show that the increase, change, or alteration is just and reasonable shall be upon the public utility making the same. In determining whether such increase, change or alteration is just and reasonable, the commission shall take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility.

⁸ Transcript of Hearing, pp. 28-31 (June 15, 2020).

⁹ *Id.* at 31.

¹⁰ Tenn. Code Ann. §§ 65-4-101(6); 65-4-104; 65-5-101, *et seq.*

The Commission considers petitions for a rate increase, filed pursuant to Tenn. Code Ann. § 65-5-103, in light of the following criteria:

1. The investment or rate base upon which the utility should be permitted to earn a fair rate of return;
2. The proper level of revenues for the utility;
3. The proper level of expenses for the utility; and
4. The rate of return the utility should earn.

Applying these principles and criteria, and upon consideration of the entire record, including all exhibits and the testimony of the witnesses, the panel made the following findings and conclusions.

FINDINGS AND CONCLUSIONS

Upon consideration of the pleadings, Pre-Filed Testimony, the entire administrative record, and the presentations of counsel of the parties at the Hearing, the panel found that the increased rates and charges proposed in the *Joint Petition*, as revised in the Pre-Filed Supplemental Testimony, are necessary for TWSI to continue providing quality wastewater service. The proposed rates and charges are just, reasonable, and in the public interest.

The panel also found that TWSI's annual revenue increase of \$404,293 represents an overall 8.2% increase in the combined base rate plus escrow rate for residential customers and an overall 8.5% increase for commercial customers. The provisions of the proposed rate increase are based upon:

1. An historical test period of the twelve-months ended December 31, 2018;
2. A forward-looking attrition period of the twelve-months ending December 31, 2020;
3. An Operating Margin Rate of 10%;

4. Total Attrition Period Operating Revenues of \$2,166,859;
5. Total Attrition Period Operating Expenses of \$2,270,035;
6. Fair Operating Margin of 10.00%;
7. Gross Revenue Conversion Factor of 1.34979;
8. Revenue Deficiency of \$404,293; and
9. Rate design that recovers the Revenue Deficiency in a combined increase in base rates and escrow surcharges as set forth in the Pre-Filed Supplemental Testimony of Kevin McClenathan.

The panel also found that accounting and reporting changes proposed for developer payments to the utility and the changes proposed to update TWSI's terms of service are reasonable and in the public interest and should be adopted. Therefore, the panel unanimously voted to approve the proposed increase in rates and charges. The approved rate design is attached hereto as Exhibit 1 and incorporated herein.

IT IS THEREFORE ORDERED THAT:

1. The *Joint Petition* filed on January 31, 2020 by Tennessee Wastewater Systems, Inc. and TPUC Staff as a Party, as revised by the Supplemental Testimony, is approved;
2. The rates and charges proposed in the *Joint Petition*, as revised by the Supplemental Testimony and attached to this Order as Exhibit 1, are approved;
3. The accounting and reporting changes for developer payments to the utility are approved;
4. The updates to the terms of service of Tennessee Wastewater Systems, Inc. are approved;

5. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order; and

6. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Chair Robin L. Morrison, Commissioner Herbert H. Hilliard, and Commissioner David F. Jones concur. None dissent.

ATTEST:



Earl R. Taylor, Executive Director

EXHIBIT 1

Tennessee Wastewater Systems, Inc.
Rate Design
For the 12 Months Ending December 31, 2020

	Bills/Usage	Current Base Rate	Current Escrow Rate	Base Rate Revenue	Escrow Revenue	Proposed Base Rate	Proposed Escrow Rate	Proposed Base Revenue	Proposed Escrow Revenue	Proposed Combined Increase %
Residential Rates:										
Rate Class 1	28,528	34.02	10.13	970,535	288,992	40.48	7.27	1,154,907	207,322	8.15%
Rate Class 2	424	34.02	10.13	14,424	4,295	40.48	7.27	17,165	3,081	8.15%
Rate Class 5	996	30.71	8.43	30,587	8,396	36.66	5.69	36,509	5,672	8.20%
Rate Class 6	1,894	30.71	8.43	58,165	15,966	36.66	5.69	69,425	10,766	8.20%
Rate Class 9 excl. TC charge	2,398	17.59	6.35	42,181	15,227	20.55	3.39	49,280	8,128	0.00%
Total	34,240			1,115,892	332,877			1,327,266	234,989	
Commercial Without Food Rates:										
Tier 1 (0 - 300 GPD)	357	80.40	21.75	28,720	7,769	95.93	14.87	34,268	5,311	8.47%
Tier 2.1 (301 - 400 GPD)	0	96.43	26.17	-	-	115.07	17.98	-	-	8.52%
Tier 2.2 (401 - 500 GPD)	52	112.46	30.59	5,808	1,580	134.21	21.09	6,931	1,089	8.56%
Tier 2.3 (501 - 600 GPD)	13	128.49	35.01	1,659	452	153.34	24.21	1,980	313	8.59%
Tier 2.4 (601 - 700 GPD)	3	144.52	39.43	466	127	172.48	27.32	557	88	8.62%
Tier 2.5 (701 - 800 GPD)	15	160.55	43.85	2,418	661	191.62	30.43	2,866	458	8.64%
Tier 2.6 (801 - 900 GPD)	0	176.59	48.26	-	-	210.76	33.54	-	-	8.65%
Tier 2.7 (901 - 1,000 GPD)	29	192.62	52.68	5,596	1,530	229.89	36.66	6,678	1,065	8.66%
Tier 3.1 (1,001 - 2,000 GPD)	22	316.43	86.82	6,809	1,868	381.18	56.37	8,202	1,213	8.51%
Tier 3.2 (2,001 - 3,000 GPD)	13	440.28	120.92	5,685	1,561	533.29	76.11	6,885	983	8.59%
Tier 3.3 (3,001 - 4,000 GPD)	8	564.13	155.02	4,249	1,168	685.41	95.84	5,162	722	8.64%
Tier 3.4 (4,001 - 5,000 GPD)	2	687.98	189.12	1,480	407	837.53	115.57	1,802	249	8.66%
Tier 3.5 (5,001 - 6,000 GPD)	0	811.83	223.22	-	-	989.64	135.31	-	-	8.69%
Tier 3.6 (6,001 - 7,000 GPD)	0	935.68	257.32	-	-	1,141.76	155.04	-	-	8.70%
Tier 3.7 (7,001 - 8,000 GPD)	0	1,059.53	291.42	-	-	1,293.88	174.77	-	-	8.71%
Tier 3.8 (8,001 - 9,000 GPD)	0	1,183.38	325.52	-	-	1,446.00	194.50	-	-	8.72%
Tier 3.9 (9,001 - 10,000 GPD)	26	1,307.23	359.62	33,756	9,286	1,598.11	214.24	41,267	5,532	8.73%
Contract 25,000 GPD	13	3,164.98	871.12	40,864	11,247	3,879.87	510.23	50,094	6,588	8.77%
Total	552			137,509	37,657			166,713	23,610	
Commercial With Food Rates:										
Tier 1 (0 - 300 GPD)	85	107.15	29.00	9,108	2,465	127.88	19.82	10,869	1,685	8.48%
Tier 2.1 (301 - 400 GPD)	17	126.43	34.22	2,176	589	151.18	23.17	2,603	399	8.53%
Tier 2.2 (401 - 500 GPD)	26	145.71	39.44	3,763	1,018	174.49	26.51	4,506	684	8.56%
Tier 2.3 (501 - 600 GPD)	0	164.99	44.66	-	-	197.80	29.85	-	-	8.59%
Tier 2.4 (601 - 700 GPD)	1	184.27	49.88	198	54	221.11	33.19	238	36	8.61%
Tier 2.5 (701 - 800 GPD)	28	203.55	55.10	5,694	1,541	244.42	36.53	6,837	1,022	8.62%
Tier 2.6 (801 - 900 GPD)	5	222.83	60.32	1,199	325	267.73	39.87	1,440	215	8.63%
Tier 2.7 (901 - 1,000 GPD)	0	242.11	65.54	-	-	291.03	43.22	-	-	8.65%
Tier 3.1 (1,001 - 2,000 GPD)	36	393.82	107.18	13,983	3,805	475.73	67.97	16,891	2,413	8.52%
Tier 3.2 (2,001 - 3,000 GPD)	26	545.53	148.82	14,087	3,843	661.37	92.73	17,078	2,395	8.61%
Tier 3.3 (3,001 - 4,000 GPD)	2	697.24	190.46	1,500	410	847.00	117.50	1,823	253	8.65%
Tier 3.4 (4,001 - 5,000 GPD)	13	849.02	232.10	10,962	2,997	1,032.63	142.27	13,332	1,837	8.67%
Tier 3.5 (5,001 - 6,000 GPD)	13	1,000.80	273.74	12,921	3,534	1,218.26	167.04	15,729	2,157	8.69%
Tier 3.6 (6,001 - 7,000 GPD)	0	1,152.58	315.38	-	-	1,403.89	191.81	-	-	8.70%
Tier 3.7 (7,001 - 8,000 GPD)	0	1,304.36	357.02	-	-	1,589.53	216.57	-	-	8.71%
Tier 3.8 (8,001 - 9,000 GPD)	39	1,456.14	398.66	56,401	15,441	1,775.16	241.34	68,758	9,348	8.72%
Tier 3.9 (9,001 - 10,000 GPD)	13	1,607.92	440.30	20,760	5,685	1,960.79	266.11	25,316	3,436	8.72%
Contract 25,000 GPD	13	3,884.62	1,064.90	50,155	13,749	4,745.27	637.63	61,267	8,233	8.76%
Total	316			202,908	55,457			246,688	34,111	
Commercial Cabin Rates:										
Tier 1 (0 - 300 GPD)	8,570	53.20	15.95	455,912	136,688	(See Commercial Cabin Rate Design Table Below)				
Tier 2.1 (301 - 400 GPD)	201	64.66	19.49	13,010	3,921					
Tier 2.2 (401 - 500 GPD)	88	76.13	23.02	6,717	2,031					
Tier 2.3 (501 - 600 GPD)	48	87.59	26.56	4,241	1,286					
Tier 2.4 (601 - 700 GPD)	57	99.05	30.10	5,648	1,716					
Tier 2.5 (701 - 800 GPD)	31	110.52	33.63	3,448	1,049					
Tier 2.6 (801 - 900 GPD)	17	121.98	37.17	2,100	640					
Tier 2.7 (901 - 1,000 GPD)	20	133.44	40.71	2,728	832					
Tier 3.1 (1,001 - 2,000 GPD)	44	254.15	77.95	11,211	3,439					
Tier 3.2 (2,001 - 3,000 GPD)	4	374.86	115.19	1,613	496					
Tier 3.3 (3,001 - 4,000 GPD)	2	495.57	152.43	1,066	328					
Tier 3.4 (4,001 - 5,000 GPD)	0	616.28	189.67	-	-					
Tier 3.5 (5,001 - 6,000 GPD)	0	736.99	226.91	-	-					
Tier 3.6 (6,001 - 7,000 GPD)	0	857.70	264.15	-	-					
Tier 3.7 (7,001 - 8,000 GPD)	1	978.41	301.39	1,053	324					
Total	9,085			508,748	152,751			628,742	143,292	
Subtotal Monthly Service Fees				1,965,056				2,369,429	436,002	
Sewer Access Fees				183,477				183,477		
Wastewater Revenues				2,148,533	578,741			2,552,906	436,002	
										404,373

COMMERCIAL CABIN RATE DESIGN
(Redesigned from GPD to Square Feet)

Rate Class	Square Feet	Number of Cabins	Annual Bills	Proposed Base Rate	Proposed Escrow Rate	Proposed Combined Rate	Proposed Base Revenue	Proposed Escrow Revenue
Small	0-1000 A/	9	565	60.85	13.15	74.00	34,378	7,432
Small	1001-2000	255	3060	60.85	13.15	74.00	186,191	40,249
Medium	2001-3000	214	2568	69.68	16.32	86.00	178,937	41,911
Medium	3001-4000	103	1236	69.68	16.32	86.00	86,124	20,172
Large	4001-5000	84	1008	82.44	19.56	102.00	83,097	19,719
Large	5001-6000	26	312	82.44	19.56	102.00	25,721	6,103
Extra Large	6001-7000	18	216	102.07	22.93	125.00	22,046	4,954
Extra Large	7001+	10	120	102.07	22.93	125.00	12,248	2,752
		719	9085				628,742	143,292

Commercial Cabin Class Increase:		
Proposed Combined Revenue	772,034	
Current Combined Revenue	661,498	
Class Revenue Increase	110,536	
Class Percentage Increase	16.71%	

A/ All new customer growth added into the small cabin rate group