IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

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

PRE-FILED REBUTTAL TESTIMONY

OF

JOE SHIRLEY

Q. Please state your name and position.

A. My name is Joe Shirley, and I am the Director of Utility Audit & Compliance for the Tennessee Public Utility Commission.

Q. Mr. Shirley, did you previously file direct testimony in this case?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my testimony is to respond to and rebut the positions of the Consumer Advocate as set forth in the Direct Testimony of David N. Dittemore.

Specifically, Party Staff disagrees with the following:

- The Consumer Advocate's assertion that implementation of a service rate increase in this docket is premature and that such increase should be conditioned on resolution of the escrow issues being addressed in Docket No. 21-00086, set forth on pages 3-6 of Mr. Dittemore's Direct Testimony.

- The Consumer Advocate's proposed access fee policy as articulated in the recommended tariff language on page 11 of Mr. Dittemore's Direct Testimony.

- The Consumer Advocate's calculation of access fees and its recommendation to impute such fees in this case, set forth on pages 12-15 of Mr. Dittemore's Direct Testimony.

Finally, I will address the consumer comments that have been filed in this case.

THE COMMISSION SHOULD DENY THE CONSUMER ADVOCATE'S REQUEST TO DELAY DECISION ON THE RATE HEARING IN THIS DOCKET PENDING COMPLETION OF THE COMPLIANCE REVIEW IN DOCKET NO. 21-00086

Q. Do you agree with Mr. Dittemore's testimony that there is evidence the Company has not followed the Commission's rule governing escrow funds?

A. Yes. Mr. Dittemore correctly quotes the Commission's rule requiring a utility to first receive written authorization before using escrow funds, and he states there is evidence the Company did not receive such authorization before using such funds. The current escrow rule became effective December 2018, and Party Staff is in the process of concluding a review of the Company's compliance with the rule, which is the subject of Docket No. 21-00086. Party Staff's work in that docket shows the Company has utilized escrow funds since the rule became effective without first obtaining requisite written authorization. As I discuss later in my testimony, however, the details of the Company's use of escrow funds are outside the scope of this rate case.

Q. Do you agree with Mr. Dittemore's recommendation that, as a matter of policy, the Commission should not grant rate relief in this docket if there is a material violation of rules governing escrow funds provided by customers?

A. No, I do not. First, as Mr. Dittemore acknowledges on page 7 of his Direct Testimony, the Joint Petitioners have not included escrow revenue in the calculation of the revenue requirement in this rate case. Mr. Dittemore then erroneously concludes that, without resolution of the escrow issues in Docket No. 21-00086, "it is impossible to adequately determine whether an increase in the Company's revenue stream is necessary." It is not only possible, but it is appropriate to do so.

The reason escrow revenue is not included in this rate case is that it is not necessary to evaluate escrow revenue to conduct a proper cost-of-service study for purposes of establishing prospective monthly service rates, which is the objective of this rate case docket. The determination of a utility's escrow revenue and wastewater service revenue is generally unrelated because each revenue stream serves a different purpose, and each should be calculated independently of the other.

The purpose of this rate case is to conduct a cost-of-service study to determine the revenue requirement and associated base rates necessary to provide safe and reliable wastewater services to customers on a prospective basis. The amount of escrow, or whether escrow even exists or not, does not have a direct bearing on the cost-of-service study as performed in this case.

On the other hand, the evaluation of escrow and establishment of appropriate escrow charges are driven by the policy underpinning the Commission's escrow rule, namely, to provide funding for capital needs, extraordinary expenditures, or other nonroutine costs deemed appropriate by the Commission when funding for such items is not or cannot be provided by the utility's owners or creditors. The escrow rule recognizes the Commission's observations that sufficient access to capital is often problematic for its jurisdictional wastewater utilities. A review of the Company's compliance with the escrow rule, as well as application of the underlying escrow policy, is being performed in Docket No. 21-00086 as directed by the Commission in its *Order Opening Compliance Review Docket* entered in that docket on September 15, 2021. The *Order* directs Party Staff to file a Compliance Audit Report of its findings.

Contrary to Mr. Dittemore's assertions, it is entirely appropriate from a ratemaking perspective to study and determine escrow revenue and wastewater service revenue separately.

Further, the Joint Petitioners approach in this matter to consider cost-of-service issues in this rate case docket (22-00087) and escrow issues in the compliance review docket (21-00086) is not unusual or inconsistent with other ratemaking proceedings coming before the Commission. Mr. Dittemore makes the point that escrow revenue is provided by the Company's customers and should be considered in this docket; however, the Commission often does not consider all the costs recoverable from customers in rate case proceedings such as this one. It is well-known that a utility may have rider mechanisms designed to recover specific costs from customers that are evaluated and determined separately from the utility's base rate calculations in a general rate case. For instance, in Docket No. 20-00086, the reasonableness and recovery of Piedmont Natural Gas Company's rate case costs were ordered to be considered in a separate rider mechanism, and in Docket No. 21-00107 the reasonableness and recovery of Kingsport Power Company's TRP&MS costs were ordered to be considered in a separate rider mechanism, as opposed to recovering such costs through the base service rates that were being determined in those rate case dockets. Further, Kingsport Power Company's electricity generation and transmission costs are determined and passed through to ratepayers through the Fuel and Purchase Power Adjustment Rider (FPPAR) rather than the base service rates determined in its rate case. Moreover, the general rate case proceedings for the Commission's jurisdictional natural gas companies determine only base rates for distribution of natural gas whereas the gas supply costs charged to customers are governed by the Commission's Purchased Gas Adjustment (PGA) Rule and are evaluated by Commission staff in annual Actual Cost Adjustment (ACA) audits presented to the Commission.

Not only is there no requirement for the Commission to consider all recoverable costs and revenues provided by customers in a rate case proceeding, it is common regulatory practice *not to do so*. There is nothing inappropriate about Party Staff's approach to evaluate cost of service in

this rate case docket and unrelated escrow issues in a separate compliance review docket. Indeed, the Commission, the public, and the parties may well benefit from the clearer and more straight-forward analysis and administrative proceedings afforded by keeping the dockets separate.

Finally, the Consumer Advocate asserts the Commission should, as a matter of policy, withhold rate relief from the Company knowing there is a material violation of the Commission's escrow rule. Under the circumstances of this case, Party Staff disagrees and believes that sound regulatory policy actually favors granting the rate relief requested in this docket. The cost-of-service analysis shows the Company should increase its service rates by $78,086 to meet its projected revenue requirement. Except for the imputation of access fees, which on page 14 of his Direct Testimony Mr. Dittemore characterizes as "relatively small" resulting in "a slight modification" to the proposed revenue requirement, *the Consumer Advocate does not oppose the rate increase*. Thus, there seems to be no disagreement that the Company needs a rate increase at this time and that delaying this relief leaves the Company in a deficit of over $6,000 per month. After the Joint Petitioners' meeting with the Consumer Advocate to explain the rate study and provide informal discovery, a rate hearing in this matter was scheduled for October 10, 2022, but it has been delayed. Further, the Consumer Advocate would have the requested rate relief, the amount of which is largely undisputed, continue being delayed and deficits continue being experienced until resolution of the escrow issues being addressed in Docket No. 21-00086. The Consumer Advocate's approach is shortsighted.

Commission staff has performed a series of staff-assisted rate cases for small jurisdictional utilities out of recognition that these utilities usually lack the financial resources and low-cost access to ratemaking personnel that are needed to engage in general rate case proceedings. Before staff-assisted rate cases were implemented it was not unusual for these utilities to go many years

without a rate study. Indeed, the Company has never had a rate case or service rate increase in its seventeen years of operation. While the Commission must assure that all customer rates and charges are just and reasonable, it also has an interest in assuring that its jurisdictional utilities are financially stable as going concerns. A financially distressed system does not serve the public interest. When, as here, a properly performed rate study has concluded that a service rate increase is needed to satisfy a utility's reasonable revenue requirement, Party Staff is of the opinion that such relief should be granted without undue delay. This action serves to protect the financial health and operational viability of the utility to the benefit of the utility and customers alike. It further reduces rate case costs. Indeed, when the Joint Petition was filed, no rate case expense was included in the Company's revenue requirement for setting service rates.

Party Staff is also of the opinion that the Consumer Advocate's positions and action in this case constitute undue delay in the Commission's hearing of the requested rate relief to the unfair detriment of the Company. Party Staff agrees with the Consumer Advocate that the Company's noncompliance with the escrow rule, as well as the attendant issues regarding funding and use of escrow funds, should be timely addressed and reasonably resolved; however, there is no reason to further delay the recommended rate relief in this docket. As discussed previously in my testimony, the monthly service rate recommended in this case is properly determined independently of the Company's compliance with the escrow rule. Withholding reasonable rate relief pending the outcome of the unrelated escrow review needlessly penalizes the Company by requiring it to continue operating at undeserved financial deficits, as is demonstrated by the cost-of-service study filed in this case.

Further, any insinuations that Party Staff is not concerned about or is not diligently addressing the Company's compliance with the escrow rule are unwarranted. There is a separate,

docketed matter encompassing the escrow review and there are clear instructions from the Commissioners to file a Compliance Audit Report regarding Party Staff's findings in this regard, which is the exact work plan Party Staff is and should be following. The appropriate handling of the issues that may arise from the compliance review does not affect this rate case, much in the same manner as an ACA audit would not affect the outcome of a natural gas utility's rate case.

Q. Do you agree with Mr. Dittemore's suggestion that the Company will be disincentivized to resolve the escrow issues if the Commission grants the Company rate relief in this docket?

A. No, I do not. As directed by the Commissioners in Docket No. 21-00086, Party Staff is conducting a compliance review of the Company that encompasses the Commission's escrow rule. To date, the Company has been cooperative in that review, and nothing suggests that the Company's noncompliance with the escrow rule is due to anything other than oversight. Be that as it may, the release of the audit report, and certainly the findings and conclusions contained therein, are within the control of the Party Staff and not the utility.

While Party Staff strives for cooperation during the audit and agreed-upon resolutions to recommend to the Commission for adoption, it is not required that Party Staff and the utility agree. And the audit process is not at the mercy of the utility's agreement with Party Staff's findings. If at the end of the day the Party Staff and the utility cannot agree on an appropriate resolution of Party Staff's findings, the matter is referred to the Commission for appropriate handling, including potentially contested case proceedings. Thus, it seems to me that, inherently within the audit process, a utility has just as much incentive, if not more, to cooperate and reasonably resolve audit findings rather than elevating the matter to more formal proceedings before the Commission. In

any case, there is an established regulatory process to address and resolve audit findings, whether by agreement of the parties or decision of the Commission.

Q. Do you agree with Mr. Dittemore's assertion that Party Staff has been inconsistent in its view of whether escrow rates paid by customers are an integral part of this proceeding?

A. No, I do not. On page 6 of his Direct Testimony, Mr. Dittemore suggests that since the Joint Petitioners presented the overall percentage rate increase in the customer notice based on the customer's combined bill, including escrow charges, that Party Staff has somehow been inconsistent on whether escrow funds are "integral" to the rate case. This is inaccurate. As acknowledged by Mr. Dittemore, escrow revenue is not included in the cost-of service study in this case because, as explained previously in my testimony, escrow revenue is *not integral* to the determination of monthly service rates; indeed, escrow revenue is not even *incidental* to the rate study. Presentation of the overall rate increase was done on a combined-bill basis in the customer notice because, in Party Staff's opinion, customers are generally more concerned about the impact of the requested rate increase on their pocketbooks. While Mr. Dittemore may disagree with the presentation showing the rate increase on a combined-bill basis, this presentation in no way makes escrow any more or less relevant to the calculation of monthly service rates.

Q. On page 7 of his Direct Testimony, Mr. Dittemore recommends that the Commission should determine whether the Company should replenish escrow funds in Docket No. 21-00086 or whether existing escrow revenue should be included as revenue to determine the Company's current revenue requirement. Do you agree with Mr. Dittemore's recommendation?

A. I agree that decisions on the potential replenishment of escrow funds should be made in Docket No. 21-00086, but I disagree that the Commission should consider whether existing escrow revenue should be included as revenue in this docket for purposes of computing the Company's current revenue requirement. The Company's compliance with the Commission's escrow rule, including issues relating to the collection and use of escrow funds and escrow balances, should be addressed and resolved in Docket No. 21-00086. Of course, the parties should attempt to agree upon appropriate resolutions and corrective action plans to address all noncompliance issues arising in Docket No. 21-00086, and Party Staff will strive to reach such reasonable agreements with the parties in that docket as opposed to litigating the issues through a contested case proceeding. In any event, Party Staff will issue its report in that docket with proper findings when it determines it is appropriate to do so.

As I stated previously in my testimony, however, escrow revenue should not be included in this docket to compute monthly service rates. As I have explained, escrow charges and monthly service rates are designed for different purposes and should be calculated independently of one another. Although sometimes referred to as escrow revenue, escrow amounts collected from customers through escrow charges constitute a regulatory liability on the Company's books that should be earmarked and held in reserve for authorized uses approved by the Commission in accordance with the escrow rule. On the other hand, wastewater service amounts collected from customers through monthly service rates, which is the subject of this docket, are wastewater service revenues that should cover the Company's reasonable operating expenses and taxes, as well as supply a reasonable operating margin, as set forth in the cost-of-service study filed in this case.

THE COMMISSION SHOULD REJECT THE CONSUMER ADVOCATE'S PROPOSED ACCESS FEE TARIFF

Q. On page 8 of his Direct Testimony, Mr. Dittemore described access fees. Do you agree with his description?

A. Yes, I generally agree with Mr. Dittemore's description and justification of access fees. He states:

> Access fees are charges applied *to **lot owners*** within a system who are not receiving service from the utility but could ***acquire service upon request***. The justification for the fees is that the lot owner is deriving value from the ***existence of the wastewater system***, and it is appropriate that such owners bear some cost responsibility for the operation and maintenance of the system. (Emphasis added).

Although Mr. Dittemore's statement is generally correct, I have highlighted the areas of the statement that the Consumer Advocate apparently misunderstands concerning application of the described access fee policy to the circumstances of this case.

Q. Please explain the application of access fees to *lot owners*.

A. On page 8 of Mr. Dittemore's Direct Testimony, he concludes that since Mr. Powell is both the utility owner and the developer, he has a disincentive to charge access fees to developers. I believe that, given the circumstances of this case, Mr. Dittemore's conclusion in this regard, as well as its influence on Party Staff's access fee recommendations, is not well-founded.

First, access fees are charged to the owners of lots on the date fees are assessed (usually annually or semi-annually). While a developer may be the owner of a lot(s) who should be

assessed an access fee, there are others – such as homebuilders, investors or individuals – who may be the owners of such lots on the date of assessment and, therefore, responsible for paying access fees.

Second, in this case Mr. Powell testifies on page 2 of his Rebuttal Testimony that his developments are done in planned sections of around thirty to forty lots, and that the development of one section is substantially completed before the development of another section is begun. Mr. Powell also testifies that once a section is opened for development the lots are sold to homebuilders relatively quickly and, consequently, there is a minimal amount of time that Mr. Powell owns the lot before it is sold. Thus, in any planned section being developed, Mr. Powell, as the developer, would not generally be the lot owner for an extended period of time once the development of the section has begun and, therefore, would not be responsible for payment of substantial access fees related to lots in that section.

Finally, the fact that Mr. Powell may or may not be the lot owner in a section under development has no bearing on Party Staff's recommendation to exclude access fees from the revenue requirement in this case and remove access fees from the service tariff. Rather, as explained later in my testimony, the basis for Party Staff's position on access fees is due to Mr. Powell's business practice of developing planned sections and incrementally extending the wastewater system to serve those sections, as well as the relatively short time frames for substantially developing a section prior to opening another section for development. In such circumstances, access fee revenue would not materially contribute to covering the cost of service, especially given the added administrative costs of tariffing, billing and collecting an immaterial amount of fees.

Q. Please explain the application of access fees to lot owners who *may acquire service upon request.*

A. On page 8 of Mr. Dittemore's Direct Testimony, he states that the absence of an installed sewer tap for a lot does not preclude an access fee, and on page 10 he states the collection of an access fee is not dependent on installing a service line. I agree with both statements. The individual lot's service line and tap to the collection system may be readily installed upon the lot owner's request for service.

The collection lines, however, must be installed at the time of the lot owner's potential demand for service in order to apply access fees. The collection lines are essential to providing wastewater service because these lines transport the waste from the houses constructed on the individual lots to the central sewer treatment facility. If the collection lines have not been installed, the lot owner may not acquire service upon request but must wait until such time as the collection lines are installed. Further, lots within a planned development must be approved by local planning authorities, and until such time as approval to build on platted lots is finalized, the lot owners have no rights to build or access utility systems.

As reflected on pages 3 and 4 of Mr. Powell's Rebuttal Testimony, the collection system is not generally installed near the beginning of a section's development but rather toward the middle of the build-out of the houses in the section. Mr. Powell states that the collection lines are typically installed seven to nine months after the lots are platted in a section, and that it is an average of another seven months after the collection lines are installed until the property is sold to the final homeowner. (See also Powell Rebuttal Attachment JP-1). Further, as noted on page 5 of Mr. Powell's Rebuttal Testimony, the collection lines have not yet been installed for Section 12;

thus, monthly wastewater service is not available upon request and will not be available until such future time as the collection lines may be installed.

Q. Please explain the access fee policy's recognition of the value to lot owners of the *existence of the wastewater system.*

A. As alluded to by Mr. Dittemore in his Direct Testimony, access fees are appropriate because the existence of wastewater service to a lot that is otherwise available for construction or improvement enhances the value of the lot as opposed to unimproved land with no access to utilities. Further, there are common costs, such as maintenance and testing, for systems that have already been built, whether or not there is a service connection for each individual lot. Importantly, however, the assessment of access fees requires: (1) an existing system capable of providing wastewater service to the individual lot and (2) the individual lot owner's ability to receive wastewater service upon request. Sections 12 and 13 do not presently meet these requirements.

Q. Is the access fee policy described above consistent with the approved access fee tariffs of the Commission's jurisdictional wastewater utilities?

A. Yes. For example, original page 4 of section 2 of Aqua Green's wastewater tariff provides that an access fee is assessed annually to the owner of each property parcel "which is provided a service connection when the sewer system is built."

Original sheet #4 of section #2 of Cumberland Basin's wastewater tariff provides for an annual assessment of access fees to "the owner of each property parcel which is provided a tap or the availability of a tap, when the sewer system is built."

Rev. page 2 of DSH & Associate's wastewater tariff provides for the annual assessment of an access fee to the owner of each property parcel "which is provided a service connection when the sewer system is built."

Second revised page 3 of section 2 of IRM Utility's wastewater tariff provides for the semi-annual assessment of access fees to "the owner of each property parcel which is provided a tap or the availability of a tap, when the sewer system is built."

Finally, original page 4 of section 2 of Tennessee Wastewater Systems' tariff provides for payment of a monthly Capacity Reservation Fee from the owner of each property parcel "which is provided a service connection when the sewer system is built." Original page 6 of section 1 of this same tariff defines the Capacity Reservation Fee as "the annual fee associated with platted empty lots which are capable of receiving service."

In all instances, it is clear the access fees approved by the Commission and set forth in the companies' tariffs are assessed only to lot owners who may request wastewater service from existing systems that are *readily capable* of providing service.

Q. On page 11 of Mr. Dittemore's Direct Testimony, the Consumer Advocate recommends tariff language providing for assessment of annual access fees. Do you agree with the proposed tariff and underlying access fee policy?

A. No, I do not. The recommended tariff language provides that "An annual access fee of $84 shall be assessed against each lot that is not connected to the wastewater system and is within an identified development phase or section which is or will be served by the wastewater system." This language is inconsistent with the access fee tariffs approved by the Commission, and it is

contrary to the access fee policy described previously in my testimony and set forth in the Commission orders quoted in Mr. Dittemore's Direct Testimony.

At the root of the access fee policy, as articulated in the approved tariffs, is the requirement that wastewater services be accessible to lot owners. The proposed tariff, however, does not provide that a lot owner may promptly obtain wastewater service from an existing system capable of providing the requested service. It is insufficient to assess fees against lot owners based merely on their lots being identified in a development phase or section which *will be* served by a wastewater system – a system which may at the time of assessment be incomplete and incapable of providing service until some future point in time.

Rather, the Commission should, as a condition of assessing access fees, continue requiring that the wastewater system be built and capable of providing service upon request of the individual lot owners. Mr. Dittemore's recommended language could require lot owners to pay access fees on lots where wastewater service is not readily available upon request. Accordingly, the Consumer Advocate's proposed tariff and underlying access fee policy should be denied.

THE COMMISSION SHOULD REJECT THE CONSUMER ADVOCATE'S PROPOSED ADJUSTMENT TO THE COMPANY'S REVENUE REQUIREMENT FOR IMPUTATION OF ACCESS FEE REVENUE

Q. Based on the Consumer Advocate's proposed access fee tariff, Mr. Dittemore recommends imputation of $5,040 of access fee revenue for the 60 lots contained in Sections 12 and 13 of the planned developments to be served by the Company. Do you agree with Mr. Dittemore's imputation of access fee revenue?

A. No, I do not. The following circumstances are pertinent to the potential imputation (or assessment) of access fees in this case:

- The Kings Chapel subdivision served by the Company is developed in sections of 30 to 40 lots each.
- A new section of development is typically not begun until existing sections are substantially complete.
- Collection lines are not typically installed until seven to nine months after a section's lots are platted.
- The average amount of time from installation of the collection lines until the final sale of the property to the homeowner is seven months.
- The collection lines have not yet been installed for Sections 12 and 13.

Under these circumstances, I am of the opinion that Mr. Dittemore's imputation of $5,040 of access fee revenue in this case is overstated under the Commission's existing access fee policy, which should be maintained for the reasons I stated previously.

Ignoring the access fee assessment date and assuming the proration of access fees for the entire year, and further assuming a one-hundred percent collection rate, and further assuming zero administrative costs for billing and collection, it appears that in a twelve-month period, the most the Company could reasonably anticipate from access fees is seven months proration of the annual fee for the lots in the section then being developed. The seven months proration represents the average time from when the collection lines are installed until the final sale of the property to the homeowner. Further, given that the build-out of prior sections is substantially completed before a new section is opened for development, coupled with the seven-to-nine-month time frame for installing collection lines, makes it unlikely that more than seven months of proration would fall

within a twelve-month period, even if the opening of a new section for development continuously overlapped by a calendar quarter.

Given the 30 to 40 lot size of each section's development, the annual access fee revenue that could be reasonably anticipated falls in the range of $1,470 for 30-lot sections to $1,960 for 40-lot sections, assuming seven months proration of an annual $84 access fee. In any event, whether it is $1,470 or $1,960, or even the overstated $5,040 proposed by Mr. Dittemore, the contribution to the Company's annual cost of service from access fees is immaterial and has an inconsequential impact on monthly service rates, which is demonstrated by Mr. Dittemore in his Direct Testimony on Exhibit DND-7 (computing a nine-cent reduction in the monthly service rate based on his imputation of $5,040 of access fee revenue).

Q. After acknowledging that his proposed adjustment for access fees is relatively small, Mr. Dittemore states that, due to the size of the planned development in the Company's service territory, access fees may become a material revenue stream in the future. Do you agree?

A. No, not under the current business practice of developing 30 to 40 lots at a time in planned sections and incrementally extending the wastewater system to serve the new section being developed. As explained previously in my testimony, about the most the Company could reasonably anticipate from access fees under the current plan of development is around $2,000 annually. If, however, the current business model changes from planned sections to open development and extension of the wastewater system to a substantial number of lots simultaneously, or if the Company seeks to provide service to a new subdivision or service territory where the wastewater system will be built and service availability provided to lot owners at the

outset of a longer-term development horizon, then access fees may become more material and could potentially provide a meaningful contribution to cost of service. But there is no current basis to make a material adjustment for access fees to the forecasted revenue requirement in this case. Should the circumstances change such that access fees may become a more material and reliable revenue stream in the future, the assessment of access fees could be instituted at that time.

Q. You state that under current business practices, the Company could realize as much as $2,000 annually from assessment of access fees. Is Party Staff proposing any adjustment to the revenue requirement for access fees?

A. No. Even if access fees were assessed, the revenue from such fees would be immaterial and would have an inconsequential impact on the service rate recommended in this case. As Mr. Powell testifies on pages 4 and 5 of his Rebuttal Testimony, the Company projects that access fees for the 28 lots in Section 12 could be as much as $1,372 based on seven months proration of an annual access fee of $84. I have reviewed this testimony and find it reasonable; thus, if any adjustment for pro-forma access fee revenue were to be made in this case, the adjustment should not exceed $1,372.

I am of the opinion, however, that no adjustment should be made because it is immaterial to the Company's overall cost of service and has a de-minimis impact on the service rate. Further, the Company's request to eliminate the access fee tariff is reasonable, especially given the avoidance of the administrative costs and burdens associated with the billing and collection of such an immaterial amount. Finally, the monthly service rate recommended in this case, which does not rely on any access fee revenue, is reasonable and falls squarely in line with the rates of other jurisdictional wastewater utilities. For instance, the Commission approved the following monthly

residential service rates based upon staff-assisted rate studies: (1) in Docket No. 15-00130, a service rate of $47.98 was approved for IRM Utilities; (2) in Docket No. 20-00009, a service rate of $40.48 was approved for Tennessee Wastewater Systems; and (3) in Docket No. 21-00128, a service rate of $45.50 was approved for Aqua Green.

In this case, the Joint Petitioners are recommending a monthly residential service rate of $44.21 based on the cost-of-service study filed in this case. In Exhibit DND-7 of Mr. Dittemore's Direct Testimony, the Consumer Advocate proposes a monthly service rate of $44.12, just nine cents less than the Joint Petitioners' recommendation, which demonstrates the immateriality of the access fee issue in this case.

For these reasons, I am of the opinion that it is reasonable to grant the Company's request to terminate its access fee tariff and to exclude the assessment of access fees for ratemaking purposes.

CONCLUDING REMARKS

Q. Do you have any remarks concerning the consumer comments filed in this proceeding?

A. Yes. Party Staff has reviewed all the consumer comments filed in this case. While I acknowledge the recommended service rate increase is sizeable, I think it is important to understand that the recommended rate is based on a careful study of the Company's reasonable operating costs. Further, as shown by the rate comparisons discussed previously in my testimony, as well as the Consumer Advocate's own recommended rate, the proposed monthly service rate of

$44.21 is reasonable and compares favorably to the rates approved for the Commission's other jurisdictional wastewater utilities.

A major factor driving the amount of the rate increase is that the Company's present rate is stale and does not account for many years of inflationary increases in operating costs. The Company has been operating in Tennessee for seventeen years and, during this time, it has never had a rate case or a service rate increase. Although customers have benefited from paying a lower rate for service that most likely should have been increased sooner, it is unfortunate that a sizeable increase is required to update the Company's seventeen-year-old service rate to cover its current operating costs. It nonetheless is necessary, however, to increase the rate at this time to maintain the financial health and operational viability of the Company as a going concern so that it may continue providing safe and reliable wastewater services.

Q. You compare the Consumer Advocate's proposed rate of $44.12 to support the reasonableness of the Joint Petitioners' proposed rate of $44.21. Please explain.

A. The issues in this case do not cause a material difference in the amount of the proposed monthly service rates. I believe the parties acknowledge that the nine-cent differential between the Consumer Advocate's proposal and the Joint Petitioners' proposal is immaterial. And if the Commission were to approve $44.12 as the Company's new monthly service rate, I think the Company would do well in meeting its reasonable operating costs in the near future. As in all general rate cases in Tennessee, the projected revenue requirement in this case is, after all, based on a forward-looking forecast of reasonably anticipated costs. Rather, Party Staff continues to support the Commission's timely approval of the service rate set forth in the originally filed rate

study because the Consumer Advocate's positions are tied to poor regulatory policy the Commission should reject.

First, the Consumer Advocate would have the Commission delay reasonable rate relief to a utility that is experiencing significant, ongoing financial deficits because of the utility's noncompliance with a rule that has no bearing on base service rates, even though that noncompliance is being appropriately addressed elsewhere through established regulatory proceedings. Also, to arrive at its proposed nine-cent reduction in the service rate, the Consumer Advocate would have the Commission change its long-standing access fee policy of allowing lot owners to request prompt service from existing systems in favor of a policy that could charge lot owners for "access" to systems that are potentially incomplete and incapable of providing service upon request. For the reasons explained in my testimony, the Consumer Advocate's positions are shortsighted and detract from the sound regulatory practices and rate policies established by the Commission. They, therefore, should be denied.

Q. Do you have any concluding remarks?

A. Yes. Based on the cost-of-service study and the administrative record developed in this proceeding, I recommend that the Joint Petitioners' proposed wastewater service tariff and monthly service rate of $44.21 be approved without further delay.

Q. Does this conclude your testimony?

A. Yes.

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

I, Joe Shirley, being duly sworn, state that I am authorized to make this verification on behalf of TPUC Staff (As a Party); that I have read the accompanying Pre-filed Rebuttal Testimony of Joe Shirley and know the content thereof; and that the same are true and correct to the best of my knowledge, information and belief.

Joe Shirley

Joe Shirley

Sworn to and subscribed before me on the 30th day of January, 2023.

Notary Public

My Commission Expires: 12/19/2023

AARON J. CONKLIN
Tennessee Notary Public
Online Notary Public
Rutherford County, State Of Tennessee
My Commission Expires Dec 19, 2023

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E-Signature Summary

E-Signature 1: Joe Shirley (JS)
January 30, 2023 06:11:13 -8:00 [16F1E67B53F5] [170.142.177.97]
joe.shirley@tn.gov (Principal)

E-Signature Notary: Aaron J Conklin (AJC)
January 30, 2023 06:11:13 -8:00 [9753D2BD536F] [170.142.177.97]
aaron.conklin@tn.gov
I, Aaron J Conklin, did witness the participants named above electronically sign this document.