

² *Petition*, p. 1 (December 8, 2022).

to provide wastewater services within the State of Tennessee. In its *Petition*, TWSI seeks to expand its service area to provide wastewater services to the Lake Haven Subdivision in Jefferson County.³

In support of its *Petition*, the Company filed maps showing the location of the Lake Haven Subdivision development, documents demonstrating the corporate structure and management experience of the Company, and letters from local governments and utility systems indicating that the area is not served by or in the service territory of another wastewater service provider.⁴ Upon completion of construction of the system, it will serve 103 single family homes.⁵

The Company also filed the testimony of Matthew Nicks, President of TWSI.⁶ Mr. Nicks testifies that TWSI received its initial CCN in 1994, has been granted over 100 CCNs, and provides wastewater services to over 5,100 customers in twenty-three (23) Tennessee counties.⁷ Mr. Nicks states that the proposed Lake Haven subdivision is located in Jefferson County, Tennessee and is proposed to have 103 commercial cabins. Because Lake Haven is a commercial cabin community of the type that typically generate flows in excess of design guidelines, the system has been designed to accommodate the larger flows of such cabin communities. Mr. Nicks also states that the collection system will be a septic tank effluent pump system, with septic tanks and pumps at each building. The tanks will discharge to collection lines that will connect the wastewater to the central treatment system (a Recirculating Media Filter type system.) The treated effluent will be disinfected and applied to land through drip irrigation, which is similar to the majority of systems owned and operated by TWSI. The treatment system will be constructed to provide service to the Lake Haven Subdivision with 72,000 gpd.⁸ As Lake Haven is generally a commercial cabin community, customers will be able to elect to

³ The Lake Haven development rests on the border of Jefferson and Sevier Counties. The treatment facility will be located on lands that lie in the Sevier County portion of the development. However, no lots that will be served by the TWSI system will be located within Sevier County. Rather, all served lots will be within Jefferson County. *Id.* at 2.

⁴ *Id.* at 2-3, Exhs. 4, 5, 6, 12A, 12B, and 15.

⁵ *Id.* at 2.

⁶ Matthew Nicks, Pre-Filed Direct Testimony (December 8, 2022).

⁷ *Petition*, p. 2 (December 8, 2022).

⁸ *Id.* at 2.

indicate that the cabin will be used as a residence rather than a commercial rental property and will be charged the tariffed residential rate upon such election.⁹

The Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) filed a letter on January 5, 2023 requesting clarification of certain information and additional information that the Consumer Advocate determined was required to meet the Commission’s minimum filing requirements. In response, TWSI filed the requested information on January 19, 2023.¹⁰ No party sought intervention in this matter.

THE HEARING

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on May 8, 2023, as noticed by the Commission on April 28, 2023 and by Amended Noticed published on May 1, 2023. Participating in the Hearing were:

Tennessee Wastewater Systems – Jeff Ridsen, Esq., General Counsel and Matthew Nicks, President, 851 Aviation Pkwy., Smyrna, Tennessee.

During the Hearing, Matthew Nicks, President of TWSI, presented testimony on behalf of the Company and adopted and summarized his Pre-Filed Direct Testimony. Mr. Nicks was subject to questions from the voting panel of Commissioners and Commission Staff. Members of the public were given an opportunity to offer comments, at which time, no comments were submitted.

STANDARD FOR COMMISSION APPROVAL

A public utility is not permitted to begin construction or operation of a new utility service without first obtaining a CCN from the Commission, as set forth in Tenn. Code Ann. § 65-4-201(a), which states:

⁹ *Id.* at 3.

¹⁰ *Tennessee Wastewater Systems, Inc. Response to MFR Letter Dated January 5, 2023 from Karen Stachowski, Consumer Advocate* (January 19, 2023).

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the commission, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.¹¹

Additionally, in order to obtain a CCN to provide wastewater service, TPUC Rule 1220-04-13-.17 (1) provides:

Any public wastewater utility requesting a Certificate of Public Convenience and Necessity (“CCN”) in accordance with Tenn. Code Ann. §§ 65-4-201, et seq., shall file an application that complies with Rule 1220-01-01-.03 and this rule. Each applicant shall demonstrate to the Commission that it possesses sufficient managerial, financial, and technical capabilities to provide the wastewater services for which it has applied. Each application shall demonstrate that there exists a public need for wastewater service and include the required financial security consistent with Tenn. Code Ann. § 65-4-201, and these rules.¹²

The rule further establishes minimum information filing guidelines for applications for new or expanded CCNs.¹³

FINDINGS AND CONCLUSIONS

In its *Petition*, TWSI has asked the Commission to amend its CCN to include the Lake Haven Subdivision in Jefferson County, Tennessee, alleging that the Company possesses the managerial, technical, and financial capability to provide service to the subdivision. Based on a review and consideration of the pleadings, the Pre-Filed Testimony, and the entire administrative record, the voting

¹¹ Tenn. Code Ann. § 65-4-109 (Supp. 2019).

¹² Tenn. Comp. R. & Regs. 1220-04-13-.17.

¹³ *Id.*

panel made the following findings and conclusions:

The panel found that the Lake Haven Subdivision requires wastewater service to move forward with the proposed development and that the proposed development is not currently connected to a wastewater treatment facility operated by any other municipal utility, utility district, or other private wastewater utility. No other utility is seeking to serve the parcel. Therefore, the panel voted unanimously that there exists a public need to provide wastewater service to the Lake Haven Subdivision as required by Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-04-13-.17(1).

The panel found that TWSI has demonstrated that it possesses the requisite managerial, financial, and technical capabilities to provide wastewater service to the Lake Haven Subdivision. In addition, TWSI is in good standing with the Commission and is in compliance with all Commission rules. Based upon these findings, the panel voted unanimously to grant the Company's *Petition*, contingent upon the filing of the following documents:

1. The deed and/or easements for all the land and ownership rights to the wastewater system within fifteen (15) days of being issued and before the first customer is connected to the wastewater system, along with a copy of the title insurance policy. The title policy should include that the Sewage Facility Land is free and clear of all material or interfering encumbrances, including, but not limited to, any monetary liens in the name of TWSI for the full amount of the construction of the Sewage Facility and the value of the Sewage Facility Land as set forth in contracts submitted by TWSI with the Commission;
2. A final copy of the State Operating Permit issued by the Tennessee Department of Environment and Conservation within fifteen (15) days of issuance;
3. A copy of the as-built plans with signed certification by TWSI indicating the wastewater system has been inspected and is approved to begin operation;
4. A copy of the signed plat once the area of development is approved by the City

and/or County government within fifteen (15) days of being issued and before the first customer is connected to the wastewater system.

5. A copy of the performance bond from the developer or builder of the wastewater system made payable to the Utility to ensure the construction of the wastewater system. The performance bond should be for an amount equal to or greater than the cost of the system as provided in contracts between the builder, developer and/or utility; and

6. Evidence of the final amount of contributed capital being transferred to TWSI no later than fifteen (15) days after the final plat is signed by the utility.

The panel also directed the Company to file a report in this docket demonstrating its compliance with the filing requirements prior to providing wastewater service to the Lake Haven Subdivision. In the event the compliance report is not filed, the panel directed TWSI to file within six (6) months from the date of this order, and every three (3) months thereafter until the installation is complete, a report on the status of providing wastewater service to the Lake Haven Subdivision, as well as the status of its compliance with each of the aforementioned filing requirements.

IT IS THEREFORE ORDERED THAT:

1. The *Petition to Amend Its Certificate of Convenience and Necessity to Include the Lake Haven Subdivision* filed by Tennessee Wastewater Systems, Inc. is approved, contingent upon Tennessee Wastewater Systems, Inc. filing the following in this docket:

a. The deed and/or easements for all the land and ownership rights to the wastewater system within fifteen (15) days of being issued and before the first customer is connected to the wastewater system, along with a copy of the title insurance policy. The title policy should include that the Sewage Facility Land is free and clear of all material or interfering encumbrances, including, but not limited to any monetary liens in the name of Tennessee Wastewater Systems, Inc. for the full amount of the construction of the Sewage Facility and the value of the Sewage

Facility Land as set forth in contracts submitted by Tennessee Wastewater Systems, Inc. with the Commission;

b. A final copy of the State Operating Permit issued by the Tennessee Department of Environment and Conservation within fifteen (15) days of issuance;

c. A copy of the as-built plans with signed certification by Tennessee Wastewater Systems, Inc. indicating the wastewater system has been inspected and is approved to begin operation;

d. A copy of the signed plat once the area of development is approved by the City and/or County government within fifteen (15) days of being issued and before the first customer is connected to the wastewater system.

e. A copy of the performance bond from the developer or builder of the wastewater system made payable to the Utility to ensure the construction of the wastewater system. The performance bond should be for an amount equal to or greater than the cost of the system as provided in contracts between the builder, developer and/or utility; and

f. Evidence of the final amount of contributed capital being transferred to Tennessee Wastewater Systems, Inc. no later than fifteen (15) days after the final plat is signed by the utility.

2. Tennessee Wastewater Systems, Inc. is directed to file a report in this docket demonstrating its compliance with the filing of the above referenced documents. If the required documentation is not filed within six (6) months of this order, then Tennessee Wastewater Systems, Inc. is directed to file a report on the status of the provision of wastewater service to the Lake Haven Subdivision as well the status of the filing of required documentation. The compliance report shall be updated every three (3) months until installation of the wastewater system is complete.

3. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

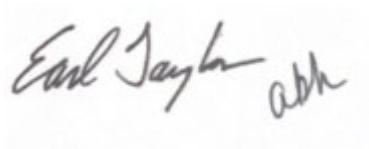
4. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Herbert H. Hilliard,
Vice Chairman David F. Jones,
Commissioner Robin L. Morrison, and
Commissioner John Hie concurring.**

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish or initials "abh" to the right.

Earl R. Taylor, Executive Director