

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 19, 2011

IN RE:

**PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. TO POST ALTERNATIVE
FINANCIAL SECURITY**

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**DOCKET NO.
11-00187**

ORDER APPROVING ALTERNATIVE FINANCIAL SECURITY

This matter came before Chairman Kenneth C. Hill, Director Sara Kyle, and Director Mary W. Freeman, the voting panel of the Tennessee Regulatory Authority (the “Authority” or “TRA”) assigned to this docket, at a regularly scheduled Authority Conference held on November 21, 2011 upon the *Petition* of Tennessee Wastewater Systems, Inc. (“TWS” or the “Company”) requesting approval of its proposal for an alternative form of financial security pursuant to TRA Rule 1220-4-13-.07(5).

BACKGROUND AND THE PETITION

On April 6, 1994, TWS¹ received a Certificate of Public Convenience and Necessity 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 Smyrna, Tennessee.

The Authority’s Wastewater Regulations require regulated wastewater companies to “furnish to the Authority, prior to providing service to a customer, acceptable financial security using a format

¹ TWS 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.

prescribed by the Authority.”² Security “in the amount of one hundred percent (100%) of the gross annual revenue in the most recent Authority Form UD20 or \$20,000, whichever is greater” is to be provided in the form of a “bond issued by any duly licensed commercial bonding or insurance company authorized to do business in Tennessee” or an “irrevocable letter of credit issued by a financial institution acceptable to the Authority.”³ The Regulations provide a “Corporate Surety Bond” form “to be used by public wastewater utilities under the jurisdiction of the Tennessee Regulatory Authority when filing a corporate surety bond pursuant to this Chapter.”⁴ The Regulations also provide for approval in the Authority’s discretion of an alternative form of financial security upon petition by the utility.⁵ Finally, the Regulations allow utilities to recover the cost of the bond from consumers.⁶

On November 3, 2011, Tennessee Wastewater Systems, Inc. (“TWS”) filed a Petition for approval to post an alternative form of security pursuant to TRA Rule 1220-4-13-.07(5). TWS has obtained a bond in the amount of \$1,248,882 from Lexon Insurance Company, an insurance company authorized to do business in the State of Tennessee. TWS’s bond deviates from the exact requirements of the Authority’s Wastewater Regulations in two ways: the bond covers only 88% of TWS’s gross annual revenue of \$1,415,384, and its form differs in certain immaterial respects from the form prescribed by rule.

FINDINGS AND CONCLUSIONS

The form of the bond TWS has obtained differs only in certain immaterial respects from that prescribed by rule for wastewater utilities. With some minor modifications, it is the same as that used by all of the telecommunications companies the TRA regulates. Further, although the amount of the proposed bond equals only 88% of the Company’s gross annual revenue, an amount less than

² TRA Rule 1220-4-13-.07(1) (Tenn. Comp. R. & Regs. 1220-4-13-.07(1)).

³ TRA Rule 1220-4-13-.07(2)(a) and (3).

⁴ TRA Rule 1220-4-13-.08.

⁵ TRA Rule 1220-4-13-.07(5).

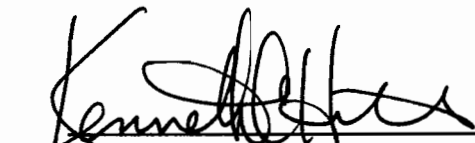
⁶ TRA Rule 1220-4-13-.07(7).

the amount required by rule is acceptable in this case. TWS operates a number of isolated, self-contained treatment facilities in various locations around the state. Thus, it is not necessary to have funds available to operate all of TWS's "systems," since all of the separate facilities would not be expected to lose operation at the same time.⁷


The panel considered TWS's *Petition* at a regularly scheduled Authority Conference held on November 21, 2011. Finding that circumstances exist which justify approval of an alternative form of financial security, the panel voted unanimously to grant the *Petition* pursuant to TRA Rule 1220-4-13-.07(5). Further, the panel directed TWS to file tariffs implementing the necessary surcharge to customers to collect the amount TWS paid for the bond, including calculations to true-up bond surcharge collections for past years.

IT IS THEREFORE ORDERED THAT:

The proposal of Tennessee Wastewater Systems, Inc. for an alternative form of financial security in accordance with TRA Rule 1220-4-13-.07(5), as described in its *Petition* and discussed herein, is granted.


Kenneth C. Hill, Chairman


Sara Kyle, Director


Mary W. Freeman, Director

⁷ The purpose of the financial security requirement, and of the Wastewater Regulations as a whole, is to "ensure continued adequate and reasonable service." TRA Rule 1220-4-13-.01(2). Given the nature of TWS entire operation, as described above, the bond is well designed to fulfill this requirement.