



STATE OF ALABAMA

ALABAMA PUBLIC SERVICE COMMISSION
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CHRIS V. BEEKER III, COMMISSIONER, PLACE 2

JOHN A. GARNER, EXECUTIVE DIRECTOR

PINNACLE WASTEWATER SYSTEMS, LLC

PETITIONER,

**OFFICE OF THE ATTORNEY GENERAL
OF ALABAMA,**

INTERVENOR.

**PETITION: FOR APPROVAL OF
MODIFICATION OF RESIDENTIAL
RATE AND VACANT LOT FEE**

DOCKET 32606

ORDER

BY THE COMMISSION:

On December 27, 2024, Pinnacle Wastewater Systems, LLC (“Pinnacle” or “Petitioner”), a wastewater management entity (“ME”), filed a petition requesting approval to increase its tariffed monthly sewer rates. The Petitioner proposed a phased-in increase of residential rates and vacant lot fees, with the first phase taking effect on March 1, 2025, and the second phase taking effect on March 1, 2026. Phase I would increase the monthly residential rate from the current rate of \$49.50 to \$59.50 and the monthly vacant lot fee from the current fee of \$15.50 to \$18.00. Phase II would further increase the monthly residential rate to \$62.33 and the monthly vacant lot fee to \$20.00. In the petition, Pinnacle supported its request through a reference to the Consumer Price Index (“CPI”) and defended its practice of maintaining and repairing sewer components on customers’ properties.¹

¹ The use of CPI and the maintenance/repair of customer-owned equipment was addressed in a procedural ruling issued prior to the hearing. That procedural ruling put the Petitioner on notice that Pinnacle should: 1) support its rate request with actual expense information from the company rather than relying on an inflation calculator; and 2) support

On January 14, 2025, the Office of the Attorney General of Alabama (“Attorney General”) intervened in the matter. On February 4, 2025, the Commission issued an order suspending the proposed tariff through August 28, 2025, to allow sufficient time for investigation and study of the requested changes. A hearing was held on July 15, 2025, in which representatives from Pinnacle, the Attorney General, and Commission Staff were present and participated.

Summary of the Hearing Testimony

In support of the proposed changes, Pinnacle offered the testimony of two witnesses, the owners of the company, Wynn Echols and David Stovall, with Mr. Echols presenting the case for the proposed tariff changes and fielding most of the questions. Mr. Echols testified that they “are running as lean as a wastewater service company can run.” He stated that Pinnacle has no employees, pays no rent, has no attorney, and has no accountant. Mr. Echols indicated that he answers the phone, handles the billing, and performs other administrative tasks. He represented that Pinnacle is “not making money” and that nobody is drawing a salary.

Continuing with his presentation, Mr. Echols explained that Pinnacle initially petitioned the Commission for a rate increase based on inflation as reflected by the CPI. He indicated that the Petitioner’s rates were set in 2017 or 2018 and that “the cost of everything has gone up since then.” Mr. Echols testified that Pinnacle supplemented the initial filing by providing requested financial information to Commission Staff, which showed that “with that \$10 additional a month that we would get a return of 5.4 percent.” He entered Pinnacle’s Revenue Requirement Calculation into evidence as Petitioner’s Exhibit 1; however, Mr. Echols did not explain the revenue requirement calculations during his presentation.

its operational practice of maintaining and repairing customer-owned equipment and provide the legal basis for including expenses related to this practice in the calculation of its proposed rates.

Continuing with his presentation, Mr. Echols testified that “a big part of our rate is maintaining on-lot components,” which he listed as a septic tank, a pump, a control panel, and a service line located on the customer’s property. He represented that Pinnacle has not charged customers an additional charge for work to replace the on-lot pumps, troubleshoot on-lot control panels, or pump the on-lot septic tanks, adding that, “We get calls all the time that really are not on us.” Mr. Echols indicated that, since the inception of the company, Pinnacle has always held the position that work to repair or maintain on-lot components “should be in the rate” and that there has “never been an additional charge” for such work. He admitted that such operations “may not be consistent with what some of the other [MEs] are doing” and that it “comes with a tremendous cost.” Mr. Echols explained that the Petitioner’s Master Agreement (the agreement between Pinnacle and a developer that describes the relationship with future homeowners) represents that Pinnacle will operate and maintain the “entire system,” which he said includes “the tanks at each house.” In describing the reason for maintaining and repairing on-lot equipment, Mr. Echols asserted that Pinnacle’s scope of operations allows them to have more control, detect prohibited discharges by a customer, and maintain the installation of standardized pumps. He also contends that his “guys”² have the expertise to troubleshoot and fix problems, and that environmental regulators would hold Pinnacle responsible for issues, such as overflows, related to on-lot equipment.

On cross examination by the Attorney General, Mr. Echols indicated that he spends most of his work time on his engineering firm, Engineers of the South, and that “part of [his] time as Engineers of the South is billed at a reduced rate to cover a small fraction of the time that [he spends] on Pinnacle.” Mr. Echols clarified that he is involved with an additional company other

² During his initial presentation, Mr. Echols did not explain who his “guys” were, despite previously testifying that Pinnacle has no employees.

than Engineers of the South and Pinnacle—EOS Utility Services (an “operations company” that services the equipment, responds to service calls, pumps sludge, and replaces pumps as needed). He provided examples of service calls, which include work on an on-lot pump or an issue with a on-lot control panel. Mr. Echols stated that the expenses related to service calls are considered an operations expense. He explained that the \$12,000 increase in expenses, described in Footnote C of Petitioner’s Exhibit 1, is related to the periodic pumping of on-lot septic tanks.

On examination by Commission Staff, Mr. Echols clarified that he is part-owner of EOS Utility Service, but that he is not involved in the day-to-day business of that company. He represented that, although Pinnacle has no employees and “everything is subbed out,” the Petitioner has not divested its authority as a wastewater management entity. Mr. Echols stated that the proposed phase-in of the rate increase serves to “lessen the blow of the increase” to customers and admits that the proposed rates were not based on “a deep dive into the financial situation.” He could not definitively state who owned the sewer equipment located on customers’ properties, but he represented that he did not have any issue with the “ownership staying with the homeowners.” Mr. Stovall pointed out that the collection system is located on private property. Mr. Echols also addressed Pinnacle’s reserve account, indicating that part of the proposed rate increase would be used to fund the reserve account.

In response to questions from the Administrative Law Judge, Mr. Echols indicated that, other than the Master Agreement, there is no legal basis that requires a residential customer to use Pinnacle for repairs or maintenance of the on-lot sewer equipment. The Master Agreement (Petitioner’s Exhibit 5) indicates that, at the time of construction, “the individual lot owner shall be responsible for all installation and maintenance of laterals, septic tanks, other tanks, pumps, filters, controls and any other components of the system exclusively for the use of the lot owner.”

The Master Agreement also states that Pinnacle will be responsible for the “normal maintenance” of the on-lot components so long as the owner complies with the terms of the customer service agreement. Mr. Echols asserted that he thinks “it’s in the customer’s best interest that we maintain it” because the customers fail to adequately maintain their on-lot components to the detriment of the entire system. He admitted that some customers cause more damage to the system than others and that Pinnacle plans to charge customers an additional fee for violations of the customer agreement that cause damage. Mr. Echols conceded that the Petitioner is required to seek permission from the Commission for any new customer charges and that his proposed rates spread the costs of repairs to one customer’s on-lot equipment among all the customers. Despite this, he continued to assert that Pinnacle needs “control over the on-lot stuff” to properly manage the entire system.

Analysis and Findings

The Commission considers the Petitioner’s proposed sewer rates “pursuant to the laws, rules, regulations, and procedures pertaining to utilities.” Ala. Code § 22-25B-6(g). The Alabama laws pertaining to utilities require that rates “be reasonable and just to both the utility and the public” and “enable [the utility] at all times to fully perform its duties to the public.” Ala. Code § 37-1-80. When evaluating proposed rates, the Commission considers a company’s prudent expenses, the revenue generated by the existing customer rates, and the allowance of a reasonable return. Regarding the consideration of the prudence of expenses, the Commission approves rates that allow a wastewater provider to earn a fair return while operating “under honest, efficient and economical management.” *Id.* Honest, efficient, and economical management refers to prudent operations, reflected by expenses that are not unreasonable, extravagant, or wasteful. The burden of proof is on the regulated company to provide evidence to support its proposed rates. *Birmingham*

Elec. Co. v. Alabama Pub. Serv. Comm'n, 254 Ala. 140 (1949). This includes the burden of showing that the incurred expenses are prudent and that the proposed rate of return is reasonable. 73B C.J.S. Public Utilities § 135.

Rather than providing specific information related to its operational expenses, Pinnacle's rate petition is based on general inflation as reflected by the CPI. While inflation has occurred since Pinnacle implemented its current rates, such general evidence cannot form the basis for a rate increase under Alabama law and current Commission regulations. Pinnacle did provide supplemental financial information at the hearing, including the Revenue Requirement Calculation (Petitioner's Exhibit 1), which includes revenue and expenses from 2023 and 2024, along with notes to support the proposed increase. While the Revenue Requirement Calculation superficially supports the proposed rates, Mr. Echol's testimony revealed that many of the expenses in that calculation are related to the maintenance and repair of sewer equipment installed by the customer (referred to above as "on-lot" equipment). Therefore, the central issue in this matter is whether expenses related to the maintenance and repair of this customer-installed equipment are prudent and consistent with Alabama law.

Pursuant to the Commission's Wastewater Rules,³ MEs, like Pinnacle, "shall limit business activities to those authorized by the Commission" and if an ME "seeks authority to conduct business activities other than the operation of cluster or community wastewater systems as defined in Alabama Code § 22-25B-1, it must submit a petition to the Commission requesting that authority." Ala. Admin. Code r. 770-X-9-.08(2). So, the question becomes whether the maintenance and repair of this customer-installed equipment is part of "the operation of cluster or

³ Alabama law states that the Commission "shall promulgate and enforce such rules as necessary to certify and monitor the economic viability" of MEs. Ala. Code § 22-25B-6(a). The law outlines several categories of types of regulations that the Commission may issue, indicating that the Commission has broad authority.

community wastewater systems as defined in Alabama Code § 22-25B-1.” In accordance with the statutory definitions⁴ and the Wastewater Rules, an ME would have the authority to maintain and repair customer-installed equipment if the ME demonstrates to the Commission that it owns the equipment as part of a permitted wastewater system. Such demarcation of responsibility and authority is consistent with utilities regulated by the Commission.

Pinnacle has not demonstrated that it owns the customer-installed equipment as part of a permitted wastewater system. The Petitioner provided neither proof of ownership of the on-lot equipment nor any environmental permit that indicates that the on-lot equipment is included in any of Pinnacle’s permitted wastewater systems. Although Mr. Echols asserted that the on-lot pump, panel, and tank should be treated like Pinnacle’s property, he did not provide evidence of ownership. Further, he appeared to recognize that the customers own this equipment when he stated that he did not have any issue with the “ownership staying with the homeowners.” The Master Agreement also provided evidence that the residential customers own the septic tanks, pumps, and controls on their lots.

Expenses related to the maintenance and repair of customer-owned equipment would not be related to Pinnacle’s operation of a cluster or community wastewater system. Pinnacle has a duty to maintain its system, and the customer has the duty to maintain its equipment. Therefore,

⁴ **Cluster wastewater system.** An integrated wastewater collection system or treatment system, or both, or multiple systems serving a single development or contiguous developments, which collectively have a design flow of 15,000 GPD or less, and is designed and permitted for discharge of the treated wastewater to a subsurface distribution system, but excluding systems that discharge directly to surface waters of the state. The system must be designed by and certified by a licensed professional engineer to comply with design and permit requirements established by the ADPH. The term does not include a small-flow cluster system.

Community wastewater systems. An integrated wastewater collection system or treatment system, or both, or multiple systems serving a single development or contiguous developments, which collectively have a design flow of more than 15,000 GPD, and is designed and permitted for discharge of the treated wastewater to a subsurface distribution system, but the term specifically excludes systems that discharge directly to surface waters of the state. The system must be designed and certified by a licensed professional engineer to comply with the design and permit requirements established by ADEM. Ala. Code § 22-25B-1.

expenses related to the maintenance and repair of customer-owned equipment would not be recoverable through rates. However, inspection of such customer-owned equipment and customer education would be related to an ME's duties to the public and recoverable in rates. Pinnacle has the authority to inspect the customers' components, set reasonable rules for interconnection (such as pump requirements), and disconnect customers for failure to pass inspection or follow the interconnection requirements. Pinnacle's prudent expenses related to inspection, customer education, disconnection, and reconnection would all be recoverable through tariffed rates.

If an ME does not own the on-lot equipment as part of the permitted wastewater system (as appears to be the case with Pinnacle), it could obtain authority to maintain and repair that equipment by requesting and receiving permission to do so from the Commission, pursuant to Ala. Admin. Code r. 770-X-9-.08(2). That rule states that the "ME has the burden of showing that any business activities other than operation of wastewater systems listed on its certificate would not negatively impact the financial viability of the ME." *Id.* The rule also states that, upon approval, "the ME shall maintain separate accounting for the activities covered by the PSC certificate and the additional activities." *Id.* If granted permission by the Commission to repair and maintain customer-owned equipment, any charge for that work would not be a tariffed rate.⁵ Here, Pinnacle has not requested such authority and has not separated its accounting related to these nonregulated services.

Given that much of Pinnacle's expenses relate to repairs and maintenance of customer-owned property (which should not be included for rate setting purposes), the Petitioner has not shown that its expenses are prudent. Furthermore, since the Petitioner's presentation did not clarify

⁵ If granted permission, Pinnacle could establish a subscription service where customers pay a monthly rate to maintain and repair components on their property. This would be similar to a monthly sewer rate, but it would not be mandated or regulated by the Commission.

the expense accounts in the Revenue Requirement Calculation, the evidence is insufficient to determine whether the remaining expenses support any rate increase, although it appears unlikely. Therefore, because Pinnacle has not met its burden of proof to show that the increase is needed, the proposed rate increase is due to be denied.

Regarding the reserve account, Petitioner has not structured the reserve account in a manner consistent with Commission rules. Commission Rule WW-8 contemplates the use of a rate rider to fund a separate reserve account with restrictions on withdrawals from that account. Pinnacle's Revenue Requirement Calculation suggests that \$9,455 of the proposed revenue increase would be used to fund the reserve account. Because this is not consistent with Commission Rules, a rate increase to fund a reserve account in this manner is also due to be denied.

Despite the denial of the proposed rate increase, it appears that Pinnacle is making an effort to be efficient, or as Mr. Echols stated, they "are running as lean as a wastewater service company can run." The Commission encourages efficiency, but not at the sacrifice of good management. The level of outsourcing by Pinnacle causes concerns about whether the Petitioner has delegated its responsibilities as the wastewater management entity certified by the Commission.

To address the above-described concerns about outsourcing and the possibility that Pinnacle may wish to file for another tariff change, using appropriate supporting information, the Petitioner would benefit from remedial training on Alabama law, Commission regulations, and ratemaking principles. Therefore, Pinnacle is directed to schedule a training session with Commission Staff.

IT IS THEREFORE ORDERED that the Petition of Pinnacle Wastewater Systems, LLC for approval of an increase to its tariffed monthly sewer rates is denied.

IT IS FURTHER ORDERED that, within 60 days from the effective date of this order, Pinnacle Wastewater Systems, LLC meet with Commission Staff for training on Alabama law, Commission regulations, and the process for the filing of sewer rates.

IT IS FURTHER ORDERED that jurisdiction in this cause is retained for whatever Order or Orders deemed appropriate by this Commission.

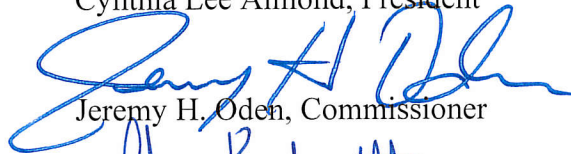
IT IS FURTHER ORDERED that this Order is effective as of the date hereon.

DONE at Montgomery, Alabama, this 11th day of August, 2025.

ALABAMA PUBLIC SERVICE COMMISSION



Cynthia Lee Almond, President

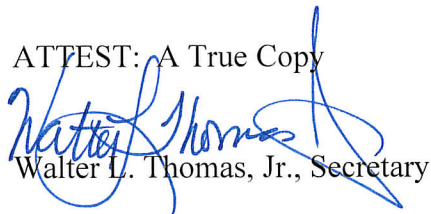


Jeremy H. Oden, Commissioner



Chris V. Beeker, III, Commissioner

ATTEST: A True Copy



Walter L. Thomas, Jr., Secretary