

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
JOINT PETITION OF SUPERIOR)	
WASTEWATER SYSTEMS, LLC, AND)	Docket No. 22-00087
TPUC STAFF (AS A PARTY) TO INCREASE)	
RATES AND CHARGES)	
)	

CONSUMER ADVOCATE’S MOTION TO COMPEL

The Consumer Advocate Division in the Office of the Tennessee Attorney General (the “Consumer Advocate”) hereby submits this Motion to Compel pursuant to TENN. COMP. R. & REGS. 1220-01-02-.11, and TENN. R. CIV. P. 26, 33, 34, and 36, and respectfully requests that the Tennessee Public Utility Commission (“TPUC” or “Commission”) enter an order requiring Superior Wastewater Systems, LLC (“Superior Wastewater” or “Company”) to fully respond to certain discovery requests set forth in *Consumer Advocate’s Second Set of Discovery Requests to Superior Wastewater Systems, LLC* (“*Second Set of Discovery Requests*”) filed December 2, 2022, in this docket and attached hereto as “Exhibit A” pursuant to TENN. COMP. R. & REGS. 1220-01-02-.11(9). Also attached as “Exhibit B” is *Superior Wastewater System LLC’s Response to Second Discovery Request of the Consumer Advocate* filed December 9, 2022.

BACKGROUND

This docket was initiated upon the filing of the *Joint Petition* by Superior Wastewater and Commission staff on September 9, 2022, seeking a revised tariff to effect “an increase to Superior Wastewater’s rates and charges for the purpose of recovering the Company’s costs of providing wastewater services”¹ to its customers. On October 11, 2022, the Consumer Advocate filed a

¹ *Joint Petition*, TPUC Docket No. 22-00087 (Sept. 9, 2022).

records request for the Company’s annual reports for the years 2017 through 2020.² These reports were provided by General Counsel to the Commission on October 17, 2022.³ Review of the annual reports, the docket filings, and other materials, as well as discussion with the parties, gave rise to concerns related to, among other issues, the Company’s management of its escrow account and its failure to comply with TENN. COMP. R. & REGS. 1220-04-13-.07. Accordingly, the Consumer Advocate filed its *Petition to Intervene* on October 25, 2022,⁴ and the same was granted on November 21, 2022.⁵

The Consumer Advocate and the Company engaged in one round of informal discovery, as encouraged under TENN. COMP. R. & REGS. 1220-01-02-.11(1),⁶ before the Company insisted upon the formal discovery process going forward. Therefore, the Consumer Advocate’s *Second Set of Discovery Requests* (the first set of formal discovery issued in this docket and the subject of this motion)⁷ was filed on December 2, 2022 in accordance with the agreed *Order Establishing Procedural Schedule*.⁸ Included in the *Second Set of Discovery Requests* were several requests for admission made pursuant to TENN. R. CIV. P. 36.01 concerning the mishandled escrow account, specifically “DR 2-7” through “DR 2-12.”⁹ To each, the Company responded: “Objection. This

² *Records Request Related to Joint Petition of Superior Wastewater Systems, LLC, and TPUC Staff (As A Party) to Increase Rates and Charges*, TPUC Docket No. 22-00087 (Oct. 11, 2022).

³ *Response to Request for Records Under Tenn. Code Ann. § 65-4-118*, TPUC Docket No. 22-00087 (Oct. 17, 2022).

⁴ *Petition to Intervene*, TPUC Docket No. 22-00087 (Oct. 25, 2022).

⁵ *Order Granting the Petition to Intervene Filed by the Consumer Advocate*, TPUC Docket No. 22-00087 (Nov. 21, 2022).

⁶ TENN. COMP. R. & REGS. 1220-01-02-.11(1) states:

Parties are encouraged where practicable to attempt to achieve any necessary discovery informally, in order to avoid undue expense and delay in the resolution of the matter at hand. When such attempts have failed or where the complexity of the case is such that informal discovery is not practicable, discovery shall be sought and effectuated in accordance with the Tennessee Rules of Civil Procedure.

⁷ See generally Exhibit A.

⁸ *Order Establishing Procedural Schedule*, TPUC Docket No. 22-00087 (Dec. 8, 2022).

⁹ Exhibit A at 4–5.

issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.”¹⁰

However, the same day, the Company filed an objection to the Consumer Advocate’s intervention in Docket 21-00086.¹¹ Thus, not only does the Company refuse to respond to discovery in the present docket concerning the escrow account (an account for which its customers pay a rate—and this being a “rate case”), the Company also seeks to prevent the Consumer Advocate’s participation in the only *other* docket in which the issue could be addressed.¹² As stated in the Consumer Advocate’s response to the objection, the Company would like to have its cake and eat it, too.¹³

For the reasons set forth herein, an order should issue compelling the Company to respond to “DR 2-7” through “DR 2-12” and “DR 2-20” (a request for production addressed separately below) of the Consumer Advocate’s *Second Set of Discovery Requests*.

ARGUMENT

I. DR 2-7 through DR 2-13: The Requests for Admission Pertain to Information Relevant to This Docket and Are Reasonably Calculated to Lead to Discoverable Information.

Superior Wastewater objected to the requests for admission related the Company’s escrow account on the grounds that the information sought is “irrelevant in this Docket and not calculated to lead to the discoverable information.”¹⁴ As will be discussed, these objections do not comport with Tennessee law on discovery, which controls in this matter. The Consumer Advocate submits

¹⁰ Exhibit B at 3–4.

¹¹ *Superior Wastewater Systems, LLC’s Objection to Consumer Advocate Division’s Motion to Intervene*, TPUC Docket No. 21-00086 (Dec. 9, 2022).

¹² *Id.* ¶ 9 (stating that “[t]he Consumer Advocate’s participation will provide nothing of value” to the proceeding).

¹³ *Consumer Advocate’s Response to Superior Wastewater Systems, LLC’s Objection to Consumer Advocate Division’s Motion to Intervene* at 3, TPUC Docket No. 21-00086 (Dec. 14, 2022).

¹⁴ Exhibit B at 3–4.

that the objections are meritless and fail to provide a legitimate basis for the Company's refusal to answer simple and relevant discovery requests.

A. Tennessee Law Encourages Broad Discovery.

Where the parties to a contested case before this Commission are not utilizing the informal discovery process, "discovery shall be sought and effectuated in accordance with the Tennessee Rules of Civil Procedure."¹⁵ Because the parties to this docket are engaged in formal discovery, the Tennessee Rules of Civil Procedure apply.

As a policy, "discovery should enable the parties and the courts to seek the truth so that disputes will be decided by facts rather than by legal maneuvering."¹⁶ Discovery should allow the Commission and the parties to "have an intelligent grasp of the issues to be litigated and knowledge of the facts underlying them."¹⁷ Thus, the Tennessee Rules of Civil Procedure allow for broad discovery. Rule 26.02 specifically provides that "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action [. . .]."¹⁸

Consistent with Tennessee's open discovery policy, the relevancy requirement is "construed broadly to encompass *any matter* that bears on, or *that reasonably could lead to other matters* that could bear on *any of the case's issues*."¹⁹ Discovery is not even limited to the issues raised by the pleadings.²⁰ As a general matter, then, the rules favor the production of the requested information in all cases where the request is reasonable.²¹

¹⁵ TENN. COMP. R. & REGS. 1220-01-02-.11(1).

¹⁶ *White v. Vanderbilt Univ.*, 21 S.W.3d 215, 223 (Tenn. Ct. App. 1999).

¹⁷ *Harrison v. Greeneville Ready-Mix, Inc.*, 417 S.W.2d 48, 52 (Tenn. 1967).

¹⁸ TENN. R. CIV. P. 26.02(1).

¹⁹ *Kuehne & Nagel, Inc. v. Preston, Skahan & Smith Int'l, Inc.*, No. M1998-00983-COA-R3CV, 2002 WL 1389615, at *3 (Tenn. Ct. App. June 27, 2002) (internal citations omitted) (emphasis added).

²⁰ *Id.*; *See also Shipley v. Tenn. Farmers Mut. Ins. Co.*, 1991 WL 77540, at *7-*8 (Tenn. Ct. App. May 15, 1991).

²¹ *Kuehne & Nagel, Inc.*, 2002 WL 1389615 at *4.

B. The Consumer Advocate’s Requests For Admission Are Both Relevant and Reasonably Calculated to Lead to the Discovery of Admissible Evidence.

Here, the Consumer Advocate’s requests for admission are clearly relevant as they concern the use and management of funds paid into the escrow account by consumers whose rates will be decided in this docket. This docket was initiated specifically for the establishment of new rates—including an “escrow charge” to the Company’s customers.²² Rates pertaining to an escrow account should not be established without some consideration of the manner in which the funds have been managed, particularly given the December 2018 revision to the wastewater regulations governing the use of escrow funds by a wastewater utility.²³

Contrary to the argument implied in the Company’s discovery objections, the mere existence of Docket 21-00086 and the relevance of the escrow activities to *that* docket in no way negates the relevance of the escrow activities to *this* docket. The Consumer Advocate would again note the peculiar stance of the Company in light of its objection to the Consumer Advocate’s intervention in Docket 21-00086. Such a position would also preclude any objection that the discovery sought would be unreasonably cumulative or duplicative.

Likewise, there is no basis for concluding that the requests at issue are not “reasonably calculated to lead to discoverable information.” The information sought is not privileged, unobtainable, inaccessible, inadmissible, or otherwise. Any objection on this ground should be overruled and the Company should be ordered to appropriately respond to the requests for admission.

²² *Unredacted (Clean) Proposed Tariff Sheets*, TPUC Docket No. 22-00087 (Sept. 9, 2022). Specifically reference pdf pages 3–7: “First Revised Sheet #1” through “First Revised Sheet #5.”

²³ See TENN. COMP. R. & REGS. 1220-04-13-.07.

II. DR 2-20: The Request for Production Is Relevant, Reasonably Calculated to Lead to Discoverable Information, and Not Unduly Burdensome.

The Consumer Advocate’s “DR 2-20” seeks “the written agreement(s), if any, between Ashby Communities, LLC, or any affiliate thereof, and all homebuilders regarding the King’s Chapel development.”²⁴ The Company objected “on the grounds the information sought is irrelevant, unduly burdensome and not calculated to lead to discoverable information.”²⁵

The Consumer Advocate would note, again, that relevant discovery includes any discovery that “reasonably could lead to other matters that could bear on any of the case’s issues.”²⁶ Ashby Communities, LLC is John Powell’s development company.²⁷ The agreements sought could lead to relevant information concerning the treatment of access fees and other fees by the Company while lots are held by developers or builders. Thus, the request is calculated to lead to discoverable information.

The Company asserts, without any support, that the request is “unduly burdensome.”²⁸ The Company has “made no effort to show that the scope or manner of [the] intended discovery [is] unduly burdensome.”²⁹ The Court of Appeals has stated that because the rules favor production where the request is reasonable, “relief from overbroad or unduly burdensome discovery should be sought through a motion for a protective order.”³⁰ “[C]onclusory statements and generalizations” are insufficient to oppose the request at issue.³¹

²⁴ Exhibit A at 7.

²⁵ Exhibit B at 7.

²⁶ *Kuehne & Nagel, Inc.*, 2002 WL 1389615, at *3.

²⁷ Ashby Communities, LLC, is a single-member company with John E. Powell as its registered agent. This information may be found at the Tennessee Secretary of State website at the following link: <https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=220149168133176165188220167052147199205097174070> (last visited Dec. 15, 2022).

²⁸ Exhibit B at 7.

²⁹ *Duncan v. Duncan*, 789 S.W.2d 557, 562 (Tenn. Ct. App. 1990).

³⁰ *Kuehne & Nagel, Inc.*, 2002 WL 1389615, at *4.

³¹ *Duncan*, 789 S.W.2d at 561.

Accordingly, the Commission should order the Company to fully respond to the request for production.

CONCLUSION

The Company should be ordered to respond fully to the Consumer Advocate's discovery requests because its objections are unsubstantiated and do not comport with Tennessee law governing the formal discovery process. In relation to the requests for admission numbered DR 2-7 through DR 2-13, in the alternative, the Company should be deemed to have admitted those requests in accordance with Tenn. R. Civ. P. 36.01 because the Company failed to comply with that rule.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail,
with a courtesy copy by electronic mail upon:

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Attorneys for Superior Wastewater Systems, LLC

On this the 21st day of December 2022.



MASON C. RUSH
Assistant Attorney General

EXHIBIT A

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

Exhibit A

IN RE:)
)
JOINT PETITION OF SUPERIOR)
WASTEWATER SYSTEMS, LLC, AND) Docket No. 22-00087
TPUC STAFF (AS A PARTY) TO INCREASE)
RATES AND CHARGES)
)

CONSUMER ADVOCATE’S SECOND SET OF DISCOVERY REQUESTS
TO SUPERIOR WASTEWATER SYSTEMS, LLC

This Second Set of Discovery Requests¹ is hereby served upon Superior Wastewater Systems, LLC (“Superior Wastewater” or the “Company”), pursuant to Rules 26, 33, 34, and 36 of the Tennessee Rules of Civil Procedure and TENN. COMP. R. & REG. 1220-01-02-.11. The Consumer Advocate Division in the Office of the Tennessee Attorney General (the “Consumer Advocate”) requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Advocate Division, John Sevier Building, 500 Dr. Martin L. King Jr. Blvd., Nashville, Tennessee 37243, c/o Mason C. Rush on or before December 9, 2022. The Preliminary Matters and Definitions set forth in the Consumer Advocate’s First Set of Informal Discovery Requests are hereby integrated as if fully restated herein.

¹ The Consumer Advocate’s first round of discovery requests was issued and responded to informally, as encouraged by Commission rules. TENN. COMP. R. & REGS. 1220-01-02.11(1) (“Parties encouraged where practicable to attempt to achieve any necessary discovery informally, in order to avoid undue expense and delay in the resolution of the matter at hand.”). The Consumer Advocate issued a second set of informal discovery to Superior Wastewater, but counsel for the Company declined to respond. To avoid confusion in the numbering of discovery, this formal round of discovery, which is similar to what was issued in the second informal set of discovery, is titled, “Consumer Advocate’s Second Set of Discovery Requests.”

SECOND SET OF DISCOVERY REQUESTS

For purposes of the following discovery requests, the sewer line installed in a development that runs parallel to any existing or planned road shall hereinafter be referred to as a “Sewer Main.” The collection tank connected to the dwelling shall be referred to as a “Tank.” The line running from the Sewer Main to the dwelling, including the Tank, shall be referred to as a “Service Line.” The connection point between a Service Line and a Sewer Main shall be referred to as a “Sewer Tap.”

A. Main and Service Lines

2-1. Provide a schematic showing the Sewer Main, Sewer Tap, Tank, and Service Lines for a home being served by Superior Wastewater.

RESPONSE:

2-2. Provide a schematic showing the location of the Sewer Main, Sewer Tap, roads, sidewalks, and the Company’s right-of-way in relation to a home being served by Superior Wastewater.

RESPONSE:

2-3. Identify the number of unoccupied lots in which a Sewer Main has been installed in the utility’s right-of-way next to the lot as of November 1, 2022.

RESPONSE:

2-4. Identify the number of unoccupied lots in which the dwelling has connected its Service Line to the Sewer Main as of November 1, 2022.

RESPONSE:

2-5. Refer to CA Exhibit DR 2-5. This Exhibit shows that homes are not built consecutively in a phase of development but, rather, are built sporadically based on sale of lots. Therefore, lots with constructed homes are interspersed with undeveloped lots and lots under construction within a phase of construction as shown in CA Exhibit DR 2-5. Confirm that the Company installed a Sewer Main along the length of Majestic Meadows Drive so that all constructed homes can access the sewer system despite the existence of undeveloped and partially constructed lots on Majestic Meadows Drive located between constructed homes.

RESPONSE:

B. Connection Dates

2-6. Refer to the Company's Response to the Consumer Advocates First Informal Discovery Request Nos. 2b-c; 4d-e; 6f-g; 8b-c; and 10b-c. The Company provided a list of dates of deed transfers for each of the lots in question. However, the data request was for the date the home connected to the wastewater system (i.e. became an active customer). Provide the date of connections for each of the lot numbers the Company provided in its responses to the Consumer Advocate.

RESPONSE:

C. Escrow Funds

Requests 2-7 through 2-11 are Requests for Admission made in accordance with Tenn. R. Civ. P. 36.01.

2-7. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2019.

RESPONSE:

2-8. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2020.

RESPONSE:

2-9. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2021.

RESPONSE:

2-10. Admit that Superior Wastewater has used and/or withdrawn funds from its escrow account in 2022.

RESPONSE:

2-11. Admit that Superior Wastewater did not obtain authorization from the Tennessee Public Utility Commission for the withdrawal or use of escrow funds between 2019 and 2022.

RESPONSE:

2-12. Identify the use of any escrow funds by cost type and/or capital expenditure for:

- (a) January 2019 through December 2019;
- (b) January 2020 through December 2020;
- (c) January 2021 through December 2021; and
- (d) January 2022 through October 2022.

RESPONSE:

D. Utilization

2-13. Confirm that the existing wastewater treatment system is available to serve all existing and future homeowners in King's Chapel.

RESPONSE:

2-14. Provide the expected number of utility customers once the King's Chapel development is fully constructed or built out.

RESPONSE:

2-15. The King's Chapel development is still under construction. Provide the following:

- (a) An estimated time for the completion of the development.
- (b) The number of phases/sections remaining for development within King's Chapel.

RESPONSE:

2-16. Explain which stakeholder group should bear the risk associated with a wastewater system during the time of construction of a residential development and before the full utility customer population is realized:

- (a) Existing customers;
- (b) The utility;
- (c) The developer; or
- (d) Owners of lots (both under construction and undeveloped).

Please justify your response.

RESPONSE:

E. Rates for Commercial Endeavors

2-17. It is the Consumer Advocate's understanding that the historic church building located near the entrance to King's Chapel is used for commercial purposes, including rental as a wedding venue. Please state whether a commercial rate, or any service rate, is charged by Superior Wastewater with regard to this facility.

RESPONSE:

2-18. It is the Consumer Advocate's understanding that a restaurant is regularly operated within the King's Chapel community clubhouse and that residents of the community and guests purchase meals as they would at other commercial dining establishments. It is the Consumer Advocate's understanding that the clubhouse is also frequently rented for use as a reception venue and/or for other commercial purposes, and that there are restrooms at the clubhouse within the

restaurant area and outside near the pool. Please state whether a commercial rate, or any service rate, is charged by Superior Wastewater with regard to this facility.

RESPONSE:

F. Developer / Utility / Builder Contracts

2-19. Please provide the written agreement(s) between Ashby Communities, LLC, or any affiliate thereof, and Superior Wastewater.

RESPONSE:

2-20. Please provide the written agreement(s), if any, between Ashby Communities, LLC, or any affiliate thereof, and all homebuilders regarding the King's Chapel development.

RESPONSE:

RESPECTFULLY SUBMITTED,

/s/ Mason C. Rush
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail,
with a courtesy copy by electronic mail upon:

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On this the 2nd day of December 2022.

/s/ Mason C. Rush
MASON C. RUSH
Assistant Attorney General

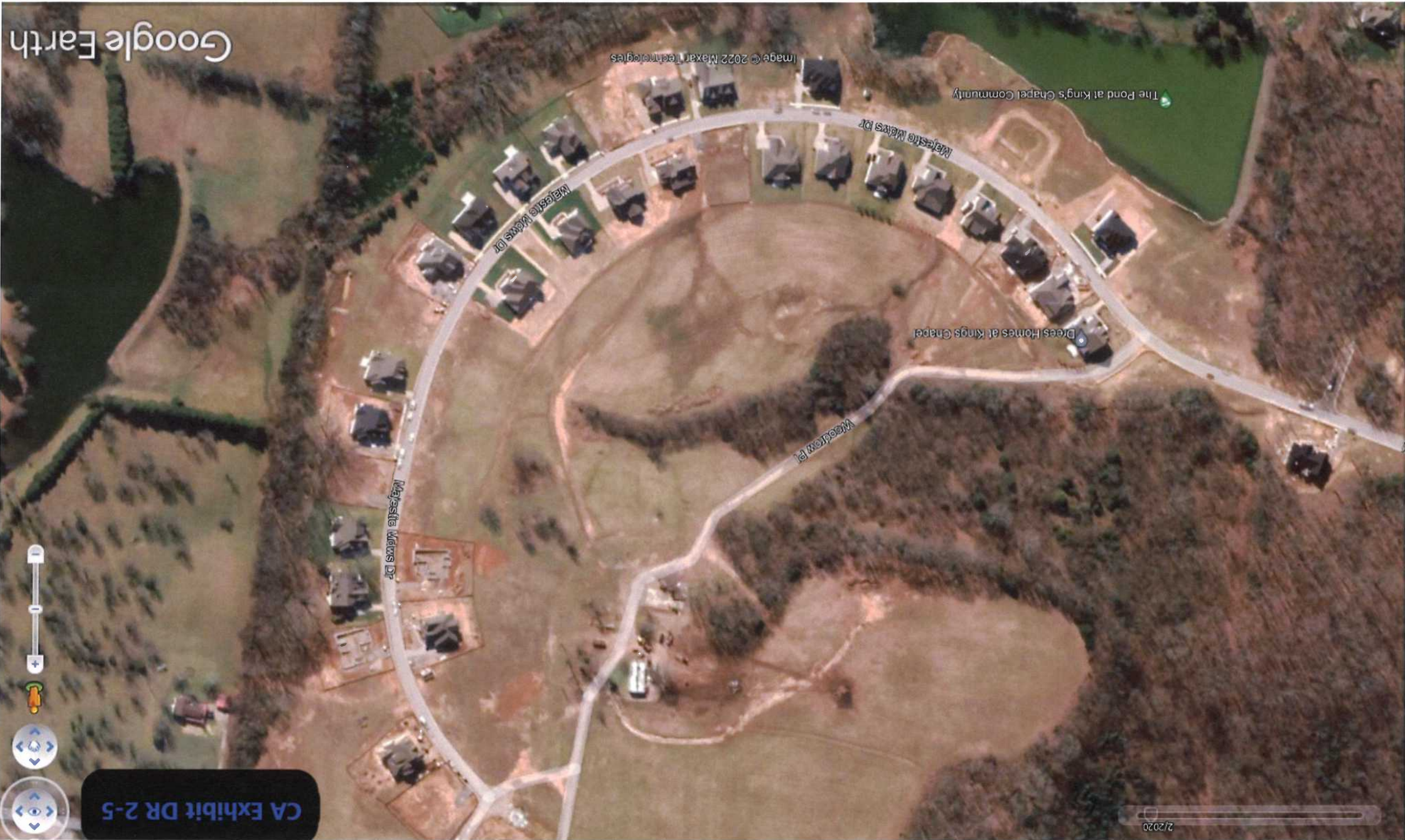


EXHIBIT B

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

Exhibit B

IN RE:)
)
JOINT PETITION OF SUPERIOR)
WASTEWATER SYSTEMS, LLC, AND) Docket No. 22-00087
TPUC STAFF (AS A PARTY) TO INCREASE)
RATES AND CHARGES)
)

**SUPERIOR WASTEWATER SYSTEMS, LLC'S RESPONSE TO SECOND
DISCOVERY REQUEST OF THE CONSUMER ADVOCATE**

Response to Second Set of Discovery Request

Question:

- 2-1. Provide a schematic showing the Sewer Main, Sewer Tap, Tank, and Service Lines for a home being served by Superior Wastewater.

Response:

See Attachment 2-1 a.

Question:

- 2-2. Provide a schematic showing the location of the Sewer Main, Sewer Tap, roads, sidewalks and the Company's right-of-way in relation to a home being served by Superior Wastewater.

Response:

See Attachment 2-2a

Question:

- 2-3. Identify the number of unoccupied lots in which a Sewer Main has been installed in the utility's right-of-way next to the lot as of November 1, 2022.

Response:

As of November 1, 2022, there was only one (1) unoccupied lot in which a Sewer Main had been installed in the utility's right-of-way next to the lot.

Question:

- 2-4. Identify the number of unoccupied lots in which the dwelling has connected its Sewer Line to the Sewer Main as of November 1, 2022.

Response:

As of November 1, 2022, there were zero (0) unoccupied lots in which the dwelling had connected its Sewer Line to the Sewer Main.

Question:

- 2-5. Refer to CA Exhibit DR2-5. This Exhibit shows that homes are not built consecutively in a phase of development but, rather, are built sporadically based on sale of lots. Therefore, lots with constructed homes are interspersed with undeveloped lots and lots under construction within a phase of construction as shown in CA Exhibit DR 2-5. Confirm that the Company installed a Sewer Main along the length of Majestic Meadows Drive so that all constructed homes can access the sewer system despite the existence of undeveloped and partially constructed lots on Majestic Meadows Drive located between constructed homes.

Response:

Confirmed in part. It is actually the developer that constructs and installs the sewer main along the length of Majestic Meadows Drive so that all constructed homes can access the sewer system despite the existence of undeveloped and partially constructed lots on Majestic Meadows Drive located between constructed homes.

Question:

- 2-6. Refer to the Company's Response to the Consumer Advocate's First Informal Discovery Request Nos. 2b-c; 4d-e; 6f-g; 8b-c; and 10b-c. The Company provided a list of dates of deed transfers for each of the lots in question. However, the data request was for the date the home

connected to the wastewater system (i.e. became an active customer). Provide the date of connections for each of the lot numbers the Company provided in its responses to the Consumer Advocate.

Response:

The dates provided in the responses to these requests are the closest approximation that SWS can make as to the exact date a residence was actually connected to the wastewater system.

Question:

2-7. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2019.

Response:

Objection. This issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.

Question:

2-8. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2020.

Response:

Objection. This issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.

Question:

2-9. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2021.

Response:

Objection. This issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.

Question:

2-10. Admit that Superior Wastewater used and/or withdrew funds from its escrow account in 2022.

Response:

Objection. This issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.

Question:

2-11. Admit that Superior Wastewater did not obtain authorization from the Tennessee Public Utility Commission for the withdrawal or use of escrow funds between 2019 and 2022.

Response:

Objection. This issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.

Question:

2-12. Identify the use of any escrow funds by cost type and/or capital expenditure for:

- a. January 2019 through December 2019;
- b. January 2020 through December 2020;
- c. January 2021 through December 2021;
- d. January 2022 through December 2022;

Response:

Objection. This issue is currently being considered in Docket 21-00086 and as such, it is irrelevant in this Docket and not calculated to lead to discoverable information.

Question:

2-13. Confirm that the existing wastewater treatment system is available to serve all existing and future homeowners in King's Chapel.

Response:

Confirmed.

Question:

- 2-14. Provide the expected number of utility customers once the King's Chapel development is fully constructed or built out.

Response:

The total number of potential utility customers in the King's Chapel development is unknown. At this time, the exact future site plans, as well as county approval for potential site plans, are both unknown.

Question:

- 2-15. The King's Chapel development is still under construction. Provide the following:
- a. An estimated time for the completion of the development.
 - b. The number of phases/sections remaining for development within King's Chapel.

Response:

- a. SWS is unable to provide an answer for the estimated time for development completion since it depends on the market demand for new housing.
- b. The total number of phases/sections remaining for the King's Chapel development is unknown. At this time, the exact future site plans for the development, as well as county approval for potential site plans, are both unknown.

Question:

- 2-16. Explain which stakeholder group should bear the risk associated with a wastewater system during the time of construction of a residential development and before the full utility customer population is realized:
- a. Existing customers;
 - b. The utility;
 - c. The developer; or
 - d. Owners of lots (both under construction and undeveloped).

Please justify your response.

Response:

SWS has not done a study of the risk associated with a typical wastewater system during construction and is unable to provide an answer since the risk undertaken for different wastewater systems would likely be unique. However, SWS would point out that the developer of King's Chapel Subdivision contributed the entire initial cost of the wastewater treatment system to the utility and thereby removed any associated risk for cost recovery from customers, lot owners or the utility.

Question:

- 2-17. It is the Consumer Advocate's understanding that the historic church building located near the entrance to King's Chapel is used for commercial purposes, including rental as a wedding venue. Please state whether a commercial rate, or any service rate, is charged by Superior Wastewater with regard to this facility.

Response:

The historic church building referenced has no water service and as a result has no wastewater service.

Question:

- 2-18. It is the Consumer Advocate's understanding that a restaurant is regularly operated within the King's Chapel community clubhouse and that residents of the community and guests purchase meals as they would at other commercial dining establishments. It is the Consumer Advocate's understanding that the clubhouse is also frequently rented for use as a reception venue and/or for other commercial purposes, and that there are restrooms at the clubhouse within the restaurant area and outside near the pool. Please state whether a commercial rate, or any service rate, is charged by Superior Wastewater with regard to this facility.

Response:

SWS does not have a commercial rate in its tariff. Instead, SWS uses its residential rate to charge monthly for wastewater service provided to the clubhouse. In addition, SWS uses its residential rate to charge monthly for wastewater service provided to the restrooms in the pool and church area.

Question:

- 2-19. Please provide the written agreement(s) between Ashby Communities, LLC, or any affiliate thereof, and Superior Wastewater.

Response:

No written agreements exist between Superior Wastewater and any of its affiliates.

Question:


2-20. Please provide the written agreement(s), if any, between Ashby Communities, LLC, or any affiliate thereof, and all homebuilders regarding the King's Chapel development.

Response:

The Company objects on the grounds the information sought is irrelevant, unduly burdensome and not calculated to lead to discoverable information.

Dated this 9th day of December 2022.

Respectfully Submitted,

By:  _____
Charles/B. Welch, Jr.

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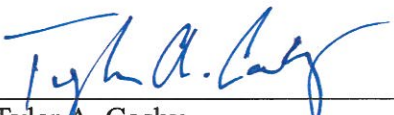
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail, with a courtesy copy provided via electronic mail, upon:

Ryan McGehee
Tennessee Public Utility Commission
502 Deaderick St.
Nashville, TN 37243
Ryan.mcGehee@tn.gov
Attorney for TPUC Staff

Mason C. Rush
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This the 9th day of December, 2022.



Tyler A. Cosby

