

STATE OF TENNESSEE

Office of the Attorney General



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February 8, 2023

Herbert H. Hilliard
Chairman
c/o Tory Lawless – Docket Manager
Tennessee Public Utility Commission
502 Deaderick Street
Nashville, TN 37243

Electronically Filed in TPUC Docket
Room on February 9, 2023 at 6:59 a.m.

Re: *Joint Petition of Superior Wastewater Systems, LLC and TPUC Staff (As A Party)
to Increase Rates and Charges (TPUC Docket No. 22-00087)*

Dear Chairman Hilliard:

The Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") was granted intervention in this docket by order of the Hearing Officer on November 21, 2022.¹ The purpose of the Consumer Advocate's intervention is to address two issues pertaining to the interest of consumers served by Superior Wastewater Systems, LLC ("Company"). The issues are (1) whether the Company misused escrow funds in violation of Commission Rule 1220-04-13-.07,² and (2) whether the Company failed to assess an "access fee" against undeveloped lots in accordance with its current tariff and the proposed elimination of the access fee from the Company's tariff.³

The Company's escrow activities are currently being audited and reviewed by TPUC Staff in Docket No. 21-00086.⁴ The Company strongly opposed the Consumer Advocate's intervention in Docket No. 21-00086 while also refusing to respond to discovery requests in Docket No. 22-00087 related to the escrow account.⁵ This resulted in a Motion to Compel by the Consumer

¹ *Order Granting the Petition to Intervene Filed by the Consumer Advocate*, TPUC Docket No. 22-00087 (Nov. 21, 2022).

² TENN. COMP. R. & REGS. 1220-04-13-.07.

³ *Direct Testimony of John Powell on Behalf of Superior Wastewater Systems, LLC*, TPUC Docket No. 22-00087 (Sept. 9, 2022). The Consumer Advocate's position is that the access fee should remain in the tariff.

⁴ *Order Opening Compliance Audit Review Docket*, TPUC Docket No. 21-00086 (Sept. 15, 2021).

⁵ *See Superior Wastewater Systems, LLC's Objection to Consumer Advocate Division's Motion to Intervene*, TPUC Docket No. 21-00086 (Dec. 9, 2022); *Superior Wastewater Systems, LLC's Response to Second Discovery Request of the Consumer Advocate*, TPUC Docket No. 22-00087 (Dec. 9, 2022). The "objection" and discovery responses were filed on the same day.

Advocate,⁶ which ultimately became moot when the Consumer Advocate was granted intervention in Docket No. 21-00086 by order of the Hearing Officer on January 12, 2023.⁷

As a result of its intervention being granted in the audit docket, the Consumer Advocate gained access to all filings concerning the Company's escrow account. Accordingly, the Hearing Officer denied the Motion to Compel on February 6, 2023, finding as follows:

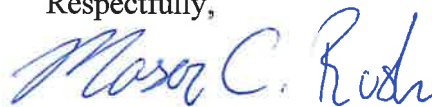
The Hearing Officer has granted the Consumer Advocate's intervention in Docket No. 21-00086, and the Consumer Advocate will have an opportunity to conduct discovery and participate as a party in the docket that was opened to examine the use of escrow funds, among other issues. [...] The information sought by the Consumer Advocate is not relevant to these proceedings, however, the Consumer Advocate is a party in another docket where such issues will be considered.⁸

Considering its progress in Docket No. 21-00086, and in light of the above finding by the Hearing Officer, the Consumer Advocate believes it will be able to fully represent the consumer interest related to the escrow concerns through its participation in Docket No. 21-00086. The matter will not be further pursued by the Consumer Advocate in the present docket.

The sole remaining contested issue before the Commission in Docket No. 22-00087, then, is the access-fee dispute, which centers on the rationale underlying such fees. This is a matter of policy and presents an occasion for the Commission, as the policy maker, to provide needed clarity.

The positions of the parties are articulated in the docket filings.

Respectfully,



Mason C. Rush
Assistant Attorney General

cc: All Parties of Record

⁶ *Consumer Advocate's Motion to Compel*, TPUC Docket No. 22-00087 (Dec. 21, 2022).

⁷ *Order Granting the Petition to Intervene filed by the Consumer Advocate*, TPUC Docket No. 21-00086 (Jan. 12, 2023).

⁸ *Id.* at 5–6.