

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:	April 19, 2006)	
)	
PETITION OF TENNESSEE WASTEWATER)	DOCKET NO.
SYSTEMS, INC., TO CONSIDER FINANCIAL)	06-00053
SECURITY PURSUANT TO TRA RULE 1220-4-13-.07)	

**ORDER APPROVING PETITION TO EXCLUDE CERTAIN REVENUE
AND CUSTOMERS FROM FINANCIAL SECURITY OBLIGATIONS**

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on March 20, 2006 to consider the Petition filed by Tennessee Wastewater Systems, Inc. ("TWS" or "Company") on February 21, 2006. In the Petition, TWS requests exclusion of certain revenue and customers from the financial security obligation required by TRA Rule 1220-4-13-.07.

Background

On April 6, 1994, TWS¹ received a Certificate of Public Convenience and Necessity ("CCN") in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company's principal office is located in Nashville, Tennessee.

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA's order of February 19, 2004, in Docket No. 03-00518.

On December 29, 2005, the Authority filed public necessity rules for wastewater companies that will remain in effect through June 12, 2006. The pertinent portions of TRA Rule 1220-4-13-.07, the public necessity rule that pertains to financial security for wastewater companies, are as follows:

- (1) All public wastewater utilities either holding or seeking to hold a CCN and owning wastewater systems shall furnish to the Authority, prior to providing service to a customer, acceptable financial security in an amount not less than \$20,000 using a format prescribed by the Authority. The public wastewater utility shall ensure that such financial security is maintained in continuous force in conformity to these rules.
- (2) Proof of financial security shall be furnished to the Authority for review and approval as follows:
 - (a) The amount of financial security required by public wastewater utilities holding a CCN at the time these rules become effective shall be one hundred percent (100%) of the gross annual revenue in the most recent Authority Form UD20 or, if a UD20 has not been filed, the estimated gross annual revenue forecasted in the CCN application submitted to the Authority. A public wastewater utility holding a CCN at the time these rules become effective shall file proof of the required financial security with the Authority seventy-five (75) days after the effective date of these rules.

* * *

- (6) Financial securities required by any local government may be considered by the Authority as fulfilling this financial security obligation. The public wastewater utility shall file with the Authority evidence of this financial security and a written request that the Authority consider the security as fulfilling the requirements of this Chapter.
- (7) The cost of the financial security may be funded from customer contributions by means of a pass-through mechanism that shall adjust a customer's monthly rate by a specified amount. The amount of the rate adjustment shall be established by the Authority for a public wastewater utility on a case by case basis.

- (a) Each public wastewater utility shall submit for the Authority's consideration a proposed tariff specifying the amount of the pass-through mechanism. The tariff filing shall contain a price-out calculation (number of customers multiplied by the pass-through mechanism) supporting the amount of increase proposed and the percentage increase this represents. This supporting calculation shall be based on the cost of the financial security to the public wastewater utility, the number of customers forecasted for the ensuing twelve (12) month period of operations, and the current approved monthly customer rates. Where applicable, a separate increase shall be calculated for residential and commercial customers.
 1. For public wastewater utilities holding a CCN as of the effective date of this rule, a proposed tariff shall be submitted to the Authority within thirty (30) days of the effective date of the financial security.

The Petition

On February 21, 2006, TWS filed the Petition requesting consideration of other financial securities required by a local government as partially fulfilling its financial security obligation pursuant to TRA Rule 1220-4-13-.07(6). Specifically, TWS asserts that because Williamson County, Tennessee requires a bond on each of the systems the Company owns and operates in Williamson County, the revenue from those systems should be excluded from the gross annual revenue used to determine its financial security obligation. In addition, TWS requests to exclude its Williamson County customers from calculations for recovery of the security costs pursuant to TRA Rule 1220-4-13-.07 because those customers are already paying for the costs of the Williamson County bonds. In support of its request, on March 2, 2006, the Company submitted information on the letters of credit attributable to TWS projects in Williamson County. TWS also calculated that the cost to non-Williamson County customers for the financial security required by TRA Rule 1220-4-13-.07 would be approximately 44 cents per month if the Petition was granted.

The March 20, 2006 Authority Conference

At the regularly scheduled Authority Conference held on March 20, 2006, the panel found that the amount of the security held by TWS for Williamson County exceeds the amount of security the TRA rules require the Company to post and partially fulfills the financial security obligation required by TRA Rule 1220-4-13-.07(6). Therefore, the panel concluded that the Company's Williamson County revenue should be excluded from the gross annual revenue calculations. Further, the panel found that the Company's Williamson County customers should not be required to pay an additional charge to cover the financial security for systems outside of Williamson County. As a result, the panel voted unanimously to grant the Petition to exclude Williamson County revenue and customers. In addition, the panel directed TWS to file security for one hundred percent (100%) of the gross annual revenue reported on its most recent Authority Form UD20 less its Williamson County gross annual revenue by April 3, 2006. Further, the panel directed the Company to file a proposed tariff within thirty (30) days of the effective date of the security detailing the amount of the pass-through mechanism, as provided in TRA Rule 1220-4-13-.07(a), for non-Williamson County customers. The panel also directed TWS to provide the non-Williamson County customers with a thirty (30) day notice of any rate increase.

IT IS THEREFORE ORDERED THAT:

1. The Petition of Tennessee Wastewater Systems, Inc. to exclude its Williamson County revenue from the calculation of its financial security obligation and to exclude its Williamson County customers from paying the costs of its financial security obligation is granted.
2. No later than April 3, 2006, Tennessee Wastewater Systems, Inc. shall file with the TRA security for one hundred percent (100%) of the gross annual revenue reported in its most recent Authority Form UD20 less its Williamson County gross annual revenue.

3. In accordance with TRA Rule 1220-4-13-.07(a)(1), Tennessee Wastewater Systems, Inc. shall file a proposed tariff within thirty (30) days of the effective date of the security detailing the amount of the pass-through mechanism, as provided in TRA Rule 1220-4-13-.07(a), for non-Williamson County customers. The non-Williamson County customers shall receive no less than thirty (30) days notice of any rate increase.



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director