

TENNESSEE REGULATORY AUTHORITY



502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

NOTICE OF WORKSHOP

DOCKET NO.: 14-00104

IN RE: Docket for the Collection of Comments Relating to the
Wastewater Industry in Tennessee

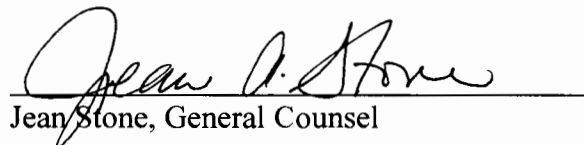
DATE: May 20, 2015

The Tennessee Regulatory Authority has scheduled a Workshop for **June 3, 2015 from 9:00 a.m. until 11:00 a.m.**, to be held in Hearing Room G.201 located on the Ground Floor of the Andrew Jackson State Office Building, 500 Deaderick Street, Nashville, Tennessee.

The purpose of the Workshop is to discuss matters related to TRA Rule 1220-4-13-.07 concerning financial security and to discuss a draft rule concerning financial security. The draft rule to be discussed is provided as an attachment. All regulated wastewater providers and other interested persons are encouraged to attend and present comments on this topic.

Participants with disabilities who require special accommodations or alternate communications formats should contact the Tennessee Regulatory Authority ADA-EEO/AA Coordinator/Officer, 502 Deaderick St., 4th Floor, Nashville, Tennessee 37243 or (800) 342-8359 or TDD (888) 276-0677 so that reasonable accommodations can be made.

FOR THE TENNESSEE REGULATORY AUTHORITY:



Jean Stone, General Counsel

Original in Docket File
c: Interested Parties

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1220-4-13-.07 FINANCIAL SECURITY AND ESCROW ACCOUNTS.

- (1) All public wastewater utilities that hold a CCN or apply for a CCN to own or operate a wastewater system shall furnish to the Authority a financial security and provide a plan to establish and maintain an escrow account. The purpose of the financial security and escrow account is to maintain continuous utility service. Nothing in this rule is meant to pre-empt the provisions of TRA Rule Chapter 1220-4-01 concerning tariffing and rate changes.
- (2) All public wastewater systems shall maintain a financial security and escrow account in an aggregate amount based upon regulated wastewater revenues as submitted on the utility's Annual Report.
 - (a) The aggregate amount of a financial security and escrow account based upon regulated wastewater revenues shall be as follows:
 1. Annual revenue less than \$250,000 – 50% of annual revenues.
 2. Annual revenue over \$250,000 – 33% of annual revenues
 - (b) The financial security instrument shall be in an amount that is 50% of the amount required in TRA Rule 1220-4-13-.07(2)(a) and shall comply with the requirements of TRA Rule 1220-4-13-.07(3).
 - (c) The escrow portion of the plan shall be in an amount that is 50% of the amount required in TRA Rule 1220-4-13-.07(2) and shall comply with the requirements of TRA Rule 1220-4-13-.09.
 - (d) The Authority may require a wastewater utility, on its own motion or at the request of the utility, to maintain an escrow account that differs from the amount found in TRA Rule 1220-4-13-.07(2)(a).
 - (e) A report for the year-ended December 31 on the status, including amount, of financial security and escrow account shall be filed annually no later than April 1st. The public wastewater utility shall file bank statements and a report that details the expenses on all disbursements from the escrow account in its report. The Authority may order more frequent reporting.
 - (f) Public wastewater utilities submitting an initial application for a CCN shall be required to present to the Authority, prior to approval of this application, proof of financial security in the amount of \$20,000. Prior to providing service the public utility shall submit a financial security consistent with TRA Rule 1220-4-13-.07(2) using annual revenue forecasted in the CCN application submitted to the Authority or \$20,000, whichever is greater.
 - (g) In no event shall the amount of the financial security be less than \$20,000.
 - (h) If a wastewater company has not filed a rate case within the past five years then it may not avail itself of TRA Rule 1220-4-13-.07(6) and shall file the financial security as described in TRA Rule 1220-4-13-.07(3) within six months of the effective date of these rules.
 - (i) The utility shall file tariff to recover the expense associated with the financial security consistent with TRA Rule 1220-4-13-.07(10). The utility may request a return on utility capital provided to fund the financial security at the prevailing prime interest rate.
- (3) Financial security shall be provided, in a form acceptable to the TRA, in one of the following manners:
 - (a) A bond issued by any duly licensed commercial bonding company authorized to do business in Tennessee that is fully collateralized with cash or other highly liquid securities; or
 - (b) An irrevocable letter of credit issued by a financial institution acceptable to the Authority.

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- (4) The public wastewater utility shall notify the Authority no less than sixty (60) days prior to any termination action concerning an irrevocable letter of credit or bond that will not be renewed.
- (5) Financial securities required by a local government for the purposes of bonding that list the TRA as the beneficiary may be used for purposes set forth in TRA Rule 1220-13-.07(1), subject to TRA approval.
- (6) If a wastewater utility is unable to fund the financial security required by TRA Rule 1220-4-13.07(2), within six months of the effective date of this rule, the wastewater utility shall submit a plan, to fund the financial security, for Authority review and approval.
 - (a) The plan shall set forth how monies to support the financial security will be acquired and provide a schedule when targeted funding levels will be reached.
 - (b) If necessary, the wastewater utility will simultaneously file the plan for financial security with its filing required by TRA Rule 1220-4-13-.09
 - (c) Plans will result in financial securities funded at levels consistent with TRA Rule 1220-4-13-.07(2) in a period of time no greater than 36 months. The Authority may waive this requirement for good cause shown.
- (7) The initial compliance amount is the amount of regulated wastewater revenues used to determine compliance with TRA Rule 1220-4-13-.07(2)(a) or an approved plan under TRA Rule 1220-4-13-.07(6). If the regulated wastewater revenues of a utility, as reported on its Annual Report, have exceeded the initial compliance amount by more than 20%, then it shall submit a new financial security in an amount consistent with TRA Rule 1220-4-13-.07(2) or submit a plan under TRA Rule 1220-4-13-.07(6), within three months of filing the annual report.
- (8) The Authority may require a wastewater utility to provide any or all of the following information in conjunction with its financial security.
 - (a) A list of customers including physical service address, billing address and any information the Authority deems necessary to adequately bill customers including the number of bedrooms in the residence and the identity of the utility that provides water service to the wastewater customer.
 - (b) Information describing any accounts held at a financial institution by the wastewater utility.
 - (c) A list of vendors providing services to the utility such as electricity, water, communications and business support services like accounting services and communications products.
- (9) Wastewater utilities shall maintain an escrow account at funding levels consistent with TRA Rule 1220-4-13-.07(2).
 - (a) Within twelve months from the effective date of this rule, each wastewater utility shall submit a plan to fund an escrow account in accordance with TRA Rule 1220-4-13-.07(2), or in the alternative demonstrate that it has an established escrow account sufficient to meet said Rule requirements. A plan shall provide details for the methods of funding the escrow account along with any calculations supporting any proposed customer charges resulting from establishing and maintaining the fund. The Authority, after hearing, shall approve, modify or deny the plan.
 - (b) Escrow accounts established by a wastewater utility shall be limited to pay for or reimburse the utility for extraordinary expenses of the utility or for necessary capital projects, unless otherwise permitted by the Authority. Extraordinary expenses are those resulting from events which are infrequent and unusual in nature, and unrelated to the utility's ordinary activities. The utility must first receive authorization from the Authority via petition or in emergency situations authorization in writing from the Chairman of the Authority upon the written request from a representative of the utility to use such funds.

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- (c) The Authority may require public wastewater utility employees having signature authority over such account to obtain a fidelity bond.
- (d) The public wastewater utility's tariff shall set forth the specific amount charged to customers to fund the escrow account.

(10) The recurring cost of a financial security may be recovered from customers by means of a pass-through mechanism that shall adjust a customer's monthly rate by a specified amount. To recover the recurring cost the utility must make a tariff filing compliant with TRA Rule Chapter 1220-4-01 and include the information below. 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 annually file with the Authority the following information to true-up the recovery of its security costs and a return on the funds provided by the utility to fund the financial security:

1. A proposed revised tariff, specifying the amount of security in place, the updated monthly rate adjustment to be billed to customers and the percentage rate increase this represents.
2. Documentation supporting the calculation of the updated monthly rate adjustment. Documentation shall include but not be limited to:
 - (i) annual cost of the security,
 - (ii) current number of customers,
 - (iii) total actual security costs paid in the previous reporting period or part thereof in the case of the public wastewater utility's first year of operations or the first year this rule is in effect,
 - (iv) security costs recovered from customers in the previous reporting period or part thereof.
3. A true-up calculation of the new monthly rate adjustment, calculated as follows:

$$RA = \frac{(CP - CR + SC)}{C} \times 12$$

Where:

- RA = New monthly rate adjustment.
- CP = Total security costs actually paid in the prior reporting period or part thereof netted against any credits or refunds received by the public wastewater utility from the holder of the financial security.
- CR = Total security costs actually recovered from customers in the prior reporting period.
- SC = Annual security costs, including return on utility provided capital, associated with the new security.
- C = Number of customers.

(11) The requirements of this rule may be waived or modified for good cause shown, including but not limited to, affordability of rates, minimization of rate shock or other operating characteristics of the utility.