

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
PETITION OF AQUA GREEN UTILITY, INC.)	DOCKET NO. 25-00029
TO MODIFY ITS ESCROW CHARGE)	

PETITION TO INTERVENE

The Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”), by and through Jonathan Skrmetti, Attorney General and Reporter for the State of Tennessee, pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (“TPUC” or the “Commission”) to grant the Consumer Advocate’s intervention into this proceeding because consumers’ interests, rights, duties, or privileges may be determined or affected by the *Petition of Aqua Green Utility, Inc. to Amend its Escrow Charge* (“Petition”) filed by Aqua Green Utility, Inc. (“Aqua Green” or the “Company”). For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in any matter or proceeding before the Commission in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and TPUC rules.
2. Aqua Green, a public utility regulated by the Commission, provides wastewater service to 15 residential customers and 2 commercial customers in its service territories in

Jefferson, Greene, and McNairy Counties in Tennessee.¹ The principal business address of the Company is 3350 Galts Road, Actworth, Georgia, 30102.²

3. The Company holds seven active Standard Operating Permits (“SOPs”), one new SOP, one pending SOP, and one terminated SOP.³ The details of the TPUC dockets and TDEC’s SOPs are as follows:

Development/ System	CCN Dkt. Nos.	County	TDEC Permit	Permit Status	Residential - # of Homes per permit	Design Capacity per permit
The Peninsulas	09-00045	Jefferson	SOP-09022	Reissuance	80	.0236 mgd
Stonebridge on Douglas Lake	13-00050	Jefferson	SOP-10042	Reissuance	107	.02646 mgd
Additional lots	13-00050					
McNairy Loves (commercial)	16-00030	McNairy	SOP-16-009	Reissuance	n/a	.006 mgd
Cedar Brooke S/D	18-00019	Columbia	SOP-17024	Reissuance	68	.0204 mgd
Flat Creek Plant - Trace Side S/D	18-0122	Maury	SOP-18027	Reissuance	108	.036 mgd
Bull Gap Love’s (commercial)	19-00048	Greene	SOP-19004	Reissuance	n/a	.0137 mgd
Bethesda Road Tmt Facility	20-00094	Williamson	SOP-20016	Modification	49	.0331 mgd
Williamson Court Rec Center	21-00084				Recreation center	
Thunder Mountain	22-00028	Sevierville	SOP-22009	New	Rental Cabins with 693 total bedrooms	.0693 mgd
Fire Fly	25-00030	Maury	SOP-25010	Pending	no info	no info
Forest Trail Subdivision	20-00026	Maury	SOP-19018	Termination	99	.0297 mgd

4. Since the Company began its operations in 2009, it has filed only one rate case.⁴ Aqua Green’s rate case was filed jointly with Commission Staff in November 2021.⁵ At that time, Aqua Green had 15 residential customers and 2 commercial customers in three counties in

¹ *Joint Petition, In re: Joint Petition of Aqua Green, Inc. and TPUC Staff (As a Party) to Increase Rates and Charges*, p. 1, ¶1, TPUC Docket No. 21-00128 (Nov. 5, 2021). Since this rate case, Aqua Green has added a new service territory, Thunder Mountain. *Order Approving Petition to Amend Certificate of Convenience and Necessity*, TPUC Docket No. 22-00028 (Oct. 12, 2022). This commercial cabin development is currently under construction. *Aqua Green Utility, Inc. Status Update to Commission*, TPUC Docket No. 22-00028 (Mar. 18, 2025).

² *Joint Petition, In re: Joint Petition of Aqua Green, Inc. and TPUC Staff (As a Party) to Increase Rates and Charges*, p. 1, ¶1, TPUC Docket No. 21-00128 (Nov. 5, 2021).

³ The Consumer Advocate searched TDEC’s Division of Water Resources’ public dataviewer for permits using “Aqua Green Utility” (<https://dataviewers.tdec.tn.gov/dataviewers/?p=2005:34001:1313771119744::RIR::>). The Consumer Advocate also reviewed documents related to these permits. According to a Compliance Evaluation Inspection (“CEI”), the plant at the Cedar Brooke Subdivision has been constructed, and that the construction of the subdivision will start in Spring 2025. A copy of the CEI is attached as “25-00029_Petition to Intervene_CA Exhibit 1.” Also, the CEI for the Flat Creek Plant – Trace Side Subdivision documents that the plant has been constructed, and that the construction of the subdivision will start in Spring 2025. A copy of the CEI is attached as “25-00029_Petition to Intervene_CA Exhibit 2.”

⁴ Aqua Green filed its first Certificate of Convenience and Necessity (“CCN”) on April 3, 2009. *Petition of Aqua Green Utility Inc. to Obtain A CCN for the Service of the Part Jefferson County, Tennessee Known as the Peninsula Previously Known as Parrott Bay*, TRA Docket No. 09-00045 (Apr. 3, 2009).

⁵ *Joint Petition, In re: Joint Petition of Aqua Green, Inc. and TPUC Staff (As a Party) to Increase Rates and Charges*, TPUC Docket No. 21-00128 (Nov. 5, 2021).

Tennessee, and a projected revenue deficiency of \$15,730.⁶ The proposed rate increases⁷ which were approved⁸ by the Commission are as follows:

<u>Customer Class</u>	<u>Current</u>	<u>Proposed</u>
Monthly Residential Service Rate ¹	\$44.53	\$55.63
Monthly Commercial Service Rate ²	\$5.75 per 1,000 gal.	\$7.67 per 1,000 gal.
Annual Sewer Access Fee	\$120.00	\$150.00

5. In the rate case, the parties explained that the Company had unpaid testing invoices and unrecovered capital repairs to the wastewater system amounting to \$9,163.00 and sought the recovery of these costs from Aqua Green's escrow account.⁹ The parties' reasoning for the escrow disbursement was as follows:

The parties aver that this single, nonrecurring disbursement from escrow is appropriate due to the special operating characteristics of the Company, in particular its very small customer base and limited customer growth potential through the Attrition Period, coupled with the Company's Test Period losses that would be exacerbated by charging these amounts to operations. Further, the use of escrow in this manner promotes the affordability of monthly service rates and provides a funding mechanism that avoids substantial rate impacts to individual customers. Absent use of escrow, individual customers would need to be assessed \$539.00 each in order to recover the cost of these items.¹⁰

6. On April 21, 2025, the Company filed its current Petition to request approval to modify the way its escrow accounts are funded.¹¹ Aqua Green's approved rates include a monthly

⁶ *Id.* at p. 2, ¶4. The net operating loss for the Twelve-month Attrition period was \$6,712. However, using the net operating margin method to establish a fair margin of 10% of operating expenses, Aqua Green was projected to incur a revenue deficiency of \$15,730. *Id.*

⁷ *Id.* at p. 2, ¶5.

⁸ *Order Setting Rates and Authorizing an Escrow Disbursement*, p. 3, ¶6, TPUC Docket No. 21-00128 (Jan. 24, 2022).

⁹ *Joint Petition, In re: Joint Petition of Aqua Green, Inc. and TPUC Staff (As a Party) to Increase Rates and Charges*, p. 3, TPUC Docket No. 21-00128 (Nov. 5, 2021).

¹⁰ *Id.* The Commission subsequently approved the disbursement. *Order Setting Rates and Authorizing an Escrow Disbursement*, p. 3, ¶6, TPUC Docket No. 21-00128 (Jan. 24, 2022).

¹¹ Petition at p. 2.

escrow charge of \$10.13 for residential rates and a \$1.37/1,000 gallon escrow charge for commercial customers.¹² The Company proposes to establish a minimum escrow fund requirement of \$5,000 per system resulting in a required balance of \$45,000.¹³ Any monies above the \$45,000 balance could be spent to address the operating shortfall the Company is experiencing.¹⁴

7. The Company's reason for making this modification to the funding of its escrow is to avoid another rate increase. Aqua Green used the recent petition¹⁵ for a Certificate of Convenience and Necessity to illustrate this point. The Company provided two five-year costs spreadsheets—one including the monthly escrow fee and one not including the monthly escrow fee. Aqua Green's spreadsheet shows that without the monthly escrow fee, the new development would be profitable by 12 months, and no rate increase would be necessary.¹⁶ However, the spreadsheet that includes the monthly escrow fee, shows that the new development would take 18 months before making a profit and would require a rate increase.¹⁷

8. The interests of consumers, including without limitation the modification of the monthly escrow fee and a concern of single-issue ratemaking, may be affected by the determinations and orders made by the Commission with respect to: (1) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103(a), TPUC Rule 1220-04-13-.07(7), and other relevant statutory and regulatory provisions; (2) the review and analysis of the documentation, financial spreadsheets, and materials provided by the Company; and (3) the

¹² *Order Setting Rates and Authorizing an Escrow Disbursement*, p. 3, ¶6, TPUC Docket No. 21-00128 (Jan. 24, 2022).

¹³ Petition at p. 2.

¹⁴ At the time of this *Petition*, Aqua Green's escrow account had a balance of \$55,161.62. *Id.*

¹⁵ *Aqua Green Utility Inc. Petition to Amend Certificate of Convenience and Necessity to Include a Portion of Maury County in Tennessee Known as the Firefly Project Located on Louisburg Pike at the Corner of Ash Hill Road in Spring Hill, Tennessee*, TPUC Docket No. 25-00030 (Apr. 21, 2025). The estimated start date for the sewer system operation is February 28, 2026, and the Company expects the development will be built out in 10 years. *Id.*

¹⁶ *Id.*


¹⁷ *Id.*


interpretation, application, and/or implementation of the terms and conditions of the Commission's Order in TPUC Docket No. 21-00128.

9. Only by participating as a party to this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

Wherefore, the Consumer Advocate requests the Commission grant the Consumer Advocate's Petition to Intervene.

RESPECTFULLY SUBMITTED,


JONATHAN SKRMETTI (BPR No. 031551)
Attorney General and Reporter
State of Tennessee



KAREN H. STACHOWSKI (BPR No. 019607)
Deputy Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via electronic mail,
upon:

Dart Kendall
Aqua Green Utility Inc.
3350 Galts Road
Acworth, GA 30102
Email: dart@aquagreenutility.com

This 14th day of May, 2025.



KAREN H. STACHOWSKI
Deputy Attorney General



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
COLUMBIA ENVIRONMENTAL FIELD OFFICE
1421 HAMPSHIRE PIKE**

**COLUMBIA, TENNESSEE 38401
PHONE (931) 380-3371 STATEWIDE 1-888-891-8332 FAX (931) 380-3397**

December 9, 2024

Mr. Dart Kendall
President
Aqua Green Utility, Inc
e-copy: dart@aquagreenutility.com
3350 Galts Road
Acworth, GA 30102

RE: Compliance Evaluation Inspection
State Operating Permit No. SOP- 17024
Aqua Green Utility-Cedar Brooke Subdivision
Columbia, Maury County, Tennessee

Dear Mr. Kendall:

On December 2, 2024, I conducted a Compliance Evaluation Inspection (CEI) of the wastewater treatment system serving the Cedar Brooke Subdivision located along Franklin Pike between Joe Peay Rd and Will Brown Rd. in Maury Co. A CEI is conducted to determine compliance with the requirements of State Operating Permit No. SOP-17024. The following observations were made during the inspection:

I. Permit

The current permit became effective on May 1, 2023, and shall expire on April 30, 2028.

II. Facility Site Review and Operations and Maintenance

The treatment system and drip dispersal area has been constructed. The treatment system is designed to serve approximately 68 homes that will be built in the Cedar Brooke Subdivision beginning in the spring of 2025. The drip dispersal field is fenced and posted with the sign requirements of the permit. Quarterly Monitoring Reports are being submitted. The Operations and Maintenance schedule will be implemented when the treatment system is in operation.

Mr. Kendall
December 9, 2024
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III. Conclusion

This concludes my observations. I would like to thank you for your time and cooperation during the inspection. If you have any questions concerning this correspondence, you may reach me at 931-222-9040 or by e-mail at gary.horne@tn.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Horne", is written above the printed name.

Gary Horne
Division of Water Resources



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
COLUMBIA ENVIRONMENTAL FIELD OFFICE
1421 HAMPSHIRE PIKE**

**COLUMBIA, TENNESSEE 38401
PHONE (931) 380-3371 STATEWIDE 1-888-891-8332 FAX (931) 380-3397**

December 9, 2024

Mr. Dart Kendall
President
Aqua Green Utility, Inc
e-copy: dart@aquagreenutility.com
3350 Galts Road
Acworth, GA 30102

RE: Compliance Evaluation Inspection
State Operating Permit No. SOP- 18027
Aqua Green Utility-Flat Creek Plant-Trace Side Subdivision
Columbia, Maury County, Tennessee

Dear Mr. Kendall:

On December 2, 2024, I conducted a Compliance Evaluation Inspection (CEI) of the wastewater treatment system serving the Trace Side Subdivision located along Franklin Pike and Will Brown Rd. in Maury Co. A CEI is conducted to determine compliance with the requirements of State Operating Permit No. SOP-18027. The following observations were made during the inspection:

I. Permit

The current permit became effective on March 15, 2019, and expired on March 15, 2024. An application for renewal was received on October 9, 2024. A draft permit was issued on November 15, 2024.

II. Facility Site Review and Operations and Maintenance

The subdivision infrastructure has been completed and home construction in the Trace Side Subdivision is scheduled to start in the spring of 2025. The treatment system and drip dispersal area has been installed and is secured with a locked gate. The treatment system is designed and permitted to serve approximately 108 homes. The drip dispersal field is fenced and posted with the sign requirements of the permit. Quarterly Monitoring Reports are being submitted. The Operations and Maintenance schedule will be implemented when the treatment system is in operation.

Mr. Kendall
December 9, 2024
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III. Conclusion

This concludes my observations. I would like to thank you for your time and cooperation during the inspection. If you have any questions concerning this correspondence, you may reach me at 931-222-9040 or by e-mail at gary.horne@tn.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Horne", is written over the word "Sincerely,".

Gary Horne
Division of Water Resources

