Water Services/Public Water System: Tennessee Appellate Court Addresses Service Area Dispute

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05/01/2025

The Court of Appeals of Tennessee ("Court") addressed in an April 22nd Opinion an issue arising out of the right to provide water services in a particular area. *See MILCROFTON UTILITY DISTRICT OF WILLIAMSON COUNTY, TENNESSEE V. NON-POTABLE WELL WATER, INC.*, 2025 WL 1166458.

The issue addressed was whether Non-Potable Well Water Inc. ("Company") was prohibited by a Tennessee statute from providing water services to customers in the Milcrofton Utility District of Williamson County ("District") service area.

The referenced District is a public water utility district created under the Tennessee Utility District Law of 1937. It owns and operates a public water system within a defined area in Williamson County. The Company is stated to be a developer for a residential subdivision in Williamson County which is included within the District's service area.

The District filed a lawsuit against the Company and its causes of action included Violation of Tenn. Code Ann. § 7-82-301(a)(1)(B) of the Utility District Law, claiming that the Company was illegally competing with the District by servicing water customers in its service area. The Company was stated to be providing irrigation water to approximately 17 residences in a residential subdivision from a well located under a portion of the subdivision's common area.

The trial court denied the District's claim for violation of the referenced statute. It held that the Company did not qualify as a public utility. Therefore, the statute was deemed inapplicable.

The relevant portion of the statute states:

…Except as provided in this subdivision (a)(1)(B) and subdivision (C), so long as the district continues to furnish services that it is authorized to furnish in this chapter, the district is the sole public corporation empowered to furnish those services in the district, and another person, firm, or corporation shall not furnish or attempt to furnish those services in the area embraced by the district, unless and until it has been established that the public convenience and necessity requires other or additional services; provided, that this chapter does not amend or alter §§ 6-51-101--6-51-111, and 6-51-301.

The Court on appeal holds that the relevant language of the statute is clear and unambiguous. It interprets the language as stating that a utility district will be the sole provider of services in the district. Further cited is the language that states "another person, firm, or corporation" is prohibited from furnishing those services.

The Court holds that there is no dispute that the Company fits within the scope of the definition of a "public utility" as set forth in the statute. It rejected the argument that the relevant statutory language requires that the Company be a public utility. In other words, there was no dispute that the Company qualified as "another person, firm, or corporation".

As a result, the Court reversed the trial court's decision and held that the Company could not provide water services in the District's service area.

A copy of the Opinion can be downloaded here.