

Office of the Attorney General

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September 23, 2020

John Powell, President
Superior Wastewater Systems, LLC
9539 Mullens Road
Arrington, TN 37014
John-powell@comcst.net

Re: Tennessee Public Utility Commission, Docket No. 20-00109, *Petition of Superior Wastewater Systems, LLC for a Certificate of Public Convenience and Necessity Amendment to Provide Wastewater Service to the Fox Parcel in Williamson County.*

Dear Mr. Powell:

The Consumer Advocate has reviewed Superior Wastewater System, LLC's (Superior Wastewater) Petition in the above-referenced docket. Since Superior Wastewater believes that the Fox Parcel is contiguous to its service territory, the Consumer Advocate reviewed the requirements for a utility seeking to provide service to a contiguous territory as set out in the Initial Order of TPUC Docket No. 19-00061. Since no decision has been made on if the Fox Parcel is a contiguous territory, the Consumer Advocate also reviewed compliance with the minimum requirements for an amendment to a Certificate of Convenience and Necessity (CCN), which is set out in TPUC Rule 1220-04-13-.17.

The Consumer Advocate appreciates the time and effort that Superior Wastewater put into compiling its Petition and its attention to the Commission's Minimum Filing Requirements. We also appreciated the opportunity to talk with you on September 16, 2020. However, we could not locate or are seeking clarification on the items set out in Attachment A. Please review.

The Consumer Advocate would like to thank, in advance, Superior Wastewater's attention to the Consumer Advocate's request. If you have questions regarding this request, please contact me at (615) 741-2370.

Respectfully,

Karen H. Stachowski

Karen H. Stachowski
Assistant Attorney General

cc: William H. Novak
Patsy Fulton, TPUC
Kelly Cashman-Grams, TPUC

ATTACHMENT A

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Utility Seeking to Provide Service to a Contiguous Territory, TPUC Docket No. 19-00061

1. *It has a valid CCN for the area it is currently serving, and the system to be utilized to serve the contiguous area is in good standing with the Commission, the Tennessee Department of Environment and Conservation ("TDEC"), and other applicable regulatory bodies.*

The Consumer Advocate has checked TDEC's enforcement dataviewer and found no existing enforcement action against either King's Chapel, Superior Wastewater or John Powell. In reviewing TDEC's permit dataviewer, the Consumer found no recent Notices of Violation or other correspondence indicating concerns for either King's Chapel or Superior Wastewater.

2. *The territory it seeks to serve is contiguous to its route, plant, line, or system by providing maps showing the relevant locations.*

In the Consumer Advocate's review, it noted a map (Ex. 1.7.1) showing the location of the Fox Parcel in relation to existing King's Chapel Service territory currently being served by Superior Wastewater.

3. *The area it seeks to serve is not in the service area of another public utility, utility district, municipality, or other authorized utility service provider or proof that any such utility provider has relinquished rights to serve the area.*

According to the Petition, Superior Wastewater does not yet have letters from local government and nearby public wastewater utilities stating that they are unwilling or unable to provide service to the Fox Parcel. However, Superior Wastewater states that will update the filing once it receives the letters. This comment is repeated in Rule 1220-04-13-.17(2)(b)1 below.

4. *The area it seeks to serve does not currently receive similar services and requests service from the public utility. This information should include a description of the services to be provided, including the estimated number of homes to be served.*

According to the Petition, Superior Wastewater does not yet have letters from local government and nearby public wastewater utilities stating that they are unwilling or unable to provide service to the Fox Parcel. However, Superior Wastewater states that will update the filing once it receives the letters.

Regarding the number of homes to be served, the Petition estimates 78 homes¹ to be served. However, in the previous permit modification application 631 homes² were to be served by Superior Wastewater's system. In the current application for permit modification 729 homes³ are to be served by Superior Wastewater's system. This is a difference of 98 homes.

¹ Petition at Exhibit 1.8 (September 9, 2020).

² Supplemental Supporting Documentation Request for King Chapel Capacity LLC's Petition for a Certificate of Convenience and Necessity, TPUC Docket No. 19-00043, Exhibit 4.1 (October 15, 2019).

³ Petition at Exhibit 4.1 (September 9, 2020).

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5. *A tariff for the rates to be charged to the customers in the new territory has been approved by the Commission.*

Superior Wastewater has a tariff for its existing Ashby community, and has submitted revisions to its tariff to include the Fox Parcel.

6. *Until the Commission's rules are promulgated, the Hearing Officer concludes that at a minimum, when a public utility seeks to serve a contiguous territory, it must provide written notice to the Commission by filing with the Commission's Docket Manager its intent thirty (30) days prior to providing service and establish that such territory falls within the parameters of the contiguous provision contained in Tenn. Code Ann. §65-4-201 (a).*

The Consumer Advocate awaits the Commission's decision on if the parcel is contiguous or not.

7. *In addition, the public utilities seeking to serve a territory pursuant to the contiguous provision shall cooperate with requests for information from Commission Staff.*

Rule 1220-04-13-.17(2)(a) General Information

1. *Rule 1220-04-13-.17(2)(a)4.* It is our understanding that Ashby does not have a contractor's license for the construction of a wastewater system. However, John Powell Construction, LLC's, an affiliate with Superior Wastewater and Ashby, has a license and it will construct the system. Is this correct?
2. *Rule 1220-04-13-.17(2)(a)7.*
 - a. *Rule 1220-04-13-.17(2)(a)7(iv).* It is our understanding that a map delineating the lots for the proposed development is not required by Williamson County in the initial filing, so a map delineating the lots is not available. Is this correct?
 - b. *Rule 1220-04-13-.17(2)(a)7(v).* It is our understanding that the wastewater system will serve the entire Fox Parcel. Is this correct?
3. *Rule 1220-04-13-.17(2)(a)11.* It is our understanding that the point of contact for the development is Mr. John Powell. His contact information which is set out in the Petition is 9539 Mullens Road, Arrington, TN 37014; Phone 615-395-7070; and John-powell@comcst.net. Is this correct?

Rule 1220-04-13-.17(2)(b) Property Rights and Public Need

1. *Rule 1220-04-13-.17(2)(b)1.* According to the Petition, Superior Wastewater does not yet have letters from local government and nearby public wastewater utilities stating that they are unwilling or unable to provide service to the Fox Parcel. However, Superior Wastewater states that will update the filing once it receives the letters.
2. *Rule 1220-04-13-.17(2)(b)3.* The Consumer Advocate appreciates the utility sharing its confidential information. In its review, the Consumer Advocate could not locate an agreement between Ashby and John Powell Construction, LLC for construction of the system. Could you provide a copy of this agreement? Also, is there a contract between Ashby and the property owner, Fox Farms, LLC? If yes, please provide a copy of the agreement.

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Rule 1220-04-13-.17(2)(c) Sufficient Managerial Ability

1. *Rule 1220-04-13-.17(2)(c)4.* It is our understanding that John Powell Construction, LLC has the construction license to construct wastewater systems, and will construct the system for the Fox Parcel. Is this correct?

Rule 1220-04-13-.17(2)(d) Sufficient Technical Ability

1. *Rule 1220-04-13-.17(2)(d)1.* The Consumer Advocate saw the email from Tennessee Department of Conservation (TDEC) that it had received the permit application. However, the Consumer Advocate could not locate a letter from TDEC permit writer stating that Superior Wastewater's application for a State Operating Permit is complete.

Rule 1220-04-13-.17(2)(e) Sufficient Financial Ability

1. *Rule 1220-04-13-.17(2)(e)1.* The Consumer Advocate could not locate a statement of cash flows. In its review of the financial documents, the Consumer Advocate noted that on page 283 Payments for Services Rendered by other than employees that Premier Property Management is identified as "employee benefits." Please provide an explanation of this entry.
2. *Rule 1220-04-13-.17(2)(e)2.* In its review, the Consumer Advocate could not locate the assumptions for the increase in operational expenditures.
3. *Rule 1220-04-13-.17(2)(e)4.* In its review the Consumer Advocate noted the depreciation rates of three new plant accounts: 364, 365, and 370 (p. 301 of Petition). However, the table for the estimate of the journal entry to record the wastewater plant-in-service for the Fox Parcel does not contain these three new plant-in-service accounts (p. 300 of Petition).
4. *Rule 1220-04-13-.17(2)(e)7.* This issue is related to item Rule 1220-04-13-.17(2)(e)4 found above. Assets are being booked in accounts 360 and 380 (p. 300). However, the utility provided three additional accounts regarding depreciation rates for each plant account (p. 301). Please confirm that the depreciation rates of the three new plant accounts, which are different than Account 380, were used in determining amortization rate on Contribution in Aid of Construction.
5. *Rule 1220-04-13-.17(2)(e)10.* It is our understanding that the developer is responsible for the bonding requirement imposed by William County. See Non-traditional Wastewater Treatment and Disposal Systems, § Section 20.08 at <http://www.williamsoncounty-tn.gov/DocumentCenter/View/14874/ZO-March-2020?bidId=>. Is this correct?

Rule 1220-04-13-.17(2)(f) Sworn Pre-filed Written Testimony

No sworn pre-filed written testimony was filed with this Petition.