

Henry Walker
Partner
hwalker@bradley.com
615.252.2363 direct



Electronically Filed in TPUC Docket
Room on January 9, 2023 at 3:42 p.m.

January 9, 2024

IN RE:

Monica Ashford-Smith
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

**Petition of Superior Wastewater Systems, LLC For A
Certificate of Convenience and Necessity To Amend Its
Existing Service Territory in Williamson County**

Docket No. 23-00051

Dear Monica,

Here, for your information, is a "Motion for Customized Case Management" filed by Superior Wastewater in Williamson County Chancery Court and the response filed by Tennessee Wastewater. Superior's Motion is scheduled to be argued on January 11, 2023.

I am filing this information in the docket to keep the Commission updated on proceedings in the Chancery Court suit between Superior and TWSI and because this information may be relevant to TWSI's pending abeyance motion.

Sincerely,

BRADLEY ARANT BOULT CUMMINGS, LLP

A handwritten signature in blue ink, appearing to read "Henry Walker", written over the printed name and address.

Henry Walker (No. 000272)
1600 Division Street, Suite 700
Nashville, Tennessee 37203

cc: Erik Lybeck

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

SUPERIOR WASTEWATER)
SYSTEMS, LLC f/k/a KINGS CHAPEL)
CAPACITY, LLC,)

Plaintiff/Counterclaim-Defendant,)

v.)

Case No. 23CV-53047

TENNESSEE WASTEWATER)
SYSTEMS, INC.,)

Defendant/Counterclaimant.)

MOTION FOR CUSTOMIZED CASE MANAGEMENT

Plaintiff Superior Wastewater Systems, LLC (“Superior”), pursuant to Section 9.04 of the Local Rules, respectfully requests that this Court order customized case management for this case and set an initial case management conference for January 25, 2023. As grounds for this Motion, Superior states as follows:

1. As set forth in the Complaint, this matter concerns Defendant Tennessee Wastewater Systems, Inc.’s (“TWSI’s”) intervention in a proceeding filed by Superior with the Tennessee Public Utility Commission (“Commission”), wherein Superior seeks a Certificate of Convenience and Necessity (“CCN”) to provide wastewater services to certain portions of Williamson County, Tennessee.

2. In connection with this application, Superior contends that there is an immediate need for wastewater services in the requested service territory, which will go unfilled until matters before the Commission are resolved. In addition, Superior has obtained option contracts to purchase real estate necessary to provide the wastewater services at issue, which will have to be renegotiated at an additional cost as time passes.

3. TWSI's intervention has resulted in delays in proceedings before the Commission. In addition to injecting contested issues that would not otherwise have to be litigated but for TWSI's intervention, TWSI has also moved to have proceedings before the Commission held in abeyance pending the results of this lawsuit. (TWSI's request to have proceedings held in abeyance is under advisement as of the date of this Motion.)

4. Resolution of this lawsuit could potentially expedite proceedings before the Commission, obviating these issues and avoiding further delays.

5. Customized case management will allow for an expedited procedural schedule wherein the narrow issues presented by this case can be fully addressed and prepared for trial as soon as reasonably practicable.

6. Superior respectfully requests that this Court order an Initial Case Management Conference to take place on January 25, 2023, by which point the pleadings will be closed and the parties anticipate the first round of written discovery will be complete or nearly complete, allowing the parties to discuss deposition, motion, and trial schedules with the Court.

NOTICE OF HEARING

THIS MOTION IS SET TO BE HEARD ON JANUARY 11, 2024 AT 9:00 A.M. AT THE WILLIAMSON COUNTY JUDICIAL CENTER, 135 FOURTH AVENUE SOUTH, FRANKLIN, TN 37064. IF NO WRITTEN RESPONSE TO THIS MOTION IS FILED AND SERVED AT LEAST THREE (3) BUSINESS DAYS PRIOR OT THE HEARING DATE, THE MOTION MAY BE GRANTED WITHOUT A HEARING.

Respectfully submitted:

/s/ Erik C. Lybeck
Erik C. Lybeck (#35233)
SIMS|FUNK, PLC
3322 West End Ave., Ste. 200
Nashville, TN 37203
(615) 454-2053
elybeck@simsfunk.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent via mail and e-mail on December 28, 2023 to the following:

Henry M Walker
Russell B. Morgan
BRADLEY
1600 Division Street, Suite 700
Nashville, TN 37203
hwalker@bradley.com
rmorgan@bradley.com

/s/ Erik C. Lybeck

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

SUPERIOR WASTEWATER SYSTEMS,)
LLC, F/K/A KINGS CHAPEL CAPACITY,)
LLC,)

Plaintiff/Counterclaim-Defendant)

v.)

Case No. 23CV-53047

TENNESSEE WASTEWATER SYSTEMS,)
INC.,)

Defendant/Counterclaimant.)

RESPONSE IN OPPOSITION TO MOTION FOR CUSTOMIZED CASE MANAGEMENT

Tennessee Wastewater Systems, Inc. (“TWSI” or “Tennessee Wastewater”) submits the following response in opposition to the motion of Superior Wastewater Systems, Inc. (“Superior”) requesting that this case be conducted pursuant to the “Customized Case Management” procedures described in Section 9.04 of the Local Rules of Practice of the Twenty-First Judicial District (hereafter, “the Motion”).

Summary

Customized case management procedures are appropriate, according to Section 9.04, for cases “which present some inherent factual, legal or procedural complexity.” In determining whether a case needs the “greater, mandatory supervision” that Section 9.04 provides, the Court will “give great weight to the length of time a case has been pending.” *Id.* Superior does not claim that this lawsuit meets either of those criteria and does not mention them in its Motion.

Instead of showing that this case meets the standards set out in Section 9.04, Superior argues that a quick resolution of this case “could potentially expedite proceedings” at the Tennessee Public

Utility Commission (“the Commission”). The agency is currently considering an application from Superior for a certificate of convenience and necessity (“CCN”) to build a wastewater treatment plant and offer wastewater service in and around the Triune and Arrington communities in Williamson County. Superior asks the Court to adopt measures to speed up this lawsuit so that the Commission can quickly approve Superior’s request to meet an alleged “immediate need” for wastewater service in that area. Motion at 1.

Superior, however, has not told the Court several important facts.

On December 8, 2023, nearly three weeks before Superior filed its Section 9.04 Motion, the Hearing Officer assigned to prepare Superior’s application for hearing issued an order splitting Superior’s application into two, separate proceedings. One docket, No. 23-00085, will address Superior’s request to build a new treatment plant and offer wastewater service in the area around Triune, a part of the county where no wastewater utility is presently authorized by the Commission to provide service. That area encompasses about two-thirds of the total territory that Superior has asked to serve. No other party has intervened in that docket, and the Commission has just announced that the matter will be heard on January 16, 2024.

In the second proceeding, Docket No. 23-00051, the Commission will address Superior’s request for a CCN to offer service in the remaining, one-third of its requested territory, the area around Arrington. Unlike Triune, however, the Arrington area has already been assigned by the Commission to Tennessee Wastewater which has an exclusive, statutory right to provide wastewater service there unless the Commission finds that TWSI is unwilling or unable to do so. See T.C.A. 65-4-203(a) and Peoples Telephone Company v. Tennessee Public Service Commission, 391 S.W.2d 285 (Tenn. 1965). Since Superior is seeking to encroach upon TWSI’s service area, the Hearing Officer granted TWSI’s petition to intervene and is now considering TWSI’s request to hold the docket in abeyance

pending the outcome of Superior's lawsuit. TWSI has also informed the Commission that no one in TWSI's service area has recently contacted TWSI about a need for wastewater service, "immediate" or otherwise. Superior has not disputed that. If someone does ask, TWSI has a statutory obligation to offer the requested service under reasonable terms and conditions as determined by the Commission. See T.C.A. 65-4-114(2).

Superior's Motion should be denied. In light of the Commission's scheduled hearing on January 16, Superior's request for the Court's help in expediting the proceedings at the Commission is no longer necessary.

Background

This lawsuit, filed on November 14, 2023, involves the interpretation of a "Settlement Agreement" that the parties signed in 2005. The agreement settled four matters, a lawsuit that was pending in this Court at the time and three cases that were pending before the Tennessee Regulatory Authority (now the Tennessee Public Utility Commission, hereafter "the Commission"). All four cases arose from a dispute over whether Tennessee Wastewater, a state-regulated public utility, or a newly formed company called King's Chapel Capacity, LLC (now called Superior Wastewater Systems, Inc.) would be granted a CCN by the Commission to provide wastewater service to a new residential development in Williamson County called King's Chapel Community. Mr. John Powell, a Williamson County developer, founded King's Chapel Community and started the utility to provide service to his development. Although the development was located within the exclusive service territory of Tennessee Wastewater¹, Mr. Powell started his own utility, claimed ownership

¹ See Peoples Telephone Company v. Tennessee Public Service Commission, *supra*, for an explanation of a utility's designated, service area within which the utility has both an exclusive, statutory right and a statutory obligation to provide service to any requesting customer under reasonable terms and conditions. Even if the utility has no available facilities, the Commission may order the utility to build out its network in order to reach a new customer. See T.C.A. 65-4-114(2). Only if the utility is unable or unwilling to meet the public's need for service under reasonable terms and conditions may the Commission authorize service by a competing provider. T.C. A. 65-4-203(a).

of the wastewater treatment plant that he had partially paid TWSI to build, and filed an application with the Commission asking the agency to give Mr. Powell's new company a CCN to provide wastewater service to King's Chapel Community. See Commission Docket No. 04-00335, <https://share.tn.gov/tra/dockets/0400335.htm>². TWSI objected to the application and filed suit in Williamson County Chancery Court to force Mr. Powell to complete payment for the treatment plant and turn it over to TWSI as required by the parties' contract. Mr. Powell accused TWSI of forging Mr. Powell's signature on the contract. Following a trial, Chancellor Russ Helman ruled that Mr. Powell owned and could keep the treatment plant. Tennessee Wastewater Systems, Inc. et al v J. Powell Development, LLC, et al., Case No. 31074, Order issued May 23, 2015. (See Attachment 1 for a copy of the Chancellor's Order.) Rather than appeal, Tennessee Wastewater agreed to drop its suit and withdraw its objection to Superior's application to provide wastewater service to Mr. Powell's development. Mr. Powell, in turn, agreed to drop a complaint he had filed against TWSI and a related, declaratory judgment action he had filed at the Commission.³

TWSI filed a copy of the Settlement Agreement with the Commission and explained what the parties had agreed to do.⁴ With the cooperation of the parties and consistent with the terms of the agreement, the Commission granted Superior a CCN to provide wastewater service to King's Chapel Community.⁵ To eliminate duplication in the service areas of the two utilities, the Commission also

² All Commission docket files, are arranged by docket number and may be found on the Commission's web site: <https://share.tn.gov/tra/indexes/TPUCActiveDocketIndex.htm>. Older cases, such as the ones cited here, are found under the "archive" heading for each docket year. For example, Docket 05-00062 is found under "archive" for the year 2005, <https://share.tn.gov/tra/dockets/0500062.htm>.

³Commission docket 05-00016 <https://share.tn.gov/tra/dockets/0500016.htm> and 05-00062, <https://share.tn.gov/tra/dockets/0500062.htm>.

⁴ Commission Docket No. 04-00335, "Notice of Settlement and Withdrawal of Objections," filed July 15, 2005, <https://share.tn.gov/tra/orders/2004/0400335aq.pdf>.

⁵Commission Docket No. 04-00335, "Order Approving Petition for CCN," filed January 2, 2006, <https://share.tn.gov/tra/orders/2004/0400335bf.pdf>. In the Order (at 4), the Commission stated, "Pursuant to the

transferred from TWSI's service area to Superior four parcels of land that encompassed the new development and Superior's wastewater treatment system.⁶

This lawsuit arose because Superior has filed an application for a new CCN, "Petition of Superior Wastewater Systems for a Certificate of Convenience and Necessity to Amend its Existing Service Territory in Williamson County, Tennessee," filed July 6, 2023, <https://share.tn.gov/tra/dockets/2300051.htm>. Unlike the 2004 application for a CCN to provide service to a specific subdivision, Superior's 2023 application requests permission to build a "regional wastewater system" that "will provide centralized service to the entire identified geographic region that is requested in this case."⁷ The new plant will be located about three miles east of Kings Chapel Community. Superior also asks to be designated as the exclusive wastewater provider throughout a 6,000-acre area that extends for six miles west of the new plant on both sides of Highway 96 from College Grove, past Triune and Arrington, all the way to Maple Lane. (See the map contained in Attachment 2 to this brief.) Most of the new area that Superior wants to serve (the area around Triune) is not within the service area of any commission regulated utility. On the other hand, about one-third of the requested area (around Arrington) is within the exclusive service territory of Tennessee Wastewater. By statute, case law and Commission rule, no competing utility can offer service within the exclusive territory of an incumbent utility unless the parties agree or the Commission finds that the incumbent is unable or unwilling to provide service in that area under reasonable terms and conditions. See T.C.A. 65-4-203(a), Peoples Telephone Company v. Tennessee Public Service

settlement agreement, TWS [TWSI] no longer objected to the application filed by King's Chapel [now called Superior] as long as King's Chapel does not seek 'a revision or change in the geographic area and number of customers to be served' as set forth in the initial application."

⁶ Commission Docket No. 05-00204, "Order Approving Petition to Amend Certificate of Convenience and Necessity," issued January 19, 2006, <https://share.tn.gov/tra/orders/2005/0500204e.pdf>.

⁷ Commission Docket No. 23-00051, "SWS Supplemental Response to TPUC Staff's 3rd Discovery Request," Supplemental Response 3-3, filed December 7, 2023, <https://share.tn.gov/tra/orders/2023/2300051z.pdf>.

Commission, *supra*, and Commission Rule 1220-04-13-.09 (1). To support its attempt to encroach on TWSI's territory, Superior claims that several landowners located in TWSI's service territory have requested service from Superior. TWSI, however, has told the Commission---and Superior does not dispute---that not one of those landowners has requested service from TWSI. See "Reply of Tennessee Wastewater...." at 2, cited in footnote 9 below.

Since Superior proposes to offer service within TWSI's designated service territory, TWSI filed a petition to intervene on August 24, 2023. Over Superior's objection, the agency Hearing Officer assigned to the case granted TWSI's petition to intervene in an order issued on December 8, 2023.⁸ In that Order, the Hearing Officer also denied in large part Superior's "Motion for Expedited Procedural Schedule," finding that "due to the unique nature of the docket, including, but not limited to, the large service area being requested, the docket cannot be rushed in a manner that would diminish Commission Staff's ability to conduct a thorough review." *Id.*⁹

On the same day that she granted TWSI's petition to intervene and denied Superior's motion for an expedited procedural schedule, the Hearing Officer issued a second order splitting Superior's CCN application into two dockets, one docket to address Superior's request to offer service within

⁸ See Docket No. 23-00051, "Order Granting, in Part and Denying in Part Motion for Expedited Procedural Schedule...", issued December 8, 2023, <https://share.tn.gov/tra/orders/2023/2300051ab.pdf>.

⁹ Beside the large service area that Superior is requesting, Superior's application is unusual in other respects. As Tennessee Wastewater pointed out to the Hearing Officer, Superior's application may not be approved because:

Superior's proposal is, at bottom, nothing but a plan conceived by Mr. Powell to use this agency and state public utility law to further his interests as a developer in Williamson County. If he is successful, he will own and control the only wastewater utility in a large area and will sell access to wastewater service at an unregulated, market rate, which he calls a "capital charge," to residential and commercial customers who have no alternative provider. As a developer, he can provide access to wastewater service at a reduced capital charge or at no charge to an area that he intends to develop while charging an exorbitant rate or denying access altogether to an area owned by a competing developer. In short, his proposal is flatly at odds with the statutory and common law obligations of a public utility.

Docket 23-00051, "Reply of Tennessee Wastewater in Support of Motion to Hold Proceedings in Abeyance," at p. 8, filed December 15, 2023. <https://share.tn.gov/tra/orders/2023/2300051ae.pdf>.

the exclusive territory of Tennessee Wastewater and a second docket to address Superior's proposal to build a treatment plant and offer service in the eastern portion of its requested territory where no wastewater provider is authorized to provide service. The Hearing Officer found that "bifurcating the docket will potentially expedite consideration" of that portion of Superior's request that does not encroach upon TWSI's service area. A copy of the Bifurcation Order is attached to this brief (Attachment 2). Included with the Order is a map showing how the Hearing Officer split Superior's requested service area into two parts. TWSI remains a party to the first docket, No. 23-00051 but is not a party to the second docket, No. 23-00085. The Commission announced on January 3, 2024, that it will conduct a hearing on January 16, 2024, to consider Superior's unopposed request for a CCN to build a treatment plant and become the exclusive provider of wastewater service in the Triune area.¹⁰

On November 14, 2023, Superior filed this lawsuit, arguing that the 2004 Settlement Agreement prohibits TWSI from opposing nor even intervening in Superior's CCN application and asking the Court to order TWSI to withdraw from the agency's proceedings. In response to the filing of the suit, TWSI filed a motion at the Commission asking the Hearing Officer to hold Superior's application in abeyance pending a ruling by the Court on Superior's lawsuit.¹¹ As a result of the Hearing Officer's bifurcation ruling, TWSI's abeyance motion request applies only to Docket 23-00051, the docket in which Superior seeks to encroach upon TWSI's service territory, and not to Docket 23-00085. Superior opposes holding Docket 23-00051 in abeyance, arguing that the parties should continue litigating at the Commission because there is an "immediate" need for wastewater

¹⁰ Commission Docket No. 23-00085, "Notice of Hearing," Issued January 3, 2024, <https://share.tn.gov/tra/orders/2023/2300085ae.pdf>

¹¹ Docket 23-00051, "Motion of Tennessee Wastewater Systems to Hold Proceedings in Abeyance," filed December 1, 2023, <https://share.tn.gov/tra/orders/2023/2300051y.pdf>.

service throughout its requested service area, including TWSI's service territory.¹² The parties argued the abeyance motion on December 19, 2023, and the Hearing Officer is likely to rule on it shortly.

Superior's Motion for Customized Case Management

On December 28, 2023, Superior filed this "Motion for Customized Case Management" pursuant to Section 9.04 of the Local Rules. In the Motion, Superior does not contend that this lawsuit involves "factual, legal or procedural complexity" or that this two-month-old case is long pending. Instead, Superior argues, just as it did to the Hearing Officer, that there is an "immediate" need for wastewater service throughout its requested service area and that a quick ruling on the merits of its lawsuit "could potentially expedite proceedings before the Commission." Motion at 1-2. Superior tells the Court that TWSI is to blame for delaying the agency's proceedings by intervening in the application docket and by asking the Hearing Officer to hold Docket 23-00051 in abeyance pending the outcome of Superior's lawsuit. *Id.* at 2. Superior also warns the Court that unless the Commission acts soon, the utility's costs of building its proposed treatment system will increase. *Id.* at 1.

It is, of course, the Commission's responsibility, not the Court's, to regulate the provision of wastewater service to meet the reasonable needs of the public. In any event, Superior fails to inform the Court that the agency's proceedings have been bifurcated, that TWSI's abeyance motion applies only to a small part of Superior's application and that the agency is going ahead with Docket 23-00085 which, if granted, will allow Superior to build a new treatment plant and provide service in two-thirds of its requested service area. Moreover, despite claiming in its Motion that there is an "immediate" need for wastewater service in TWSI's service area, Superior does not inform the Court that, as Tennessee Wastewater told the Commission, no one in that area has recently requested

¹² Commission Docket 23-00051, "Superior Wastewater Systems, LLC Response in Opposition to Motion to Hold Proceedings in Abeyance, at p. 4, <https://share.tn.gov/tra/orders/2023/2300051aa.pdf>.

wastewater service from TWSI.¹³ As previously discussed, if there is any need for service in TWSI's territory, TWSI has the statutory right and obligation to provide it subject to the supervision of the Commission. Finally, although Superior warns the Court that delays at the Commission may increase the costs of building the new treatment plant, that argument is now moot in light of the hearing on January 16.

Conclusion

Superior does not claim to meet the criteria for customized case management prescribed in Section 9.04. Instead, Superior asks for customized case management "to potentially expedite" proceedings at the Commission so that wastewater service can be provided to meet the needs of requesting customers. TWSI, however, already has the right and obligation to provide service in the Arrington community and the Commission will decide on January 16 whether to give Superior a CCN to provide service in a much larger area around Triune. In other words, the reasons for Superior's Motion no longer exist.

For these reasons, the Motion should be denied.

¹³ Docket 23-00051, "Reply of Tennessee Wastewater in Support of Motion to Hold Proceedings in Abeyance," at 2, <https://share.tn.gov/tra/orders/2023/2300051ae.pdf>

Respectfully submitted,

BRADLEY ARANT BOULT CUMMINGS LLP

By: /s/ Russell B. Morgan
Henry M. Walker (000272)
Russell B. Morgan (No. 20218)
1221 Broadway, Suite 2400
Nashville, Tennessee 37203
Tel: (615) 252-2311
Fax: (615) 252-6311
hwalker@bradley.com
rmorgan@bradley.com

Attorneys for Tennessee Wastewater Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Eric C. Lybeck, Jr.
SIMS|FUNK, PLC
3322 West End Avenue, Suite 200
Nashville, Tennessee 37203
elybeck@simsfunk.com

This the 8th day of January 2024.

/s/ Russell B. Morgan

Attachment One

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY
AT FRANKLIN.

FILED
WILLIAMSON COUNTY
CLERK & MASTER

2005 MAY 20 PM 4:03

ENTERED 5/23/05

TENNESSEE WASTEWATER SYSTEMS,
INC. f/k/a ON-SITE SYSTEMS, INC. and
ON-SITE CAPACITY DEVELOPMENT
COMPANY,

Plaintiffs,

vs.

J. POWELL DEVELOPMENT, LLC, JOHN
POWELL, ELAINE POWELL, C. WRIGHT
PINSON, ASHBY COMMUNITIES, LLC,
HANG ROCK, LLC, ARRINGTON
MEADOWS, LLC, and KINGS CHAPEL
CAPACITY, LLC,

Defendants.

Case No.: 31074

ORDER

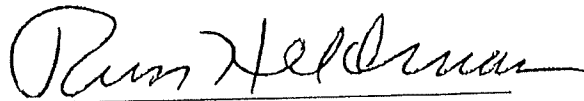
This Court, upon consideration of the proof presented at the trial by the parties on Count III of the Plaintiffs Tennessee Wastewater System, Inc. (TWS) and Onsite Capacity Development Company's Complaint; the Defendants J. Powell Development, LLC, John Powell, Elaine Powell, C. Wright Pinson, Ashby Communities, LLC, Hang Rock, LLC, Arrington Meadows, LLC, and King's Chapel Capacity, LLC's (the Defendants) Motion for Involuntary Dismissal pursuant to Tenn. R. Civ. Pro. 41.02(2); the Plaintiffs' Response to the Defendants' Motion for Involuntary Dismissal; the Defendants' Reply to the Plaintiffs' Response to said Motion; and oral argument of the parties, hereby and FINDS and ORDERS said Motion to Dismiss for Involuntary Dismissal is DUE to be and is HEREIN GRANTED. Based upon the evidence, there is no set of facts upon which the Court can find that TWS is the owner of the wastewater



system at issue between the parties. By ordering a dismissal herein of Count III, the Court cannot order a transfer and/or conveyance of the Defendants' real property by the Defendants to TWS as Count IV requests. The Court further finds dismissal of Count IV is proper and DUE to be and is HEREIN GRANTED.

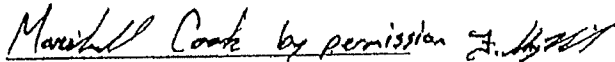
The Court herein DISMISSES COUNT III and COUNT IV of the Plaintiffs' Complaint pursuant to Rule 41.02(2).

IT IS SO ORDERED this the 23 day of May, 2005.

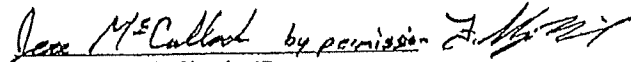


HONORABLE RUSS HELDMAN
CHANCERY COURT JUDGE FOR
WILLIAMSON COUNTY, TENNESSEE

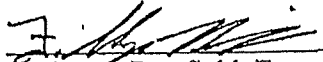
Approved for Entry by:



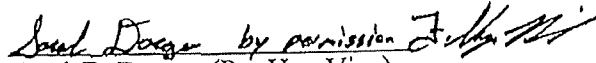
Marshall T. Cook, Esq.
Bone, McAllister, Norton, PLLC
511 Union Street, Suite 1600
Nashville, TN 37219



Jere N. McCulloch, Esq.
Rochelle, McCulloch & Aulds, PLLC
109 Castle Heights Ave. N.
Lebanon, TN 37087



F. Shayne Brasfield, Esq.
Brasfield & Milazo, P.C.
109 Cleburne St.
Franklin, TN 37064



Sarah B. Dorger (Pro Hac Vice)
411 Saint Francis Street
Mobile, Alabama 36602

STATE OF TENNESSEE
WILLIAMSON COUNTY
I, THE UNDERSIGNED CLERK & MASTER, DO
HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL OF THIS INSTRUMENT
FILED IN THIS CAUSE.



CERTIFICATE OF SERVICE


This certifies that I have served a copy of this Order on the following counsel of record, by United States mail this 20th day of May, 2005.

Marshall T. Cook, Esq.
Bone, McAllister, Norton, PLLC
511 Union Street, Suite 1600
Nashville, TN 37219

Jere N. McCulloch, Esq.
Rochelle, McCulloch & Aulds, PLLC
109 Castle Heights Ave. N.
Lebanon, TN 37087

F. Shayne Brasfield, Esq.
Brasfield & Milazo, P.C.
109 Cleburne St.
Franklin, TN 37064

Sarah B. Dorger (Pro Hac Vice)
411 Saint Francis Street
Mobile, Alabama 36602


F. Shayne Brasfield

CLERK'S CERTIFICATE
I hereby certify that a true and exact copy of
foregoing has been mailed or delivered to
all parties or counsel of record.
5/23/05
Date Clerk & Master



Attachment Two

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 8, 2023

IN RE:

PETITION OF SUPERIOR WASTEWATER
SYSTEMS, LLC FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO AMEND ITS
EXISTING SERVICE TERRITORY IN
WILLIAMSON COUNTY, TENNESSEE

)
)
) DOCKET NO.
) 23-00051
)
)

ORDER BIFURCATING DOCKET

This matter is before the Hearing Officer of the Tennessee Public Utility Commission ("Commission" or "TPUC") upon a request to bifurcate the above-captioned docket. Superior Wastewater Systems, LLC ("Superior" or the "Company") expressed concern that the intervention of Tennessee Wastewater Systems, Inc. ("TWSI") would impede the progress of consideration of the remainder of the request contained in Superior's *Petition of Superior Wastewater Systems, LLC to Amend Existing Service Territory in Williamson County* ("Petition"). In its *Petition*, Superior seeks a Certificate of Public Convenience and Necessity ("CCN") to serve approximately 5,997.24 acres in the Triune and surrounding areas in Williamson County. TWSI's intervention was based on two parcels being within its Milcrofton service area. Superior suggested that the docket be bifurcated to allow for the remainder of Superior's *Petition* to be considered at a potentially faster pace. TWSI did not object to bifurcating the docket.

FINDINGS AND CONCLUSIONS

Commission Rule 1220-01-02-.22 provides:

In any contested case the Commission or the Hearing Officer:

(1) May determine that there is no genuine issue as to any material fact. In

reaching such determination, the Commission or Hearing Officer may, in its discretion, hear and determine all or any part of a case, without hearing oral testimony;

(2) May, on its own motion or the motion of any party, allow amendments, consolidate cases, join parties, sever aspects of the case for separate hearings, permit additional claims or contentions to be asserted, bifurcate or otherwise order the course of proceedings in order to further the just, efficient and economical disposition of cases consistent with the statutory policies governing the Commission; and

(3) Shall afford all parties an opportunity to be heard after reasonable notice before exercising these general procedural powers.

The Hearing Officer finds that the request to bifurcate the docket is well taken because bifurcating the docket will potentially expedite consideration of a portion of the request contained in Superior's *Petition*, and there is no opposition to bifurcating the docket. Therefore, the Hearing Officer concludes the request to bifurcate the docket should be granted. All of the docket filings filed in the current docket pertaining to the initial, non-contested request should be moved to a new docket and assigned a new docket number. On the map attached to this Order as Exhibit 1, the areas outlined in red will be considered in the new docket, and the remaining areas will be considered in this docket.

IT IS THEREFORE ORDERED THAT:

1. The above-captioned matter is bifurcated into two separate dockets. Docket No. 23-00051 will be the docket going forward with Tennessee Wastewater Systems, Inc.'s intervention.
2. The Docket Manager is directed to open a new docket file and all docket filings that do not pertain to Tennessee Wastewater, Inc.'s intervention will be moved to that docket.
3. On the map attached as Exhibit 1, the portion outlined in red is designated for consideration in the new docket, and the remaining portion that is not outlined in red will be considered in the current docket, Docket No. 23-00051.


Monica Smith-Ashford, Hearing Officer

EXHIBIT 1

- | | |
|--|---|
|  Area we already serve |  People who have requested sewer service |
|  Area not planning to serve |  Properties under contract for development and sewer plant and drip field site |

