

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**March 25, 2024**

**IN RE:**

**PETITION OF FERNVALE SPRINGS RURAL  
RETREAT TO DETERMINE IF A CCN IS  
NEEDED**

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**DOCKET NO.  
24-00008**

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**INITIAL DETERMINATION THAT CCN IS NOT REQUIRED**

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This matter is before the Administrative Judge of the Tennessee Public Utility Commission (“Commission” or “TPUC”) upon the Letter of Determination for CCN Requirement (“*Petition*”) filed on February 20, 2024, by Fernvale Springs Rural Retreat (“Fernvale” or “Petitioner”) requesting a determination by the Commission that a Certificate of Public Convenience and Necessity (“CCN”) is not required to provide wastewater service to Fernvale. The private sewer system will be built at 7324 Caney Fork Road in Fairview, Tennessee.

**THE *PETITION***

The *Petition* states that the private wastewater system will be constructed by the owner/developer of Fernvale, Richard Spanton Jr. Irrevocable Family Trust, and a certified operator will be hired to maintain the system. According to the *Petition*:

Proposed facilities and accommodations include meeting spaces, a banquet hall with commercial kitchen, wellness & recreational facility, studio for music and performing arts, and overnight lodging for guests. As proposed, all facilities included in the rural retreat are to be served by the proposed wastewater system which will require a State Operating Permit from TDEC [Tennessee Department of Environment and Conservation]. The rural retreat, all of its facilities, and its wastewater system are to be contained on the same parcel of land (approximately 226-acres). Richard Spanton Jr Irrevocable Family Trust is to own the property, wastewater system, and all structures and improvements. Fees will never be

charged for use of the wastewater system. As required for operation and maintenance of the wastewater system, the property owner shall maintain a contract with a qualified wastewater operator certified by TDEC.

## **FINDINGS AND CONCLUSIONS**

Tenn. Code Ann. § 65-4-101(6)(A) defines a public utility as:

every individual, copartnership, association, corporation, or joint stock company, its lessees, trustees, or receivers, appointed by any court whatsoever, that own, operate, manage or control, within the state, any interurban electric railway, traction company, all other common carriers, express, gas, electric light, heat, power, water, telephone, telegraph, telecommunications services, or any other like system, plant or equipment, affected by and dedicated to the public use, under privileges, franchises, licenses, or agreements, granted by the state or by any political subdivision thereof.

Based on the information provided in the *Petition*, the Administrative Judge finds that Fernvale is not a public utility because the wastewater system will be built by the owner/developer of Fernvale for the exclusive use of Fernvale and its guests. The Petitioner will not charge Fernvale's guests for utility service, nor will Fernvale provide service to any of the surrounding neighbors that are not owned by Fernvale and/or the Richard Spanton Jr. Irrevocable Family Trust. Therefore, under the facts set forth in the *Petition*, the Administrative Judge concludes that Fernvale is not a "public utility" as defined by Tenn. Code Ann. § 65-4-101(6) and is not required to obtain a CCN from the Commission. If any of the facts or circumstances set forth in the *Petition* regarding the provision of wastewater service at Fernvale should change, the Petitioner must notify the Commission immediately.

## **IT IS THEREFORE ORDERED THAT:**

1. Fernvale Springs Rural Retreat is not required to obtain a Certificate of Public Convenience and Necessity from the Tennessee Public Utility Commission to provide wastewater service to its development located at 7324 Caney Fork Road in Fairview, Tennessee in the manner set forth in its *Petition*.

2. Fernvale Springs Rural Retreat must notify the Tennessee Public Utility Commission

immediately of any changes in the provision of wastewater service to its development by filing an update in this docket file. Changes to the provision of wastewater service may alter the determination set forth in this Order.

3. Any party aggrieved by the decision of the Administrative Judge in this Initial Order may file a Petition for Appeal with the Tennessee Public Utility Commission within fifteen (15) days from the date of this Initial Order.

A handwritten signature in black ink that reads "Monica Smith-Ashford". The script is cursive and fluid.

Monica Smith-Ashford, Administrative Judge