

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 24, 2022

IN RE:

PETITION OF CARTWRIGHT CREEK, LLC
REQUESTING APPROVAL OF CAPITAL
IMPROVEMENTS

)
)
)
)
)

DOCKET NO.
21-00119

ORDER APPROVING CAPITAL IMPROVEMENTS

This matter came before Chairman Kenneth C. Hill, Commissioner Robin L. Morrison, Commissioner Clay R. Good, 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 December 6, 2021, for consideration of the *Petition of Cartwright Creek, LLC Requesting Approval of Capital Improvements* (“*Petition*”) filed by Cartwright Creek, LLC (“Cartwright,” “Company,” or “Petitioner”) on October 15, 2021. In its *Petition*, Cartwright requests the Commission’s approval for expenditure from its escrow funds for needed capital improvements on its Arrington Retreat wastewater system.

BACKGROUND AND PETITION

Cartwright Creek is a public utility subject to the Commission’s jurisdiction, operating wastewater systems within designated service areas. On October 15, 2021, Cartwright filed a *Petition* seeking the Commission’s approval of expenditure of \$19,436.10 from its tap escrow fee, established in Docket No. 09-00056¹ or from its Capital Improvements Surcharge account

¹ *In Re: Petition of Cartwright Creek, LLC to Change and Increase Rates and Charges*, Docket No. 09-00056, *Order Approving Settlement Agreement and Determining Contested Issues*, pp. 5, 8-9 (March 2, 2010).

established in Docket No. 16-00127² in order to pay for the installation of fifteen manual valves in the irrigation field at Arrington Retreat.³ Included with the *Petition* is the Pre-Filed Testimony of Bruce Meyer, Operations Manager for Cartwright.⁴

Mr. Meyer testifies that the Arrington Retreat wastewater treatment system was constructed in 2009 and consists of two lagoons and ten acres of spray irrigation for wastewater dispersal to serve 225 homes.⁵ Mr. Meyer describes the spray irrigation as: “consist[ing] of underground piping and valves connecting to approximately 50 above-ground spray irrigation nozzles. The irrigation area is split into 15 irrigation ‘zones’ with an automatic irrigation valve for each zone opened and closed by an irrigation controller.”⁶ The system rotates zone operation in order to evenly disperse treated wastewater. He states that the automatic valves require frequent maintenance that includes disassembly and part replacement, but because the system was not also equipped with manual valves, the entire system must be shut down to service an automatic valve. Shutting down the system causes the volume of stored wastewater in treatment cells to fill, which then requires additional irrigation to catch up. Cartwright is limited in its daily irrigation by limits contained in the system’s Tennessee Department of Environment and Conservation (“TDEC”) permit.⁷

Mr. Meyer testifies that earlier in the year, several automatic valves required maintenance, which required the irrigation system to be shut down for an extended period of time. He further states that higher than average rainfall during the year reduced the amount of irrigation. As a result of these two factors, water levels in the treatment cells rose higher than normal during the spring

² *In Re: Joint Petition of Cartwright Creek, LLC and TRA Staff (As A Party) to Increase Rates and Charges*, Docket No. 16-00127, *Order Approving Rate Increase*, pp. 3-5 (January 10, 2017).

³ *Petition* (October 15, 2021).

⁴ *Id.* at Exh., Bruce Meyer, Pre-Filed Direct Testimony.

⁵ *Id.* at Exh. p. 2.

⁶ *Id.*

⁷ *Id.* at Exh. pp. 2-3.

and summer causing concern that the treatment cells would fill above their permitted level or overflow.⁸ Mr. Meyer proposes that the system needs a manual shut-off valve for each irrigation zone in order for irrigation to continue during maintenance of automatic valves. Precision Plumbing installed fifteen manual valves, valve boxes, fittings, and below ground installation at a cost of \$19,436.10. When the treatment cell level became critical for Cartwright to be able to irrigate enough to lower the levels so that the system would not exceed its permit or overflow, Cartwright authorized the installation to proceed. The valves were installed on September 30, 2021, however, no money has been paid from the escrow accounts pending approval of this *Petition*.⁹

THE HEARING

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on December 6, 2021, as noticed by the Commission on November 24, 2021. Participating in the Hearing were:

Cartwright Creek, LLC – Henry Walker, Esq., Bradley Arant Boult Cummings, LLP, 1600 Division Street, Suite 700, Nashville, Tennessee; Bruce Meyer, Operations Manager; 6545 Cox Road, College Grove, Tennessee.

During the Hearing, Bruce Meyer, Operations Manager for Cartwright, presented testimony telephonically on behalf of the Company and adopted his Pre-Filed Direct Testimony.¹⁰ He offered no corrections or amendments to his Pre-Filed Testimony or the Company's filings and provided a description of the capital improvements necessary for the Arrington Retreat wastewater system. Mr. Meyer was subject to questions from the voting panel of Commissioners. Members of

⁸ *Id.* at Exh. p. 3.

⁹ *Id.* at Exh. pp. 3-4.

¹⁰ Mr. Meyer provided telephonic testimony pursuant to the conditions established in the order entered on December 2, 2021. *See Order Granting Electronic Participation in Hearing* (December 2, 2021). *See also Affidavit of Bruce Meyer Re: Cartwright Creek, LLC* (January 11, 2022).

the public were given an opportunity to offer comments, at which time, no comments were submitted.

STANDARD FOR COMMISSION APPROVAL

A public wastewater utility must obtain Commission approval for extraordinary expenditures from reserve or escrow funds, as set forth in TPUC Rule 1220-04-13-.07(7) which states, in relevant part:

Reserve/escrow accounts established by a public wastewater utility shall be limited to paying for or reimbursing the utility for extraordinary expenses of the utility or for necessary capital projects, unless otherwise permitted by the Commission. Extraordinary expenses are those resulting from events which are infrequent and unusual in nature, and unrelated to the utilities' routine service or business activities. The utility must first receive authorization from the Commission via approved petition or, in emergency situations, authorization in writing from the Chairman of the Commission upon written request by a representative of the utility to use such funds.¹¹

When considering whether to permit a wastewater utility's expenditure from an escrow account, the Commission must therefore determine that the proposed expenditure is for an extraordinary expense, defined as an expense not related to the utilities' routine service or business activities, or for a necessary capital project.

FINDINGS AND CONCLUSIONS

In its *Petition*, Cartwright has asked the Commission for approval of extraordinary expenditure of escrow and reserve funds to make improvements necessary at the Arrington Retreat system that will allow maintenance to occur without the complete shutdown of the irrigation system. An extended period of shutdown of the irrigation system over the spring and summer months of 2021 coupled with higher than average rainfall over the same period resulted in concern that levels in lagoons would exceed permitted levels or perhaps overflow. The voting panel found that the proposed manual valve installation project is necessary and prudent as the manual valves will negate the need to shut down the entire

¹¹ Tenn. Comp. R. & Regs. 1220-04-13-07(7).

irrigation system when individual automatic valve repairs are required. Shutting down individual zones of the irrigation system rather than the entire system will allow the Company to not exceed its daily irrigation volume limits and prevent potential overfilling of the lagoons.

In addition, the panel found that this capital improvement project fits squarely within the defined purpose and use of the escrow funds. Further, the panel found that the Company's escrow account has sufficient funds to finance this project. Therefore, the panel voted unanimously to approve the expenditure of \$19,436.10 from escrow funds by Cartwright for the manual valve installation project.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Cartwright Creek, LLC Requesting Approval of Capital Improvements* is granted.

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,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good,
Commissioner John Hie, and
Commissioner David F. Jones concurring.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director