

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

November 14, 2022

IN RE:)	
)	
PETITION OF ISHA FOUNDATION, INC. TO)	DOCKET NO.
DETERMINE IF A CCN IS NEEDED)	22-00099

INITIAL DETERMINATION THAT CCN IS NOT REQUIRED

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) upon the *Petition of Determination* (“*Petition*”) filed on October 13, 2022, by Isha Foundation, Inc. (“Isha” or “Petitioner”) requesting a determination by the Commission that a Certificate of Public Convenience and Necessity (“CCN”) is not required to provide wastewater service to a proposed Program Accommodations Block (“Project”) to be located on a portion of real property known as the Isha Campus located at 951 Isha Lane, McMinnville, TN 37110.

THE PETITION

Isha is a Tennessee nonprofit corporation formed on November 23, 1998.¹ Kalpana Rajdev is the President of Isha. Isha’s principal office is located at 951 Isha Lane, McMinnville, TN 37110.²

In its *Petition*, Isha asserts that the Project consists of 900 studio apartments to be used as program accommodations by the Petitioner. Specifically, the Project will provide accommodations for members of the public that attend programs conducted at the Isha Campus.³ Along with its *Petition*, Isha submitted the Pre-Filed Testimony of its President, Kalpana Rajdev. Mr. Rajdev testifies that Isha’s activities center on a “customized system of physical exercises and meditations

¹*Petition*, p. 1 (October 13, 2022).

² *Id.* at 1-2.

³ *Petition*, p. 2 (January 11, 2019).

called Isha Yoga....”⁴ He further states that the Isha Campus is a rural retreat campus that includes, meditation halls, a wellness center, and dining facilities for daily visitors. In addition, Isha conducts residential programs on-site that give rise to a need for additional accommodations for program participants. The Project will consist of a total of six (6) buildings.⁵

The Petitioner also plans to construct a wastewater system (“System”) to service the Project, which will consist of an “on-site non-traditional wastewater treatment and drip disposal system, septic tanks, pump tanks, recirculating packed bed treatment filters, ultraviolet disinfection back-up storage pond, subsurface drip irrigation disposal field and reserve subsurface drip irrigation disposal field.”⁶ According to the *Petition*, the System will not serve any permanent residences and will be constructed to serve only the Project.⁷ The Petitioner avers that no fees, rates, or dues will be charged or collected for use of the System. Further, the *Petition* states that if Isha considers providing public utility services in the future it will promptly file a petition for a CCN with the Commission.⁸

FINDINGS AND CONCLUSIONS

Tenn. Code Ann. § 65-4-101(6)(A) defines a public utility as:

every individual, copartnership, association, corporation, or joint stock company, its lessees, trustees, or receivers, appointed by any court whatsoever, that own, operate, manage or control, within the state, any interurban electric railway, traction company, all other common carriers, express, gas, electric light, heat, power, water, telephone, telegraph, telecommunications services, or any other like system, plant or equipment, affected by and dedicated to the public use, under privileges, franchises, licenses, or agreements, granted by the state or by any political subdivision thereof.

Based on the information provided in the *Petition*, the Hearing Officer finds that the Project is not a public utility because the System will be built by Isha for the exclusive use of the Project and the

⁴ *Id.* at Exh. A, Kalpana Rajdev, Pre-Filed Direct Testimony, p. 2.

⁵ *Id.* at Exh. A, p. 2.

⁶ *Id.* at 3.

⁷ *Id.* at 3 and Exh. A, p. 3.

⁸ *Id.*

participants in daily and residential programs hosted at the Isha Campus. The Petitioner will not charge the Isha Campus program participants for utility service. Therefore, under the facts set forth in the *Petition*, the Hearing Officer concludes that the Project is not a “public utility” as defined by Tenn. Code Ann. § 65-4-101(6) and Isha is not required to obtain a CCN from the Commission.

The *Petition* indicates that a total of six (6) program accommodation buildings will be constructed on the Isha Campus and that these buildings are for the purpose of providing accommodations to participants in residential programs conducted on the Isha Campus. While the Petitioner asserts that there will be no permanent residences served by the System and that there will be no charges for utility services for the participants staying in these accommodations, should any of the facts or circumstances set forth in this *Petition* regarding the provision of wastewater service at the Project should change, the Petitioner is directed to notify the Commission immediately.


IT IS THEREFORE ORDERED THAT:

1. Isha Foundation, Inc. is not required to obtain a Certificate of Public Convenience and Necessity from the Tennessee Public Utility Commission to provide wastewater service to its Program Accommodations Block to be located on the Isha Campus located at 951 Isha Lane, McMinnville, TN in the manner set forth in its *Petition of Determination*.

2. Isha Foundation, Inc. must notify the Tennessee Public Utility Commission immediately of any changes in the provision of wastewater service to its Program Accommodations Block by filing an update in this docket file. Changes to the provision of wastewater service may alter the determination set forth in this Order.

3. Any party aggrieved by the decision of the Hearing Officer in this Initial Order may file a Petition for Appeal with the Tennessee Public Utility Commission within fifteen (15) days from the date of this Initial Order.

4. This Initial Order shall become a Final Order of the Tennessee Public Utility Commission, if no petition for reconsideration or appeal of this Order is filed prior to the expiration of the fifteen (15) day appeal period.



Aaron J. Conklin, Hearing Officer