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T.R.A. DOCKET ROOM

IN RE:)
)
PETITION OF TENNESSEE)
WASTEWATER SYSTEMS, INC. TO) **DOCKET NO. 15-00025**
AMEND ITS CERTIFICATE OF)
CONVENIENCE AND NECESSITY)

**MOTION FOR LEAVE TO FILE SECOND SUPPLEMENTAL
DISCOVERY REQUEST**

The Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”), pursuant to TRA Rule 1220-1-2-.11, hereby submits this Motion requesting permission to issue a second supplemental discovery request to Tennessee Wastewater Systems, Inc. (“TWSI”). The supplemental discovery request that the Consumer Advocate seeks involves TWSI’s future trade or sale of capacity if the amendment to its CCN is granted. Because TWSI’s dealings in capacity, especially among its affiliates, may generate profits that could lower rates, consumers and the Authority have an interest ensuring the TSWI will only engage in capacity sales or trades that are approved by the TRA. Put simply, the Consumer Advocate contends any revenue from the sale of capacity should be counted as revenue to TWSI. But if the capacity is being sold by an affiliate there is a possibility that without TRA oversight that revenue would not go to TWSI but to the unregulated affiliate. The Proposed Second Supplement Discovery Request is attached hereto.

Furthermore, if TWSI contends that it does not need approval from the TRA to sell capacity at The Enclave through an affiliate, that position may conflict with TRA policy. If so, that would be relevant to the CCN proceeding

The Consumer Advocate was unaware that TWSI or any affiliate was engaged in the selling of capacity until reviewing TWSI's responses to the TRA Staff's data requests, which TWSI filed on June 8, 2015 in TRA Docket No. 14-00136. Following is the TRA Data Request and TWSI's response regarding capacity:

7. Identify any item or dollar amount (since 1999) that any company or individual (affiliated or non-affiliated) has collected for tap fee credits/capacity to any On-Site TWSI utility system (inclusive of lagoon, sand filter treatment systems, any other utility owned system). Please include a spreadsheet in excel format with the following information: Please sort by Amended CCN location name.
7. See attached. CONFIDENTIAL.

TWSI objects to this question on the grounds that the information is irrelevant and the gathering of information dating back to 1999 is burdensome. Without waiving these objections, TWSI has provided the requested information for the years 2009 through 2014.

This attachment is confidential.

First, the sale of wastewater capacity by a non-regulated entity to a developer is not now and has never been considered by the TRA to be a regulated transaction. Such information is therefore not relevant to this proceeding. Moreover, TWSI went through a general rate case in 2008 and 2009. Using transactions prior to that time as a basis for making a decision in this docket would be retroactive making.

Second, TWSI is not required to keep TRA-related information for longer than three years. TRA Rule 1220-4-13.03(1) states that "records required by these rules shall be preserved for a minimum period of three (3) years." The process of locating and producing information older than three years is overly burdensome and expensive.

TRA Docket No. 14-00136 – *TWSI's Date Response To Data Request Issued On May 15, 2015.*

At the time TWSI's response regarding capacity was filed, the Consumer Advocate had already filed its first *Motion for Leave to File Supplemental Discovery Requests*. The Consumer Advocate would have included the present discovery request in its prior *Motion* had it been aware of TWSI's dealings in capacity at that time. Because such dealings are now apparent, the Consumer Advocate would be remiss not to inquire about TWSI's future plans to deal in capacity if the amendment to its CCN is granted.

The Consumer Advocate does not expect that this discovery request will result in any delay in the Procedural Schedule. The Consumer Advocate proposes that TWSI have one week to reply to the discovery request upon the TRA's granting of this Motion. The Consumer Advocate intends to submit its Testimony and/or Statement of Position on June 25, 2015, consistent with the Procedural Schedule.

RESPECTFULLY SUBMITTED,

Erin Merrick by Vance
ERIN MERRICK (BPR# 033883)
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202-0207
(615) 741-8722
(615) 741-1026 FAX
Broemel

Dated: 11 June, 2015.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Henry Walker
Bradley Arant Boult Cummings, LLP
1600 Division Street, Suite 700
Nashville, TN 37203
hwalker@babco.com

This the 11th day of June, 2015.

Erin Merrick
ERIN MERRICK
by Vance Swemmel