

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 13, 2014

IN RE:

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

)
)
)
)
)

DOCKET NO.
13-00148

ORDER APPROVING ALTERNATIVE FINANCIAL SECURITY

This matter came before Chairman James M. Allison, Vice Chairman Herbert H. Hilliard, and Director Kenneth C. Hill 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 7, 2014 for consideration of the *Petition of Tennessee Wastewater Systems to Post Alternative Financial Security* ("Petition").

BACKGROUND AND THE PETITION

On April 6, 1994, Tennessee Wastewater System's Inc. ("TWSI" or the "Company")¹ received a Certificate of Public Convenience and Necessity in TRA 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.

TRA Rule 1220-4-13-.07 requires regulated wastewater companies to "furnish to the Authority, prior to providing service to a customer, acceptable financial security using a format prescribed by the Authority." Security "in the amount of one hundred percent (100%) of the gross

¹ TWSI 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.

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.”² TRA Rule 1220-4-13-.08 provides 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.” The Authority’s Wastewater Rules also give the Authority discretion to approve an alternative form of financial security upon petition by the utility and requires the utility to file a petition requesting acceptance of the security with the Authority by May 1 of each year.³

On December 4, 2013, TWSI filed its *Petition* for approval to post an alternative form of security pursuant to TRA Rule 1220-4-13-.07(5).⁴ TWSI states that it obtained a bond in the amount of \$1,248,882 that deviates from the exact requirements of TRA Rule 1220-4-13-.07 because it covers only 80% of TWSI’s gross annual revenue of \$1,561,288, and the form deviates from the form prescribed by TRA Rule 1220-4-13-.08.⁵

MARCH 7, 2014 AUTHORITY CONFERENCE

At the regularly scheduled Authority conference held on March 7, 2014, the panel conducted a hearing in this matter, which was noticed by the Authority on February 21, 2014. At the hearing, Henry W. Walker, Esq. of Bradley Arant Boult Cummings LLP, 1600 Division Street, Suite 700, Nashville, TN 37203, appeared on behalf of TWSI. Mr. Charles Hyatt, President of TWSI, appeared as the witness for TWSI and provided a summary of its *Petition*.

The panel considered TWSI’s *Petition* and found that the form of the bond TWSI obtained differs only in certain immaterial respects from that prescribed by TRA Rule 1220-4-13-.08. Further,

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

³ See TRA Rule 1220-4-13-.07(5).

⁴ The Authority previously approved a similar petition to post alternative financial security for TWSI in TRA Docket No. 11-00187. TWSI failed to seek approval to post alternative security again until the filing of this petition.

⁵ *Petition*, pp. 1- 2 (December 4, 2013).

the panel found that the amount of the bond is acceptable even though it equals only 80% of the Company's gross annual revenue, an amount less than that required by TRA Rules. The panel reasoned that because TWSI operates a number of isolated, self-contained treatment facilities in various locations around the state, it is not necessary to have funds available to operate *all* of TWSI's systems, since all of the separate facilities would not be expected to lose operation at the same time.⁶

Thereafter, upon finding that the alternative form of the bond and the amount is sufficient in this specific docket and that approval is in the public interest, the panel voted unanimously to grant the *Petition* pursuant to TRA Rule 1220-4-13-.07(5).

IT IS THEREFORE ORDERED THAT:

The *Petition of Tennessee Wastewater Systems to Post Alternative Financial Security*, as described in its *Petition* and discussed herein, is approved.

Chairman James M. Allison, Vice Chairman Herbert H. Hilliard and Director Kenneth C. Hill concur.

ATTEST:



Earl R. Taylor, Executive Director

⁶ The purpose of the financial security requirement, and of the Wastewater Rules as a whole, is to "ensure continued adequate and reasonable service." TRA Rule 1220-4-13-.01(2). Given the nature of TWSI's entire operation, as described above, the bond is well designed to fulfill this requirement.