

September 19, 2023

Via Electronic Delivery

Chairman Herbert Hilliard
c/o Ectory Lawless, Dockets and Records
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243

Electronically Filed in TPUC Docket Room
on September 19, 2023 at 1:06 p.m.

**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

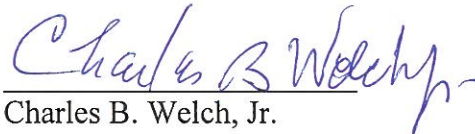
Response to TPUC Staff's Discovery Request of August 25, 2023

Ms. Lawless:

Superior Wastewater Systems, LLC files the attached response to the Commission Staff's Discovery Request of August 25, 2023. Please note attachment 2-2a is being filed as a "confidential document. We are providing a redacted public version and a confidential version of the response. The original and (4) copies will be provided via US Mail.

Please contact me if you have any questions or need additional information.

Respectfully submitted,



Charles B. Welch, Jr.
Farris Bobango, PLC
414 Union Street, Suite 1105
Nashville, TN 37219
Phone: 615-726-1200
Email: cwelch@farris-law.com

Enclosures

SUPERIOR WASTEWATER SYSTEMS, LLC
DOCKET NO. 23-00051 – PETITION FOR A CCN TO PROVIDE SERVICE TO TRIUNE
SWS RESPONSES TO TPUC STAFF’S 2ND DISCOVERY REQUEST

- 2-1. *Regarding Commission Rule 1220-04-13-.17(2)(d)(1): Commission Rules require confirmation from TDEC that a complete SOP application has been received. Additionally, the rule requires that additional information such as a Design Development Report, Detailed Soil Investigation, and draft SOP permit(s) also be provided. Please provide a complete SOP application.*

RESPONSE:

Commission Rule 1220-04-13-.17(2)(d)(1) reads as follows:

*1. A copy of the application for the State Operating Permit (“SOP”) filed with TDEC. Include the letter from TDEC indicating the receipt of a complete application. Include any engineering and/or design reports **submitted to TDEC**, such as the Design Development Report and the Detailed Soils Investigation Report. If an operating permit has been issued, provide a copy of the permit. The utility shall file a copy of the TDEC permit in the docket file prior to providing service. [Emphasis added.]*

Exhibit 4.1.1 of Superior’s filing contains a complete copy of the SOP Application. Exhibit 4.1.2 of Superior’s filing contains an email confirmation from TDEC stating that they have received the SOP Application. At this time, no other documents (Engineering or Design Reports) have been submitted to TDEC. Since the Commission’s rule only requires utilities to provide a copy of the reports actually submitted to TDEC, there is nothing further to provide to the Commission at this time.

Superior fully intends to simultaneously provide to the Commission a copy of all reports sent to TDEC regarding this application. Further, Superior intends to file a copy of the TDEC permit in the docket file prior to providing service.

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- 2-2. *Regarding Commission Rule 1220-04-13-.17(2)(b)(3): Commission Rules provide that “all contracts or agreements between the builder(s) of the treatment and/or collection system, the utility, and the property and/or subdivision developer that show 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 be submitted. Documents presented by the applicant should be signed by all parties and bear marks or stamps, such as those provided by notaries or public officials, as necessary.” Please provide these documents.*

RESPONSE:

Please see Confidential Attachment 2-2a.

Attachment 2-2a is confidential

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- 2-3. *Regarding Commission Rule 1220-04-13-.17(2)(d)(2): Exhibit 4.2 lists Mr. James Johnsons as the contracted wastewater utility operator on record. Pursuant to the rule provide a copy of the employment contract.*

RESPONSE:

Commission Rule 1220-04-13-.17(2)(d)(2) reads as follows:

2. *A copy of the State Operator Certificate for the wastewater system operator of record. **If the operator is a contract employee of the utility,** provide a copy of the employment contract. [Emphases added.]*

Mr. Johnson is an independent contractor and not an employee of Superior. As such, Superior has no employment contract with Mr. Johnson, and none is required per Commission rule. Mr. Johnson is dependable. He has been our operator since our inception about 18 years ago.

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2-4A. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

Service Lines to Main Collection Line: Please describe in detail the circumstances that will determine whether the customer, builder, developer or Superior Wastewater Systems, LLC (“Superior”) will pay for tanks and any pumps or apparatus including valve reducers. Also identify the entity that will build these facilities. If customers pay for any facilities, how will such costs be determined and does the customer have the choice of selecting a construction company to build these facilities? Identify language within contracts between Superior, builders and/or developers or within any customer service agreement or tariff outlining the terms, conditions and/or requirements regarding the building of these facilities in order for customers to access the wastewater system (include rates and charges to be assessed to customers).

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

The applicant (Superior) will not be paying for the tanks, pumps or apparatus including valve reducers. Instead, this plant will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. It is the intent of Ashby Communities to sell drip field capacity to each end-use customer (fully constructed) at market rates, all major collection lines, easements treatment plant including sludge capital improvement structure will be prorated to builders, or separate developers. After all capacity rights to the drip fields, collection lines and treatment (including sludge processing) have been sold, Ashby Communities will contribute the cost of this property to Superior.

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2-4B. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

Main Collection Line: Please describe in detail the circumstances that will determine whether the customer, builder, developer or Superior will pay for construction of the main collection lines. Also, identify the entity that will build these facilities. If customers pay for any part of the main collection line or a proration of costs based on GPD as set forth in Exhibit 5.6 to the Petition, identify language within contracts between Superior, builders and/or developers or within any customer service agreement or tariff outlining the terms, conditions and/or requirements regarding the customers' obligation to pay (include rates and charges). Also, will the main collection lines be turned over to the utility immediately after they are built? If not, please explain.

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

The applicant (Superior) will not be paying for the main collection lines. Instead, this plant will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. It is the intent of Ashby Communities to sell drip field capacity to each end-use customer (fully constructed) at market rates, all major collection lines, easements treatment plant including sludge capital improvement structure will be prorated to builders, or separate developers. After all capacity rights to the drip fields, collection lines and treatment (including sludge processing) have been sold, Ashby Communities will contribute the cost of this property to Superior.

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2-4C. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

Please describe in detail the circumstances that will determine whether the builder, developer or Superior will pay for construction of the treatment system. Also, identify the entity that will build these facilities. If customers pay for access to the treatment system or a proration of costs based on GPD as set forth in Exhibit 5.6 to the Petition, identify language within contracts between Superior, builders and/or developers or within any customer service agreement or tariff outlining the terms, conditions and/or requirements regarding the customers’ obligation to pay for access to the treatment system(include rates and charges). Also, will the treatment plant be turned over to the utility immediately after being built? If not, please explain.

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

The applicant (Superior) will not be paying for the treatment system. Instead, this plant will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. It is the intent of Ashby Communities to sell drip field capacity to each end-use customer (fully constructed) at market rates, all major collection lines, easements treatment plant including sludge capital improvement structure will be prorated to builders, or separate developers. After all capacity rights to the drip fields, collection lines and treatment (including sludge processing) have been sold, Ashby Communities will contribute the cost of this property to Superior.

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2-4D. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

Please describe in detail the circumstances that will determine whether the builder, developer or Superior will pay for the drip fields and drip construction. Also, identify the entity that will build these facilities. If customers pay for access to the treatment system or a proration of costs based on GPD as set forth in Exhibit 5.6 to the Petition, identify language within contracts between Superior, builders and/or developers or within any customer service agreement or tariff outlining the terms, conditions and/or requirements regarding the customers’ obligation to pay for access to drip fields (include rates and charges). Also, will the drip fields be turned over to the utility immediately after they are built? If not, please explain.

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

The applicant (Superior) will not be paying for the drip fields. Instead, this plant will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. It is the intent of Ashby Communities to sell drip field capacity to each end-use customer (fully constructed) at market rates, all major collection lines, easements treatment plant including sludge capital improvement structure will be prorated to builders, or separate developers. After all capacity rights to the drip fields, collection lines and treatment (including sludge processing) have been sold, Ashby Communities will contribute the cost of this property to Superior.

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2-4E. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

In reference to the facilities identified in questions [2-4A – D] above, will the builder/developer retain any rights to these facilities once the system is transferred to Superior? If so, please explain and identify contract language relating to the rights retained.

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

As indicated in Items 2-4A – D, the wastewater plant and components will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. Ashby Communities will not retain any rights to these wastewater facilities once the system is transferred to Superior.

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2-4F. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

In reference to the facilities identified in questions [2-4A – D] above, will Superior Wastewater Systems, LLC, purchase or pay to construct any of these facilities? If so, please explain and provide cost estimates of Superior’s purchase or construction of these facilities.

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

As indicated in Items 2-4A – D, the wastewater plant and components will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. The applicant (Superior) will not be paying for any costs to construct the wastewater plant facilities.

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2-4G. *Regarding Commission Rule 1220-04-13-.17(2)(e)(6 & 12): Commission Rules require that the applicant indicate whether the developer or the applicant will pay for the construction of the system. Please refer to Exhibit 5.6 filed with the Petition regarding the following:*

If the facilities identified in [2-4A – D] above are transferred without cost to the utility free and clear of any rights retained by the developer/builder, state the rationale for Superior to collect fees for plant that has been contributed to Superior.

RESPONSE:

Commission Rule 1220-04-13-.17(2)(e)(6) reads as follows:

6. The total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system will be constructed in phases, provide detailed construction costs estimates for each phase. Indicate whether the developer or the applicant will pay for the construction of the system.

Commission Rule 1220-04-13-.17(2)(e)(12) reads as follows:

12. List all funding sources available to the applicant for the wastewater system proposed by the applicant.

As indicated in Items 2-4A – D, the wastewater plant will be built and paid for by the developer (Ashby Communities) and then contributed to Superior. Further, Ashby Communities will not retain any rights to these wastewater facilities once the system is transferred to Superior. As shown on Exhibit 5.2.1 of the Application regarding the 10-year Pro Forma Earnings Model, all costs charged to customers are for operating costs only. Specifically, there are no plant, depreciation or return costs charged to customers. Therefore, there are no fees charged or collected by Superior to customers for plant since it will be contributed to Superior.

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2-5. *Regarding Commission Rule 1220-04-13-.17(2)(e)(8): The tariff proposed does not contain an escrow or bonding rate. Does Superior plan on assessing the current charges for escrow to residential customers? Also, does Superior plan to assess a commercial escrow rate? If so, how will this rate be determined?*

RESPONSE:

Escrow and bonding rates are determined outside of the base rates that Superior has proposed in this Petition. The appropriate amount for bonding and escrow rates is currently being considered in Superior’s Compliance Audit in Docket No. 21-00086.

Superior’s current residential rate structure is as follows:

Charge Component	Monthly Charge	Percentage of Base Charge
Base Rate Charge	\$44.21	100.00%
Escrow Charge	10.13	22.91%
Bonding Charge	4.24	9.59%
Rate Case Surcharge	6.01	
Total	\$ 64.59	

The existing Bonding Charge is currently based on separate components for Williamson County bonds and TPUC bonds. Currently, we are not expecting there to be any Williamson County bonding components for the Triune area that are applied to Superior. Therefore, the only Bonding Charge for the Triune area would be the amount necessary to cover the TPUC bonds. Since TPUC bonds are based on a percentage of Superior revenues, it would probably be best to apply this same percentage to the Base Rate charge (currently 9.59%) for both residential and commercial customers.

The existing Escrow charge of \$10.13 per residential customer per month has been in place for some time, and Superior would prefer to apply this same monthly charge to the Triune area residential customers. For Triune area commercial customers, Superior would propose applying the current Escrow charge percentage of 22.91% to the proposed commercial base rate charges for the Triune area commercial customers as shown on Exhibit 5.8.1 of Superior’s Petition.

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- 2-6. *Regarding the map provided with Exhibit 1.7: Will Superior serve property owners/developers within the blue and white colored parcels on the map if they request service from Superior after the initial build-out? If so, identify who will pay for any necessary facilities to serve these customers and how such costs will be recovered.*

RESPONSE:

There is a finite amount of drip field capacity available to serve the customers in this area. As a result, it is entirely dependent on the type of customers (residential, commercial, hotel) that initially request service and connect to the system to determine if any remaining capacity is available to serve other customers. At this time, Superior does not expect to serve any incremental customers after the initial build-out. However, this status could change if additional drip field capacity becomes available, and these incremental customers procure access to this capacity. Superior will not be providing drip field capacity to any customer.

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- 2-7. *Regarding the pro-forma tariff provided with Exhibit 5.8: Discuss in general why the average cost and associated rates to serve residential customers in the proposed area are substantially higher than the existing rates recently approved for King’s Chapel in Docket No. 22-00087. Also, please explain how King’s Chapel will remain a going concern given the financial losses projected in Superior’s ten-year pro forma financial statements.*

RESPONSE:

Refer to Schedule 1 of Exhibit 5.2.1 regarding the 10-year Pro Forma Earnings Model included with the Application. The Triune area service territory is both rocky and hilly. As a result, the cost to provide service in this area is significantly greater than the existing areas served by Superior.

As shown on Schedule 1, the incremental expenses (non-historical expenses) of providing service to the Triune area are expected to be approximately \$440,000 in Year 1 and result for almost all of the expected loss for this Year. As shown on Schedule 12, these incremental costs include sludge hauling and the associated labor costs. Superior doesn’t incur these types of costs for its existing wastewater system.

As shown on Schedule 1, the aggregate 10-year Net Operating Income of the Triune area wastewater system is estimated to be approximately \$-137,000. Superior feels that it can absorb this loss within its existing operations.

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- 2-8. *Within Superior’s response to the Consumer Advocate dated August 7, 2023, the Company states in response to item five that “As this phase spans 3 to 4 years, new drip fields will be completed as the need arises that will provide an additional treatment capacity of [87,500] gallons per day.” Identify the source of funding for these new drip fields and the entity that will build the drip fields.*

RESPONSE:

The applicant (Superior) will not be paying for any incremental drip fields. Instead, if these drip fields are built, they will be paid for by the developer (Ashby Communities) and then contributed to Superior. It is the intent of Ashby Communities to sell drip field (construction/completed) capacity to each end-use customer at market rates. After all capacity rights to the drip fields have been sold, Ashby Communities will contribute the incremental cost of this property to Superior.