

STATE OF TENNESSEE

Office of the Attorney General



JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

P.O. BOX 20207, NASHVILLE, TN 37202
TELEPHONE (615)741-3491
FACSIMILE (615)741-2009

July 20, 2023

Electronically Filed in TPUC Docket
Room on July 20, 2023 at 10:56 a.m.

Tyler A. Cosby
Farris Bobango, PLC
414 Union Street, Suite 1105
Nashville, TN 37219
Email: tcosby@farris-law.com

Re: Tennessee Public Utility Commission ("TPUC" or the "Commission"),
Docket No. 23-00051, *Petition of Superior Wastewater Systems, LLC to
Amend Existing Service Territory in Williamson County*

Mr. Cosby:

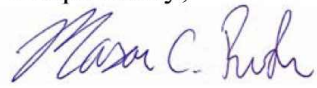
The Consumer Advocate has reviewed the *Petition* filed by Superior Wastewater Systems, LLC ("Superior") in the above-referenced CCN amendment Docket.

The *Petition* request that the Commission "amend the company's service area to include the additional service area" described in the *Petition* and located in Williamson County, Tennessee. Accordingly, the Consumer Advocate has reviewed Superior's compliance with the minimum filing requirements set forth in TPUC Rule 1220-04-13-.17 regarding CCN amendments.

The Consumer Advocate appreciates the time and effort that Superior put into compiling the *Petition*, as well as Superior's attention to the Commission's minimum filing requirements. However, the Consumer Advocate could not locate, and thus seeks clarification on, the items set forth in "Attachment A" hereto relating to compliance with TPUC Rule 1220-04-13-.17. Please note that this is not a discovery request by the Consumer Advocate, but a review of Superior's compliance with TPUC's minimum filing requirements.

The Consumer Advocate would like to thank Superior in advance for its attention to this letter. If you have questions, please contact me at (615) 741-2370.

Respectfully,

A handwritten signature in blue ink, reading "Mason C. Rush". The signature is fluid and cursive, with the first name "Mason" being the most prominent.

Mason C. Rush

Assistant Attorney General

cc: Patsy Fulton, TPUC
Kelly Cashman-Grams, TPUC

Rule 1220-04-13-.17(2)(a) General Information

1. *Rule 1220-04-13-.17(2)(a)4.* It appears Superior may have an additional affiliate relationship identified in the *Petition*, Attachment 2, Exhibit 3.4 which states “John Powell is the sole member of Superior Wastewater Systems, LLC. He is also the sole member of Ashby Communities, LLC, the developer of this project.” Specifically, Exhibit 3.4 includes a contractor license for “John Powell Construction LLC” not mentioned in Exhibit 1.4. The Consumer Advocate could not locate a description that details “any transactions, direct or indirect, that occur or are expected to occur between affiliated entities” as required by TPUC’s rule. Please file the missing information in this Docket as required by the rule.
2. *Rule 1220-04-13-.17(2)(a)7.* The rule requires a complete description of the geographic territory to be served, including “the number of acres.” The statement provided in Attachment 2, Exhibit 1.7 to the *Petition* fails to note the acreage of the service area. Please file the missing information in this Docket as required by the rule.
3. *Rule 1220-04-13-.17(2)(a)7(i).* The rule requires a map showing the “location of the wastewater system” including “the physical address of the wastewater system and the associated latitude and longitude coordinates.” The map provided in Attachment 2, Exhibit 1.7 and appearing again in Attachment 2, Exhibit 2.1 of the *Petition* does not show the location of the wastewater system and does not provide a physical address with the coordinates required by the rule. Please file the missing information in this Docket as required by the rule.
4. *Rule 1220-04-13-.17(2)(a)7(iv).* The rule requires a map showing “[a]ll residences and habitable structures served by the wastewater system.” The map provided in Attachment 2, Exhibit 1.7 and appearing again in Attachment 2, Exhibit 2.1 of the *Petition* does not identify all residences and habitable structures served. Please file the missing information in this Docket as required by the rule.
5. *Rule 1220-04-13-.17(2)(a)8.* The rule requires a description of the proposed wastewater system including “the maximum potential number of customers the utility will service in the proposed service area.” However, the description provided in Attachment 2, Exhibit 1.8 to the *Petition* does not state “the maximum potential of customers the utility will service in the proposed service area.” Please file the missing information in this Docket as required by the rule.
6. *Rule 1220-04-13-.17(2)(a)10.* The rule requires Superior to “state how many phases and the number of houses or units to be connected in each phase.” Attachment 2, Exhibit 1.9 to the *Petition* states that “[i]n this mixed use area, the number of lots cannot be determined,” and Attachment 2, Exhibit 1.10 provides no information concerning the number of houses or units.

Rule 1220-04-13-.17(2)(b) Requisite Property Rights and Public Need

1. *Rule 1220-04-13-.17(2)(b)3.* The rule requires certain documentation demonstrating “entitlement or ownership to the land, system specifications, costs for the wastewater system, timeline for the system to be built, and rights to the system once it is completed.” Such information was filed under seal, and the Consumer Advocate does not have access to the information for review.

Rule 1220-04-13-.17(2)(e) Sufficient Financial Capability

1. *Rule 1220-04-13-.17(2)(e)6.* The rule requires “detailed construction cost estimates for each phase.” Although Attachment 2, Exhibit 5.6 to the *Petition* gives a total estimated cost of \$12,945,000, it appears that detailed estimates for each phase are not provided. Additionally, the estimate in Attachment 2, Exhibit 5.6 does not correlate with the proposed accounting presented in Exhibit 5.4 to the *Petition*. Please file the missing information in this Docket as required by the rule.
2. *Rule 1220-04-13-.17(2)(e)10, 11.* The rules require a description of “bonding requirements imposed by municipal governments” and a performance bond “for an amount equal to or greater than the cost of the system as provided in contracts between builder, developer and/or utility.” Superior has stated in Attachment 2, Exhibits 5.10 and 5.11 to the *Petition* that the required bond amount is currently unknown and that a performance bond is premature.

Rule 1220-04-13-.17(2)(d) Sufficient Technical Ability

1. *Rule 1220-04-13-.17(2)(d)1.* The rule requires a “copy of the application for the State Operating Permit (‘SOP’) filed with TDEC,” “the letter from TDEC indicating the receipt of a complete application,” and “any engineering and/or design reports submitted to TDEC, such as the Design Development Report and the Detailed Soils Investigation Report.” Attachment 2, Exhibit 4.1 to the *Petition* provides a copy of Superior’s SOP application, an email correspondence noting that the application was uploaded to the TDEC database. Superior also notes that the requested reports are not yet available. In addition to the missing reports, the email correspondence from TDEC provided in the *Petition* does not indicate the receipt of a *complete* application. Please see the Consumer Advocate’s “Attachment A.1” below, showing the “Incomplete” status of the SOP application. This information can be accessed directly from TDEC’s “DataViewer” at: https://dataviewers.tdec.tn.gov/dataviewers/f?p=2005:34051:734980050118:::34051:P34051_PERMIT_NUMBER:SOP-23016. Please file the missing information in this Docket as required by the rule.

Rule 1220-04-13-.17(2)(f) Sworn Testimony

1. *Rule 1220-04-13-.17(2)(f)3.* The rule requires a “statement that the applicant is aware of and will abide by all applicable *Tennessee statutes and TPUC Rules.*” (Emphasis added). On page 5 of the pre-filed Direct Testimony of John Powell included with the *Petition*, Mr. Powell answers “Yes” to the question “Will SWS abide by the orders and rules of the Commission?”
2. *Rule 1220-04-13-.17(2)(f)6.* The rule requires a “signed affidavit stating that all information submitted concerning the wastewater CCN application is true and correct to the best of the witness’ knowledge and belief.” Attached to the pre-filed Direct Testimony of John Powell included with the *Petition* is an Affidavit of Mr. Powell that states “I, John Powell, on behalf of Superior Wastewater Systems, LLC hereby certify that the attached direct testimony *represents my opinion* in the above referenced case.” (Emphasis added).

[Home](#)[Permits](#) v[Documents](#)[Complaints](#)[Inspections](#)[Engineering Plans](#) v[Hydrologic Determinations](#)[Exceptional Waters](#)[Ambient Monitoring](#) v[QLP Data](#)[Oil & Gas Wells](#)[Water Wells](#) v[Certified Operators](#)[Home](#) \ [DWR Permits](#) \ [Permit Information](#) \

Parent Site

Site ID	Site	Location	City	County	EFO Name	GIS
176194	Superior Wastewater III	5279 Murfreesboro Road	College Grove	Williamson	Nashville	View Map

Permit Information

Permit Number **SOP-23016** ? Permit Type **SOP** ? Status **Incomplete** ?

Permittee Name **Superior Wastewater Systems, LLC** ? Project Name ?

Activity Description ?

Permit Rating ? Facility Classification ? Discharge Code ?

Application Received **15-JUN-2023** ? Application Returned ? Application Complete ?

Public Notice Date ? Issuance Date ? Effective Date ?

Expiration Date ? Modification Date ? Termination Date ?

Receiving Stream ?

Effluent Description ?

Treatment Description ?

Permit Documents

[Search All Documents](#)[FileNet Documents](#)

View	File Type	Description	Document Date ⌵
	Application	SOP Application	15-JUN-2023

row(s) 1 - 1 of 1

Forms submitted through MyTDEC Forms after 11/17/2020 will be available in FileNet.

Moratorium

no data found

Inspections

no data found

Wastewater Engineering Plans Review

no data found