



Henry Walker
Direct: 615.252.2363
Fax: 615.252.6363
hwalker@babc.com

March 13, 2015

Herbert Hilliard, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
502 Deaderick Street
4th Floor
Nashville, TN 37243

Re: Petition of Tennessee Wastewater Systems, Inc. for Approval of Capital Improvement
Surcharge and Financing Arrangements/Direct Testimony of Charles Hyatt
Docket No. 14-00136

Dear Chairman Hilliard:

Please accept for filing in the above-captioned docket the "Direct Testimony of Charles Hyatt."
A copy has been provided to Rachel Newton at the Consumer Advocate and Protection Division, the
other party to this case.

Sincerely,

BRADLEY ARANT BOULT CUMMINGS LLP

By:

A handwritten signature in dark ink, appearing to read 'Henry Walker'.

Henry Walker

HW/mkc
Enclosure
cc: Rachel Newton w/enc.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:)
)
PETITION OF TENNESSEE)
WASTEWATER SYSTEMS, INC. FOR)
APPROVAL OF CAPITAL) DOCKET NO. 14-00136
IMPROVEMENT SURCHARGE AND)
FINANCING ARRANGEMENTS)

DIRECT TESTIMONY OF CHARLES HYATT

Q. What is your name and occupation?

A. I am Charles Hyatt, president of Tennessee Wastewater Systems, Inc. ("TWSI"). I have been president of TWSI since 2007.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to attest to the accuracy of the facts stated in the Petition filed November 18, 2014 and to provide additional information concerning TWSI's request.

Q. Would you summarize the Petition?

A. TWSI asks that the Authority approve a loan of up to \$725,000 to pay the estimated costs of repairs and capital improvements at three wastewater treatment facilities: Maple Green, Smoky Village and Cedar Hill. Sinkholes damaged two of the systems. The third has a drip field that does not drain properly because of the soil conditions. The Tennessee Department of Environment and Conservation ("TDEC") has ordered TWSI to make permanent repairs at all three systems and has approved "Corrective Action Plans" to repair sinkhole damage at Maple Green and build a new drip field at Smoky Village.

TDEC has not yet approved a Corrective Action Plan for Cedar Hill, and TWSI will not proceed with that project until a plan has been approved. TWSI estimates that the total cost of repairing the three systems will be approximately \$725,000 and proposes to recover that amount through a surcharge of approximately \$3.27 per customer, per month, spread over TWSI's state-wide customer base.

TWSI also asks the TRA to approve a one-time assessment on the property owners in Summit View Resort to build a new and larger recirculating sand filter and construct an additional drip field. Based on usage estimates provided by property owners, TWSI designed the wastewater system at Summit View to treat up to 8,000 gallons per day. Actual usage, however, now runs as high as 18,000 gallons per day. TDEC has ordered that a new filter be built and an additional drip field constructed. Since filing the Petition, TWSI has signed a contract to acquire the land for the new drip field. The cost of the land is included in the estimated cost of the project of \$330,000. Because this problem is the direct result of unanticipated usage, primarily by the thirty commercial lodges in Summit View, TWSI recommends that the costs of expanding the system be recovered on a per-square-foot basis from the property owners in Summit View Resort.

Q. Who will perform the construction work?

A. TWSI originally anticipated that the work would be performed by Adenus, a corporate affiliate of TWSI. It is critical that the work be done consistent with the Corrective Action Plans approved by TDEC and having Adenus perform the work would ensure that the construction is done properly. Based on subsequent discussions with the TRA Staff and the Consumer Advocate and Protection Division ("CAPD"), TWSI has decided to

solicit competitive bids for each of these projects and will use the lowest, qualified bidder to perform the work. It is premature to solicit bids for Cedar Hill, but bids for the other three projects will be solicited on or before April 15, 2015 with responses due by May 15, 2015. We will share both the requests and the responses with the CAPD and the TRA.

Q. Why doesn't TWSI simply borrow the money to make repairs at all four sites, complete the work, and then seek reimbursement from TWSI customers?

A. Unlike a traditional utility, TWSI does not raise capital nor charge tap fees to its customers. As the Authority is aware, each of TWSI's wastewater systems was paid for by the developer of the project the system was built to serve. The developer builds a wastewater system in accordance with the specifications of TWSI and TDEC and then gives the land and plant to TWSI as "contributed capital." As I have explained to the TRA in other cases, this business model protects ratepayers if a development fails. If TWSI financed the building of a wastewater system and, as has happened often in recent years, the development is never built, TWSI's other customers would be saddled with the costs of the unused system. TWSI's business model protects customers from risk, but it does not provide the company with sufficient resources to finance major capital repairs. That money must come initially from a lending institution. Based on my discussions with several banks, TWSI cannot borrow the money needed to repair these four systems without assurance that TWSI will be able to collect sufficient rates to repay the loan. That is why we are asking the TRA both to approve a loan for up to \$725,000 and to approve surcharges and assessments sufficient to repay the loan and pay the costs of repairs.

Q. What steps will TWSI take to ensure that these surcharges and assessments are spent only on these four projects?

A. The lender will not give us the entire amount in a lump sum but will allow us to draw down the money as needed for these projects. As the money is withdrawn, TWSI will keep both the TRA staff and the CAPD regularly informed of the progress of the work and will make periodic reports of exactly how the money is spent.

Q. Are there any other costs associated with these projects which are not included in the Petition?

A. The estimates in the Petition do not include the costs of preparing the Petition, responding to discovery requests from the TRA and the CAPD and litigating this case through its conclusion. We do not yet know what those costs will be but, in light of our experience since the Petition was filed, it appears likely these costs will be significant and comparable to the costs of a rate case. TWSI therefore asks that those costs be placed in a deferred account and that TWSI be allowed to recover them as part of this proceeding.

Q. Does that complete your testimony?

A. Yes.