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November 5, 2021

Dr. Kenneth C. Hill, Chairman
c/o Tory Lawless
Docket Manager
Tennessee Public Utility Commission
502 Deaderick Street
Nashville, TN 37243

Docket No. 21-00084

Request for Expedited Action

Dear Dr. Hill,

Williamson County is ready to begin construction of a new \$33 million recreation center on Bethesda Road near Highway 431. Construction cannot begin, however, until the Williamson County Planning Commission has approved the plans for the center. As part of the approval process, the Planning Commission's rules require verification from the Tennessee Public Utility Commission that wastewater service will be provided to the site.

Aqua Green Utility already has a certificate of convenience and necessity to provide wastewater service to the "Fairhaven" development on Bethesda Road. See TPUC Docket 20-00094. Fairhaven is immediately adjacent to the location where the recreation center will be built. At the request of Williamson County, Aqua Green has agreed to provide wastewater service to the recreation center and has received approval from the Tennessee Department of Environment and Conservation to enlarge the capacity of the utility's proposed treatment system to serve both Fairhaven and the recreation center.

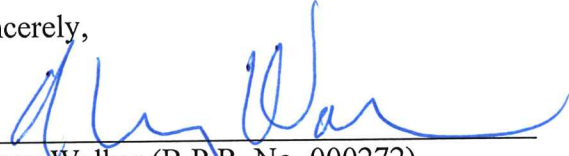
On July 13, 2021 Aqua Green filed a petition with the Commission to amend the utility's certificate to include the land where the recreation center will be built. Docket 21-00084. At that time, Aqua Green was not aware that under Commission rule 1220-04-01-.13, it is not necessary for Aqua Green to amend its certificate to include the recreation center. As long as (1) the new area is "contiguous" to the utility's existing territory, (2) the utility has the capacity to serve the additional area and (3) no other utility provides service to the new area, the Commission may issue an order allowing a utility to provide service to a contiguous territory. No hearing is required.

Aqua Green has provided the Commission with (1) maps of the area showing that the recreation center is contiguous to Fairhaven (2) a permit from TDEC authorizing Aqua Green to build and operate a treatment center large enough to serve both locations and (3) a letter from Williamson County stating that the county government will not offer wastewater to the area where the center will be built. On August 4, 2012, the Consumer Advocate Office wrote the Commission that the Consumer Advocate is satisfied that Aqua Green has provided sufficient documentation to satisfy the "contiguous territory" rule.¹

¹ As the Consumer Advocate's letter pointed out, the only item Aqua Green has not yet filed is a letter from a design engineer confirming that the treatment system, once completed, complies with TDEC's approved plan. As the Consumer Advocate noted, Aqua Green has agreed to file such a letter before the utility begins providing service.

Since Aqua Green has met the requirements of the rule, all that remains is for the Commission to issue an order stating that Aqua Green's may provide service to the area where the recreation center will be built. As soon as that order is issued, the Williamson County Planning Commission can approve the plans for the center and construction can begin.²

Sincerely,



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² Normally, the "contiguous territory" rule would arise in a situation where the utility is already providing service and plans to extend that service into an unserved, contiguous area. In this case, Aqua Green's treatment plant has not yet been built but the contiguous territory rule still applies and allows Aqua Green to serve the recreation center.

The Commission's rule applies to this case because the rule is intended to implement T.C.A. § 4-65-201. That statute allows a utility to provide service to a new area without having to obtain a certificate as long as the new area is "contiguous" to the utility's current "territory." The statute uses the word "territory" three times to describe a utility's existing service area. It refers to a "territory already receiving a like service," a utility's "territory where it shall theretofore have lawfully commenced service" and a "territory already served by it [the utility]." The Tennessee Supreme Court has held that the word "territory" as used in this statute refers to an area that a utility is legally obligated to serve whether or not the utility has any physical facilities there. Peoples Telephone v. Tennessee Public Service Commission, 393 S.W.2d 285 (1965). In sum, the statute allows Aqua Green to serve a "contiguous" area where the recreation center will be built even though the utility's current "territory" does not yet have facilities. Since the statute allows Aqua Green to serve the recreation center, the Commission's rule, which implements the statute, similarly applies to this situation.