

Electronically Filed in TPUC Docket Room on January 30, 2023 at 12:15 p.m.

FARRIS BOBANGO, PLC

ATTORNEYS AT LAW

Nashville · Memphis

PHILIPS PLAZA
414 UNION STREET, SUITE 1105
NASHVILLE, TENNESSEE 37219

(615) 726-1200 telephone · (615) 726-1776 facsimile

Tyler A. Cosby
tcosby@farris-law.com

(615) 687-4225 (direct)

January 30, 2023

Chairman Herbert H. Hilliard
c/o Ectory Lawless
Tennessee Public Utilities Commission
502 Deadrick Street, 4th Floor
Nashville, TN 37243

RE: *Docket 22-00087, Joint Petition of Superior Wastewater Systems, LLC and TPUC
Staff (As a Party) to Increase Rates and Charges*

Dear Chairman Hilliard:

Please file the enclosed Rebuttal Testimony of Mr. John Powell in the referenced Docket. The original verification page will be provided promptly. Please let me know if you have any questions or require any additional information. As required, the original plus four (4) hard copies will be mailed to your office.

Sincerely,


Tyler A. Cosby

Cc:
John Powell
Mason Rush
Karen H. Stachowski
Ryan McGehee

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

**JOINT PETITION OF SUPERIOR
WASTEWATER SYSTEMS, LLC
AND TPUC STAFF (AS A PARTY)
TO INCREASE RATES AND
CHARGES**

DOCKET NO. 22-00087

**REBUTTAL TESTIMONY
of
JOHN POWELL**

ON BEHALF OF SUPERIOR WASTEWATER SYSTEMS, LLC

January 30, 2023

1 ***Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE***
2 ***RECORD.***

3 ***A1.*** My name is John Powell, and my business address is 9539 Mullens Road,
4 Arrington, TN 37014.

5
6 ***Q2. ARE YOU THE SAME JOHN POWELL WHO PRESENTED PRE-FILED***
7 ***TESTIMONY IN THIS DOCKET?***

8 ***A2.*** Yes.

9
10 ***Q3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?***

11 ***A3.*** The purpose of my rebuttal testimony is to address adjustments for Access Fees
12 proposed by Consumer Advocate witness Dittmore. Specifically, Mr. Dittmore
13 is proposing a change in Superior Wastewater System's (SWS's) tariff for the
14 collection of Access Fees.¹ In addition, Mr. Dittmore is proposing a pro forma
15 revenue adjustment of approximately \$5,000 to SWS's cost of service for Access
16 Fees.²

17
18 ***Q4. MR. POWELL, IS IT EVER ADVISABLE FOR THE COMMISSION TO***
19 ***IMPLEMENT AN ACCESS FEE FOR A WASTEWATER UTILITY?***

20 ***A4.*** Yes. Some wastewater systems are contributed to the wastewater utility by the
21 developer for an entire subdivision. When this happens, it can be years if not
22 decades before a significant number of customers are connected to the wastewater

¹ Direct testimony of David N. Dittmore, p. 11:6-11, TPUC Docket No. 22-00087 (Jan. 4, 2023).

² Id. At Consumer Advocate Exhibit DND-6, Income Statement at Current Rates.

1 system to make it economically feasible. In those situations, an Access Fee from
2 the lot owners would certainly be necessary to cover the fixed costs of
3 maintaining the wastewater system. However, the Kings Chapel subdivision is
4 expanded in phases with each phase typically consisting of 30 – 40 lots. Further,
5 any new phase is typically not begun until the existing phases are substantially
6 complete. As a result, Access Fee charges are not needed in the Kings Chapel
7 subdivision.

8
9 ***Q5. MR. POWELL, UNDER MR. DITTEMORE'S PROPOSAL TO CHANGE***
10 ***THE TARIFF LANGUAGE FOR ACCESS FEES, THESE FEES WOULD***
11 ***BE CHARGED TO LOT OWNERS (DEVELOPERS OR HOME***
12 ***BUILDERS) WHEN THE LOTS FIRST BECOME AVAILABLE. AS THE***
13 ***DEVELOPER OF THE KINGS CHAPEL SUBDIVISION, DOES THIS***
14 ***PRESENT YOU WITH A DISINCENTIVE TO CHARGE ACCESS FEES?***

15 ***A5.*** No. As mentioned earlier, Kings Chapel subdivision is expanded in phases. The
16 lots in each of these phases are sold relatively quickly once each phase is opened.
17 As a result, there would only be a very minimal amount of time that I actually
18 own a lot that is available for sale before it is purchased by a homebuilder. I
19 suppose that under Mr. Dittemore's proposal, any Access Fees paid would
20 potentially be pro-rated between the developer and builder, but as the subdivision
21 developer I would expect only a minimal personal exposure to any Access Fees
22 payment. In summary, I do not have a disincentive to charge Access Fees
23 because I am the developer of the Kings Chapel subdivision.

1

2 **Q6. MR. POWELL, DO YOU AGREE WITH MR. DITTEMORE'S**
3 **CALCULATION OF APPROXIMATELY \$5,000 IN PRO FORMA**
4 **ACCESS FEE REVENUES THAT HE PROPOSES TO INCLUDE IN**
5 **SUPERIOR'S RATE CASE?**

6 **A6.** No. Mr. Dittemore's Pro Forma Access Fee Revenue is based upon Kings Chapel
7 Subdivision's expected expansion of 60 lots in Section 12 and 13.³ However,
8 according to Mr. Dittemore's proposed tariff language, these Pro Forma Access
9 Fees are also based on lots that are "within an identified development phase or
10 section which is or will be served by the wastewater system."⁴ In other words,
11 Mr. Dittemore is proposing to base his Pro Forma Access Fee revenue of
12 approximately \$5,000 on lots that will ultimately be developed regardless of
13 whether or not a wastewater collection line exists. In my opinion, it would be
14 completely inappropriate to apply an Access Fee to a lot owner for a wastewater
15 collection line that does not yet exist.

16

17 **Q7. WHAT IS THE IMPACT OF ADJUSTING MR. DITTEMORE'S PRO**
18 **FORMA ACCESS FEE REVENUE CALCULATION TO INCLUDE ONLY**
19 **LOTS WHERE THE COLLECTION LINES ARE INSTALLED?**

20 **A7.** The collection lines for a particular development section are typically not installed
21 until 7 – 9 months after the plat is first recorded. Further, as shown on

³ Direct testimony of David N. Dittemore, Exhibit DND-6, Income Statement at Current Rates, TPUC Docket No. 22-00087 (Jan. 4, 2023).

⁴ Direct testimony of David N. Dittemore, p. 11:6-11, TPUC Docket No. 22-00087 (Jan. 4, 2023).

Attachment JP-1 and summarized below on Table 1, it takes approximately another 7 months from the date the collection line is installed until the property is sold to the final homeowner. This produces potential Access Fee Revenue for Sections 10 and 11 of approximately \$1,900 as also shown on Table 1.

Table 1 – Historical Access Fee Summary Results ⁵		
Section	Average Months from Line Install Date to Home Sales Date	Potential Access Fee Revenue at \$7.00 per Month
10	7	\$322.00
11	7	1,540.00
Average/Total	7	\$1,862.00

Next, applying the historical average number of months (7) from the collection line installation date until the home sales date to the 60 lot sales that Mr. Dittemore forecasts for Sections 12 and 13 only produces \$2,940 in Pro Forma Access Fee Revenues as shown below on Table 2. However, this \$2,940 amount needs to be reduced for other factors that Mr. Dittemore did not consider.

Table 2 – Pro Forma Access Fee Revenue			
Section	Lots Per Section ⁶	Average Months from Line Install Date to Home Sales Date	Adjusted Pro Forma Access Fee Revenue @ \$7.00 per Month
12	28	7	\$1,372.00
13	32	7	1,568.00
Total	60		\$2,940.00

Q8. MR. POWELL, WHAT ARE THESE OTHER FACTORS THAT MR. DITTEMORE DID NOT CONSIDER IN HIS ACCESS FEE CALCULATION?

⁵ Attachment JP-1.

⁶ Direct testimony of David N. Dittemore, Exhibit DND-6, Income Statement at Current Rates, TPUC Docket No. 22-00087 (Jan. 4, 2023).

1 **A8.** First, Mr. Dittemore has SWS extending wastewater service to all 60 lots in
2 Sections 12 and 13 during the adjusted test year. This is highly unlikely since we
3 typically expand only one section at a time. Therefore, it would be more
4 appropriate for Mr. Dittemore to consider only \$1,372 for Section 12 from Table
5 2 above as the total pro forma access fee revenue for the adjusted test period.

6
7 In addition, at this time, construction on collection lines for Section 12 has not
8 even begun. As mentioned earlier it takes the developer 7 – 9 months from the
9 time the plat is first recorded to install the collection lines for a particular section
10 and then another 7 months on average to the home sale date. This means that in
11 all likelihood, there will be no (\$0) pro forma access fee revenue recognized for
12 the adjusted test period.

13
14 ***Q9. MR. POWELL, WHAT CONCLUSIONS DO YOU DRAW FROM THIS***
15 ***CHANGE IN PRO FORMA ACCESS FEE REVENUES?***

16 **A9.** It appears to me that the collection of Access Fee Revenue is inconsequential to
17 the total revenues of SWS, and this can clearly be seen in the rate adjustment
18 being proposed by Mr. Dittemore of only \$0.09 per month.⁷ I would therefore
19 repeat my recommendation to the Commission that the provision in SWS's tariff
20 for Access Fees be removed.

21

⁷ Direct testimony of David N. Dittemore, p. 13:16-18, TPUC Docket No. 22-00087 (Jan. 4, 2023).

1 ***Q10. MR. POWELL, PLEASE SUMMARIZE THE COMPANY'S POSITION***
2 ***RELATED TO ACCESS FEES.***

3 ***A10.*** SWS requests that the Commission deny Mr. Dittmore's proposed tariff changes
4 related to Access Fees. SWS also recommends that the Commission deny Mr.
5 Dittmore's proposed revenue changes to the Joint Petition related to Access
6 Fees. Finally, SWS requests that the Commission remove the existing provision
7 for Access Fee charges from our tariff.

8

9 ***Q11. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?***

10 ***A11.*** Yes, it does.

SUPERIOR WASTEWATER SYSTEMS
Analysis of Wastewater Connections - Sections 10 and 11

Attachment JP-1

Lot #	Address	Plat Recording Date	Collection Line Install Date	Homeowner Sale Date	Months from Line Install Date to Sale Date	Potential Access Fee \$7.00/Month
Section 10						
1001	4804 Torquay	07/30/21	03/01/22	10/07/22	7	\$49.00
1002	4808 Torquay	07/30/21	03/01/22	10/05/22	7	49.00
1003	4812 Torquay	07/30/21	03/01/22	03/01/23	12	84.00
1004	4816 Torquay	07/30/21	03/01/22	07/29/22	5	35.00
1005	4820 Torquay	07/30/21	03/01/22	08/05/22	5	35.00
1006	4824 Torquay	07/30/21	03/01/22	07/21/22	5	35.00
1007	4828 Torquay	07/30/21	03/01/22	08/05/22	5	35.00
Average/Total					7	\$322.00
Section 11						
1101	4700 Woodrow Place	07/30/21	05/01/22	02/01/23	9	\$63.00
1102	4704 Woodrow Place	07/30/21	05/01/22	11/04/22	6	42.00
1103	4708 Woodrow Place	07/30/21	05/01/22	07/08/22	2	14.00
1104	4712 Woodrow Place	07/30/21	02/17/22	03/25/22	1	7.00
1105	4716 Woodrow Place	07/30/21	02/17/22	09/30/22	8	56.00
1106	4720 Woodrow Place	07/30/21	02/17/22	06/09/22	4	28.00
1107	4788 Woodrow Place	07/30/21	02/17/22	10/05/22	8	56.00
1108	4736 Woodrow Place	07/30/21	02/17/22	10/17/22	8	56.00
1109	4742 Woodrow Place	07/30/21	02/17/22	12/14/22	10	70.00
1110	4750 Woodrow Place	07/30/21	02/17/22	10/05/22	8	56.00
1111	4758 Woodrow Place	07/30/21	02/17/22	05/18/22	3	21.00
1112	4764 Woodrow Place	07/30/21	02/17/22	03/29/22	1	7.00
1113	4770 Woodrow Place	07/30/21	02/17/22	08/16/22	6	42.00
1114	4773 Woodrow Place	07/30/21	02/17/22	03/31/22	1	7.00
1115	4769 Woodrow Place	07/30/21	02/17/22	11/30/22	10	70.00
1116	4765 Woodrow Place	07/30/21	02/17/22	11/29/22	10	70.00
1117	4761 Woodrow Place	07/30/21	02/17/22	01/18/23	11	77.00
1118	4759 Woodrow Place	07/30/21	02/17/22	01/20/23	11	77.00
1119	4755 Woodrow Place	07/30/21	02/17/22	03/31/22	1	7.00
1120	4751 Woodrow Place	07/30/21	02/17/22	10/25/22	8	56.00
1121	4747 Woodrow Place	07/30/21	02/17/22	05/01/23	15	105.00
1122	4743 Woodrow Place	07/30/21	02/17/22	05/01/23	15	105.00
1123	4739 Woodrow Place	07/30/21	02/17/22	05/20/22	3	21.00
1124	4735 Woodrow Place	07/30/21	02/17/22	12/28/22	10	70.00
1125	4731 Woodrow Place	07/30/21	02/17/22	03/31/22	1	7.00
1126	4727 Woodrow Place	07/30/21	02/17/22	03/01/23	13	91.00
1127	4723 Woodrow Place	07/30/21	02/17/22	03/01/23	13	91.00
1128	4719 Woodrow Place	07/30/21	02/17/22	07/29/22	5	35.00
1129	4715 Woodrow Place	07/30/21	02/17/22	07/01/22	4	28.00
1130	4646 Majestic Meadows	07/30/21	02/17/22	12/02/22	10	70.00
1131	4652 Majestic Meadows	07/30/21	02/17/22	07/21/22	5	35.00
Average/Total					7	\$1,540.00
Grand Total						\$1,862.00

SOURCE: Company Records.