

# SUPERIOR WASTEWATER SYSTEMS

Providing Superior Wastewater Service to Tennessee

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April 5, 2023

**Via Electronic Delivery**

Mr. Joe Shirley, Director  
Utilities Division, Audit & Compliance  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

Electronically Filed in TPUC Docket  
Room on May 17, 2023 at 1:16 p.m.

**Re: STAFF COMPLIANCE AUDIT OF SUPERIOR WASTEWATER  
SYSTEMS, LLC'S COMPLIANCE WITH COMMISSION RULES 1220-04-  
13-.07 AND 1220-04-13-.08 REGARDING FINANCIAL SECURITY AND  
RULE 1220-04-13-.16 REGARDING AFFILIATE TRANSACTIONS  
(DOCKET NO. 21-00086)**

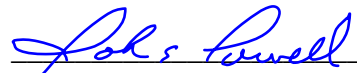
**Response to TPUC Staff's Third Discovery Request of March 20, 2023**

Mr. Shirley:

Superior Wastewater Systems, LLC files the attached response to the Commission  
Party Staff's Discovery Request of March 20, 2023.

Please contact me if you have any questions or need additional information.

Respectfully submitted,

  
John Powell, President

Enclosures

**SUPERIOR WASTEWATER SYSTEMS, LLC  
DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT  
TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

1. Provide copies of the original Letters of Credit issued for Sections 5, 6, 7, 8, 10, and 12.

**Response:**

SWS does not have these records in its possession. SWS has inquired with our bank about receiving these original Letters of Credit for prior periods, and was informed that they were not readily available and that retrieving them would require SWS to pay for research fees.

On a March 29, 2023, conference call, SWS informed the Party Staff on the status for this item. Party Staff agreed that there was no need to pursue this item further since the records were not readily available and retrieving them would cause SWS to incur additional costs.

**SUPERIOR WASTEWATER SYSTEMS, LLC  
DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT  
TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

2. Provide copies of the executed bond forms that have been issued for Sections 5, 6, 7, 8, 10, 11, and 12.

**Response:**

SWS does not have these records in its possession. Retrieving these records would require the Williamson County clerks to research their files.

On a March 29, 2023, conference call, SWS informed the Party Staff on the status for this item. Party Staff agreed that there was no need to pursue this item further since the records were not readily available and retrieving them would be outside the control of SWS.

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT**  
**TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

3. The bond information provided in Ms. Smith's letter for Section 10, lists that bond amount for \$175,000. However, this is in contrast with other documentation from the Williamson County Planning Commission's meeting minutes (attached above) that suggests the Section 10 bond amount is only \$17,500. The bonds are normally reduced by 30% when they enter the maintenance phase. So  $(30\% * \$175,000) = \$52,500$ . However, in this case, Ms. Smith lists the reduced amount as \$5,250, which would be  $(30\% * \$17,500) = \$5,250$ . (Staff believes Ms. Smith made a typo when she placed the comma [,]). Staff seeks to obtain a copy of the original letter of credit and bond form on Section 10, and also seek to clarify the proper amount the Company should claim for determining bonding costs for Section 10 (\$175,000 or \$17,500).

**Response:**

Yes, the appropriate bond amount for Section 10 is \$17,500. Please see Attachment TPUC3-3a for an updated letter from Williamson County that reflects the correct \$17,500 bond for Section 10.

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC COMPLIANCE AUDIT**  
**THIRD DISCOVERY REQUEST OF THE PARTY STAFF**

**ATTACHMENT TPUC3-3A**  
**WILLIAMSON COUNTY CONFIRMATION LETTER**  
**OF SWS OUTSTANDING BONDS**



Rogers C. Anderson  
Williamson County Mayor

Planning Department  
Michael Matteson, Director

## WILLIAMSON COUNTY GOVERNMENT

April 4, 2023

Ashby Communities LLC  
John Powell  
PO BOX 180  
Arrington TN 37014

Re: Letter of Credit for King's Chapel, Section 10 WW Collection System

John;

Per our phone conversation regarding Section 10 amount, I found I made a typo and the correct amount is \$17,500. I apologize for any inconvenience this may have caused.

If you need anything else, please let me know.

Regards

A handwritten signature in blue ink that reads "Debbie Smith". The signature is written in a cursive, flowing style.

Debbie Smith  
Admin. Office Manager





Williamson County, Tennessee  
**Community Development**

1320 West Main Street - Suite 400  
Franklin, Tennessee 37064  
Voice: 615.790-5725 Fax: 615.591-8531

March 8, 2023

John Powell  
PO BOX 180  
Arrington TN 37014

Re: Bonds from January 1, 2017 to March 8, 2023

As requested, here is the information you requested for the Collection Bonds for King's Chapel.

**King's Chapel  
Subdivisions**

Bonds in effect from January 2017 – March 2023

<b>Section</b>	<b>Implemented Date</b>	<b>Original \$</b>	<b>Date Reduced</b>	<b>Reduce \$</b>	<b>Released</b>
Section 3C	5/29/2014	\$12,500	03/12/2020	\$3,750	05/2022
Section 8	8/13/2018	\$132,500	10/13/2022	\$39,750	
Section 10	8/1/2021	\$175,000	10/13/2022	\$5,250	
Section 11	8/1/2021	\$77,500	10/13/2022	\$23,250	
Section 12	08/10/2022	\$70,000			
Section 13	02/16/2023	\$85,000			

Please let me know if you need anything further.

Regards,

Debbie Smith

Email to Hal Novak

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT**  
**TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

4. Another bonding issue Staff seeks to clarify is why Section 8 took significantly longer to move into the maintenance phase than the majority of other bonds. In particular, what caused the delay in submitting the required certification letters. The Planning Commission states in its minutes that the Company was unable to produce the requisite certification letters for more than a twelve-month period.

**Response:**

Milcrofton Utility District would not approve water service to the higher lots in Section 8. As a result, the wastewater collection lines were not completed until a much later date. In addition, we employed a new crew to build the wastewater collection lines in Section 8, which also resulted in relatively longer completion times.

All of these actions contributed to Section 8 taking a relatively longer time to complete than we had previously experienced. These delays also required the existing bonds to be kept in place to insure for any necessary corrections.



**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT**  
**TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

5. The Company is entitled to claim reasonable costs it incurred for TPUC Bond 9, re-issued with Smith & Manus, last March, 2022, and would have expired this March 2023. We plan to allocate 9 months of the bond cost in the true-up through December 2022. There was a differential Letter of Credit that the Company obtained from Reliant Bank for its TPUC bond requirement. Does the Company have an updated LOC with Reliant from 9/24/2022 through 9/24/2023 which could be used to allocate additional bond costs through December 31, 2022? If so, please provide documentation of the updated Reliant Bank LOC related to the bond true-up period through 2022.

**Response:**

Please see Attachment TPUC3-5a which contains the original Letter of Credit referred to in the Party Staff's Request. Specifically, refer to the final paragraph of this letter which reads as follows:

*This letter of Credit shall be automatically renewed without amendment unless at least ninety (90) days prior to any expiration date we notify Beneficiary by receipted overnight courier, receipt certified mail, or any receipted means that we elect not to renew this Letter of Credit. This Letter of Credit expires no later than September 24, 2022.*

In summary, this Letter of Credit remains in force unless or until it is affirmed to be released by the Tennessee Public Utility Commission (the Beneficiary). As a result, there is no update to this Letter of Credit.

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC COMPLIANCE AUDIT**  
**THIRD DISCOVERY REQUEST OF THE PARTY STAFF**

**ATTACHMENT TPUC3-5A**  
**INCREMENTAL LETTER OF CREDIT FROM RELIANT BANK**

## IRREVOCABLE LETTER OF CREDIT

September 24, 2021

**Beneficiary:**

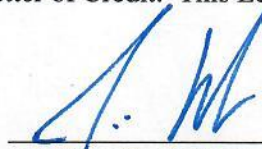
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

Re: Irrevocable Letter of Credit #9097726, Superior Wastewater Systems, LLC

Reliant Bank ("Issuer") hereby issues this irrevocable letter of credit in favor of Superior Wastewater Systems, LLC for the benefit of the TN Public Utility Commission, hereinafter referred to as "Beneficiary" in the following manner and on the following terms.

1. Superior Wastewater Systems, LLC TPUC Identification Number: 128917
2. The extent of this Letter of Credit is \$16,857.00
3. This Letter of Credit is required by Tennessee Code Annotated §65-4-201 and TPUC Rule 1220-4-13-.09 and maybe be drawn up to its maximum amount.
4. Upon request of a draw, Issuer will promptly pay the Beneficiary via wire transfer upon notice that the TPUC has taken action pursuant to TPUC Rule 1220-4-13-.09.
5. Draws in part or in full will be accompanied by the following document: A certificate of default signed under oath by an official of the Tennessee Public Utility Commission certifying that the Superior Wastewater Systems, LLC has not complied with the ordinances and/or regulations of the Beneficiary and the terms of the agreement between the Beneficiary and Superior Wastewater Systems, LLC and the amount of approximate damage to the local government, which amount shall be identical to the face amount of the accompanying draft.

This Letter of Credit shall be automatically renewed without amendment unless at least ninety (90) days prior to any expiration date we notify Beneficiary by receipted overnight courier, receipted certified mail, or any receipted means that we elect not to renew this Letter of Credit. This Letter of Credit expires no later than September 24, 2022.

  
\_\_\_\_\_  
Jonathan Whitehurst  
VP Commercial Banking

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT**  
**TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

6. Does the Company have any additional support for the “un-included” offsets that Staff presented to the Company in our last meeting (Debit List, Offsets, attached above)? Additional documentation for these items could support offsets to reduce the escrow liability established in the Staff’s escrow revenue analysis of Jan 2019 – Dec. 2022. The Excel sheets are attached again to this email.

**Response:**

A copy of the TPUC Party Staff’s calculation unsupported escrow offset claims totaling \$40,098 is included in this response as Attachment TPUC3-6a.

It is the position of SWS that the Company’s Net Operating Losses need to be considered as a component of the escrow balance. Please see SWS’s response to TPUC3-7 for a copy of our letter of March 6, 2023, specifically describing how and why these net operating losses should be considered. When net operating losses are fully considered as a component of the escrow balance, the unfunded escrow balance is reduced to zero (\$0). As a result, there would be no need to consider the unsupported escrow offset claims shown on TPUC3-6a. However, SWS is continuing to search for additional support for all “un-included” offsets and will provide these to the Commission Party Staff on a piecemeal basis outside of this discovery request.

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC COMPLIANCE AUDIT**  
**THIRD DISCOVERY REQUEST OF THE PARTY STAFF**

**ATTACHMENT TPUC3-6A**  
**UNSUPPORTED ESCROW OFFSET CLAIMS**

Need copies of the invoices

INVOICE #	DATE	COMPANY	AMOUNT	Check #/Debit	DESCRIPTION	Notes
43881	02/20/2020	Rock City Machine	\$228.88	165	Materials & Supplies	Materials & Supplies
43944	04/23/2020	Superior	\$268.48	1011	Order 10004970	Order 10004970
43955	05/04/2020	Rock City Machine	\$609.62	Debit	Pumps - POS Debit	Pumps - POS Debit
43980	05/29/2020	Superior	\$3,251.35	1012	Abnormal and extraordinary expense	Abnormal and extraordinary expense
44022	07/10/2020	Superior	\$2,666.89	1013	Abnormal and extraordinary expenses	Abnormal and extraordinary expenses
44048	08/05/2020	Rock City Machine	\$1,502.19	209		35558 35558
44090	09/16/2020	Rock City	\$1,905.86	227	35797, 35962	35797, 35962
44126	10/22/2020	Rock City	\$1,905.46	1015	Abnormal and extraordinary expense - Rock City	Abnormal and extraordinary expense - Rock City
44260	03/05/2021	James Esmond	\$1,025.00	264	Pump repair	Pump repair
44314	04/28/2021	Rock City	\$2,471.24	1022	Inv 37749	Inv 37749
44361	06/14/2021	Amazon	\$62.98	Debit	Materials & Supplies	Materials & Supplies
44468	09/29/2021	Northern Equipment	\$334.34	Debit	Materials & Supplies	Materials & Supplies
44523	11/23/2021	Lowe's	\$150.49	Debit	Heater	Heater
<b><u>SUBTOTAL</u></b>			<b><u>\$16,382.78</u></b>			

Hard to read, not readable

INVOICE #	DATE	COMPANY	AMOUNT	Check #/Debit	DESCRIPTION	Notes
12	02/03/2021	City Electric Supply	\$100.62	Debit	Cannot Read Invoice	Visibility of receipt is poor
10011837	02/24/2021	CED	\$120.10	Debit	Unkown	Visibility of receipt is poor
311	07/02/2021	Javonti Perkins	\$36.00	311	Sewer Plant Repair/Maintenance (Unspecified)	Unspecified
310	07/17/2021	Tinglo Soxayaseng	\$80.00	310	Sewer Plant Repair/Maintenance (Unspecified)	Unspecified
33947	09/23/2021	Home Depot	\$41.11	Debit	General Materials	Nitrile gloves
N/A	02/25/2022	Tractor Supply	\$39.49	Debit	Cannot Read Invoice	Visibility of receipt is poor
35643	03/23/2022	Tractor Supply	\$52.67	Debit	Unkown	Unkown, says MAG. Ammo?
12417	03/25/2022	Tractor Supply	\$42.77	Debit	General Materials	Roundup, pesticide
74352	05/26/2022	Home Depot	\$53.70	Debit	General Materials	Nitrile gloves
N/A	06/14/2022	Amazon	\$62.98	Debit	General Materials	Shutter exhaust fan
N/A	08/27/2022	Tractor Supply	\$49.38	Debit	Cannot Read Invoice	Visibility of receipt is poor
438	10/13/2022	Tinglo Soxayaseng	\$104.62	438	Sewer Plant Repair/Maintenance (Unspecified)	Unspecified
N/A	10/10/2020	Lowe's	\$54.85	Debit	Cannot Read Invoice	Visibility of receipt is poor
3386201	12/02/2022	Ferguson	\$163.88	Debit	Cannot Read Invoice	Visibility of receipt is poor
<b><u>SUBTOTAL</u></b>			<b><u>\$1,002.17</u></b>			

Unspecified Descriptions

INVOICE #	DATE	COMPANY	AMOUNT	Check #/Debit	Bill Components	Notes
3221	01/08/2021	Premier Property Management	\$1,437.93	N/A	Labor + Health Insurance	Unspecified
3228	01/21/2021	Premier Property Management	\$1,106.72	N/A	Labor + Health Insurance	Unspecified
3237	02/05/2021	Premier Property Management	\$1,081.60	N/A	Labor + Health Insurance	Unspecified
3246	02/19/2021	Premier Property Management	\$977.99	N/A	Labor + Health Insurance	Unspecified
3263	03/19/2021	Premier Property Management	\$781.86	N/A	Labor + Health Insurance	Unspecified
3273	04/15/2021	Premier Property Management	\$1,204.51	N/A	Labor + Health Insurance	Unspecified
3279	04/29/2021	Premier Property Management	\$353.26	N/A	Labor + Health Insurance	Unspecified
3286	05/13/2021	Premier Property Management	\$852.77	N/A	Labor + Health Insurance	Unspecified

3292	05/27/2021	Premier Property Management	\$784.93	N/A	Labor + Health Insurance	Unspecified
3297	06/10/2021	Premier Property Management	\$613.38	N/A	Labor + Health Insurance	Unspecified
3321	06/24/2021	Premier Property Management	\$394.03	N/A	Labor + Health Insurance	Unspecified
3323	07/08/2021	Premier Property Management	\$795.13	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3329	07/21/2021	Premier Property Management	\$477.74	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3339	08/04/2021	Premier Property Management	\$193.13	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3343	08/17/2021	Premier Property Management	\$265.12	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3356	09/01/2021	Premier Property Management	\$235.10	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3371	09/15/2021	Premier Property Management	\$750.50	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3377	09/29/2021	Premier Property Management	\$932.21	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3383	10/13/2021	Premier Property Management	\$1,230.56	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3389	10/26/2021	Premier Property Management	\$778.71	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3396	11/09/2021	Premier Property Management	\$1,322.53	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3402	11/22/2021	Premier Property Management	\$1,521.00	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3419	12/09/2021	Premier Property Management	\$191.44	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3426	12/21/2021	Premier Property Management	\$1,373.76	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3440	01/05/2022	Premier Property Management	\$670.32	N/A	Labor + Health Insurance + Payroll expense	Unspecified
3563	06/22/2022	Premier Property Management	\$228.71	N/A	Labor + Health Insurance + Payroll expense	Unspecified
1971	03/20/2020	Premier Property Management	\$447.46	N/A	Subcontract labor	Unspecified
3007	05/01/2020	Premier Property Management	\$1,710.58	N/A	Pump (Pump Components/Repair)	Re-routed line for 2 homes for the main line. Searched for leaks, installed secondary pump. A labor amount of 2,143.05 was omitted for the actual CAPEX issues.

**SUBTOTAL**

\$22,712.98

**Grand Total**

\$40,097.93

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT**  
**TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

7. Has the Company performed any analysis regarding the “net operating loss” offset the Company proposed in the last meeting with the Staff. If so, please provide documentation/calculations of any additional offsets in this regard that the Company proposes for Staff’s consideration.

**Response:**

Please see Attachment TPUC3-7a for a copy of the letter addressing this that was electronically sent to TPUC Party Staff on March 6, 2023.



**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC COMPLIANCE AUDIT**  
**THIRD DISCOVERY REQUEST OF THE PARTY STAFF**

**ATTACHMENT TPUC3-7A**  
**PROPOSED PROVISION FOR NET OPERATING LOSSES**

## WHN CONSULTING

19 Morning Arbor Place  
The Woodlands, TX 77381

March 6, 2023

Mr. Joe Shirley, Director  
Utilities Division, Audit & Compliance  
Tennessee Public Utility Commission  
502 Deaderick Street  
Nashville, Tennessee 37243

**RE: STAFF COMPLIANCE AUDIT OF SUPERIOR WASTEWATER SYSTEMS, LLC'S COMPLIANCE WITH COMMISSION RULES 1220-04-13-.07 AND 1220-04-13-.08 REGARDING FINANCIAL SECURITY AND RULE 1220-04-13-.16 REGARDING AFFILIATE TRANSACTIONS (DOCKET 21-00086)**

Dear Mr. Shirley:

Thank you for meeting with John Powell, Jay Russ and myself on February 28, 2023, regarding the Commission Staff's progress on this audit. At the end of the meeting, you requested that I provide a copy of my comments made during the meeting in writing for further consideration. These comments included the escrow liability adjustment, the lack of approval for previous withdrawals from escrow, and whether or not it is appropriate to continue escrow. Please consider this letter as the fulfillment of your request.

### 1. Escrow Liability Adjustment

As you know, Superior Wastewater System (SWS) first began billing customers for wastewater service in 2005. Then, beginning in 2006, SWS began separately recording its escrow assets and liabilities in our reports to the Commission. However, almost from the start of providing service, SWS has been in a consistent loss position. At first, this loss was caused by SWS providing wastewater service to only a handful of customers. However, in later years, the losses were caused by the tariff rates charged to customers being inadequate to cover the cost of providing wastewater service. A comparison of the escrow assets and liabilities along with the annual income/loss since 2019 is shown below.

<b>SUPERIOR WASTEWATER SYSTEMS</b>				
<b>Analysis of Escrow &amp; Income</b>				
<b>Year</b>	<b>Escrow Liabilities</b>	<b>Escrow Assets</b>	<b>Net Escrow Assets/(Shortfall)</b>	<b>Net Income/(Loss)</b>
2019	\$99,836	\$9,126	\$-90,710	\$8,458
2020	108,334	5,551	-102,783	-2,807
2021	160,320	1,851	-158,470	-31,310
2022	211,840	1,851	-209,990	-45,695
			<b>Total</b>	<b>\$-71,354</b>

As you can see from the table above, SWS has consistently been in a negative position for Net Escrow as well as net income for this time period. I believe that this distinction is vitally important to your audit since escrow funding comes from cash earnings. Because SWS has been in a consistent loss position after paying all bills, there have been no excess earnings left to transfer to escrow funding.

Therefore, at a minimum, I believe that your audit needs to consider the \$-71,354 in Net Losses over this four-year period as an offsetting adjustment to the escrow liability.

However, only recognizing these prior net losses would still leave SWS in a position where it could not have provided any funding to offset the escrow liability. Therefore, I believe that your audit also needs to adjust for the pro forma earnings requirement of \$148,577 that would have been necessary for SWS to fund escrow over this same period as shown below.

<b>SUPERIOR WASTEWATER SYSTEMS Pro Forma Income Adjustment Calculation</b>			
<b>Year</b>	<b>Bills Rendered</b>	<b>Escrow Rate</b>	<b>Pro Forma Income Adjustment</b>
2019	3,239	\$10.13	\$32,811
2020	3,513	10.13	35,587
2021	3,846	10.13	38,960
2022	4,069	10.13	41,219
		<b>Total</b>	<b>\$148,577</b>

Therefore, SWS needs a total offsetting adjustment of \$219,931 to its existing escrow liability as shown below. This adjustment is necessary in order to properly consider the loss position that SWS was in from 2019 to 2022 before any funding to escrow could have taken place.

<b>SUPERIOR WASTEWATER SYSTEMS Proposed Adjustment to Net Escrow Assets</b>	
<b>Item</b>	<b>Adjustment</b>
Loss Adjustment	\$71,354
Pro Forma Income Adjustment	148,577
<b>Total Adjustment to Net Escrow Assets</b>	<b>\$219,931</b>

In sum, the \$219,931 total adjustment to escrow exceeds the Net Escrow Liability of \$-209,990. Therefore, the existing net escrow liability should be reset to \$0 at December 31, 2022 through a debit to retained earnings.

Although I've never realized it before now, a flaw exists in the provision of escrow for wastewater utilities regulated by the Commission. Specifically, the provision for escrow assumes that a utility has cash earnings sufficient to provide for escrow deposits. However, when a utility experiences losses as we have here, all revenues – including escrow receipts – are needed to first pay for the utility operating expenses. Otherwise, the utility will no longer be able to provide wastewater service.

Finally, the utility customers of SWS have long reaped the benefit through lower rates that would have otherwise been required to erase these operating losses and provide a sufficient reserve to fund escrow. Therefore, it would be unreasonable to now penalize SWS for this escrow shortfall.

## **2. Lack of Approval for Previous Escrow Withdrawals**

Effective January 1, 2019, the Commission changed its rules for withdrawals from Escrow. Previously, wastewater utilities were free to withdraw funds from escrow when needed for non-routine maintenance. Under the new rules, utilities were required to first obtain Commission approval for escrow withdrawals.

Although the new rules took effect on January 1, 2019, SWS continued to utilize escrow funds for non-routine maintenance without approval of the Commission. In addition, the Consumer Advocate mentioned this unauthorized withdrawal of escrow funds as a reason for intervention in SWS's rate case in Docket No. 22-00087.

Other wastewater utilities have also used escrow funds without Commission approval since January 1, 2019 and have resolved this error through nunc pro tunc motions to correct the untimely withdrawal. In the case of SWS, no findings have been made that escrow funds were ever applied for non-utility purposes. Therefore, a similar nunc pro tunc motion may be in order here. In the alternative, your audit could singularly find that the withdrawals of escrow funds were utilized appropriately even though Commission authority had not been requested or granted. If escrow is continued (see below) then SWS agrees going forward that it will not withdraw any funds from the escrow bank accounts until first receiving authorization to do so.

### **3. Should Escrow be Applied for SWS Going Forward**

In Docket No. 22-00087, the Commission authorized new base rates for SWS. These new base rates completely cover the cost of providing utility service for SWS. Further, SWS intends to soon make an alternative regulation filing that would allow it to annually adjust these base rates for some measure of inflation. Therefore, a question now exists as to whether escrow should be continued for SWS.

It is certainly desirable to have funds set aside to cover an unexpected material expenditure. However, SWS already posts financial security with the Commission for this purpose. In addition, SWS is currently constructing a new wastewater treatment facility that we believe will offset many of the pump replacement expenditures that previous required escrow funding. Finally, as mentioned previously, a flaw exists in the Commission's provision for escrow since it assumes that a utility has cash earnings sufficient to provide for base operations and escrow deposits. Until this flaw is corrected, we don't believe that it is to SWS's advantage to continue with escrow charges. In addition, eliminating escrow would allow SWS to reduce its rates by the \$10.13 monthly escrow charge.

However, if the Staff and the Commission decide to continue with escrow charges, then SWS believes that there should be a cap on the total amount of funded escrow. The current escrow rate of \$10.13 per customer per month, provides for annual escrow funding of approximately \$40,000 per year. SWS believes that a total escrow cap of \$100,000 would be sufficient and that escrow charges should be suspended when this cap is reached.

Thank you for the opportunity to make this presentation. If you have any questions, please let me know.

Sincerely,



William H. Novak, CPA

**SUPERIOR WASTEWATER SYSTEMS, LLC**  
**DOCKET NO. 21-00086 – TPUC STAFF COMPLIANCE AUDIT**  
**TPUC PARTY STAFF THIRD DISCOVERY REQUEST OF MARCH 20, 2023**

**Question:**

8. Has the Company obtained any additional support or explanations for the lack of uniformity in allocation rates for both worker's comp and employer-paid taxes which Staff observed in its review of Premier's labor-related invoices? If so, please provide.

**Response:**

Yes. Please see Attachment TPUC3-8a, Page 1 for a copy of the December 2022 invoice from Premier Property Management Services, LLC broken down as follows:

<b>Item</b>	<b>Amount</b>
Office & Accounting	\$941.00
Labor	283.70
Payroll Expense	94.46
Worker's Compensation	11.60
<b>Total</b>	<b>\$1,330.76</b>

In addition, please see TPUC3-8a, Page 2 (Confidential) for the individual time sheet rates and charges that support the amounts in the Table above.

As can be seen from these two supporting documents, the lack of uniformity in the overall monthly worker's comp and employer taxes paid is due to a different mix each month for each particular employee charging time to the utility. For example, an employee charging an hourly rate of \$50.00 and working 50 hours one month for the utility and 0 hours the following month, will cause a change in the weighted average worker's compensation rate each month. As a result, the mix in the hourly time charged by different employees to the utility will never allow for an observable uniformity in worker's compensation rate or employer paid taxes.

**Premier Property Management Services, LLC**

P.O. Box 190  
Arrington TN 37014

PremierPropertyKC@gmail.com

**Invoice**

Date	Invoice #
12/20/2022	3781

<b>Bill To</b>
Superior Wastewater Systems P.O. Box 40 Arrington, TN 37014

**PAID**  
**12/21/2022**

Item	Description	Qty/Hrs	Rate	Amount
Accounting Fees, ...	Office & Accounting		941.00	941.00
Labor	Labor - Replace & Rewire Pump 2 Pump Station		283.70	283.70
Payroll Employer ...	Payroll Expense 12/5/22-12/18/22		94.46	94.46
Insurance	WC Insurance Reimbursement	29	0.40	11.60

12/5/22-12/18/22

SWS

**CONFIDENTIAL**

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