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May 12, 2006

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T.R.A. DUCKET ROOM

Ron Jones, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

*Via Hand Delivery*

06-00139

Attention: Sharla Dillon

Re: Petition of Lynwood Utility Corporation for Exemption from Filing Proof of Financial Security as Required by Rule 1220-4-13-.07(2) or, in the Alternative, to Approve Another Type of Security or Security Amount

Dear Chairman Jones:

I have enclosed the original and 14 copies of the Petition of Lynwood Utility Corporation for Exemption from Filing Proof of Financial Security as Required by Rule 1220-4-13-.07(2) or, in the Alternative, to Approve Another Type of Security or Security Amount. I have enclosed a check for \$25.00 for the filing fee. Please return one of the copies to me stamped filed.

Because of the nature of the request in this Petition, Lynwood would welcome a meeting with the Utility Staff to discuss this Petition before a hearing is set on the Petition to discuss the merits of the Petition and any other alternatives to filing proof of financial security not suggested in the Petition. If the Authority does not desire such a meeting before a hearing, Lynwood is will file pre-filed testimony before the hearing.

Thank you for your consideration of this Petition and the request for a meeting with the Utility Staff before a hearing is scheduled.

Sincerely yours,

*Donald L. Scholles*

DONALD L. SCHOLLES

Enclosures

c: Tyler Ring  
Jim Ford  
Richard Collier  
Darlene Standley  
Ron Graham

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**Nashville, Tennessee**

**In re: PETITION OF LYNWOOD UTILITY )**  
**LYNWOOD FOR EXEMPTION )**  
**FROM FILING PROOF OF FINANCIAL )**  
**SECURITY AS REQUIRED BY RULE )**  
**1220-4-13-.07(2) OR, IN THE )**  
**ALTERNATIVE, TO APPROVE )**  
**ANOTHER TYPE OF SECURITY )**  
**OR SECURITY AMOUNT )**

**Docket No. \_\_\_\_\_**

**PETITION**

Pursuant to T.C.A. § 65-4-201(e) and Rule 1220-4-13-.07, Lynwood Utility Corporation (Lynwood or the Company) respectfully requests that the Tennessee Regulatory Authority (the Authority) exempt Lynwood from filing proof of financial security as required by Rule 1220-4-13-.07(2), or in the alternative, to approve another type of security or security amount.

The full name and address of the principal place of business of Lynwood is:

Lynwood Utility Corporation  
5250 Virginia Way, Suite 100  
Brentwood, TN 37027

All correspondence and communication with respect to this Petition should be sent to the following:

Donald L. Scholes  
Branstetter, Stranch & Jennings, PLLC  
227 Second Avenue North, Fourth Floor  
Nashville, TN 37201  
Telephone: 615-254-8801  
Facsimile: 615-250-3937

In support of its Petition, Lynwood states the following.

1. On June 14, 1976, the Tennessee Public Service Commission granted Lynwood Utility Company the authority to provide wastewater services in Williamson County, Tennessee. Lynwood Utility Corporation acquired the assets and operating authority of Lynwood Utility Company by an Order dated June 27, 1996 by the Tennessee Public Service Commission. At that time the sole stockholder of Lynwood Utility Corporation was David Terry. On May 12, 1999, Mr. Terry transferred all of the outstanding stock of Lynwood to Southern Utility Corporation. In January of 2003, Tyler Ring and John Ring became the sole owners of Southern Utility Corporation which owns the stock of Lynwood Utility Corporation.

2. Throughout its operating history, Lynwood has operated primarily from the debt and equity investments provided by its owners. In this respect, Lynwood has operated like any other traditional utility regulated by the Authority.

3. In contrast to Lynwood's embedded capital structure, many new wastewater utilities receiving certificates of public convenience and necessity (CCN) from the Authority have done so by depending fully upon the contribution of the utility plant from a third-party developer. This type of contributed capital utility has led to a number of significant questions from the Authority about whether such utilities could be considered as reliable, on-going concerns if any type of financial stress arose. To address this concern the Authority adopted Rule 1220-4-13-.07 which requires wastewater utilities file proof of financial security as required by this rule.

4. Lynwood agrees with the concerns of the Authority regarding wastewater utilities that have been created completely from the contributions from third-party developers. In such situations, Lynwood believes that additional financial security is both appropriate and necessary to insure the continuing operation of the utility.

5. Lynwood was created and maintained primarily through debt and equity contributions from its owners. In this respect, Lynwood is the same as any other traditional gas, electric or water utility approved by the Authority to operate in Tennessee. If Lynwood was an approved gas, electric or water utility, then no additional financial security would be required. Lynwood contends that classifying all wastewater utilities into a single group regardless of capital structure may not be appropriate when the Authority's rule seeks to address its concerns over wastewater utilities financed almost exclusively by contributions of property from third-party developers.

7. Under Rule 1220-4-13-.07(2), Lynwood is required to file a corporate surety bond or irrevocable letter of credit in the form prescribed by Rule 1220-4-13-.08 in the amount of 100% of its gross annual revenue. In 2005 Lynwood's gross annual revenue was \$500,935.00. Lynwood has not been able to get an insurance company or a financial institution to issue such a bond or irrevocable letter of credit for this amount.

8. The President of Lynwood, Tyler Ring, attempted to obtain a corporate surety bond for \$500,000 through Full Service Insurance, Inc. in March of 2006. Initially, Cincinnati Insurance Company declined to write the bond because of the forfeiture provision which was in the corporate surety bond form in the public necessity rules. After the permanent rules were adopted, Mr. Ring forwarded the new corporate surety bond form to Full Service Insurance, Inc. Cincinnati Insurance Company again declined to write the bond. Attached as Exhibit 1 to this Petition is a letter dated May 9, 2006, from Full Service Insurance, Inc. setting forth its attempts to get Cincinnati Insurance Company to write the bond. Although the letter is dated May 9, 2006, the initial request was made in March and the follow up request was made in early April.

9. Mr. Ring approached Tennessee Commerce Bank about issuing an irrevocable letter of credit for Lynwood for \$500,000 to submit to the Authority. Mr. Ring has a business relationship with Tennessee Commerce Bank. On April 24, 2006, Tennessee Commerce Bank advised Mr. Ring that it would not issue the letter of credit. Attached as Exhibit 2 to this Petition is a letter from Tennessee Commerce Bank which was faxed to Mr. Ring on April 24, 2006, in which Tennessee Commerce Bank stated that it could not approve Lynwood's request.

10. Mr. Ring then approached BB&T Insurance Services, Inc. about obtaining a corporate surety bond for \$500,000 for Lynwood as required by Rules 1220-4-13-.07 and .08. By letter dated May 9, 2006, BB&T Insurance Services, Inc. informed Mr. Ring that all of the insurance companies approached about writing the bond declined to do based upon the type of risk and the financial analysis conducted. A copy of this May 9, 2006 letter is attached as Exhibit 3 to this Petition.

11. The Authority promulgated Rule 1220-4-13-.07 pursuant to the power granted to it by the legislature in 2005. Section 1 of Chapter 62 of the 2005 Tennessee Public Acts, codified at T.C.A. § 65-4-201(e), granted the Authority the power to "direct the posting of a bond or other security by a public utility providing wastewater service or for a particular project proposed by a public utility providing wastewater service." The legislature stated that the purpose of requiring financial security by a bond or other security was "to ensure the proper operation and maintenance of the public utility or project." Lynwood asserts that no corporate surety bond or irrevocable letter of credit is needed to ensure the proper operation and maintenance of the Lynwood sewer system.

12. Lynwood has operated continuously since it received its original certificate in 1976. While Lynwood has not operated at a profit each year, there is no evidence to indicate that Lynwood will not continue to operate as an on-going concern as it has for almost 30 years.

13. Lynwood is owned by Southern Utility Corporation. The current owners of Southern Utility Corporation, John Ring and Tyler Ring, have invested a substantial amount of money in Lynwood since they became the sole shareholders of Southern Utility Corporation in January of 2003. No additional security is needed for the Authority to be assured that John and Tyler Ring will continue to properly operate and maintain the Lynwood sewer system.

14. John and Tyler Ring have a very strong incentive to continue to operate and maintain Lynwood so that it remains a viable entity. By Order dated January 4, 2006, the Authority approved a twenty year loan from Tenn. Contractors, Inc. to Lynwood for \$1,000,000 which was used to pay off a short term line of credit from Tenn. Contractors, Inc. which provided funds to Lynwood to upgrade and improve the Lynwood sewer treatment plant. John Ring is the President and sole shareholder of Tenn. Contractors, Inc., and Tyler Ring is Vice-President. Unlike wastewater systems which are financed almost completely by developer contributions, the owners of Lynwood have a strong financial incentive in seeing that Lynwood continues to operate as an on-going concern and that the sewer plant and collection system are properly maintained. Lynwood must continue to operate in order for the twenty year loan to Tenn. Contractors, Inc. to be repaid. Therefore, the owners of Lynwood have a substantial financial interest in the continued viability of Lynwood. No additional financial security is required to ensure the Lynwood system will be properly operated and maintained.

15. Lynwood has entered into negotiations with the City of Franklin, Tennessee about selling the Lynwood sewer system to Franklin. While no contract has been signed, both parties

are optimistic that an agreement could be worked out within the next few months. I have attached as Exhibit 4 to this Petition a recent letter from the City of Franklin which confirms that Franklin is exercising its due diligence review in anticipation of purchasing the Lynwood sewer system. Because Lynwood is having difficulty obtaining the financial security required by the Rule 1220-4-13-.07, Lynwood requests that the Authority consider delaying requiring that it file proof of financial security until Lynwood and Franklin conclude negotiations on an agreement for the sale of the Lynwood system to Franklin.

16. One of the primary purposes of the financial security requirement as set forth in the Rule 1220-4-13-.07 is to make sure sufficient funds are available to continue the operation of a wastewater utility in the event a wastewater utility's certificate is suspended or revoked. The Authority wants to be assured funds are available for a replacement operator or a court appointed receiver to operate the utility. A corporate surety bond or irrevocable letter of credit in the amount of \$500,000 is not necessary to make sure the expenses of a replacement operator or receiver are covered in operating Lynwood. A replacement operator or a receiver will have the on-going revenues of Lynwood to use to operate its system. Currently, Lynwood's revenue from its customers is actually collected by the water providers of Lynwood's customers, the City of Franklin and H. B. & T. S. Utility District. Should a replacement operator or a receiver be appointed, these water providers can send revenue generated by Lynwood's customers directly to such replacement operator, receiver or other entity directed by the Authority to continue to operate the Lynwood system with no interruption in service. Any additional expenses incurred by a replacement operator or receiver to continue to operate the Lynwood system would not near approach \$500,000 with Lynwood's customers continuing to pay the Authority's approved rates for sewer service.



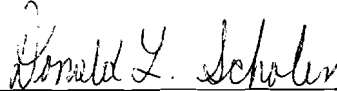
17. Lynwood has reviewed the recent filing by Cartwright Creek, LLC for Exemption from Financial Security in Docket No. 06-00062. Cartwright Creek seeks approval of financial security in lieu of a corporate surety bond or irrevocable letter of credit in the amount of its annual revenues by the establishment of a \$300,000 construction escrow account from which funds will be used for improvements to the Cartwright Creek wastewater treatment facility. Lynwood understands that this alternative is acceptable to the Authority's staff. If the Authority approves the Cartwright Creek Petition, then the Authority should approve Lynwood's Petition as well. The financial security which Cartwright Creek seeks to provide is really nothing more than a commitment to place funds in an escrow account to ensure that certain needed improvements are made to the Cartwright Creek sewer plant in a timely fashion. No such account is necessary for Lynwood since over \$2,500,000 worth of upgrades, improvements and repairs have been made to the Lynwood plant since 2000. The financial security requested by Cartwright Creek does not appear to address any expenses which might be incurred by a replacement operator or receiver to continue to operate its sewer plant. Because no financial security is needed for any immediate updates to the Lynwood sewer plant, the financial security which the Authority staff has deemed sufficient for Cartwright Creek is not necessary for Lynwood.

WHEREFORE, the Lynwood Utility Corporation prays:

1. That the Authority enter an Order exempting Lynwood Utility Corporation from being required to file proof of financial security as required by Rule 1220-4-13-.07; or
2. In the alternative, that the Authority enter an Order giving Lynwood Utility Corporation an additional 120 days to file proof of its financial security and reserve for a later

hearing the amount of and type of any financial security which should be required for Lynwood after the 120 day period lapses.

Respectfully submitted,



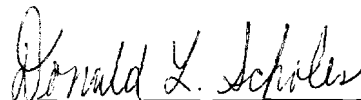
DONALD L. SCHOLES BPR #10102  
Branstetter, Stranch & Jennings, PLLC  
227 Second Avenue North, Fourth Floor  
Nashville, TN 37219  
615-254-8801

*Attorney for Lynwood Utility Corporation*

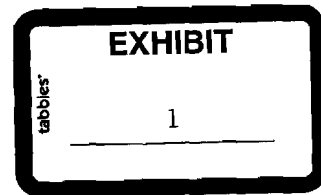
**Certificate of Service**

I hereby certify that a true and exact copy of the Petition has been mailed first class, postage prepaid, on this 12th day of May, 2006 to the following:

Russell Perkins, Esq.  
Office of the Attorney General  
Consumer Advocate and Protective Division  
P.O. Box 20207  
Nashville, TN 37202



Donald L. Scholes



May 9, 2006

Tyler Ring  
Performance Builders, Inc.  
Tenn Contractors, Inc.  
P.O. Box 314  
Franklin, TN 37065-0314

Re: Lynwood Utility District

Dear Mr. Ring,

We are unable to write the \$500,000 Tennessee Wastewater Bond you requested. Cincinnati Insurance Company initially declined to write the bond because of the forfeiture obligation. They said "We are unable to consider this bond. One of our major concerns is the forfeiture obligation wherein if failure to renew by the surety, we would be required to deposit the maximum sum of the bond with the administrator of the Authority to enable the continued operation of the public wastewater utility. This feature is not something we are willing to bond."

We then received a revised bond form which the company also declined saying that even with the revised wording on the bond form they would not be interested in writing.

Sorry we could not be of help.

Sincerely,

Michele Marchiori  
Commercial Service Representative

903 Murfreesboro Road  
P.O. Box 680639  
Franklin, Tennessee  
37068-0639  
(615) 790-0990



Mr. Tyler Ring  
Lynnwood Utility Corporation  
5250 Virginia Way, Suite 100  
Brentwood, Tenn. 37027

Dear Tyler,

I have reviewed your request for a \$500,000 irrevocable letter of credit in favor of the Tennessee Regulatory Authority. In review of this request I have two major concerns that would impair the Banks ability to grant your request.

The context under which the beneficiary (the Tennessee Regulatory Authority) can draw on the letter of credit is very broad, open ended and does not allow for an appeal or a time frame to cure the default. Second it appears that if Tennessee Commerce Bank ops not to renew the letter of credit and Lynnwood Utility Corporation is unable to get another financial institution to issue a replacement letter of credit, Tennessee Commerce Bank is obligated to fund the full amount of the letter of credit.

The second issue is a credit issue. I have reviewed the tax returns for Lynnwood Utility Corporation and its parent company Southern Utility Corporation. These returns indicate a very weak Capital Structure with a Net Worth of \$17,783 and a Net Income for 2005 of only \$36,651.

As you know Tennessee Commerce Bank has enjoyed a good working relationship with you, your father and Tenn. Contractors.

If there were a way to structure an approval of the \$500,000 request, it would impair your ability to support credit facilities for yourself and Tenn. Contractors going forward. I respectfully request that you seek an alternative to satisfy the Tennessee Regulatory Authority as Tennessee Commerce Bank can not approve your request as presented.

Sincerely

A handwritten signature in dark ink, appearing to read "John Burton", is written over a horizontal line.

John Burton  
Senior Vice President

Tennessee Commerce Bank • 381 Mallory Station Rd., Suite 207 • Franklin, TN 37067 • Phone:(615)599-2274 Fax:(615)599-2275  
Web Site Address: [www.tncommercebank.com](http://www.tncommercebank.com)

Cooper, Love, Jackson,  
Thomton & Harwell

4400 Harding Road, Suite 400 (37205)  
P.O. Box 139  
Nashville, TN 37202-0139  
(615) 292-9000  
Fax (615) 292-9391  
Fax (615) 292-9373

May 9, 2006

Tyler L Ring  
Tenn. Contractors, Inc.  
P.O. Box 314  
Franklin, Tennessee 37065

Re: Bond request for the State of Tennessee Required Utility Bond  
for Lynwood Utility Corporation.

Mr. Ring,

At the request of Fred Fisher, I forwarded the financial information on the captioned account to the bonding companies we have that might consider this type of bond. Unfortunately, all of the markets that I approached declined to write the bond for us due to the type of risk and the financial analysis they conducted.

I noted that included in the state codes for this requirement was an option of placing and Irrevocable Letter of Credit with the state in place of a bond and, at this time, that might be the option that you might want to consider to fulfill the requirement.

Thank you for allowing us to work on this account and I am sorry we were not able to place the bond. Should you have any questions, please feel free to give me a call.

Best Regards,



David A. Bennett, CRIS  
Bond Manager, Nashville.  
615-279-8456

Thomas R. Miller  
Mayor



James  
City Administrator  
Randy A. Wetmore  
Assistant City Administrator

EXHIBIT

tabbies

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April 17, 2006

Mr. John Ring  
Mr. Tyler Ring  
c/o Lynwood Utility District  
P.O. Box 34  
Franklin, TN 37065-0314

Re: Due Diligence Study

Gentlemen:

Based upon our previous discussion, and the City's continued interest in acquisition of the Lynwood Utility District assets, the City has retained the consulting engineering firm of SSR, Inc. for assistance in a "due diligence" review. Mr. Steve Lane and Mr. Bo Butler are the designated contacts.

As part of this review process, we may ask to tour the existing plant and we respectfully request you allow City crews to inspect, by remote control television camera, randomly selected segments of the collection system. We will provide you a copy of the inspection reports.

If you have any questions or objections, please let me know.

Sincerely,

Jay R. Johnson  
City Administrator

JRJ/bjj

c: David Parker, City Engineer  
Russ Truell, Finance Director  
Bo Butler, SSR, Inc.

109 THIRD AVENUE SOUTH

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(615) 791-3217 TELEPHONE

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(615) 790-0469 FAX