

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

IN RE;)	
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COMPLAINTS AND PETITIONS OF RONALD C. McCABE vs. TENNESSEE WASTEWATER SYSTEMS, INC.))))	DOCKET NO. 22-00105

RONALD C. McCABE’S MOTION TO COMPEL

Ronald C. McCabe (“Petitioner”) 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 directing and requiring Tennessee Wastewater Systems, Inc. (“TWS”) to fully respond to and state an explicit unambiguous answer to certain of the discovery requests set forth in the First Discovery Request of Ronald C. McCabe [“Discovery Request(s)” or “DR(s)”] filed January 20, 2023, in this docket and attached hereto as **EXHIBIT “A”**. Also attached hereto as **EXHIBIT “B”** is Tennessee Wastewater Systems, Inc.’s Response to First Discovery Request of Ronald C. McCabe filed February 10, 2023 in this docket (“TWS Response”).

BACKGROUND

This docket was initiated upon filing by the Petitioner of the Complaints and Petitions of Ronald C. McCabe vs. Tennessee Wastewater Systems, Inc. seeking Show Cause Orders and Declaratory Rulings from the Commission against Tennessee Wastewater Systems, Inc. The Petitioner and TWS have engaged in one round of formal discovery in accordance with the Order Establishing Procedural Schedule filed in this docket dated December 15, 2022. The TWS Response to the Discovery Requests was inadequate and unclear in certain respects and did not fully and specifically respond to the Petitioner’s Discovery Requests. On February 24, 2023, the Petitioner emailed TWS a letter notifying TWS of the TWS Response deficiencies and setting forth in such letter the specific reasons the TWS Response was unresponsive and inadequate. On February 27, 2023, TWS e-mailed the Petitioner a letter stating the letter sent by the Petitioner does not identify unresponsiveness but instead points out your own opinions and interpretations of laws, rules, procedures, and history and, as such, TWS stands by its initial responses and objections.

ARGUMENTS

In most cases, the TWS Responses were either irrelevant, unclear, unresponsive, and/or raised more questions than were answered in such responses to the Discovery Requests. Established Tennessee law encourages broad discovery. According to TPUC rule 1220-01-02-.11(1), where the parties to a contested case before the Commission are not utilizing the informal discovery process, “discovery shall be sought and effectuated in accordance with the Tennessee Rules of Civil Procedure” in which such rules apply in this case.” Rule 26.02 specifically provides that parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter in the pending action. The information and documents sought in the Discovery Requests are relevant and reasonably could lead to other matters that could bear on this case.

Other than TWS’s objection to terms and phrases used by the Petitioner in the Discovery Requests, TWS’s only specific objection in the TWS Response to such requests was to DR #4 where TWS alleged, without support, the Interrogatory as overboard, vague, and unduly burdensome. TWS made no effort to show that the scope and manner of DR #4 were as alleged in their response

SPECIFIC REASONS SUPPORTING THE MOTION TO COMPEL

Set forth below are the Specific Reasons Supporting the Motion to Compel:

Overall-The TWS Response to the Discovery Requests either (i) does not respond to the specific information requested in the discovery request or (ii) the response was insufficient, irrelevant, confusing, and misleading. For example, TWS was requested to respond to three (3) requests for admissions (specifically, **DR #1, DR #3, and DR #10**) in which TWS failed to respond with a simple requested confirm or deny answer.

DR #1- TWS was requested in DR #1 to confirm or deny whether the Sewer Subscription Contract(“Contract”) and Trailing Pages of TWS entirely comply with the General Filing Requirements in TPUC Rules 1220-01-01-.03. TWS responded, in part, to this DR #1 with “A tariff filing is not a formal proceeding contemplated by Tenn. Comp. R. & Reg. 1220-01-01-.03.” This TWS Response goes on to state “ Tariffs are governed by Tenn. Comp. R. & Regs. 1220-0401-.03 and .04. These later referenced TPUC rules of 1220-0401-.03 and .04 cannot be found by the Petitioner and, apparently, do not exist. The Petitioner believes the TPUC rules TWS intends to refer to in this Response is TPUC rules #1220-04-01-.02 and .03. While the Petitioner agrees TPUC rules 1220-04-01-.02 and .03 apply to the filing of the Contract and Trailing Pages and TWS did not comply with these filing rules for either of these documents, the Petitioner should not have to guess as to the meaning of and support for the Responses of TWS to the Discovery Requests. In addition, TWS further states in Response to DR #1 that

“The customer Sewer Subscription Contract and customer “Do’s and Don’ts” are not a part of the formal tariff but are filed with the formal tariff filing *(both underlines added)* as they contain terms and conditions of service that also require review and approval by TPUC.” This later statement by TWS does not comply with TPUC rule 1220-04-01-.03(2) which states “Rules and regulations of the utility that in any manner affects the rates charged or that define the extent or character of the services to be given shall be included with each tariff.” *(underline added)*. Based on this TWS Response, it appears TWS believes the Trailing Pages including the Sewer Subscription Contract are in some special “Twilight Zone” status that does not exist under the TPUC Rules. If TWS is going to make such a bold statement then TWS is requested to specifically identify and cite the authoritative rule/statute/procedure to support it. This TWS Response does not comply with the Petitioner’s Discovery Request to simply confirm or deny whether such documents entirely comply with the General Filing Requirements of TPUC. Furthermore, the above TWS statement that a tariff filing is not a formal proceeding is confusing and needs to be fully explained since it implies a tariff filing is not required to comply with the TPUC General Filing Requirements rules when all of the Official Tariff documents appear to comply with such filing requirements including the specific filing requirements for tariffs under TPUC rule 1220-04-01-.02(1) entitled “Form and Style of Tariffs”.

DR #2-In response to DR #2 requesting TWS to specifically state, explain and justify why TWS did not list and include the Contract and Trailing Pages in the CHECK LIST or TABLE OF CONTENTS to the Official Tariff filed in Docket No. 20-00009, TWS states “The trailing pages are not part of the formal tariff filed by TWSI”. While this Response of TWS confirms the Petitioner’s argument all along that the Contract and Trailing Pages have not been officially filed with the TPUC and, therefore, any terms and conditions in them that are required of ratepayers are null and void, such Response contradicts numerous previous statements by TWS on this official status subject matter and TWS is requested to fully explain, justify and support this Response

DR #3- TWS was requested in DR #3 to confirm or deny whether the Sewer Subscription Contract including the easement language and various other provisions of TWS in such Contract has continuously been a part of the several TWS tariffs filed with the TPUC over the 15-year period TWS admits to using the Contract and easement language. Although TWS required customers to enter into the Contract and acknowledge the easement language over this admitted 15-year period, the Petitioner believes such easement language and Contract were only first made a part of the TWS tariff filing in Docket # 20-00009 filed on October 14, 2020, and was not a part of any other tariff filing of TWS over this admitted period of use. The Petitioner further requested, in the event, TWS confirmed the Contract and easement language were a part of the TWS tariff filings over this 15-year period of time, TWS to specifically state, identify, and list each TPUC Docket Number and dates the Contract was so made a part of the TWS tariff filings over such 15 year period. TWS failed to answer the specific Discovery Requests of DR #3 but, instead, provided a totally irrelevant response with information not requested by the Petitioner apparently intended by TWS to confuse and mislead these proceedings.

DR #4- The Petitioner filed a copy of the recorded Final Plat for the Starr Crest subdivision as EXHIBIT "I(a) to the Direct Testimony of Ronald C. McCabe to prove such recorded plat for the Starr Crest subdivision does not have the easement language described in the Sewer Subscription Contract purported by TWS to already be denoted on such subdivision plat recorded in the public land records and required by TWS to be acknowledged by the Petitioner. The Petitioner believes such easement language is not recorded and does not exist on any of the recorded plats for the subdivisions serviced by TWS. As can be noted on the EXHIBIT "I(a)" Final Plat that On-Site Systems, Inc. (corporate name changed to TWS adopted on June 30, 2003) signed the "SEWAGE DISPOSAL CERTIFICATION on the Final Plat recorded for the Starr Crest subdivision on September 17, 2003, and most likely signed such Certification for the vast majority, if not all, of the recorded plats for the other subdivisions serviced by TWS. The Petitioner incorrectly referred to the term SEWAGE in reference to the Certification in DR#4 as SEWER DISPOSAL CETIFICATION. However, TWS fully knew the Certification the Petitioner was referring to in the Discovery Request and was just playing word games when TWS stated in their Response to DR #4 that "TWSI is also unfamiliar with the term "Sewer Disposal Certification." This Response shows bad faith on the part of TWS. Based on the easement recordings (more appropriately, lack thereof) on the Starr Crest Final Plat, TWS knew the fictitious easement now described in the Contracts do not exist and knowingly lulled unsuspecting customer ratepayers into acknowledging and agreeing to these easement terms and conditions under the pretense they were already recorded in the public land records. These actions by TWS are unfair and deceptive trade business practices. In order to verify and prove whether the easement language in the Sewer Subscription Contract is actually depicted on the recorded plats for the subdivisions serviced by TWS, TWS was requested in DR #4 to select a small random sample, at their sole discretion, of five subdivisions serviced by TWS and provide a copy(along with the related recording information) of the final recorded plats for those subdivisions depicting on those plats the easement language TWS requires customers to acknowledge in the Sewer Subscription Contract. TWS failed to provide even one subdivision plat copy as so requested in DR #4 much less five subdivision plat copies, thereby, confirming the Petitioner's argument the contested easement language does not exist on any of the recorded plats for the subdivisions serviced by TWS. It should be noted any diligent holder of an interest in a property (such as an owner, mortgagee, government regulatory authorities, sewer service provider like TWS, etc.) requested to sign and agree to the information to be recorded permanently in the public records for such property would keep a copy of such plat in their permanent files as a ready available quick reference and as evidence of the plat information agreed to and signed-off on by them. TWS in their Response to this DR #4 provided more irrelevant, confusing, and misleading information that does not specifically respond to DR #4. In the TWS Responses, TWS depicts their actions, knowledge, and role as those of an innocent third-party bystander that is only a totally oblivious outside provider of sewer services to its customer. When in fact, TWS upfront signed the SEWAGE DISPOSAL CERTIFICATIONS on the vast majority of the recorded plats for subdivisions serviced by TWS and knew, or should have known, the information disclosed on those plats including the utility easements when TWS included the fictitious easement language in their Contracts. In most cases, TWS affiliates built the sewer systems at the subdivisions and were well aware of the overall construction operations

going on there. For TWS to now claim they are not aware of those operations and easements recorded in the public records is disingenuous and not being truthful.

DR #5- When TWS was called out in DR #5 to specifically justify and support the TWS reliance on (i) the TDEC rules (as stated in the TWS paragraph #12 statement in the TWS Answer) and (ii) the Mr. Nick answer #17 to his sworn Prefiled Testimony[specifically referencing by Mr. Nick the TDEC Rule 0400-40-06-.05(4)(h)] as the reason TWS needs a broad easement to service customers' properties, the TWS Response in DR # 5 states TWS was not complying with any TDEC rules (contrary to what was stated in the Answer and sworn Prefiled Testimony of Mr. Nick) prior to 2022, but, instead, TWS was complying with a "loose interpretation" of TDEC SOP requirements not identified in the TWS Response to DR #5. The Petitioner is reluctant to point out that TWS has shown a propensity throughout these proceedings to be loose with the truth as has been shown in their filings on the subject matter of DR #5. The Petitioner requests TWS to respond to DR #5 to specifically state, identify, explain, and provide a copy of authoritative TDEC rules and TDEC guidance publications for the Response to DR #5 which TWS has failed to do.

DR #6-When reading paragraph #27 of the Answer filed by TWS and answer #32 of Mr. Nick's sworn Prefiled Testimony leads the Petitioner and these proceedings to believe all the Petitioner had to do, as stated in the above-referenced Answer and Testimony, to be charged the rightful residential rate was for the Petitioner to return a signed copy of the Contract indicating the cabin is used for residential purposes which the Petitioner has done. TWS now specifies in Response to DR #6 that the Contract must be "...an unedited form of the contract acceptable to TWSI...". The American Heritage Dictionary (Second College Edition) defines the term "edited" as "To prepare for publication or presentation, as by correcting or adapting (underline added)". Therefore, the opposite of edited (i.e. "unedited") would then be not to prepare for publication or presentation by correcting or adapting, in this case, the Contract. Based on the TWS Response to DR #6 and the definition of "edit", TWS is requiring the Petitioner to provide TWS a signed Contract containing errors and ambiguities in it in order for TWS to charge the correct residential rate which the Petitioner will not do and does not believe the Commission will rule to make TPUC a party to requiring such action by the Petitioner.

DR #7- The Petitioner requests TWS in DR #7 to specifically state and explain TWS's legal right and justification to require TWS customers, under duress, to contractually agree to use the sewer services of TWS as long as the customer owns their property serviced by TWS. TWS responded to this Discovery Request by arguing over what the policy/practice is labeled by the Petitioner when such policy/practice is spelled out and defined in DR #7 and TWS did not answer the Discovery Request asked of them. The TWS Response to DR #7 cites the mechanics and process by which a CCN is granted to them but does not state a legal basis and justification for the required contractual requirement for customers to use TWS as long as they own their property. TWS operates a monopoly business where customers are locked-in to TWS services by necessity and have no other choice of their own. The TWS requirement for customers to be bound to a written long-term contractual obligation to so use TWS sewer services is overkill, unnecessary, unjust, and unfair.

DR #9- TWS was requested to state, explain and justify why a similar perpetual utility easement TWS enters into with developer/builders of 10 feet in width with 5 feet on either side and parallel to the wastewater lines is not used in the Sewer Subscription Contracts with their ratepaying customers or public utility easements recorded on plats for subdivisions serviced by TWS. TWS provided another irrelevant response in DR #9 by asserting the developer agreements are for collection lines that run through the streets and do not address the service lines and sewer components on individual lot owner's property which is not true when it comes to the Developer agreement for Starr Crest. At the bottom of page 2 of the Sewage System Contract for Starr Crest Resorts & Hidden Springs Resorts attached as Exhibit 8 to the Response of TWS to the Discovery Requests, the DEVELOPER of Starr Crest represents and warrants in such contract "...that written easements will be provided five feet (5) in width on each side of the center line of all sewers installed hereunder other than sewers along the public right-of-way.". This quoted sewer easement given by the Developer for Starr Crest is for "all sewers installed hereunder other than sewers along the public right-of-way" and does not restrict the easement to collection lines. The easement agreed to by the Starr Crest developer is substantially similar or the same as other easement provisions in TWS developer agreements reviewed by the Petitioner. These developer easement provisions applied to all the sewer systems covered by the agreements and did not limit the easement to the collection lines. In fact, it appears to do just the opposite in the Starr Crest agreement and exclude from the sewer easement the collection lines in the public right-of-way streets. The Petitioner repeats the Discovery Request in DR #9.

DR #10 & DR #12-TWS was requested in DR #10 to confirm or deny whether the policy/practice of TWS as stated on the second page of the TWS Billing Statement of "The bill is charged to the property owner whether the property is occupied or vacant" has been disclosed in the tariff filing of TWS to the TPUC. DR #12 requested TWS to state, explain and justify such billing policy/practice and the rationale of how it is reasonable, just, and fair to the public ratepaying customers. TWS responded to DR #10 & DR #12 by using its old tactic of attacking and arguing over what the policy/practice is labeled by the Petitioner when the policy/practice is spelled out/defined in DR #10 and did not answer the Discovery Request #10 to Confirm or Deny its disclosure to the TPUC. TWS further states in its response to DR #10 that it bills customers in accordance with the stated policies and rules contained in its tariff which is not true with respect to this policy/practice. TWS states in response to DR #12 that "TWS does not require anyone to use services they do not need. If a request is made to disconnect services, service is disconnected." The overriding question that TWS does not answer in these statements in DR #12 is whether the customer will be billed and charged after the service is disconnected and will TWS reconnect the customer upon their request and/or will the disconnected customer forfeit their allotted sewer capacity in the community sewer system bought and paid for by the ratepaying public. TWS has made numerous conflicting and confusing statements in its filings in this proceeding about the billing policy/practice stated on Page 2 of the TWS Billing Statement. The Petitioner repeats the request in DR # 10 for TWS to Confirm or Deny the billing policy/practice described in such Discovery Request has been disclosed in its TPUC filings. In addition, the Petitioner repeats the request in DR #12 to fully and specifically state, explain, and justify the billing policy/practice referred to in DR #10 and DR #12 and explain how such billing

policy/practice is reasonable, just and fair to the public ratepayers and not in violation of Tenn. Code. Ann. 65-4-115.

DR #11- In connection with the potential discriminatory application of the policy/practice statements made by TWS in paragraphs #24 and #25 of the TWS Answer filing that customers' requests to discontinue sewer service are considered on a case-by-case basis, TWS was requested in DR #11 to state and identify the specific section and page number in the TWS tariff filing and related Docket Number in which this billing practice/policy (including the specific criteria under which it is applied by TWS) is disclosed to the TPUC. TWS responded to this DR #11 by stating if a customer requests their services to be disconnected, the service is disconnected (also see comments in DR #10 and DR #12 above about the application and consequences of a TWS sewer disconnect). This TWS Response did not answer the request in DR #11 and conflicts with the statements made in the Answer which TWS is requested to fully explain and reconcile these conflicts and specifically answer the Discovery Request in DR #11.

DR #13- In light of the requirement in TPUC 1220-04-01-.03(2) that rules and the regulations of the utility that in any manner affects the rates charged or that define the extent or character of services to be given shall be included in each tariff, please reconcile, fully explain, state, and provide authoritative support for the statement in DR #13 of "TWSI's contract has been reviewed and approved for use by TPUC." with the statement in DR #2 of "The customer Sewer Subscription Agreement (*TWS actual title is "Contract"*) and ... are not part of the formal tariff filing as they contain terms and conditions of service that also require review and approval by TPUC." Under what specific TPUC rules can these two circumstances apply?

DR #14- In paragraph #15 of the TWS Answer, TWS states their service hours (apparently referred to in this Answer Response by TWS in an attempt to sully and reduce the seriousness of the unfettered access the easement gives TWS to my property) are in the TWS tariff and rules and now as stated in DR #14 that such service hours are not in the tariff. This is another example of TWS being loose with the truth.

DR #15- The Petitioner does not agree for the following reasons with the TWS statement in the Response to DR #15 that states "Paragraph 6 of the Sewer Service Agreement [*note- now entitled "Sewer Subscription Contract" by TWS(note added)*] outlines the scope of the easement which states, "This easement provides TWS the right to operate, maintain, construct, install, and repair all components of the sewer system the property, [*note- actual Paragraph 6 has the words "including but" inserted at this point in the quoted sentence(note added)*] not limited to the Interceptor tank and the Interceptor pump in [*note- actual Paragraph 6 has the word "or" instead of "in" at this point in the quoted sentence(note added)*]" Interceptor Gravity Tank systems". This quoted sentence in Paragraph 6 is further garbled by stating "sewer systems the property". More importantly, the overall scope of the easement is established by the first sentence of Paragraph 6 when it states "I acknowledge that TWS, its successors, and assigns have a perpetual easement in, over, under, and upon the above-referenced property as specified on the property plat filed with the register of deeds.". However, none of this easement language

in Paragraph 6 is depicted on the Final Plat for the Starr Crest subdivision and, therefore, does not exist and the Petitioner believes it does not exist for the vast majority, if not all, of the other subdivisions serviced by TWS. Furthermore, TWS makes statements in the Response to DR #15 that are not substantiated and/or supported anywhere in the filings with the TPUC such as “These components are located on the customer’s property but outside the cabin or residence.” and “There are no sewer components located within the cabin or residence for which TWSI is responsible for maintaining or replacing.” The Petitioner repeats the Discovery Request in DR #15 for TWS to specifically state, identify and explain the TWS rationale, evidence, and support to make the TWS denial that the term “property” in the easement language provisions in the Contract does not include the cabin located on the identified property in the Contract. Finally, the TWS Response in Dr #15 attempts to draw a distinction between the terms “upon my property” and “in my property” as they apply to the easement terms in the “Sewer Service Agreement” (*correctly known as the “Sewer Subscription Contract”*) is reminiscent of Bill Clinton uttering “It is what the definition of” is” is”) in trying to justify his previous testimony and such distinction is without merit or support. As I have stated, the term property means the entire whole property which consists of the land, dirt, rocks, leaves, grass, trees, driveway, fences, retaining walls, cabin, etc. It would not make grammatical or practical sense to “enter in my property” which is confusing and open to many different interpretations.

DR #16- Again, in the Response to DR#16 by TWS, TWS makes unsubstantiated and unsupported claims of “All that work is performed outside of the cabin or residence.” and “TWS does not provide any services inside the cabin or residence.” which are not stated in the purported easement in the Contract or the TWS tariff filed with the TPUC. The Petitioner repeats its Discovery request for TWS to fully respond to DR#16.

DR #17- When TWS was requested to state and identify the specific “rules of the Company” where a violation of such rules is listed as a reason to discontinue sewer service to a customer ratepayer, TWS states in their Response to DR #17 that the entire Section 2 of the Tariff titled “Rules and Regulations” serves as the defined list of terms and conditions, or rules, for service. While this entire nine (9) page Section 2 is titled upper case two-word “Rules and Regulations”, no one would know, without asking, that those are the same lower case one-word “rules” TWS is referring to in which a violation of those lower case one-word rules triggers discontinuance of sewer service. This is another example, among many, of TWS ambiguity in its disclosures to the ratepaying public customer. The Petitioner is overly careful in getting the written message understood by the intended recipient including facts, quotes, and proper names and document titles exactly correct often to the detriment of making such correspondence long and wordy. The Petitioner would rather be accused of paying too much attention to detail than to be criticized for not getting the intended message properly and/or correctly understood by others as TWS has failed to do by its ambiguous easement language and as evidenced by the typos, misquotes, poor wording/proof-reading, and mischaracterizations in its filings in these proceedings.

CONCLUSION

The Petitioner hereby respectfully submits this Motion to Compel and requests the Commission to order Tennessee Wastewater Systems, Inc. to fully respond and provide explicit unambiguous answers to the Discovery Requests in the First Discovery Request of Ronald C. McCabe but more specifically the Discovery Requests set forth herein under the caption Specific Reasons Supporting the Motion to Compel. In connection with the Discovery Requests for admissions numbered DR #1, DR #3, and DR #10, in the alternative, the Commission is requested to order Tennessee Wastewater Systems, Inc. deemed to have admitted those requests in accordance with Tenn. R. Civ. P. 36.01 due to the TWS failure to comply with that rule.

Respectfully Submitted,

Ronald C. McCabe
Petitioner

CERTIFICATION OF SERVICE

I, Ronald C. McCabe, Petitioner, hereby certify a true and correct copy of the foregoing document has been served via e-mail on this 2st day of March, 2023 to the following:

Jeff Ridsen
Tennessee Wastewater Systems, Inc.
841 aviation Parkway
Smyrna, TN 37167-2582
Jeff.Ridsen@Adenus.com

Karen Stachowski
Consumer Protection and Advocate Division
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202
TN ConsumerAdvocate@ag.tn.gov

Ronald C. McCabe

CONCLUSION

The Petitioner hereby respectfully submits this Motion to Compel and requests the Commission to order Tennessee Wastewater Systems, Inc. to fully respond and provide explicit unambiguous answers to the Discovery Requests in the First Discovery Request of Ronald C. McCabe but more specifically the Discovery Requests set forth herein under the caption Specific Reasons Supporting the Motion to Compel. In connection with the Discovery Requests for admissions numbered DR #1, DR #3, and DR #10, in the alternative, the Commission is requested to order Tennessee Wastewater Systems, Inc. deemed to have admitted those requests in accordance with Tenn. R. Civ. P. 36.01 due to the TWS failure to comply with that rule.

Respectfully Submitted,



Ronald C. McCabe
Petitioner

CERTIFICATION OF SERVICE

I, Ronald C. McCabe, Petitioner, hereby certify a true and correct copy of the foregoing document has been served via e-mail on this 2st day of March, 2023 to the following:

Jeff Riden
Tennessee Wastewater Systems, Inc.
841 aviation Parkway
Smyrna, TN 37167-2582
Jeff.Riden@Adenus.com

Karen Stachowski
Consumer Protection and Advocate Division
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202
TN_ConsumerAdvocate@ag.tn.gov



Ronald C. McCabe

EXHIBIT "A"

5501 Bellview Ave.
New Port Richey, FL 34652
January 20, 2023

Delivered Via E-Mail & U.S. Mail

Electronically Filed in TPUC Docket Room
on January 20, 2023 at 1:57 p.m.

Hon. Herbert Hilliard, Chairman
Tennessee Public Utility Commission
c/o Ms. Ectory Lawless, Docket Room Manager
502 Dreaderick Street, 4th Floor
Nashville, TN 37243
TPUC.DocketRoom@tn.gov

Re: First Discovery Request of Ronald C. McCabe in the Complaints and Petitions of Ronald C. McCabe vs. Tennessee Wastewater Systems, Inc. Docket No. 22-00105

Dear Chairman Hilliard,

Enclosed for filing is the First Discovery Request of Ronald C. McCabe in the Complaints and Petitions of Ronald C. McCabe vs. Tennessee Wastewater Systems, Inc. An original executed notarized copy of this filing along with four (4) copies of it will be mailed to you at the above address.

If you have any questions on this filing, please e-mail me at rcmbizz@hotmail.com or call me at 727-842-4407.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald C. McCabe", with a long horizontal flourish extending to the right.

Ronald C. McCabe

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

IN RE:)	
)	
COMPLAINTS AND PETITIONS OF)	DOCKET NO. 22-00105
RONALD C. McCABE vs. TENNESSEE)	
WASTEWATER SYSTEMS, INC.)	

FIRST DISCOVERY REQUEST OF RONALD C. McCABE

The following information and/or document(s) are respectfully requested from Tennessee Wastewater Systems, Inc. in the above referenced Complaints and Petitions of Ronald C. McCabe vs. Tennessee Wastewater Systems, Inc. (herein incorporated in its entirety into this First Discovery Request including the defined capitalized terms contained therein) as follows:

1. The General Filing Requirements of TPUC Rules 1220-01-01-.03 requires all documents filed in a formal proceeding to contain a caption stating the style of the proceeding, the docket number, if assigned at the time of filing, and the date and title of the document being filed. Please confirm or deny whether the Sewer Subscription Contract of TWS and the documents thereafter (“Trailing Pages”) included behind the Official Tariff filed in Docket No. 20-00009 complies in its entirety to the General Filing Requirements of the TPUC Rules referenced in the first sentence above. In the event TWS confirms the Trailing Pages comply entirely with such TPUC Rules, please specifically state and identify where on each Trailing Pages document is there printed evidence on such documents that these documents comply with all the General Filing Requirements of the above rule.
2. In the event TWS confirms these Trailing Pages are a part of the tariff filed by TWS, please specifically state, identify and justify the rationale and reason resulting in TWS’s failure to reference and/or identify any of the Trailing Pages documents including the Contract in the CHECK LIST or TABLE OF CONTENTS to the Official Tariff filing in the Docket No. 20-00009 tariff.
3. TWS admits in paragraph 14 of the Answer to using the easement language in their Sewer Subscription Contract for over 15 years. Please confirm or deny whether the Sewer Subscription Contract, including the easement language and various other provisions of TWS, has continuously been a part of the several TWS tariffs filed with the TPUC over such 15 year period of time. In the event TWS confirms such Contract was a part of the TWS tariffs filed over the years as described above, please specifically state, identify and list each TPUC Docket Number and the dates the Contract and its terms, along with the easement language in the Contract, were included with the TWS tariff filing(s) and disclosed to the TPUC over such 15 year period.

4. TWS discloses it serves over 5000 customers which would amount to numerous separate subdivision communities. Therefore, it follows, TWS, most likely, would have signed the Sewer Disposal Certification on the recorded plats for the development and construction of the vast majority of these subdivisions. Although the Final Plat for Starr Crest was recorded in 2003 and such plat does not have the easement language depicted on it that TWS requires the Petitioner to acknowledge in the Contract, TWS states the easement language in the Contract has been used for over 15 years (i.e. 2007 to 2022). In order to prove the easement language in the Contract actually is depicted on plats of subdivisions serviced by TWS over that period of time, please randomly select 5 of those subdivisions serviced by TWS spread evenly over the years 2007 (beginning of 15 year period) thru 2011. Please provide a copy of the final recorded plat, along with its specific book/page/date/Tennessee county name/other recording information, for those selected subdivisions in which such copy of the recorded plat clearly shows and depicts the same easement language and restrictions as TWS requires Ratepayers to acknowledge are recorded in the public records for their properties.

5. TWS references in paragraph #12 of the Answer and in answer #17 of the Mr. Nick testimony that the TDEC easement requirements [more specifically TDEC Rule 0400-40-06-.02(h) which is a new rule effective May 15, 2022] as TWS's justification for an easement giving TWS "unfettered" (term used by TWS in paragraph #15 of Answer) access to my property. This TDEC Rule states the easement required by this rule is to be a recorded perpetual easement in a form approved by the Commissioner and such presentation and approval must be prior to commencement of operation. Please specifically state, identify, explain and provide a copy of authoritative TDEC rules and official TDEC guidance publications describing how this new TDEC Rule, effective in May, 2022, (which is after Starr Crest was plated in 2003 and after this whole dispute over the Contract easement began in 2011 and reemerged in February, 2022) applies to my property in Starr Crest or any other subdivision plated before this easement rule became effective on May 15, 2022.

6. TWS states in paragraph #27 of the Answer and answer #32 of Mr. Nick's testimony that I would be charged the lower residential sewer rate if only I would check the box on the Contract that (de)notes the cabin is for residential use and return a signed Contract to TWS indicating such use. I have complied with each of these required acts as evidenced by the copies of the Clarified Contract attached as Exhibit "VI" to both the Complaints and Petitions and my Direct Testimony. Therefore, please state TWS's interpretation and understanding of the typed X in the box next to the term "Residence" in the top right-hand corner of the Clarified Contract and my signature on the line directly above the term "Subscriber's Signature" in the bottom right-hand corner of such Clarified Contract.

7. TWS's operates a monopoly business with Ratepayers locked-in and forced to use the sewer disposal services of TWS since these captive Ratepayers typically, at least in Starr Crest at this time, have no other choice but to use TWS sewer disposal services. TWS has attempted to justify their requirement for Ratepayers to agree to Forever Use their sewer services as long as the Ratepayer owns their property by stating in paragraph #21 of the Answer that TWS has been granted a CCN to serve Starr Crest 2 in perpetuity. However, no such grant of perpetuity exists in the Order approving such CCN filed in TPUC Docket No. 01-00755 or the statute (Ten. Code Ann 65-4-201) cited in the Order authorizing its issuance. Therefore, in light of the monopoly status and powers TWS holds over its Ratepayers, please specifically state and explain TWS's legal right and justify TWS's requirement for Ratepayers to Forever Use the sewer services of TWS for as long as the Ratepayer owns their property

and, thereby, forego any other options for such services that may become available to them in the future. In addition, please explain and justify how this Forever Use policy/practice of TWS is reasonable, just and fair to the public Ratepayers and not in violation of Tenn. Code Ann. 65-4-115.

8. Please provide the Petitioner with a copy of any and all agreements/contracts/memorandums/letters of understanding/easements/right-of-ways TWS (and its predecessor in name On-site Systems, Inc.) entered into with the developer/builder of Starr Crest.

9. It appears TWS's general practice is to enter into upfront agreements/contracts having easement provisions for sewer service, among other things, with developer/builders of proposed subdivisions before construction begins. Based on a review of several of these developer/builder agreements on file at the TPUC, these agreements grant TWS a perpetual easement of 10 feet in width with 5 feet on either side and parallel to the wastewater lines. The easement requirements in these developer/builder agreements/contracts are reasonable and much less intrusive than the easement in the Contract and specifically track where sewer lines/components are installed and located by developers/builder on the various lot configurations. Apparently, these developer/builder easements accomplish the same purpose with the developer/builder as the easement in the Contract does with the Ratepayers. If these developer/builder easements are good enough and acceptable to TWS, then, please state, explain and justify why such similar easement language is not used in the Contract with the Ratepayers and/or denoted on the recorded plats for their subdivisions.

10. Please confirm or deny whether the Pay For Services Not Used billing policy/practice to charge the property owner whether the property is occupied or not as stated on the second page of the TWS Billing Statement is disclosed in the tariff filing of TWS to the TPUC. In the event TWS confirms such Pay For Services Not Used billing policy is disclosed to the TPUC as described above, please state and identify the specific Section number and Page number of such disclosure in the TWS tariff along with the TPUC Docket Number for such filing.

11. The statement in paragraphs 24 of the Answer (i.e. "Should a customer have no need for current or future sewer service, sewer service may be discontinued, and the monthly sewer rate is not charged." and a somewhat similar statement in paragraph 25 of the Answer (i.e. "customers may request that their services be disconnected if sewer services is not needed for an extended period of time. Such requests are considered on a case-by-case basis." appear, at first glance, to be at the arbitrary sole discretion of TWS and, therefore, fraught with potential discrimination. Therefore, please state and identify the specific section and page number in the TWS tariff filing and Docket Number for such filing in which this billing practice/policy (including the specific criteria under which it is applied by TWS) is disclosed in the tariff filing of TWS to the TPUC .

12. In connection with this Pay For Services Not Used billing policy/practice, please specifically state, explain and justify such billing policy/practice of TWS that subjects captive Ratepayers to pay for sewer services not needed and/or used by them. In addition, please explain and justify how this Pay For Services Not Used billing policy/practice of TWS is reasonable, just and fair to the public Ratepayers and not a violation of Tenn. Code Ann. 65-4-115.

13. Other than the excuse the TPUC rules do not object to and/or prohibit the intermingling and inclusion of other extraneous unrelated TWS requirements (such as the over-board and intrusive easement and Forever Use policy) along side the TPUC water cut-off requirements in the same contract agreement required from the Ratepayers, please specifically state, identify and justify the TWS insistence on having additional TWS provisions and the TPUC water cut-off requirements contractually grouped together in one document required to be agreed to in whole by the Ratepayers.

14. TWS states in paragraph # 15 of the Answer that TWS has defined service hours of 7:30am to 4:30pm as specified in its tariff and rules. Please state and identify the specific Section Number and Page Number in the TWS tariff referred to above and the TPUC Docket Number in which this tariff is filed which discloses these defined service hours of TWS.

15. In paragraph #15 of the Answer, TWS denies the term “property” used in the fictitious easement described in the Contract includes the cabin. The only identifier information on the Contract for the “property” is the address inserted on the line directly above the form typed caption “ADDRESS OF PROPERTY” which, in my case, is 1811 Starr Street, Sevierville, TN 37876. The last time I was at that address there was a cabin built on, permanently affixed and located there. Therefore, please specifically state, identify and explain the TWS rational, evidence and any qualifier exclusion language in the four corners of the Contract to support the TWS denial that the term “property” referenced in the easement provisions of the Contract does not include the cabin located on the identified property.

16. Also, in paragraph #15 of the Answer, TWS denies the easement terms in the Contract gives TWS the right to enter my cabin at any time to perform undefined by TWS “sewer service”. The last sentence of Paragraph #6 easement terms in the Contract requires me to “....grant TWS permission to enter upon my property for any reason connected with the provision or removal of sewer service or collection thereof.” The reference to my property in this sentence of the easement includes the whole property and any improvements to it since there is no exclusion of the cabin from the easement described within the four corners of the Contract. Accordingly, these easement provisions in the Contract give TWS unfettered, unrestricted, unannounced and anytime access to my property without any exceptions for the cabin which is built on and a part of the property. Therefore, please specifically state, identify, justify and provide the evidence and any qualifier exclusion language within the four corners of the Contract supporting the TWS denial that the easement terms in the Contract gives TWS the right to enter my cabin located on the property to perform undefined by TWS “sewer services”.

17. TPUC Rules 1220-04-13-.14(4) requires public wastewater utility’s tariff to define all terms and conditions that relate to denying or discontinuing wastewater service. In Section 2, Original Page 2 of of the TWS tariff under the caption Discontinuance of Service, TWS lists 4 reasons to discontinue sewer service to a Ratepayer. One of these 4 reasons is a “violation of any rules of the Company” making such violation of these unspecified company rules grounds for TWS to terminate a Ratepayers’ sewer service. What are these rules of the Company and where does the public find them? These company rules should be listed and individually disclosed in the TWS tariff but they are not. Therefore, please specifically state, identify and justify (a) the failure of TWS to specifically list and disclose these TWS company rules in the tariff which can trigger discontinuance of sewer service and (b) how this catch-all phrase of a “violation of any rules of the Company”, complies with the TPUC rule requirement to define all terms and conditions in the tariff for discontinuance of sewer service.

AFFIDAVIT

I, Ronald C. McCabe , Petitioner, affirm the statements and requests given in this First Discovery Request are true and correct to the best of my knowledge and belief.

Respectfully submitted,

Ronald C. McCabe
Petitioner

STATE OF FLORIDA)
County OF _____)

The foregoing instrument was acknowledged before me on this 20th day of January, 2023, by Ronald C. McCabe by means of () physical presence or () online notarization, who () is personally known to me or () has produced _____ as identification.

SEAL

Notary Signature

Notary Printed Name & Title

CERTIFICATE OF SERVICE

I, Ronald C. McCabe, Petitioner, certify a true and correct copy of this First Discovery Request has been served via postage prepaid U.S. Mail to the following:

Jeff Ridsen
Tennessee Wastewater Systems, Inc.
851 Aviation Parkway
Smyrna, TN 37167-2582

Karen Stachowski
Consumer Protection and Advocate Division
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202

AFFIDAVIT

I, Ronald C. McCabe , Petitioner, affirm the statements and requests given in this First Discovery Request are true and correct to the best of my knowledge and belief.

Respectfully submitted,


Ronald C. McCabe
Petitioner

STATE OF FLORIDA)
County OF PASCO)

The foregoing instrument was acknowledged before me on this 20th day of January, 2023, by Ronald C. McCabe by means of () physical presence or () online notarization, who () is personally known to me or () has produced DL AL M210 723 49 as identification.

SEAL



LINDA E. CHESTER
Notary Public
State of Florida
Comm# HH004468
Expires 5/28/2024

Notary Signature

Lin. Echazte
Notary Printed Name & Title

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Consumer Protection and Advocate Division
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202

EXHIBIT "B"

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

Re:

COMPLAINTS AND PETITIONS
OF RONALD C. McCABE vs.
TENNESSEE WASTEWATER
SYSTEMS, INC.

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)

DOCKET NO. 22-00105

TENNESSEE WASTEWATER SYSTEMS, INC.'S RESPONSE TO FIRST
DISCOVERY REQUEST OF RONALD C. MCCABE

Tennessee Wastewater Systems, Inc. ("TWSI") files this response the *First Discovery Request of Ronald C. McCabe* ("Discovery Requests").

GENERAL OBJECTIONS

1. TWSI's responses and objections to the Discovery Requests are made solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and any and all other objections and grounds that would require the exclusion of any statement contained herein if made by any witness present and testifying in court. All such objections and grounds are reserved and may be interposed at the time of hearing.

2. TWSI objects generally to the extent the Discovery Requests seek information which is protected by the attorney-client privilege and/or the work-product doctrine.

3. TWSI objects to the extent that the Discovery Requests seek to impose duties or

requirements in addition to any requirements imposed by the Uniform Administrative Procedures Act, found at Tenn.Code Ann. § 4-5-101 et seq. and the Tennessee Rules of Civil Procedure. By answering the Discovery Requests, Plaintiff does not agree to abide by any such instructions, agree to the definitions or requirements created in any defined terms, or any other requirements dictated in the Discovery Requests.

4. TWSI objects to these interrogatories and requests in their entirety to the extent that they seek information and/or documents not in its possession, custody, or control on the grounds that such requests are overbroad and unduly burdensome, and constitute annoyance, harassment, and oppression.

5. TWSI objects to the Discovery Requests in their entirety to the extent that they seek confidential, financial, competitive, or proprietary documents or information. Even if any such information was relevant to this case, TWSI objects to producing any such documents absent a protective order containing an “Attorneys Eyes Only” designation.

6. The following responses are based on the information currently available to TWSI based upon reasonably diligent investigation. Except for the explicit facts admitted herein, no incidental or implied admissions are intended. The fact that TWSI answered all, or any part of a question shall not be construed as a waiver of any objection to any request. TWSI reserves the right to supplement and/or modify his responses based upon the discovery of different or additional information.

Subject to and without waiving its general objections and any specific objections asserted to particular questions, TWSI provides the following responses:

RESPONSES

1. The General Filing Requirements of TPUC Rules 1220-01-01-.03 requires all documents filed in a formal proceeding to contain a caption stating the style of the proceeding, the docket

number, if assigned at the time of filing, and the date and title of the document being filed. Please confirm or deny whether the Sewer Subscription Contract of TWS and the documents thereafter ("Trailing Pages") included behind the Official Tariff filed in Docket No. 20-00009 complies in its entirety to the General Filing Requirements of the TPUC Rules referenced in the first sentence above. In the event TWS confirms the Trailing Pages comply entirely with such TPUC Rules, please specifically state and identify where on each Trailing Pages document is there printed evidence on such documents that these documents comply with all the General Filing Requirements of the above rule.

RESPONSE: A tariff filing is not a formal proceeding as contemplated by Tenn. Comp. R. & Regs. 1220-01-01-.03. Tariffs are governed by Tenn. Comp. R. & Regs. 1220-0401-.03 and .04. The customer Sewer Subscription Agreement and customer "Do's and Don'ts" are not part of the formal tariff but are filed with and part of the formal tariff filing as they contain terms and conditions of service that also require review and approval by TPUC.

2. In the event TWS confirms these Trailing Pages are a part of the tariff filed by TWS, please specifically state, identify and justify the rational and reason resulting in TWS's failure to reference and/or identify any of the Trailing Pages documents including the Contract in the CHECK LIST or TABLE OF CONTENTS to the Official Tariff filing in the Docket No. 20-00009 tariff.

RESPONSE: The trailing pages are not part of the formal tariff filed by TWSI.

3. TWS admits in paragraph 14 of the Answer to using the easement language in their Sewer Subscription Contract for over 15 years. Please confirm or deny whether the Sewer Subscription Contract, including the easement language and various other provisions of TWS, has continuously been a part of the several TWS tariffs filed with the TPUC over such 15 year period of time. In the event TWS confirms such Contract was a part of the TWS tariffs filed over the years as described above, please specifically state, identify and list each TPUC Docket Number and the dates the Contract and its terms, along with the easement language in the

Contract, were included with the TWS tariff filing(s) and disclosed to the TPUC over such 15 year period.

RESPONSE: TPUC Docket 99-00393 contains a copy of TWSI's tariff dating back to 1999 that includes the requirement of customers to execute a contract that contains the easement language. TWSI does not have any records of a current customer contract going back to 1999. The earliest current customer contract that could be located that includes the easement language is 2003 (see attached Exhibits 3A and 3B).

4. TWS discloses it serves over 5000 customers which would amount to numerous separate subdivision communities. Therefore, it follows, TWS, most likely, would have signed the Sewer Disposal Certification on the recorded plats for the development and construction of the vast majority of these subdivisions. Although the Final Plat for Starr Crest was recorded in 2003 and such plat does not have the easement language depicted on it that TWS requires the Petitioner to acknowledge in the Contract, TWS states the easement language in the Contract has been used for over 15 years (i.e. 2007 to 2022). In order to prove the easement language in the Contract actually is depicted on plats of subdivisions serviced by TWS over that period of time, please randomly select 5 of those subdivisions serviced by TWS spread evenly over the years 2007 (beginning of 15 year period) thru 2011. Please provide a copy of the final recorded plat, along with its specific book/page/date/Tennessee county name/other recording information, for those selected subdivisions in which such copy of the recorded plat clearly shows and depicts the same easement language and restrictions as TWS requires Ratepayers to acknowledge are recorded in the public records for their properties.

RESPONSE: 4. TWSI objects to this interrogatory as overbroad, vague, and unduly overburdensome. TWSI is also unfamiliar with the term "Sewer Disposal Certification". Many older subdivisions, especially in East TN with the cabin communities do not have dedicated public utility easements. At the same time, most communities served by TWSI have dedicated easements. When issuing customer contracts, it's impossible for customer service to know which communities have easements and which do not. That is one of the reasons why the contract language is broad -- it must be broad enough to encompass the

different easement scenarios associated with the developments served by TWSI. The contract language acts as both an acknowledgment for those customers that have recorded easements so that they are aware of those easements and grants TWSI an easement in those situations where either a public utility easement does not exist or where sewer system components are not installed within the recorded easement.

5. TWS references in paragraph #12 of the Answer and in answer #17 of the Mr. Nick testimony that the TDEC easement requirements [more specifically TDEC Rule 0400-40-06-.02(h) which is a new rule effective May 15, 2022] as TWS's justification for an easement giving TWS "unfettered" (term used by TWS in paragraph #15 of Answer) access to my property. This TDEC Rule states the easement required by this rule is to be a recorded perpetual easement in a form approved by the Commissioner and such presentation and approval must be prior to commencement of operation. Please specifically state, identify, explain and provide a copy of authoritative TDEC rules and official TDEC guidance publications describing how this new TDEC Rule, effective in May, 2022,(which is after Starr Crest was plated in 2003 and after this whole dispute over the Contract easement began in 2011 and reemerged in February, 2022) applies to my property in Starr Crest or any other subdivision plated before this easement rule became effective on May15, 2022.

RESPONSE: Prior to 2022 TDEC had not established formal rules governing State Operating Permits (SOP). Instead, SOPs were governed by a loose interpretation of Tenn. Comp. R. & Regs. 0400-40-05 which are the rules for NPDES (direct discharge) permits. Prior to TDEC's establishment of the SOP rules, the requirement for ownership or easement over the system components was contained in the SOP language. That SOP language was the source of the language in the new rule. So, while not a formal requirement under TDEC rules until 2022, TDEC required ownership or easement over all sewer system components, including the collection system, as a permit requirement in the SOP to operate the wastewater system.

6. TWS states in paragraph #27 of the Answer and answer #32 of Mr. Nick's testimony that I would be charged the lower residential sewer rate if only I would check the box on the Contract

that (de)notes the cabin is for residential use and return a signed Contract to TWS indicating such use. I have complied with each of these required acts as evidenced by the copies of the Clarified Contract attached as Exhibit "VT" to both the Complaints and Petitions and my Direct Testimony. Therefore, please state TWS's interpretation and understanding of the typed X in the box next to the term "Residence" in the top right-hand corner of the Clarified Contract and my signature on the line directly above the term "Subscriber's Signature" in the bottom right-hand corner of such Clarified Contract.

RESPONSE: The contract must be in a form acceptable to TWSI. You have yet to execute an unedited form of the contract acceptable to TWSI, so until that happens, you continue to be billed at the commercial rate. This is further supported by your testimony in which you state that your intent was and is to rent your cabin.

7. TWS's operates a monopoly business with Ratepayers locked-in and forced to use the sewer disposal services of TWS since these captive Ratepayers typically, at least in Starr Crest at this time, have no other choice but to use TWS sewer disposal services. TWS has attempted to justify their requirement for Ratepayers to agree to Forever Use their sewer services as long as the Ratepayer owns their property by stating in paragraph #21 of the Answer that TWS has been granted a CCN to serve Starr Crest 2 in perpetuity. However, no such grant of perpetuity exists in the Order approving such CCN filed in TPUC Docket No. 01-00755 or the statute (Tenn. Code Ann 65-4-201) cited in the Order authorizing its issuance. Therefore, in light of the monopoly status and powers TWS holds over its Ratepayers, please specifically state and explain TWS's legal right and justify TWS's requirement for Ratepayers to Forever Use the sewer services of TWS for as long as the Ratepayer owns their property and, thereby, forego any other options for such services that may become available to them in the future. In addition, please explain and justify how this Forever Use policy/practice of TWS is reasonable, just and fair to the public Ratepayers and not in violation of Tenn. Code Ann. 65-4-115.

RESPONSE: TWSI objects to the term "Forever Use policy/practice" as TWSI has no such policy or practice. For a public utility subject to TPUC's jurisdiction to establish and serve a territory, TPUC must first determine whether there is a present and/or future need for

public utility service in the proposed territory. Once that need is determined by the Commission, it grants what is called a Certificate of Convenience and Necessity (CCN). This CCN allows the public utility to provide its services within the approved service territory so long as the Commission's rules are followed, and the public need for utility service exists. In TPUC Docket 01-00755 the Commission determined that such a need existed at Starr Crest II and granted TWSI a CCN to serve the development. TWSI is bound by this CCN to provide service to the development so long as the public need continues to exist at Starr Crest II.

The fact that TPUC has reviewed and approved of TWSI's rules and regulations as contained in its tariff, customer contract, and "Do's and Don'ts" customer manual, is justification that TWSI's policies do not violate Tenn. Code Ann. § 65-4-115.

8. Please provide the Petitioner with a copy of any and all agreements/contracts/memorandums/letters of understanding/easements/right-of-ways TWS (and its predecessor in name On-site Systems, Inc.) entered into with the developer/builder of Starr Crest.

RESPONSE: See Exhibit 8.

9. It appears TWS's general practice is to enter into upfront agreements/contracts having easement provisions for sewer service, among other things, with developer/builders of proposed subdivisions before construction begins. Based on a review of several of these developer/builder agreements on file at the TPUC, these agreements grant TWS a perpetual easement of 10 feet in width with 5 feet on either side and parallel to the wastewater lines. The easement requirements in these developer/builder agreements/contracts are reasonable and much less intrusive than the easement in the Contract and specifically track where sewer lines/components are installed and located by developers/builder on the various lot configurations. Apparently, these developer/builder easements accomplish the same purpose with the developer/builder as the easement in the Contract does with the Ratepayers. If these developer/builder easements are good enough and acceptable to TWS, then, please state, explain and justify why such similar

easement language is not used in the Contract with the Ratepayers and/or denoted on the recorded plats for their subdivisions.

RESPONSE: The easements in the developer agreements are for the collection lines that run through and under the streets and other property within the subdivision and do not address the service lines and other system components located on an individual lot owner's property. The easement in the customer sewer agreement is for the service line and tank are not shown on the plat because the location/footprint of the cabin or residence is unknown before the lot is sold and a particular floor plan selected. That ultimately dictates where the line and tank is situated on the lot and then the easement is required to allow access to those components to perform inspections and maintenance.

10. Please confirm or deny whether the Pay For Services Not Used billing policy/practice to charge the property owner whether the property is occupied or not as stated on the second page of the TWS Billing Statement is disclosed in the tariff filing of TWS to the TPUC. In the event TWS confirms such Pay For Services Not Used billing policy is disclosed to the TPUC as described above, please state and identify the specific Section number and Page number of such disclosure in the TWS tariff along with the TPUC Docket Number for such filing.

RESPONSE: TWSI objects to the phrase "Pay For Services Not Used billing practice/policy". TWSI does not have such a policy or practice and is unaware of what this phrase means. TWSI bills customers in accordance with the stated policies and rules contained in its tariff.

11. The statement in paragraphs 24 of the Answer (i.e. "Should a customer have no need for current or future sewer service, sewer service may be discontinued, and the monthly sewer rate is not charged." and a somewhat similar statement in paragraph 25 of the Answer (i.e. "customers may request that their services be disconnected if sewer services is not needed for an extended period of time. Such requests are considered on a case-by-case basis." appear, at first glance, to be at the arbitrary sole discretion of TWS and, therefore, fraught with potential discrimination. Therefore, please state and identify the specific section and page number in the TWS tariff filing

and Docket Number for such filing in which this billing practice/policy (including the specific criteria under which it is applied by TWS) is disclosed in the tariff filing of TWS to the TPUC.

RESPONSE: If a customer calls and asks for their services to be disconnected, the service is disconnected.

12. In connection with this Pay For Services Not Used billing policy/practice, please specifically state, explain and justify such billing policy/practice of TWS that subjects captive Ratepayers to pay for sewer services not needed and/or used by them. In addition, please explain and justify how this Pay For Services Not Used billing policy/practice of TWS is reasonable, just and fair to the public Ratepayers and not a violation of Tenn. Code Ann. 65-4-115.

RESPONSE: TWSI objects to the phrase "Pay For Services Not Used billing practice/policy". TWSI does not have such a policy or practice and is unaware of what this phrase means. TWSI does not require anyone to use services they do not need. If a request is made to disconnect service, service is disconnected.

13. Other than the excuse the TPUC rules do not object to and/or prohibit the intermingling and inclusion of other extraneous unrelated TWS requirements (such as the over-board and intrusive easement and Forever Use policy) along side the TPUC water cut-off requirements in the same contract agreement required from the Ratepayers, please specifically state, identify and justify the TWS insistence on having additional TWS provisions and the TPUC water cut-off requirements contractually grouped together in one document required to be agreed to in whole by the Ratepayers.

RESPONSE: TWSI objects to the characterization of its contract requirements as "overbroad and intrusive". TWSI also objects to the phrase "Forever Use policy". TWSI has no such policy, and it is unclear with the phrase means. The sewer subscription agreement obtains customer consent and acknowledgment of certain TWSI and TPUC rules and requirements. It is easier and more economical to include all these items in one document rather than several. Per TPUC rules, TPUC reviews and approves such

documents before the Utility is allowed to use them and provide them to customers. TWSI's contract has been reviewed and approved for use by TPUC.

14. TWS states in paragraph # 15 of the Answer that TWS has defined service hours of 7:30am to 4:30pm as specified in its tariff and rules. Please state and identify the specific Section Number and Page Number in the TWS tariff referred to above and the TPUC Docket Number in which this tariff is filed which discloses these defined service hours of TWS.

RESPONSE: The service hours are not stated in the tariff as it is not a tariff requirement. Hours are stated on the company's website and on the monthly bill sent to customers. The website information and bill statements also include the afterhours number customers may call should they require emergency assistance after 4:30PM.

15. In paragraph #15 of the Answer, TWS denies the term "property" used in the fictitious easement described in the Contract includes the cabin. The only identifier information on the Contract for the "property" is the address inserted on the line directly above the form typed caption "ADDRESS OF PROPERTY" which, in my case, is 1811 Starr Street, Sevierville, TN 37876. The last time I was at that address there was a cabin built on, permanently affixed and located there. Therefore, please specifically state, identify and explain the TWS rational, evidence and any qualifier exclusion language in the four corners of the Contract to support the TWS denial that the term "property" referenced in the easement provisions of the Contract does not include the cabin located on the identified property.

RESPONSE: Paragraph 6 of the Sewer Service Agreement outlines the scope of the easement which states, "This easement provides TWS the right to operate, maintain, construct, install, and repair all components of the sewer system the property, not limited to the Interceptor tank and the Interceptor pump in Interceptor Gravity Tank systems". These components are located on the customer's property but outside the cabin or residence. There are no sewer system components located within the cabin or residence for which TWSI is responsible for maintaining or replacing. Further, the last sentence of that paragraph says that permission is granted to enter "upon my property", not "in" my

property. The language used aligns with the commonly held belief that you enter upon land, but into a structure, such as a cabin.

16. Also, in paragraph #15 of the Answer, TWS denies the easement terms in the Contract gives TWS the right to enter my cabin at any time to perform undefined by TWS “sewer service”. The last sentence of Paragraph #6 easement terms in the Contract requires me to “....grant TWS permission to enter upon my property for any reason connected with the provision or removal of sewer service or collection thereof.” The reference to my property in this sentence of the easement includes the whole property and any improvements to it since there is no exclusion of the cabin from the easement described within the four corners of the Contract. Accordingly, these easement provisions in the Contract give TWS unfettered, unrestricted, unannounced and anytime access to my property without any exceptions for the cabin which is built on and a part of the property. Therefore, please specifically state, identify, justify and provide the evidence and any qualifier exclusion language within the four corners of the Contract supporting the TWS denial that the easement terms in the Contract gives TWS the right to enter my cabin located on the property to perform undefined by TWS “sewer services”.

RESPONSE: TWSI objects to Petitioner’s commentary and opinion of the contractual language as argumentative. The scope of the easement contained in Paragraph 6 relates to the provision of wastewater services, including the disconnection and reconnection of the services. All that work is performed outside of the cabin or residence. TWSI does not provide any services inside the cabin or residence.

17. TPUC Rules 1220-04-13-.14(4) requires public wastewater utility’s tariff to define all terms and conditions that relate to denying or discontinuing wastewater service. In Section 2, Original Page 2 of of the TWS tariff under the caption Discontinuance of Service, TWS lists 4 reasons to discontinue sewer service to a Ratepayer. One of these 4 reasons is a “violation of any rules of the Company” making such violation of these unspecified company rules grounds for TWS to terminate a Ratepayers’ sewer service. What are these rules of the Company and where does the public find them? These company rules should be listed and individually disclosed in the TWS tariff but they are not. Therefore, please specifically state, identify and justify (a) the failure of

TWS to specifically list and disclose these TWS company rules in the tariff which can trigger discontinuance of sewer service and (b) how this catch-all phrase of a “violation of any rules of the Company”, complies with the TPUC rule requirement to define all terms and conditions in the tariff for discontinuance of sewer service.

RESPONSE: Section 2 of the Tariff is titled “Rules and Regulations”. The entire section serves as the defined list of terms and conditions, or rules, for service.

VERIFICATION

State of Tennessee)
County of Rutherford)

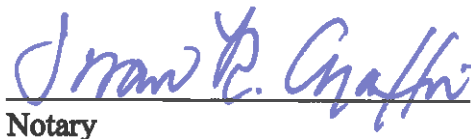
Matthew Nicks, first being duly sworn, says that I am authorized to verify the foregoing answers to these Discovery Requests and that they are true to the best of my information and belief, based on a review of relevant, available, accessible information as well as upon my personal knowledge.



Affiant

Personally appeared before me, Susan R. Chaffin, notary public of this county, Rutherford, the within named witness, with whom I am personally acquainted, and who acknowledged that such person executed the within instrument for the purposes therein contained.

Witness my hand, at office, this 9 day of February, 2017: 2023


Notary

My commission expires: 01/25/2024



CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served upon:

Ronald C. McCabe, CPA
5501 Bellview Ave.,
New Port Ritchey, FL 34652
rcmbizz@hotmail.com

and

Karen Stachowski, Senior Assistant Attorney General
Financial Division, Consumer Advocate Unit
Office of Tennessee Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
Karen.Stachowski@ag.tn.gov

via email on this 10th day of January 2023.



Jeff Riden

On-Site Systems, Inc.

TARIFF

Proposed Effective date 8-1-99

TABLE OF CONTENTS

	<u>Page</u>
Rate Schedule - Oakwood Subdivision - Maury County	2
Rate Schedule - South Ridge Estates - Montgomery County	3
Rate Schedule - Swan Harbor Subdivision - Roane County	4
Rate Schedule - River Road Utility District - Cheatham County	5
Rate Schedule - Milcrofton Utility District - Williamson County	6
Rate Schedule - Tall Oaks Subdivision - Blount County	7
Rate Schedule - Yoakum Hollow Development - Campbell County	8
Rate Schedule - Shreibman Development - Cannon County	9
Rate Schedule - Cornerstone of Mitchell Creek - Overton County	10

On- Site Systems, Inc.
Sewer Service Billing Structure
Oakwood Subdivision
Maury Co.
Residential Sewer Rate

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$8.23	\$2.90	2
Utility costs - Sand - Gravel Filter treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Maury County	\$1.56	0	9
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$36.39	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

No commercial customers are anticipated on this system

Effective _____

**On-Site Systems, Inc.
Sewer Service Billing Structure
Southridge Subdivision
Montgomery Co.**

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment and disposal - by the city of Clarksville - pass through of actual costs	actual costs	0	15
Utility costs - Pumping Station and Metering Station	\$0.85	0	3
Sampling and Testing costs - Required by State of Tennessee	\$0.00	0	
Billing and collection costs	\$1.50	0	6
Miscellaneous costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.00	0	
Bonding costs - Required by Montgomery County	\$0.00	0	
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.00	0	
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$18.43 + act cost	\$8.35	

Fees: Non payment - 5%, Disconnection - \$10, Reconnection - \$15 Returned Ck- \$20 Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

\$25.00 + pass through of actual treatment and disposal costs

Effective _____

On-Site Systems, Inc.
Sewer Service Billing Structure
Swan Harbor
Roane County
Residential Sewer Rate

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$6.23	\$2.90	2
Utility costs - Sand - Gravel Filter treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Roane County	\$0.00	0	
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$34.83	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

Commercial rates will be based on waste strength, system components and gallons of flow -unknown at this time

Effective _____

**On-Site Systems, Inc.
Sewer Service Billing Structure
River Road Utility District
Cheatham County
Residential Sewer Rate**

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs -for Lagoon System	\$2.60	\$1.20	2
Utility costs - Lagoon treatment	\$0.30	0	3
Disposal system costs - point discharge	\$0.00	0	4
Sampling and Testing costs - Required by State of Tennessee	\$9.20	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Cheatham County	\$0.00	0	9
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$30.87	\$7.55	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

Commercial rates will be based on waste strength, system components and gallons of flow -unknown at this time

Effective _____

On-Site Systems, Inc.
Sewer Service Billing Structure
Milcrofton Utility District
Williamson Co.
Residential Sewer Rate

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$6.23	\$2.90	2
Utility costs -Sand -Gravel Filter Filter treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	6
Billing and collection costs	\$1.50	0	7
Miscellaneous Costs	\$0.40	0	8
State of Tennessee Department of Environment Annual Fee	\$0.52	0	9
Bonding costs - Required by Williamson County	\$2.10	0	10
Franchise - Excise Taxes - Utility Company	\$0.82	0	11
Property taxes -Williamson County	\$0.67	0	12
Federal Taxes	\$1.11	0	13
Local management fee	\$2.00	0	14
Corporate management fee	\$2.80	0	15
	<hr/>	<hr/>	
Total	\$36.93	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

Commercial rates will be based on waste strength, system components and gallons of flow -unknown at this time

Effective _____

On-Site Systems, Inc.
Sewer Service Billing Structure
Tall Oaks Subdivision
Blount County
Residential Sewer Rate

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$8.23	\$2.90	2
Utility costs - Sand - Gravel Filter treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Blount County	\$0.00	0	
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$34.83	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

No commercial customers are anticipated on this system

Effective _____

**On-Site Systems, Inc.
Sewer Service Billing Structure
Yoakum Hollow Development
Campbell County
Residential Sewer Rate**

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$8.23	\$2.90	2
Utility costs - Sand - Gravel Filter treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Campbell County	\$0.00	0	
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$34.83	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

No commercial customers are anticipated on this system

Effective _____

On-Site Systems, Inc.
Sewer Service Billing Structure
Shrelbman Development
Cannon County
Residential Sewer Rate

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$6.23	\$2.90	2
Utility costs - Sand - Gravel Filter treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Cannon County	\$0.00	0	
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$34.83	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

Commercial rates will be based on waste strength, system components and gallons of flow -unknown at this time

Effective _____

**On-Site Systems, Inc.
Sewer Service Billing Structure
Cornerstone of Mitchell Creek
Overton County**

**Residential Sewer Rate
(See sheet 10A)**

	<u>Monthly Charge</u>	<u>Amount to be Escrowed</u>	<u>Reference Exhibit</u>
Collection System Maintenance and operation	\$8.95	\$8.35	1
Treatment system costs - for Sand - Gravel Filter System	\$8.23	\$2.90	2
Utility costs - Sand gravel treatment & Pump station	\$1.30	0	3
Disposal system costs - using drip irrigation	\$1.53	\$0.88	4
Sampling and Testing costs - Required by State of Tennessee	\$7.00	0	5
Billing and collection costs	\$1.50	0	6
Miscellaneous Costs	\$0.40	0	7
State of Tennessee Department of Environment Annual Fee	\$0.52	0	8
Bonding costs - Required by Overton County	\$0.00	0	
Franchise - Excise Taxes - Utility Company	\$0.82	0	10
Property taxes	\$0.67	0	11
Federal Taxes	\$1.11	0	12
Local management fee	\$2.00	0	13
Corporate management fee	\$2.80	0	14
Total	\$34.83	\$10.13	

Fees: Non payment- 5%, Disconnection- \$10, Reconnection-\$15, Returned Ck - \$20, Access - \$84/yr
(See Rules and Regulations for explanation)

Commercial Sewer Rate

Commercial rates will be based on waste strength, system components and gallons of flow -unknown at this time

Effective _____

**On-Site Systems, Inc.
Sewer Service Billing Structure
Cornerstone of Mitchell Creek
Overton County**

Residential Sewer Rate

**On-Site Systems, Inc. petitioned the TRA on May 19, 1999
for a Certificate of Convenience and Necessity to serve this development.
As of the date of this rate petition, this CCN has yet to be approved and
this service area is not included in any customer or financial projections.**

Exhibit 1

On-Site Systems, Inc. Collection System Operation and Maintenance Costs

	Average Monthly Cost	Amount to be Escrowed
Tank pumping - usually once in 3 to 4 years - average -each (42 months) \$130 per pumping /42 = \$3.10 / month	\$3.10	\$3.10
Equipment replacement costs - for pumps, control panels, valves, etc. - average over a 20 year period - (240 months)		
Materials and equipment costs - 1 pump, 1/2 control panel, 2 float switches - cost - \$570.00		
Labor costs - 7 hours at \$30 / hour = \$210.00		
Total - \$780/240 = \$3.25	\$3.25	\$3.25
Preventative maintenance - annual system checks and corrections labor - .44 hr @ \$30/ hr = \$13.20 : \$13.20 / 12 months = \$1.10 / month	\$1.10	0
Service calls - based on Ashland City and Oregon information - service truck and technician - .025 hr per home / mo X \$60.00 / hr = \$1.50	\$1.50	0
	<hr/>	<hr/>
Total	\$8.95	\$6.35

Exhibit 2

On-site Systems, Inc. Treatment System Costs

Sand Gravel Filter

	Average Monthly <u>Cost</u>	Amount to be <u>Escrowed</u>
Annual preventative maintenance - clean dosing system - check valves - check pumps - clean top of filter - check electrical control system - clean recirculating tank Costs - somewhat variable depending on filter size average - one hour per EDU per year - cost \$30.36 / 12 = \$2.53	\$2.53	0
Trouble calls - .02 hr / month/ EDU : .02 x \$40.00 / hr = \$.80 / month - based on historical record of filters maintained by Pickney Bros.	\$0.80	0
Equipment replacement costs - pumps, valves, media, electrical control systems - (Average over 20 year period - 240 months) For 40 EDU - Pump costs - \$ 4,800.00 - one media replacement - \$20,000.00 Electrical control system components and misc.- \$3,040.00 average cost per customer per month = \$696.00 / 240 = \$2.90	\$2.90	\$2.90
Total	\$6.23	\$2.90

Lagoon

Annual preventive maintenance - remove vegetation, repair aerators, clean liner Estimated cost - \$1.10 per month per EDU	\$1.10	0
Trouble calls - .01 hr / EDU - .01 x \$30.00 / hr = \$.30 per EDU per month	\$0.30	0
Equipment replacement costs - averaged over 20 years Liner, valves, aerator system and controls - \$11,520.00 For 40 EDU - \$11,520.00 /40 = \$288.00 / EDU - \$288.00 /240 = \$1.20 / month	\$1.20	\$1.20
Total	\$2.60	\$1.20

* Note: An EDU is an Equivalent Dwelling Unit. It represents one average household.

Exhibit 3

On-Site Systems, Inc. Utility Costs

Sytems with Sand Gravel Filter Treatment

The major utility will be electricity and the largest users of electricity are the pumps. For systems with sand gravel filter treatment and an average of 40 homes the estimated cost for electricity is \$32.00 per month. $\$32.00 / 40 = \0.80 / month per home

**Average
Monthly
Cost**

**Amount
to be
Escrowed**

\$0.80

0

Sytems with Lagoon Treatment

The major utility will be electricity which is needed to power the aerators and in some cases pumps. For systems with lagoon treatment and an average of 40 homes, the estimated cost for electricity is \$12.00 per month. $\$12.00 / 40 = \0.30 / month per home

\$0.30

0

Systems with Pump Stations

The cost of electricity for pump stations will depend on the gallons of effluent being pumped.

Assuming a single pump station will serve 40 homes, the estimated cost of electricity per pump station is \$20.00 / month -
 $\$20.00$ per month / 40 homes = $\$0.50$ per home per month

\$0.50

0

Sytems with Metering Stations

The average monthly cost of electricity for a Metering Station is \$14.00
 $\$14.00 / 40$ homes = $\$0.35$ per home per month

\$0.35

0

Exhibit 4

On-Site Systems, Inc. Disposal System costs

Drip Irrigation

	<u>Average Monthly Costs</u>	<u>Amount to be Escrowed</u>
Annual preventative maintenance - check dosing system, clean distribution piping system, clean filters, check electrical control system Cost - .135 hrs / EDU / year x \$40.00 / hr = \$5.40 / year = \$.45 / month	\$0.45	0
Trouble calls - variable depending on travel time Cost - .06 hrs / EDU / year x \$40.00 / hr = \$2.40 / year = \$.20 / month	\$0.20	0
Equipment replacement costs - Pumps, filters, drip pipe distribution system, electrical control system Cost - (over a 20 year period) - \$211.20 / 240 - per EDU / mo = \$.88 / month	\$0.88	\$0.88
Total	\$1.53	\$0.88

Exhibit 5

On-Site Systems, Inc.

Sampling, Testing and Reporting Costs

Average
Monthly
Cost

Amount
to be
Escrowed

The State of Tennessee, Department of the Environment, Division of Water Pollution Control, issues an operating permit for each sewage treatment facility and as part of the permitting process, sets limits on the amount of various components of the waste stream that can be discharged. In order to monitor the process, the state requires the operator to evaluate system parameters, take samples, have those samples tested in a qualified laboratory and report the results of those tests to the state. At present, these tests are required at least on a monthly basis, but can be more frequent depending on the permit and the type of disposal system. Other important variables in this process are the travel time to gather the samples and costs to get the samples to the laboratory. On-Site Systems intends to contract for these services across the state with reputable companies as near to the systems as practical. Whenever it can be arranged, On-Site intends to require the company collecting the samples to do some system checks and minor adjustments.

With Drip Irrigation Disposal

The average cost for this service is estimated at \$280.00 / month. This estimate is based on preliminary experience with contracting for these services and the expected permit requirements by the state. For an average of 40 homes per system the monthly cost per home is $\$280.00 / 40 = \7.00

\$7.00

0

With Lagoon and Point Discharge Disposal

The average cost of this service is estimated at \$368.00 / month. This estimate is based on infrequent discharges (probably two per month and minimal testing requirements). If more frequent discharges become necessary this cost will rise substantially. For an average of 40 homes per system the monthly cost per home is $\$368.00 / 40 = \9.20

\$9.20

0

Exhibit 6

On-Site Systems, Inc.

Billing and Collection Costs

It is the intention of On-Site Systems, Inc. to use the most efficient means of billing and collection available for each service area. As a practical matter, it is usually best if the water supplier (usually a Utility District) will do a joint bill for water and sewer. A survey of members of the Tennessee Association of Utility Districts showed that the charge for billing and collection services ranged from a low of \$1 per month to a high of \$2.50 per month. Due to facility and personnel constraints, many water suppliers are not willing to provide billing and collection services. In these situations, On-Site will endeavor to contract with a local company to do billing and collection. In some circumstances On-Site may be forced to pay premium prices for these services.

**Average
Monthly
Cost**

**Amount
to be
Escrowed**

Estimated Billing and Collection Costs

\$1.50

0

Exhibit 7

On-Site Systems, Inc.

Miscellaneous Costs

This category covers costs such as legal enforcement of contracts, annual TRA fees, rate case expenses and other costs that do not fit into the above categories.

	Average Monthly <u>Cost</u>	Amount to be <u>Escrowed</u>
Estimated Miscellaneous Costs	\$0.40	\$0

Exhibit 9

On-Site Systems, Inc.

Bonding Costs

It is the position of On-Site Systems, Inc. that with the oversight of the Department of the Environment, Division of Water Pollution Control and the Tennessee Regulatory Authority and the set aside of escrow funds to provide for tank pumping and future equipment replacement needs, that a bond is not necessary to insure the security of the sewer system and the company in the future. Unfortunately, some local governing bodies have imposed bonding requirements on the company. While a legal challenge could be made to their actions, we have chosen to cooperate and provide the required bonding. It is hoped that over time as more and more of these systems prove their successful operation, these bonding requirements will be reduced or eliminated.

Maury County Oakwood Subdivision

At present, the Maury County Commission is requiring On-Site to provide a \$100,000.00 bond in the form of a letter of credit at Cheatham State Bank. The normal cost of a letter of credit is 1% ; in this case \$1,000.00. Since we expect to only have 3 customers in Oakwood Subdivision this year, this is a problem. Due to a very good business relationship with the bank, the fee was waived for 1998. It is uncertain what will happen for 1999 and beyond. In order to keep the sewer rate for Oakwood in the moderate range, it was estimated that over a 5 year period the number of homes in the subdivision will grow to an average of 40 and the bond will be reduced in stages from \$100,000.00 to \$50,000.00.

Average Bond- $\$100,000 + \$50,000 / 2 = \$75,000.00$.

Cost of Bond- $\$75,000 @ 1\% = \750.00

$\$750.00 / 12 \text{ mo.} = \$62.50 / \text{mo.}$

$\$62.50 \text{ mo.} / 40 \text{ homes} = \$1.56 / \text{mo.}$

Only time will tell if these assumptions are realistic.

Estimated monthly bonding costs - Maury County - **\$1.56** Escrow - \$0.00

Williamson County Milcrofton Utility District

The first project going through the approval process in the Milcrofton Utility District in Williamson County is the Lewis Gardens Development. The Williamson County Planning Commission has not set a final bond amount, but it is anticipated that it will be substantial. It is expected that within 5 Years, Lewis Gardens could have 120 to 150 homes paying sewer bills. Assuming an average of 80 homes over those 5 years and an average bonding cost per year of \$2,016.00, the average monthly bonding cost per home for Lewis Gardens in Williamson County is \$2.10. ($\$2,016.00 / 12 \text{ months} = \$168.00 / \text{month} : \text{for } 80 \text{ homes} = \$2.10 \text{ per home per month}$)

Estimated monthly bonding costs - Williamson County **\$2.10** Escrow - \$0.00

Exhibit 11
On-Site Systems, Inc.
Property Taxes

	<u>Average Monthly Cost</u>	<u>Amount to be Escrowed</u>
Property taxes on land based on treatment and disposal area needed for 40 homes		
Estimated land value - \$50,000		
Tax - based on estimated value - \$320.00 / year		
For an average of 40 homes - $\$320 / 480 = \$0.67 / \text{month}$	\$0.67 / month	0

Exhibit 12

On-Site Systems, Inc.

Federal Taxes

On-Site Systems, Inc. will have to pay tax on the net amount placed in escrow. In the years covered by our projection, this will result in a substantial outlay of cash for payment of taxes.

	<u>Average Monthly Costs</u>	<u>Amount to be Escrowed</u>
Escrow amount to be treated as profit - average over a 10 year period (Annual amount escrowed) - (annual equipment replacement costs) (\$121.56) - (\$77.16) = \$44.40 / yr.		
Net monthly taxable amount = \$44.40 / 12 = \$3.70 / month		
Estimated tax on \$3.70 = \$1.11	\$1.11	0

Exhibit 13

On-Site Systems, Inc.

Local Management Fee

It is the intention of On-Site Systems, Inc. to contract with other companies to provide local and regional management of the day to day operations. This is necessary to hold costs down and provide reliable service to numerous small systems throughout the state.

An example of this is the contractual arrangement that On-Site Systems Inc. has made with Southeastern Environmental Engineering of Knoxville to manage the East Tennessee Region. For a fee of \$2.00 per month, Southeast Environmental will manage the day to day operations of the company, insuring that maintenance providers, billing, collection and other services are being performed properly and that any customer problems are handled.

Local management fee -

\$2.00 per customer per month

Exhibit 14

On-Site Systems, Inc.

Corporate Management Fee

The four Pickney Brothers, Charles, Robert, William and Thomas, who own On-Site Systems, Inc. are pleased to be able to identify the need for sewer service in a given community and utilize their technical capabilities to provide an environmentally sound solution to that need and do so at a reasonable cost. There are many critical elements to insure that an On-Site sewer system is properly designed, constructed and maintained.

The Pickney Corporate Team has over 50 years of combined on-site sewer system experience. The Corporate Management Fee is compensation to the owners of the company for the company's ability to provide public sewer service to communities that would otherwise not have it and an incentive to continue to seek out additional opportunities to provide service.

Corporate Management Fee - \$2.80 per month per customer

Exhibit 15

On-Site Systems, Inc. Pass Through Treatment and Disposal Costs

In most cases, On-Site Systems, Inc. will provide the collection, treatment and disposal systems needed to process the sewage from the customers served. Occasionally, a city or utility district has a treatment plant in close proximity to the service area and it is financially advantageous to run a pipe line to that plant instead of building treatment and disposal facilities.

Example Southridge Subdivision - Montgomery County

All of the sewer effluent collected from homes in Southridge Subdivision is sent by pipeline to the city of Clarksville. The city currently charges On-Site Systems the "outside the city limits" rate of \$5.40 per 1,000 gallons of effluent treated and disposed of. The costs are then passed through to the customers who live in Southridge. The monthly sewer bill to the customers in Southridge has two components, a fixed component which covers On-Site's costs and a variable component, based on water usage, which passes through the charges from the city of Clarksville. As an example, a customer who uses 5,000 gallons of water per month would have a pass through cost of $5 \times \$5.40 = \27.00 . Per our contract with the city of Clarksville, they will adjust the amount they charge annually and On-Site will pass through that amount.

Treatment and disposal costs - Pass through of actual costs

Escrow - \$0.00

RULES AND REGULATIONS

Governing the sewage collection and treatment systems of On-Site Systems, Inc.

Statement of Purpose

The general purpose of these rules and regulations is:

1. To establish procedures for furnishing sewage collection and treatment services on a uniform basis to customers within the Company's service area.
2. To provide standards and procedures for:
 - a. Acceptable sewage characteristics
 - b. Protection of the integrity of the water tight system
 - c. Engineering design standards
 - d. Construction standards and inspection requirements
 - e. Quality of materials

Definition of Terms

1. Company - The word Company shall mean On-Site Systems Inc.
2. Engineer - The word Engineer shall mean the consulting engineer of On-Site Systems Inc.
3. Customer - The word Customer shall mean any person , firm, corporation, association or government unit furnished sewage services by the Company.

Effective Date _____

4. **Property-** The word property shall mean all facilities owned and operated by the Company.
5. **TRA -** The letters TRA shall mean the Tennessee Regulatory Authority.
6. **STEP Tank -** The words STEP Tank shall mean the septic tank located near the building which accepts waste and contains a pump vault.
7. **STEG Tank -** The words STEG Tank shall mean the septic tank located near the building which accepts waste and contains an effluent filter.
8. **Service Line -** The words Service Line shall mean the line from the STEP/STEG Tank to a Collector Line.
9. **Collector Line -** The words Collector Line shall mean the line from the Service Line to the Main Line.
10. **Main Line-** The words Main Line shall mean the line from the Collector Line to the treatment facility.
11. **Building Outfall Line -** The words Building Outfall Line shall mean the line that carries waste from the building to the STEP/STEG Tank .

12. Pumping Station - The words Pumping Station shall mean a tank that contains pumps and receives effluent from STEG Tanks and / or Collector Lines.

Authorization of Rules and Regulations

On-Site Systems, Inc. is a corporation organized and engaged in business as a public utility in the State of Tennessee. Under a Certificate of Convenience and Necessity issued by the Tennessee Regulatory Authority on April 4th, 1994, under Docket No. 93-09040, the Company submits the following statement of its rules and regulations in compliance with Rule 602.2.

Effect of Rules and Regulations

All provisions of these rules and regulations shall be incorporated in each contract with each sewage system customer of the Company.

Utility Items on Private Property

The Company shall own and maintain all STEP and STEG tanks, control systems and service lines required to provide sewer service on the Customer's premises.

The Customer must execute an agreement granting an easement to the Company for maintenance of the sewer system. The building plumbing and Building Outfall Line shall be maintained by the Customer.

Effective Date _____

Discontinuance of Service

Service under any application may be discontinued for the following reasons:

1. Non-payment of bill as hereinafter set forth below
2. For misrepresentation in the application
3. For adding to the property or fixtures without notice to the Company
4. For molesting any service pipe, tank, control system, filter or any property of the Company in any way whatsoever
5. For violation of any rules of the Company
6. For disconnecting or re-connecting service by any party, other than a duly authorized agent of the Company, without the consent of the Company

Non-payment penalties

A non-payment penalty of five percent (5%) of the monthly charge will be due after the due date shown on the bill. If payment is not received within fifteen days after the due date, a written notice will be sent to the customer. If payment is not received within 15 days of the written notice, sewer service will be turned off from the customer's property, with no additional notice being sent. No service shall be reconnected if discontinued for non-payment (or any other valid reason) until all charges have been paid, including disconnection and reconnection fees. The disconnection fee is \$10 and the reconnection fee is \$15.

Effective Date _____

Returned Checks

A check returned by the bank will incur a fee of \$20.00.

Changes in Ownership, Tenancy of Service

A new application and agreement must be made and approved by the Company on any change in ownership of property, or in tenancy, or in the service as described in the application. In the event of failure of a new owner or tenant to make such application, the Company shall have the right to discontinue service until such new application is made and approved.

Security Deposits

Each new Customer, before connection or reconnection of the service, will be required to make a refundable deposit to secure payment of sewage service bills in an amount double the monthly bill for that particular type of customer. Interest of six (6%) percent will be paid on any such refundable deposit for the period it is held by the Company.

Sewer System Access Fee

The owner of each property parcel which is provided a tap when the sewer system is built, will be required to pay a sewer access fee of \$84.00 per year.

This fee will be payable each year by December 15th, for owners of record as of December 1st. As each customer attaches to the sewer tap and signs up for service, they will pay a pro-rated access fee for that year and thereafter the fee will not be charged.

Engineering, Materials and Construction Standards

1. General - This specification covers the type of sewer system required for various design conditions of sewers constructed by developers.

The requirements called for are minimum in all cases. Bedding conditions, material specifications, sealing requirements and installation methods are the responsibility of the design engineer and must be approved by the Company Engineer. Design and construction of sewer lines shall meet the requirements of the State of Tennessee Department of Environment, in addition to this specification. Where conflicts exist, the more restrictive shall govern.

2. All sewage collection system components are to be water tight.

This includes Building Outfall Lines, all tanks, Collector Lines, Service Lines, and Main Lines. Collector Lines and Main Lines are to be tested to 100 pounds per square inch of water pressure. Risers and lids are to be water tight.

3. STEP and STEG Tanks are to be installed near the building to be served. The tanks are to be set in a level condition and tested for water tightness before backfilling.

4. All pipe is to be PVC . Classes and sizes will be per Engineer's design and in all cases SDR 21 class 2000 will be the minimum allowable.

5. Only wastewater drains are to be connected to the sewer system. No water sources such as roof drains, sump pumps, condensate lines and swimming pools shall be connected to the sewer system.

Special Pretreatment Sewage Requirements

For all sewage connections the Company reserves the right to require any non-residential user to provide special pre-treatment for any high strength effluent before discharge into its sewage system. The Company may, upon the basis of recognized engineering standards and treatment costs, increase the rate charged to

cover the cost of treatment of high strength effluent, commercial or industrial waste, and may impose standards as to the maximum size of solids and constituents in such waste discharged into its sewage system.

Additionally, if excessive volumes of sewage are received, the Company may require the Customer to monitor flow volume and increase surge holding capacity at the Customer's expense. All customers will be required to follow the Do's and Don'ts list for an Effluent collection system, supplied to them by the Company. These requirements prohibit the dumping of any toxic chemicals that kill tank bacteria and disposal of an excessive amount of grease, among other things.

Damages

The company shall in no event be responsible for maintaining any building outfall line owned by the customer, nor for damages created by sewage escaping therefrom, nor for defects in Customer's building lines or fixtures. The customer shall at all times comply with all regulations of the Tennessee Regulatory Authority and of the Company.

Effective Date _____

**On-Site Systems
Rules and Regulations
TRA # 2**

Revised Sheet #9

All leaks in any building pipe or fixture on the premises of the Customer shall be immediately repaired by the Customer. On failure to repair any such leak, the service may be discontinued until repairs are made.

Inspection

All pipes, valves and fixtures shall at all reasonable hours, be subject to inspection by the Company or its duly authorized agent.

In Event of Emergency

The Company shall not be liable to the Customer for interruption in service, or for damages or inconvenience as a result of any interruption, stoppage, etc., which was beyond the reasonable control of the Company. In case of an emergency, call 615-356-7294 or pager 615 -951-7048.

Service Area

The Company will provide service within it's current service area. Additions to the service area must be approved by the Tennessee Regulatory Authority.

Effective Date _____

Extension Plan

The Company may furnish sewer service to property owners whose lands abut the Main Line of existing sewer systems. The sewer service charges listed in the sewer billing structure do not include costs for constructing the sewer system. Any sewer system components required to service such abutting properties shall be constructed at the cost of those parties desiring same, and these components shall become the property of the Company, to be credited to the account for contributions in aid of construction. In addition, treatment system component costs will be paid by the Customer desiring to hook on to the system. Sewer service to new areas within a service territory will be made available where it is technically feasible and the developer or property owner is willing to bear the expense of designing and building the sewer system.

Contributions in Aid of Construction

Sewer system components furnished by developers and land owners to the Company will be recognized as contributions in aid of construction in the amount of the actual cost of construction. Capital contributions from developers will be treated in a like manner.

**On-Site Systems
Rules and Regulations
TRA # 2**

Revised Sheet #11

Contracts for Service

Each customer, before installation of service, shall be required to execute
a Sewer Service Agreement.

Customer Billing Forms

Customer billings will vary by location. Where the local water provider is willing
to do joint billing, that will be the method. In most instances, coupon books will be
issued for payment of a flat monthly fee. In cases where pass through treatment costs and
commercial customers are involved, a monthly bill will be sent to the customer and be
based on the gallons of water used.

Public Contact

**Charles L. Pickney , Jr.
7638 River Road Pike
Nashville, TN 37209
Phone - 615- 356- 7294**

Effective Date _____

On-Site Systems
Rules and Regulations
TRA # 2

Revised Sheet #12

Tennessee Regulatory Authority Regulations

The Company, in its operation, shall conform with all the applicable rules and regulations promulgated from time to time by the Tennessee Regulatory Authority. Phone # 1-800-342-8359

Effective Date _____

SEWER SERVICE AGREEMENT

On-Site Systems, Inc.
 P. O. Box 22771
 Knoxville, TN 37933-0771

This agreement entered into between On-Site Systems, Inc., a Tennessee Corporation, hereinafter called "On-Site" and [REDACTED] hereinafter called "customer".
 (Print Name)

WITNESSETH

Whereas, customer desires to purchase sewer services from On-Site and to enter into a sewer service agreement and On-Site desires to provide sewer services.

Now therefore, in consideration of the mutual covenants, promises and agreements herein contained, it is hereby understood and agreed by the parties hereto as follows:

In compliance with laws and environmental regulations set forth by the state of Tennessee, On-Site shall provide sewer services to the customer's property located at the following address:

1939 Legacy Dr. 37876
 Address City State and Zip Code
 45 Starr Crest II 2
 Lot # Number of Bedrooms
 Rejuvenation [REDACTED] 5-9-03
 Cabin Name per Dennis

The customer shall provide an address in which monthly bills are to be sent:

[REDACTED]

Home Telephone Number

The customer agrees to grant to On-Site, its successors and assigns, a perpetual easement in, over, under and upon the above described land, with the right to erect, construct, install and maintain sewer system components.

The customer shall be responsible for operation and repair of the outfall line to the septic tank and all plumbing in structures on the property described above.

On-Site shall be responsible for operation and repair of all components of the sewer system starting at the septic tank as described above and all elements of the STBG (septic tank effluent gravity) or STEP (septic tank effluent pumping) system.

The customer agrees to pay a security deposit of \$60.00 and to pay for sewer service in accordance with authorized rate schedules present and future and to use same in accordance with applicable rules and regulations that have been provided. The time and place of payment will be as set forth by On-Site.

On-Site shall purchase and install a cut-off valve and shall have exclusive right to use such valve.

The failure of the customer to pay sewer service charges duly imposed shall result in the imposition of the following penalties:

1. Payment after the due date will be subject to a penalty of five percent of the delinquent account.
2. Non-payment with thirty days from the due date will result in the sewer service being shut off from the property, with no final notice being sent.
3. In the event it becomes necessary for On-Site to shut off the sewer service from the property, a fee of \$10.00 will be charged for disconnection of the service.
4. Before the service can be reconnected, all charges must be paid, including a re-connection fee of \$15.00.
5. A \$20.00 service charge will be applied for any returned checks.
6. If On-Site employs a collection agency to collect any amount not paid by customer, customer shall pay all of On-Site's costs to employ the collection agency. If any suit, action or proceeding is instituted by On-Site to collect any amount not paid by customer, customer shall pay all of On-Site's reasonable attorney fees and collection costs whether incurred before, during or after a trial, or before, during or after an appeal.

This agreement shall remain in effect for the duration of time that the customer owns the above described property.

IN WITNESS THEREOF, we have executed this agreement this 22nd day of

April, 20 03.

On-Site Systems, Inc.

Vice President

[Redacted Signature]

Customer

**SEWERAGE SYSTEM CONTRACT
FOR STARR CREST RESORTS & HIDDEN SPRINGS RESORTS**

This AGREEMENT, made and entered into this 4thth day of October, 2000, by and between On Site Systems, Inc., a Tennessee Corporation, hereinafter referred to as "UTILITY" and USSERY CONSTRUCTION CO and HIDDEN SPRINGS DEVELOPMENT, INC. hereinafter referred to jointly as "DEVELOPER".

WITNESSETH

For and in consideration of the construction costs hereinafter mentioned and the mutual promises of the parties hereinafter contained, particularly that the UTILITY will in the future be responsible for the repair, maintenance, and replacement of the sewage collection, treatment, and disposal system to be installed to serve this development and to maintain the total system, and other good and valuable considerations, the receipt of all which is acknowledged, the parties hereto have entered into the following agreement:

The DEVELOPER is to install said sewage collection, treatment, and disposal system in accordance with drawings, plans, and specifications as approved by the UTILITY's engineers.

The DEVELOPER is to perform all of the necessary work for the installation of said system, completely install the system at no cost whatsoever to the UTILITY, all in accordance with the drawings, plans, and specifications hereinabove referred to, and for that purpose has entered into a contract for completion of that work.

DEVELOPER provides herewith a bond or letter of credit payable to the UTILITY in the amount of \$145,932, the estimated design and construction cost of the project (\$126,732.00), the estimated cost of Sewage Collection System, as previously defined, (\$15,000.00), and the estimated cost of the septic tank inspections (\$4,200.00).

All construction begun, continued, and completed hereunder shall be subject to the supervision and approval of the UTILITY'S engineers and representatives who shall have a continuous right of inspection throughout the progress of the work. No pipe, fittings, or connections shall be covered until inspected and approved by the UTILITY.

It is specifically understood and agreed that all fees and construction costs for said sewage collection, treatment, and disposal system shall be paid by the DEVELOPER.

In the event of change in the drawings or plat of the subdivision by agreement of the parties prior to the actual installation of the facilities provided for in the plans and specifications, then such changes shall be deemed incorporated in this contract as though set out in verbatim herein, and a copy of said changed plans shall be attached to this contract and made a part hereof. All changes shall be in writing, shall be signed by all parties hereto, and shall specify the cost or savings

resulting from the change.

In addition to the costs of the installation herein provided for, the DEVELOPER hereby agrees to pay to the UTILITY prior to submission of final plats to the Sevier County Planning Commission a fee of \$14,593.00 equal to ten percent of the estimated construction cost of the sewage collection, treatment, and disposal system. Upon completion of construction, DEVELOPER will provide UTILITY an itemized accounting of the actual cost of the system as constructed. If the actual costs exceed the estimate, DEVELOPER will pay UTILITY an additional fee equal to ten percent of the difference between the actual and estimated costs. Conversely, if the actual construction costs are less than estimated, UTILITY will reimburse DEVELOPER an amount equal to ten percent of the difference between the actual and estimated costs.

The DEVELOPER further agrees:

That the DEVELOPER will immediately repair at its own cost and expense all breaks, leaks, or defects of any type-whatsoever occurring within one (1) year from the date said system is accepted by the UTILITY; and that, upon failure of the DEVELOPER to take immediate steps to make such repairs, the UTILITY is authorized to make such repairs or to have such repairs made at the cost and expense of the DEVELOPER.

Service connections for all service sewers to the property line of each lot in said subdivision shall be installed by the DEVELOPER as a part of the construction contract. Watertight tanks and service connection lines approved by the UTILITY are required and may be installed by either the house builder or DEVELOPER at their respective expense.

That the owner of each property parcel for which a service connection to the sewerage system is provided shall pay a sewer access fee of \$84 per year until such time as the property is developed and attached to the service connection. The fee is first payable by December 15, 2001 for owners of record as of December 1, 2001 and each year thereafter until actual hookup to System. As each lot sewer is connected to the service connection, the owner will pay a pro-rated portion of the fee for that calendar year and, thereafter, the annual sewer access fee will not apply.


The OWNERS shall retain exclusive right to any additional capacity resulting from extension or enlargement of System, provided that UTILITY approves provision of such additional capacity.

Upon completion of the installations contracted for herein, the DEVELOPER hereby represents and warrants that same shall be paid for in full and that no liens or encumbrances shall remain for the design and installation of said work.

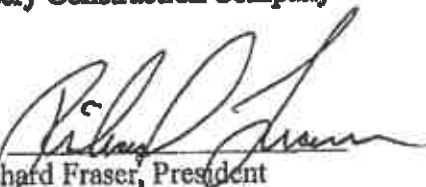
By execution of this agreement, the DEVELOPER hereby represents and warrants that said sewage collection, treatment, and disposal system will be in accordance with the foregoing provisions and the plans and specifications above mentioned, and that written easements will be provided five feet (5') in width on each side of the center line of all sewers installed hereunder other than sewers along the public right-of-way.

It is agreed that the UTILITY shall have an exclusive right to use all of the sewage collection, treatment, and disposal system and the land on which said systems are located in the subdivision and the DEVELOPER hereby conveys to the UTILITY said exclusive right to use all of said systems and lands dealt with herein without the necessity of any further contract or deed for a period of 99 years or so long as said property is used for waste collection, treatment, and disposal whichever shall first occur. UTILITY shall have the right to renew at any time said exclusive right to use all of the sewage collection, treatment, and disposal system and the land on which said systems are located in the subdivision.

IN WITNESS WHEREOF, the parties hereto have entered into this agreement as of the day and date first written above.

By: 
Michael Hines, M.S., P.E., Vice President
On-Site Systems, Inc.

By: 
Randall E. Ussery, President
Ussery Construction Company

By: 
Richard Fraser, President
Hidden Springs Development, Inc.