

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 12, 2025

IN RE:

**PETITION TO AMEND CERTIFICATE OF
CONVENIENCE AND NECESSITY TO INCLUDE A
PORTION OF MAURY COUNTY IN TENNESSEE
KNOWN AS THE FIREFLY PROJECT LOCATED
ON LEWISBURG PIKE AT THE CORNER OF ASH
HILL ROAD IN SPRING HILL, TENNESSEE**

**DOCKET NO.
25-00030**

**ORDER APPROVING PETITION TO AMEND CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Herbert H. Hilliard,¹ Commissioner Clay R. Good, and Commissioner Kenneth C. Hill 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 June 23, 2025. The panel convened to consider the *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 Lewisburg[sic] Pike at the Corner of Ash Hill Road in Spring Hill, Tennessee* (“*Petition*”) filed by Aqua Green Utility Inc. (“Aqua Green” or the “Company”) on April 21, 2025.

¹ Commissioner Herbert H. Hilliard was absent from the June 23, 2025, Commission Conference and did not participate in the deliberations or vote in this docket.

BACKGROUND AND PETITION

Aqua Green filed its *Petition* to amend its Certificate of Public Convenience and Necessity ("CCN") with the Commission on April 21, 2025.² The Company requested to expand its existing service territory to include Firefly Subdivision in Spring Hill, Tennessee, to be located near the intersection of Lewisburg Pike and Ash Hill Road.³ The proposed development will be a golf course-lifestyle residential community to be built in multiple phases.⁴ Aqua Green's new system will serve up to 407 residential homes, a clubhouse, and amenities.⁵

Aqua Green is certified to do business in the State of Tennessee and has a principal office located in Acworth, Georgia.⁶ Aqua Green currently holds a CCN with the State of Tennessee to operate wastewater treatment plants.⁷ Aqua Green filed the Pre-Filed Direct Testimony of Dart Kendall with its *Petition*.⁸ Mr. Kendall, the president of the Company, testified that Aqua Green received its initial CCN in 2009 and has been granted eight CCNs.⁹ He further stated that the Company has "all the necessary technical, managerial, and financial capability to provide wastewater service to the Firefly located on Hwy 431 and the corner of Ash Hill Road."¹⁰ Additionally, Mr. Kendall stated that he has a State of Tennessee Collection System Operator License and a State of Tennessee Biological/Natural Operator Treatment System License to ensure

² *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 Lewisburg[sic] Pike at the Corner of Ash Hill Road in Spring Hill, Tennessee* (April 21, 2025).

³ *Id.* at 1.

⁴ *Id.* at Confidential Attach. Contract Agreement, p. 1 ("Confidential Attach. 1").

⁵ *Id.*

⁶ *Id.* at Attach. General Information, p. 1 (unnumbered) ("Attach. 1").

⁷ *See In re: 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*, Docket No. 09-00045, *Order Approving Petition for a CCN* (July 31, 2009).

⁸ *Petition*, Attach. Dart Kendall, Pre-Filed Direct Testimony (April 21, 2025) ("Attach. 4").

⁹ *Id.* at Attach. 4, p. 1 (unnumbered).

¹⁰ *Id.* at Attach. 4, p. 2 (unnumbered).

Aqua Green's technical compliance.¹¹ The Company testified that it contacted the public utilities in the area and confirmed that none plan to provide services at the Firefly Subdivision.¹² The Company has a \$50,000 letter of credit from First Citizens Bank to ensure the proper operation and maintenance of the wastewater services.¹³

The Firefly Subdivision will be developed in multiple phases.¹⁴ The wastewater system will be built in four separate phases, with each permitted as one-fourth of the total flow capacity.¹⁵ There will be approximately 102 homes constructed in each of the last three phases.¹⁶ Construction on each subsequent phase will start when about half of the lots in the previous phase are sold.¹⁷

The type of wastewater plant to be built is a fully automated trickling filter where media is pumped across media blocks for natural treatment. After treatment, the effluent is disposed of through drip irrigation. The plant utilizes a programmable logic controller with custom software. The plant features autonomous redundancy of major components as well as leak detection and isolation technology.¹⁸ The initial sewage treatment plant is designed to accommodate future additions.¹⁹ Phase one construction is expected to start as soon as the title to the land is transferred and permits are received. It is estimated to take 190 days to build phase one. When enough sewage has entered the plant, Aqua Green will start operations. The estimated start date for phase one is February 28, 2026.²⁰

¹¹ *Id.*

¹² *Id.*

¹³ *Petition*, Attach. First Citizens Bank Letter of Credit (April 21, 2025) ("Attach. 11").

¹⁴ *Mr. Dart Kendall, Aqua Green Utility Inc. Response to Consumer Advocate Letter Filed May 15, 2025 Re Compliance with the Minimum Filing Requirements Set Forth in TPUC Rule 1220-04-13-17 Regarding CCN Amendments*, p. 1 (May 27, 2025).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 2.

¹⁸ *Id.* at Attach. 1, p.2, & Attach. 4, p. 3 (unnumbered).

¹⁹ *Id.* at Confidential Attach. 1, p. 1.

²⁰ *Id.* at Attach. 1, p. 2 (unnumbered).

The Company filed a copy of the Contract Agreement (“Agreement”) between the Company, Advanced Septic, Inc. (“Contractor”), and Firefly Holdings Tennessee, LLC (“Developer”).²¹ The Agreement states that the Developer will provide financial security to the Company for the total cost of completing phase one.²² The Agreement specifies an estimated price of work and materials for this project to be paid by the Developer to the Contractor.²³ The Developer will provide Aqua Green with performance bonds to cover the future infrastructure additions to the wastewater system as necessary to complete phases two, three, and four of the wastewater system before recording the final plats of the corresponding future phases of the lots.²⁴

Further, the Agreement provides that the Developer will transfer to Aqua Green a customary quitclaim deed for the land on which the sewage treatment plant and drip field lines are to be located, as well as any easements needed to access the plant and drip fields.²⁵ The Developer will pay for the lift stations and the sewer mains throughout the development, and the Company will assume operations once constructed.²⁶

Aqua Green filed a permit modification application with the Tennessee Department of Environment and Conservation (“TDEC”) for the treatment facility to serve Firefly Subdivision and a preliminary engineering report.²⁷ Aqua Green understands that it will not begin operation without a State Operating Permit and approved engineering plans from TDEC.²⁸

²¹ *Id.* at Confidential Attach. 1, p. 1.

²² *Id.* at pp. 1, 4.

²³ *Id.* at p. 4.

²⁴ *Aqua Green Utility Inc. Additional Documents Re: Petition to Amend Certificate of Convenience and Necessity to Include a Portion of Maury County in Tennessee Known as the Firefly Project Located on Lewisburg[sic] Pike at the Corner of Ash Hill Road in Spring Hill, Tennessee*, Attach. Response to Data Request Dated June 5th (Attach. 1) (June 10, 2025) (“*Responses to Commission Data Requests*”).

²⁵ *Petition*, Confidential Attach. 1, p. 2 (April 21, 2025).

²⁶ *Id.* at Attach. 4, p. 3 (unnumbered).

²⁷ *Id.* at Attach. Application for a State Operation Permit (SOP) (“Attach. 5”); *Petition of Aqua Green Utility Inc. to Amend Its Certificate of Convenience and Necessity*, Attach. State Operating Permit Engineering Report (May 13, 2025).

²⁸ *Responses to Commission Data Requests*, Attach. 1 (June 10, 2025).

STANDARD FOR COMMISSION APPROVAL

No public utility is permitted to begin construction or operation of a new utility facility or service without first obtaining a CCN from the Commission as set forth in Tenn. Code Ann. § 65-4-201(a), which reads:

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

Additionally, in order to obtain a CCN to provide wastewater service, Commission Rule 1220-4-13-.17(1) requires that a public wastewater utility satisfy the following requirements:

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 1220-1-1-.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.

THE HEARING

The Hearing in this matter was held before the panel during the regularly scheduled Commission Conference on June 23, 2025, as noticed by the Commission on June 13, 2025.

Participating in the Hearing were:

Aqua Green Utility Inc. – J. Ross Hutchison, Esq., Stites & Harbison, PLLC, 401 Commerce Street, Suite 800, Nashville, TN 37219-2490; and Dart Kendall, President, 3350 Galts Road, Acworth, Georgia 30101.

During the Hearing, Mr. Kendall ratified and summarized his Pre-Filed Testimony and was subject to questioning before the panel. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

In its *Petition*, Aqua Green asked the Commission for approval in accordance with Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-4-13-.17 to amend its CCN to provide service to Firefly Subdivision in Maury County, Tennessee. Based on a review and consideration of the pleadings, pre-filed testimony, and the entire administrative record, the panel made the following findings and conclusions:

The panel found that Aqua Green has demonstrated that it possesses the requisite managerial, financial, and technical capabilities to provide wastewater services to Firefly Subdivision and that a public need exists for such service as required under Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-4-13-.17. Further, the panel found that Aqua Green is in good standing with the Commission and is in compliance with all Commission rules.

Based on these findings, the panel voted unanimously to grant the *Petition*, contingent upon the satisfactory completion and filing of the necessary documents listed in the ordering clause of this Order. The panel also directed Aqua Green to file a report in this docket demonstrating its compliance with the filing requirements prior to providing wastewater service to the Firefly Subdivision. In the event the compliance report is not filed, the panel directed the Company to file a report on the status of providing wastewater service to Firefly Subdivision, as well as the status of its compliance with the filing requirements of this Order, within six months from the date of this Order and every six months thereafter until the installation is complete.

IT IS THEREFORE ORDERED THAT:

1. The *Petition to Amend Certificate of Convenience and Necessity to Include a Portion of Maury County in Tennessee Known as the Firefly Project Located on Lewisburg[sic] Pike at the Corner of Ash Hill Road in Spring Hill, Tennessee*, filed on April 21, 2025, by Aqua Green Utility Inc. is approved contingent upon Aqua Green Utility Inc. filing the following in this docket:

- a. The deed and/or easements for all the land and entitlement to ownership rights to the wastewater system within 15 days of being issued and before the first customer is connected to the wastewater system;
- b. A final copy of the State Operating Permit issued by the Tennessee Department of Environment and Conservation within 15 days of issuance;
- c. A copy of the as-built plans with signed certification by Aqua Green Utility Inc. indicating the wastewater system has been inspected and is approved to begin operation;
- d. A copy of the plat signed after the area of development is approved by the city and/or county government, within 15 days of being issued, and before the first customer is connected to the wastewater system;
- e. A copy of the fully executed performance bond from the developer or builder of the wastewater system made payable to Aqua Green Utility Inc. to ensure the construction of the wastewater system. The performance bond should be for an amount equal to or greater than the cost of the system as provided in contracts between the builder, developer, and/or utility;

f. A copy of any future contract(s) regarding phases two, three, and four of the wastewater system to serve Firefly; and

g. The amount of contributed capital being transferred to Aqua Green Utility Inc., no later than 15 days after the final plat is signed by Aqua Green Utility Inc.

2. Aqua Green Utility Inc. shall file a report in this docket demonstrating its compliance with these filing requirements prior to providing wastewater service to Firefly Subdivision. In the event the compliance report is not filed within six (6) months from the date of this Order, Aqua Green Utility Inc. shall file a report on the status of providing wastewater service to Firefly Subdivision as well as the status of its compliance with each of the filing requirements no later than six (6) months from the date of this Order and every six (6) months thereafter until the installation is complete.

3. Any person aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within 15 days from the date of this Order.

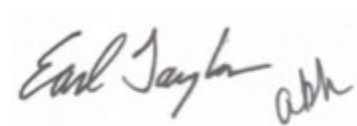
4. Any person aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within 60 days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman David F. Jones,
Vice Chairman John Hie,
Commissioner Clay R. Good, and
Commissioner Kenneth C. Hill concurred.**

None dissented.

ATTEST:



Earl R. Taylor, Executive Director