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June 30, 2010

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Via Hand Delivery

Patsy Fulton  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

10-00130

Re: Lynwood Utility Corporation - Proof of Financial Security as Required by Rule  
1220-4-13-.07(2)

Dear Ms. Fulton:

I am writing you in follow up to a telephone call you had with Laura Morrissey yesterday regarding the obligation of Lynwood Utility Corporation (Lynwood) to submit its proof of financial security and any documents related to its reserve/escrow account.

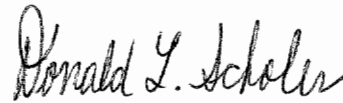
The Authority has Irrevocable Letter of Credit No. TN0029718 for \$20,000 which is the alternative form of financial security which has been approved by the Authority each year for Lynwood since 2007. This Irrevocable Letter of Credit automatically renews itself for successive one year periods; therefore, it is still in effect. Lynwood did neglect to timely file its annual petition to request a continuation of this alternative form of financial security as it has in past years. The Lynwood sewer treatment plant and collection system was badly flooded on May 1, 2010. I have enclosed a copy of a letter sent to the Authority setting forth the damage to the sewer treatment plant and collection system caused by the flood, the efforts made to get the plant operating again and the continuing efforts it will be making to repair the plant and collection system. Because the damage from the flood became a priority, the owners of Lynwood failed to see that the annual petition be filed after the May 1<sup>st</sup> deadline.

Lynwood does not have any reserve/escrow account requirement with the Authority pursuant to the Staff Report dated November 15, 2007, a copy of which is enclosed.

Patsy Fulton  
June 30, 2010  
Page 2

I will be meeting with the owners of Lynwood soon to discuss the filing of the petition for approval of the alternative form of financial security to request the same alternative which has been approved in past years.

Sincerely yours,

A handwritten signature in cursive script that reads "Donald L. Scholes".

DONALD L. SCHOLES

Enclosures

c: Tyler Ring  
Jim Ford

***LYNWOOD UTILITY CORPORATION  
321 BILLINGSLEY COURT, SUITE 4  
FRANKLIN, TN 37067  
PHONE: 615/790-3632 FAX: 615/599-0797***

May 21, 2010

Sara Kyle, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: Lynwood Utility Corporation – Report on Flood Damage

Dear Chairman Kyle:

I am writing you to inform the Tennessee Regulatory Authority of the effects of the recent flooding on Lynwood Utility Corporation's sewer treatment and collection system. Lynwood's plant is located immediately adjacent to the Harpeth River just south of Franklin and discharges its effluent into the Harpeth River.

During the heavy rains that began on May 1, 2010, Lynwood's sewer treatment plant and portions of its collection were badly flooded. All systems at the plant became non-operational at approximately 6:00 p.m. on Saturday, May 1<sup>st</sup>. All 13 treatment basins within Lynwood's treatment plant were flooded by five to seven feet of water. The influent pump station at the plant and one of the pump stations in Lynwood's collection system were completely submerged. Flood waters entered the entire building that houses the laboratory, electrical, chemical, storage, and blower rooms and rose to approximately one foot throughout the building. Numerous pumps, control panels, and motors in the building were completely submerged during the flood. Storage supplies were destroyed as well as backup systems, generators, lab supplies, etc.

I assembled a disaster response team to assess damages and to get the sewer plant back in operation as quickly as possible. The disaster response team began its work at approximately 5:00 a.m. on Monday, May 3<sup>rd</sup> which was the first moment a vehicle could safely reach the plant because of extensive flooding in the Cottonwood Subdivision. The disaster response team included all available staff of Lynwood's operations and maintenance contractors and approximately 15 persons who work for Tenn. Contractors Inc. Personnel from Southern Sales Company, which sells and services electrical equipment used in the plant were called in on Monday morning. Communications and correspondence began taking place with personnel of the following entities: City of Franklin, Williamson County, Heartland Pump Company, Metro

Sara Kyle, Chairman  
May 21, 2010  
Page 2

Nashville, the Tennessee Department of Environment and Conservation (TDEC), Middle Tennessee Electric Membership Cooperation (MTEMC) and The National Weather Service. I contacted Atlas Septic Service, Waste Management, and Sani-tech Jetvac Services and put them on standby in case I needed their assistance.

The sewer treatment plant remained non-operational until a flooded diesel pump began working at approximately 10:30 a.m. on Monday morning which permitted partial operations to begin. Power was restored to the plant at approximately 12:30 p.m. that same day. Heavy equipment began arriving to cleanup the plant site on Monday morning. The advanced treatment processes at Lynwood were restored by 1:00 a.m. Tuesday morning. Later Tuesday morning Lynwood began its lengthy process of cleaning all 13 treatment basins, repairing and cleaning the entire five acre site, as well as continuing to address the damage inside the building. Crews were continuing to monitor our pump stations because some of them were operating with no backup systems which were damaged by the flood.

I began making phone calls to assess the situation and made several unsuccessful attempts to get to the plant beginning on Saturday evening and continuing all day Sunday but was unable to do. Either myself or crews assembled by me were at the treatment plant around the clock from 5:00 a.m. Monday morning until early Wednesday morning. I was there the majority of this time period. Lynwood has spent approximately \$100,000 to get the plant operational and to begin the process to cleanup, repair and restore the sewer plant and collection system. I cannot currently give the Authority an accurate estimate of the total costs will be required to restore the sewer system to its prior condition. Nevertheless, considering the disaster response, partial operation, full scale operation, cleanup, long term damage and future preparation and restoration to both the plant and the collection system, my initial estimate is that the total costs will be in excess of \$500,000.

Lynwood is seeking to obtain all of the funds it can to reimburse it for damages caused by the flood. Lynwood did have flood insurance, but the insurer has currently verbally denied all claims for damage outside the building on the plant site. Much of the damage to the sewer plant was not within the building on the plant site. Lynwood has contracted with National Fire Adjusters to represent it in negotiating its claim with the flood insurance carrier to obtain more of a recovery based upon specific language in the policy. Lynwood has contacted the Federal Emergency Management Agency (FEMA) about grants available for public utilities for damages suffered as a result of the flood. FEMA has encouraged Lynwood to make application to the

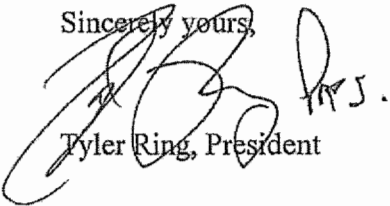
Sara Kyle, Chairman  
May 21, 2010  
Page 3

Small Business Administration (SBA) for a loan to cover the cost of flood damages and that application will be submitted shortly.

Although Lynwood's plant was non-operational for approximately 36 hours, the quick response by Lynwood resulted in minimal sewer service interruptions to its customers. Lynwood has received only no complaints about sewer service failures. Lynwood has not received any communications from the Authority about complaints related to service failures.

Until Lynwood is able to determine the amount and types of financial aid it will receive to cover the costs of the flood damages, I will make no decision about any actions which may be required to recover its costs incurred in the cleanup, repair and restoration of its sewer system from its ratepayers. If you or the Authority staff have any questions about the flood damage, please do not hesitate to contact me.

Sincerely yours,



Tyler Ring, President

c: Darlene Standley  
Richard Collier  
Ryan McGehee  
Don Scholes

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 15, 2007

IN RE:       DOCKET TO DETERMINE THE                                 )  
              RESERVE/ESCROW REQUIREMENT                            )  
              FOR LYNWOOD UTILITY CORPORATION                    ) Docket 07-00179  
              PURSUANT TO TRA RULE 1220-4-12-.07(8)                )

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STAFF REPORT

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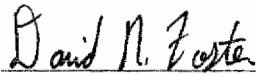
**Background**

As stated in TRA Rule 1220-4-13.07(8), "The requirement for a public wastewater utility to maintain a reserve/escrow account shall be determined by the Authority on a case by case basis. Within eighteen (18) months from the effective date of these rules, the Authority shall review the financial condition of any public wastewater utility holding a CCN to provide wastewater service as of the effective date of these rules to determine whether such wastewater utility shall establish or adjust the amount of a reserve/escrow account as described in this Chapter." TRA Rule 1220-4-13.07(9) states, "Reserve/escrow accounts established by the public wastewater utility to pay for non-routine operation and maintenance expenses shall meet the conditions as specified by the Authority."

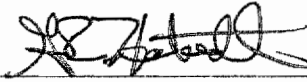
The TRA Wastewater Rules are intended to ensure continued adequate and reasonable service. This docket was opened to consider whether an escrow account should be established for Lynwood Utility Corporation and, if so, what monthly escrow amount is necessary.

The Utilities Division hereby files its Report with the Tennessee Regulatory Authority  
as a public record and requests approval of the recommendations contained therein

Respectfully Submitted:



David Foster, Deputy Chief  
Utilities Division  
Tennessee Regulatory Authority



Gary Hotvedt, Counsel  
Legal Division  
Tennessee Regulatory Authority

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of November, 2007, a true and exact copy of the foregoing has been either hand-delivered or delivered via U.S. Mail, postage pre-paid, to the following persons:

Eddie Roberson, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

Donald L. Scholes  
Branstetter, Stranch & Jennings, PLLC  
Attorneys At Law  
227 Second Avenue North  
Fourth Floor  
Nashville, TN 37201-1631

A handwritten signature in black ink, appearing to read "G. Hotvedt", written over a horizontal line.

Gary Hotvedt



STAFF REPORT

CONCERNING THE RESERVE/ESCROW ACCOUNT

OF

LYNWOOD UTILITY CORPORATION

DOCKET 07-00179

PREPARED BY

TENNESSEE REGULATORY AUTHORITY

UTILITIES DIVISION

NOVEMBER 15, 2007

## **INTRODUCTION**

TRA Rule 1220-4-13-.07 requires a review of the financial condition of each wastewater utility in order to determine whether an escrow/reserve fund should be created to pay for non-routine operation and maintenance expenses for those companies that do not have such funds in place or adjusted for the companies that have an established escrow fund. The pertinent language of the aforementioned TRA Rule provides:

- (8) The requirement for a public wastewater utility to maintain a reserve/escrow account shall be determined by the Authority on a case by case basis. Within eighteen (18) months from the effective date of these rules, the Authority shall review the financial condition of any public wastewater utility holding a CCN to provide wastewater service as of the effective date of these rules to determine whether such wastewater utility shall establish or adjust the amount of a reserve/escrow account as described in this Chapter. Upon the filing of an initial CCN application, a determination shall be made regarding the establishment of a reserve/escrow account. The Authority may review the financial condition of any public wastewater utility at any time to determine whether a reserve/escrow account balance is adequate or an account should be established.
- (9) Reserve/escrow accounts established by the public wastewater utility to pay for non-routine operation and maintenance expenses shall meet the conditions as specified by the Authority. The public wastewater utility shall file bank statements and a report that details the expenses on all disbursements from the escrow account with its annual report or as the Authority may direct. Public wastewater utility employees having signature authority over such account may be subject to a fidelity bond. The public wastewater utility's tariff shall set forth the specific amount charged to customers to fund the reserve/escrow account.

## **SCOPE OF THE REPORT**

Pursuant to the rules, the purpose of this report is to analyze Lynwood Utility Corporation's ("Lynwood" or "Company") existing financial condition and determine (1) whether an escrow fund should be established and, if so, what monthly escrow amount is necessary and (2) the types of expenses and repairs that may be funded by the escrow.

## **IS AN ESCROW ACCOUNT NEEDED GIVEN THE FINANCIAL CONDITION OF LYNWOOD UTILITY CORPORATION?**

As stated herein, the purpose of an escrow account established pursuant to Rule 1220-4-13-.07 is to assist utilities in meeting non-routine maintenance and expenses and to assist in funding plant additions/repairs that a utility might otherwise not be able to pay for. The utility's financial condition should be reviewed in order to determine whether an escrow account is necessary for the above stated purposes or if the utility will be able to fund necessary non-routine expenses and/or plant additions and repairs absent an escrow account.

The most recent financial assessment of Lynwood by the Authority was in Docket 07-00007, wherein the Company petitioned the Authority for a rate increase totaling \$177,471 annually. On July 11, 2007 a Proposed Settlement Agreement ("Agreement") was submitted jointly by Lynwood and the Attorney General's Consumer Advocate and Protection Division ("CAPD") in this docket. Pursuant to the Agreement, Lynwood would receive a rate increase totaling \$61,991 annually as opposed to its original request of \$177,471. The Authority conducted a public hearing in this docket on August 20, 2007 and rendered its decision to approve the Agreement at the September 10, 2007 Authority Conference.

Prior to and during the public hearing, several Lynwood customers voiced their concerns relating to odor issues. Subsequent to the hearing Lynwood submitted a letter explaining corrective actions that had been taken and outlined a short term and long term plan for addressing the odor problems. Furthermore, at the direction of the Authority, certain TRA Staff members filed a report on August 31, 2007 concerning odor control measures which incorporated Lynwood's proposed measures. The Staff report also stated that costs for these control measures were not included in the rate case proceeding (Docket No. 07-00007). During its September 10, 2007 deliberations, the Authority directed Lynwood to notify the Authority when corrective actions relating to odor were taken and determined that if the Company desired to defer and recover the odor elimination costs at a later date, the Company should file a petition for such recovery.

Lynwood's Petition and pre-filed testimony submitted on January 4, 2007 in Docket No. 07-00007 stated that if the Authority required an escrow account, the utility's revenue deficiency would increase and rates would need to be adjusted to take this into account.<sup>1</sup> The Agreement approved by the Authority, however, did not address whether an escrow was needed for Lynwood pursuant to TRA Rule 1220-4-13-.07. Lynwood does not currently have an escrow account, and the utility has historically paid for non-routine maintenance and plant additions without escrow funds.

Over the past several years Lynwood has been able to fund necessary plant additions via its own cash flows. For example, based upon Lynwood's 2004, 2005 and 2006 Annual Reports, the Company acquired \$1,000,000 in long-term debt in 2005 and had plant additions of approximately \$841,000 in 2006. Although Lynwood has been operating at a loss in recent years, the Company has recently received approval to increase rates by approximately \$62,000 annually. While increased revenue should allow Lynwood to earn a fair and reasonable return, it is difficult to ascertain the true financial condition of the Company until it has been operating at the new rates for an extended period of time. Furthermore, the Company will have costs associated with odor control measures that it may seek to recover; the magnitude of such costs and the impact on consumer rates is unknown at this time.

**Staff contends that establishing an escrow account for Lynwood is not appropriate until such time that an evaluation of the overall financial condition of the Company subsequent to the approved rate increase can be made.** Staff commits to further evaluate the earnings and overall financial condition of Lynwood in order to determine whether an escrow account is necessary in the future. For now, however, it appears that Lynwood's ability to fund recent plant additions, coupled with the additional revenue from the recent rate increase, significantly

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<sup>1</sup> Petition at page 3, Pre-filed Direct Testimony of Tyler Ring at page 7.

mitigates the need to establish an escrow account at this time. Moreover, if plant additions are necessary, Lynwood, as a rate-of-return regulated utility, has the ability to seek increased rates from consumers to provide the owners with a fair return on the added plant.