

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

April 28, 2025

IN RE:)	
)	
PETITION OF SUPERIOR WASTEWATER SYSTEMS,)	DOCKET NO.
LLC FOR A CERTIFICATE OF CONVENIENCE AND)	23-00051
NECESSITY TO AMEND ITS EXISTING SERVICE)	
TERRITORY IN WILLIAMSON COUNTY, TENNESSEE)	

ORDER APPROVING AMENDED PETITION FOR CCN TO SERVE FOUR SPECIFIC
PARCELS IN WILLIAMSON COUNTY, TENNESSEE

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Robin L. Morrison, Commissioner Clay R. Good, and Commissioner David Crowell of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on February 18, 2025. The panel convened to consider the *Amended Petition of King's Chapel Capacity, LLC to Amend Service Territory to Include the Sandford and Certain Abutting Properties in Williamson County* (“*Amended Petition*”) filed on October 18, 2024, by Superior Wastewater Systems, LLC (“Superior” or the “Company”).

BACKGROUND PETITION AND AMENDED PETITION

Superior is a limited liability company organized under the laws of the State of Tennessee with a principal place of business located on Mullens Road in Arrington, Tennessee.¹ The Company holds a Certificate of Public Convenience and Necessity (“CCN”) to provide wastewater services within designated service areas in the State of Tennessee. In its *Petition*, Superior seeks

¹ *Petition of Superior Wastewater Systems, LLC for a Certificate of Convenience and Necessity to Amend Its Existing Service Territory in Williamson County, Tennessee*, Exh. 1.1 (July 6, 2023) (“*Petition*”).

to expand its service area to provide wastewater services to a defined territory in Williamson County encompassing “a portion of the Town of Arrington west of Triune, the special character areas of Triune north of Interstate 840, and a portion of College Grove east of Triune in Williamson County along Highway 96” (collectively, “Triune Service Area”).²

In support of its *Petition*, the Company filed maps showing the location of the Triune Service Area, documents demonstrating its corporate structure and the management experience of the Company, and letters from government entities and utility providers indicating that such entities do not provide wastewater service to the Triune Service Area.³ Upon completion of construction of the system, it will serve both residential and commercial lots covering 5,997.25 acres in three (3) phases.⁴

The Company also filed the testimony of John Powell, President of Superior.⁵ Mr. Powell testified that he is both the owner and president of Superior and that his responsibilities include the day-to-day operations, permitting, long-term planning, review of expenditures, managing system maintenance, establishing contracts, resolving customer issues, and evaluating proposals for plant upgrades and replacements.⁶ Mr. Powell described the proposed system as collecting wastewater and sewage from both residential and commercial customers, flowing to the treatment center plant with the assistance of strategically located pump stations, where treatment will employ technology from BioMicrobics. After treatment, the effluent will be sent to drip fields. Mr. Powell further testified that the Triune Service Area is proximally close to the Company’s existing service

² *Id.* at Attach. 1, John Powell, Pre-Filed Direct Testimony, p. 2.

³ *Id.* at Exhs. 1.7, 1.2, 1.5, and 2.1.

⁴ *Id.* at Exh. 1.10; *See also* Superior Wastewater Systems, LLC Responses to Consumer Advocate Letter Filed July 20, 2023 Re Minimum Filing Requirements Set Forth in TPUC Rule 1220-04-13-.17 Regarding CCN Amendments, p. 2 (August 7, 2023).

⁵ *Id.* at Attach. 1, John Powell, Pre-Filed Direct Testimony. *See also* John Powell, Pre-Filed Supplemental Testimony (November 30, 2023).

⁶ *Id.* at Attach. 1, pp. 1-2.

territory, allowing it to be served with relatively few incremental resources. Mr. Powell stated that he believes the increase in customer base will provide Superior with a greater economy of scale.⁷

Superior asserted that the proposed system is unlike other systems operated by Superior and other wastewater utility service providers in that most systems utilize a Recirculating Sand Filtration (“RSF”) system. However, the proposed system will employ a new BioMicrobic system that will allow for not just the treatment of wastewater, but also raw sewage. In addition, the BioMicrobic system will allow the continual inspection of treatment from the bottom to the top of the process, which is not possible with RSF systems. The use of an equalization tank in the BioMicrobic system allows the system to treat wastewater on a consistent basis during any 24-hour period. The BioMicrobic treatment system, along with the Company’s drip system, will allow Superior to regulate the water flow in and out of the entire treatment system. In contrast, RSF systems only treat wastewater on demand as it enters the treatment process and then is sent to drip fields. Finally, Superior asserted that the proposed system is a regional centralized system model, as opposed to the traditional decentralized wastewater systems, with the capacity to provide service to all lots and parcels identified in the Triune Service Area.⁸ In addition, Superior provided evidence of its intent to provide wastewater service to the entire area requested in its *Petition*.⁹

Tennessee Wastewater Systems, Inc. (“TWSI”) filed a request to intervene on August 24, 2023. TWSI’s intervention was based upon two outlying parcels on the western portion of the Superior’s requested Triune Service Area that fall within TWSI’s currently certificated Milcrofton Utility District service territory.¹⁰ TWSI referred to these two (2) parcels as the “Sanford Parcels,”

⁷ *Id.* at Attach. 1, pp. 2-4.

⁸ Superior Wastewater Systems, LLC’s Supplemental Response to TPUC Staff’s 3rd Discovery Request (December 7, 2023).

⁹ Superior Wastewater Systems, LLC Responses to the Commission Staff’s Third Discovery Request Filed November 16, 2023, p. 8 (November 28, 2023).

¹⁰ *Petition of Tennessee Wastewater Systems to Intervene*, p. 1 (August 24, 2024).

as both are owned by Greg Sanford.¹¹ The Administrative Judge granted the intervention by order filed on December 8, 2023.¹²

On December 1, 2023, TWSI filed a motion requesting that proceedings in this matter be held in abeyance pending the outcome of a lawsuit filed by Superior against TWSI in Williamson County Chancery Court, which seeks a court order that would require TWSI to withdraw its intervention in this docket.¹³ Superior opposed TWSI's motion, but the parties agreed to allow Superior to request that the proceedings be bifurcated so that its request to serve the Eastern portion of the Triune Service Area, which contained none of the Sanford Parcels on which TWSI's intervention is based, could be considered without delay that may be associated with TWSI's intervention. TWSI had no opposition to the bifurcation of the docket.

Therefore, the Administrative Judge entered an order dividing the original docket into one docket for the Western portion of the Triune Service Area, including the Sanford Parcels, to be adjudicated in this docket, and a separate docket for the Eastern portion of the Triune Service Area, in which no parties intervened, for adjudication in the Docket 23-00085 ("*Bifurcation Order*").¹⁴ The *Bifurcation Order* included a map that depicted the Eastern and Western portions of the initially requested territory to be adjudicated in their respective dockets.¹⁵ Proceedings in the

¹¹ *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, *Reply of Tennessee Wastewater Systems, Inc. to the Filing Made by Superior Wastewater Systems, LLC on August 20, 2023 Opposing Superior's Petition to Intervene* (August 30, 2023).

¹² *Order Granting, in Part and Denying, in Part, Motion for Expedited Procedural Schedule, Denying Motion in Limine, and Granting Petition to Intervene Filed by Tennessee Wastewater Systems, Inc.* (December 8, 2023).

¹³ *Motion of Tennessee Wastewater Systems, Inc. to Hold Proceedings in Abeyance* (December 1, 2023).

¹⁴ *Order Bifurcating Docket* (December 8, 2023).

¹⁵ *Id.* at Exh. 1. TWSI did not intervene or dispute the proceedings in Docket No. 23-00085. The Commission granted Superior's *Petition* to amend its CCN to serve the Eastern portion in January, 2024. *See 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 (Request for the Eastern Portion of Related Petition in Docket No. 23-00051)*, Docket No. 23-00085, *Order Approving Petition to Amend Existing Service Territory* (March 4, 2024).

instant docket, regarding the Western Portion of the requested territory, were held in abeyance pending a ruling in the Williamson County Chancery Court case between the parties.¹⁶

On July 30, 2024, the Williamson County Chancery Court dismissed Superior's lawsuit against TWSI, finding no justiciable controversy between the parties.¹⁷ Subsequently, Superior filed an *Unopposed Motion to Lift Stay on Proceedings* on August 21, 2024. The Administrative granted the motion to lift the stay on the proceedings by order entered on September 5, 2024.

Superior filed its *Amended Petition* on October 18, 2024. In its *Amended Petition*, the Company sought to expand its existing service territory to include four (4) parcels, comprised of the Sanford Parcels and abutting properties, that are located proximally close to Superior's existing service territory.¹⁸ Superior claimed that its existing facilities, which provide wastewater service to the King's Chapel subdivision, also have sufficient capacity to service the four requested parcels.¹⁹ One of the parcels has an existing service need, and will be served by installing a service line across the remaining three (3) requested parcels. Superior acknowledged that the four (4) requested parcels are in the service territory of TWSI and stated that Superior and TWSI have reached an agreement whereby TWSI will transfer the parcels to Superior upon the Commission's approval of the *Amended Petition*.²⁰

TWSI filed its response to the *Amended Petition*, therein concurring that Superior's four (4) requested parcels currently fall within TWSI's service territory and stating that it will agree to relinquish Superior's requested parcels from its current service area, contingent upon the Commission issuing a determination that Superior has the necessary managerial, financial, and

¹⁶ *Order Granting Motion to Hold Docket in Abeyance* (January 23, 2024).

¹⁷ Letter to Monica Smith-Ashford, [Administrative Judge] from Attorney Henry Walker, Bradley Arant Boult Cummings, LLP Re: Docket No. 23-00051 Is On Hold Pending Outcome of Lawsuit Brought by Superior Wastewater Systems, LLC Against Tennessee Wastewater Systems, Inc. (July 30, 2024).

¹⁸ *Amended Petition*, Exhibit 1 (October 18, 2024).

¹⁹ *Id.* at.1-2.

²⁰ *Id.*

technical capabilities to provide service to those four parcels via connection to Superior's nearby treatment facility at King's Chapel.²¹

THE HEARING

A hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on February 18, 2025, as noticed by the Commission on February 6, 2025. Participating in the hearing were:

Superior Wastewater Systems – Erik C. Lybeck, Esq., Sims|Funk, PLC, 3322 West End Ave., Suite 200, Nashville, Tennessee 37203; John Powell, President and General Manager of Superior Wastewater Systems, LLC, 9539 Mullens Road, Arrington, Tennessee 37014.

Tennessee Wastewater Systems – Henry C. Walker, Esq., Bradley Arant Boult Cummings, LLP, 1600 Division Street, Suite 700, Nashville, Tennessee 37203.

During the Hearing, John Powell, President and General Manager, appeared on behalf of the Company, adopted, and summarized his Pre-Filed Direct Testimony. Mr. Powell was subject to questions from the 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

Tenn. Code Ann. § 65-4-113(a) states:

No Public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the commission, to any individual, partnership, corporation, or other entity without first obtaining the approval of the commission.

Tenn. Code Ann. § 65-4-113(b) states:

²¹ *Response Of Tennessee Wastewater Systems, Inc. To Superior's Amended Petition* (October 22, 2024)

Upon petition for approval of the transfer of authority to provide utility services, the commission shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The commission shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

Tenn. Code Ann. § 65-4-113(c) states:

Following approval of the transfer pursuant to this section, the transferee shall be granted full authority to provide the transferred services subject to the continuing regulation of the commission. The transferor shall no longer have any authority to provide the transferred services, but shall retain authority to provide other services, if any are retained, which were not included in such transfer.

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:

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.²²

²² Tenn. Code Ann. § 65-4-109 (2024).

In addition, 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.²³

The rule further establishes minimum information filing guidelines for applications for new or expanded CCNs.²⁴

FINDINGS AND CONCLUSIONS

Based on review and consideration of the pleadings, the Pre-Filed Direct Testimony, and the entire administrative record, the voting panel made the following findings and conclusions:

Superior Wastewater Systems, LLC, has successfully managed a wastewater system for the King’s Chapel community since January 2006 and serves approximately 350 customers. Superior has a designated licensed wastewater system operator serving the project. The principal of Superior conducts businesses relating to construction, residential and commercial development, property maintenance and management, and wastewater utility operations. In addition, having recently participated in a Staff-assisted rate case that thoroughly analyzed the Company’s financial condition, Superior has demonstrated the financial ability to operate the wastewater system. Thereafter, the panel found that Superior possesses the requisite managerial, technical, and financial capabilities to operate the wastewater system to serve the parcels requested in the *Amended Petition* in Williamson County, Tennessee.

²³ Tenn. Comp. R. & Regs. 1220-04-13-.17.

²⁴ *Id.*

Superior identified one of the requested parcels as having an existing need for service. The remaining three (3) parcels will be able to obtain service from the service line that will run across them to connect the parcel needing service to the existing wastewater system. Therefore, the panel found that public need for the wastewater system service exists.

TWSI's offer to relinquish and transfer the requested parcels from its service territory to Superior upon the Commission's determination of Superior's managerial, technical, and financial capabilities to service the requested parcels is demonstrated in its responsive filing to the *Amended Petition*. Therefore, the panel voted unanimously to transfer the parcels from the service territory of TWSI to the service territory of Superior.

IT IS THEREFORE ORDERED THAT:

1. The *Amended Petition of King's Chapel Capacity, LLC to Amend Service Territory to Include the Sandford and Certain Abutting Properties in Williamson County* filed by Superior Wastewater Systems, LLC, is approved.
2. Any person(s) 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.
3. Any person(s) 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 David F. Jones,
Vice Chairman John Hie,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good, and
Commissioner David Crowell concurred.**
None dissented.

ATTEST:

A handwritten signature in cursive script, appearing to read "Earl Taylor" with a small "abk" or similar mark to the right.

Earl R. Taylor, Executive Director