

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 27, 2021

IN RE:

PETITION OF SUPERIOR WASTEWATER SYSTEMS,
LLC TO AMEND ITS CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO PROVIDE
WASTEWATER SERVICE TO THE TALIAFERRO
ROAD PARCEL IN WILLIAMSON COUNTY

DOCKET NO.
21-00001

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Kenneth C. Hill, Vice Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner John Hie, and Commissioner David F. Jones of the Tennessee Public Utility Commission, (“TPUC” or “Commission”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on August 9, 2021 for consideration of the *Petition of Superior Wastewater Systems, LLC to Amend Service Territory to Include the Taliaferro Road Parcel in Williamson County* (“*Petition*”) filed by Superior Wastewater Systems, LLC (“Superior,” “Company,” or “Petitioner”) on January 5, 2021. In its *Petition*, Superior requests the Commission’s approval of an amendment to the Company’s Certificate of Public Convenience and Necessity (“CCN”) in order to provide wastewater service to an additional parcel of property located in Williamson County.

BACKGROUND AND *PETITION*

Superior is a limited liability company organized under the laws of the State of Tennessee with a principal place of business located at 9539 Mullens Road, Arrington, Tennessee.¹ In its *Petition*, Superior seeks to amend its Certificate of Public Convenience and Necessity to expand

¹ *Petition*, Exh. 1.6 (January 5, 2021).

its service territory in order to provide wastewater services to the Taliaferro Road parcel in Williamson County, Tennessee.²

In support of its *Petition*, the Company filed a map showing the location of the Taliaferro Road parcel, a subdivision known as The Homes at Mulberry Meadows, to be serviced by Superior.³ The Company also filed the testimony of John Powell, owner and president of Superior.⁴ Mr. Powell testifies that the addition of the Taliaferro Road parcel will add 27 single family homes to Superior's service area.⁵ Further, he states that the Taliaferro Road parcel facilities will be constructed in one phase funded by the developer of The Homes at Mulberry Meadows subdivision. The utility will become the owner and assume responsibility for the collection system.⁶ Mr. Powell testifies that the Company possesses the managerial, financial, and technical capabilities to operate a wastewater system to serve the Taliaferro Road parcel.⁷ Additionally, Mr. Powell states that the Company's existing rates will be applicable to the new customers. Finally, he testifies that the Company, its affiliates, and he, himself, have no financial interest in the proposed development, the construction of the proposed wastewater system, or provision of the materials and supplies for the wastewater system construction.⁸

No municipal utility, utility district, or other private wastewater utility currently provides wastewater service to the Taliaferro Road parcel. Superior filed letters from Nolensville/College Grove Utility District and the Williamson County Mayor confirming that neither are willing to provide wastewater service to the Taliaferro Road parcel.⁹ No one sought to intervene in this matter.

² *Id.* at 1.

³ *Id.* at Exh. 1.6.

⁴ John Powell, Pre-Filed Revised Direct Testimony (May 19, 2021).

⁵ *Id.* at 2.

⁶ *Id.* at 3-4.

⁷ *Id.*

⁸ *Id.* at 4-5.

⁹ *Petition*, Exh. 2.1 (January 5, 2021). *See also* Letter from Nolensville/College Grove Utility District Refusing to Provide Wastewater Service to the Taliaferro Road Parcel in Williamson County (February 12, 2021).

THE HEARING

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on August 9, 2021, as noticed by the Commission on July 30, 2021. Participating in the Hearing were:

Superior Wastewater Systems – Charles B. Welch, Jr., Esq., Farris Bobango, PLC, 414 Union Street, Suite 1105, Nashville, Tennessee 37219; John Powell, President and General Manager, 9539 Mullens Road, Arrington, Tennessee 37014.

During the Hearing, John Powell, President and General Manager of Superior, presented testimony on behalf of the Company and adopted his Pre-Filed Direct Testimony and attested to the truth and accuracy of the Company's *Petition*. Mr. Powell was subject to questions from the voting panel of Commissioners and Commission Staff. Members of the public were given an opportunity to offer comments, at which time, no comments were submitted.

STANDARD FOR COMMISSION APPROVAL

A public utility is not permitted to begin construction or operation of a new utility service without first obtaining a CCN from the Commission, as set forth in Tenn. Code Ann. § 65-4-201(a), which states:

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the commission, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore

receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.¹⁰

Additionally, in order to obtain a CCN to provide wastewater service, TPUC Rule 1220-04-13-.17 (1) provides:

Any public wastewater utility requesting a Certificate of Public Convenience and Necessity (“CCN”) in accordance with Tenn. Code Ann. §§ 65-4-201, et seq., shall file an application that complies with Rule 1220-01-01-.03 and this rule. Each applicant shall demonstrate to the Commission that it possesses sufficient managerial, financial, and technical capabilities to provide the wastewater services for which it has applied. Each application shall demonstrate that there exists a public need for wastewater service and include the required financial security consistent with Tenn. Code Ann. § 65-4-201, and these rules.¹¹

The rule further establishes minimum information filing guidelines for applications for new or expanded CCNs.¹²

FINDINGS AND CONCLUSIONS

In its *Petition*, Superior has asked the Commission to amend its CCN to include the Taliaferro Road parcel, asserting that the Company possesses the managerial, technical, and financial capability to provide service to these parcels. Based on a review and consideration of the pleadings, the Pre-Filed Testimony, and the entire administrative record, the voting panel made the following findings and conclusions:

The panel found that the Taliaferro Road parcel requires wastewater service to move forward with the proposed development and that the parcel is not currently connected to a wastewater treatment facility operated by any other municipal utility, utility district, or other private wastewater utility. No other utility is seeking to serve the parcel. The panel further found that Superior has demonstrated that it possesses the requisite managerial, financial, and technical capabilities to provide wastewater service to the Taliaferro Road parcel. Therefore, based on these findings, the panel voted unanimously that there

¹⁰ Tenn. Code Ann. § 65-4-201 (Supp. 2019).

¹¹ Tenn. Comp. R. & Regs. 1220-04-13-.17.

¹² *Id.*

exists a public need to provide wastewater service to the Taliaferro Road parcel as required by Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-04-13-.17(1) and to grant Superior's *Petition*, contingent upon the filing of the following documents:

1. All final signed contract(s) between Superior and McCanless and Company, inclusive of any contracts between any affiliates or principals of Superior and/or McCanless that are involved with the construction or the operation of the wastewater facility, and/or any party contributing to the build-out/expansion of the wastewater system servicing The Homes at Mulberry Meadows;
2. A copy of the final signed plat from Williamson County showing Superior as the wastewater utility of record;
3. A copy of the final State Operating Permit issued by the Tennessee Department of Environment and Conservation;
4. As-built plans for the Wastewater Treatment System and the Collection System capable of providing wastewater service for a total of 27 equivalent Dwelling Units, certified as being inspected by Superior;
5. A final detailed cost itemization of the complete wastewater system transferred from the Developer to Superior, inclusive of treatment and collection systems;
6. A copy of the entitlement to the wastewater system and the registered deed and registered easements for the land required by Superior for the treatment plant and drip field(s) prior to any customer being provided service on any of the properties in The Homes at Mulberry Meadows;
7. A tariff in this docket for The Homes at Mulberry Meadows subdivision reflecting the rates, including any bonding rates to be passed through to the customers; and
8. In the event that Superior has not completed the above seven (7) filing requirements within six (6) months of the date of this Order, then Superior is directed to file, no later than six (6) months of the date of this Order, a report providing the status of the provision of wastewater service to

The Homes at Mulberry Meadows, and a monthly report by the 1st day of each month thereafter until compliance with the Order is complete.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Superior Wastewater Systems, LLC to Amend Service Territory to Include the Taliaferro Road Parcel in Williamson County* is approved, contingent upon Superior Wastewater Systems, LLC filing the following in this docket:

a) All final signed contract(s) between Superior Wastewater Systems, LLC and McCanless and Company, inclusive of any contracts between any affiliates or principals of Superior Wastewater Systems, LLC and/or McCanless and Company that are involved with the construction or the operation of the wastewater facility, and/or any party contributing to the build-out/expansion of the wastewater system servicing The Homes at Mulberry Meadows;

b) A copy of the final signed plat from Williamson County showing Superior Wastewater Systems, LLC as the wastewater utility of record;

c) A copy of the final State Operating Permit issued by the Tennessee Department of Environment and Conservation;

d) As-built plans for the Wastewater Treatment System and the Collection System capable of providing wastewater service for a total of 27 equivalent Dwelling Units, certified as being inspected by Superior Wastewater Systems, LLC;

e) A final detailed cost itemization of the complete wastewater system transferred from the developer to Superior Wastewater Systems, Inc.;

f) A copy of the entitlement to the wastewater system and the registered deed and registered easements for the land required by Superior Wastewater Systems, LLC for the treatment plant and drip field(s) prior to any customer being provided service on any of the properties in The Homes at Mulberry Meadows;

g) A tariff in this Docket for The Homes at Mulberry Meadows subdivision reflecting the rates, including any bonding rates to be passed through to the customers;

h) In the event that Superior Wastewater Systems, LLC has not completed the above seven (7) filing requirements within six (6) months of the date of this Order, then Superior Wastewater Systems, LLC is directed to file, no later than six (6) months of the date of this Order, a report providing the status of the provision of wastewater service to The Homes at Mulberry Meadows, and a monthly report by the 1st day of each month thereafter until compliance with the Order is complete

2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

3. 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 (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Kenneth C. Hill
Vice Chairman Herbert H. Hilliard,
Commissioner Robin L. Morrison,
Commissioner John Hie, and
Commissioner David F. Jones concurring.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director