

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 12, 2015

IN RE:

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

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DOCKET NO.
15-00051

ORDER APPROVING ALTERNATIVE FINANCIAL SECURITY

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, and Director Robin Bennett of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 29, 2015, to hear and consider the *Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security* (“*Petition*”) filed by Tennessee Wastewater Systems, Inc. (“TWSI” or the “Company”) on April 29, 2015. In its *Petition*, TWSI requests 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, TWSI¹ 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.

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.

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.”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 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.”⁴ The Authority’s Wastewater Rules also give the Authority discretion to approve an alternative form of financial security upon petition by the utility, which must be filed with the Authority by May 1 of each year.⁵

On April 29, 2015, TWSI filed the *Petition* for approval to post an alternative form of security pursuant to TRA Rule 1220-4-13-.07(5). TWSI 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.⁶ TWSI’s bond deviates from the exact requirements of TRA Rule 1220-4-13-.07 because it covers only 76% of TWSI’s gross annual revenue of \$1,647,942, and the form differs in certain immaterial respects from the form prescribed by TRA Rule 1220-4-13-.08.⁷

FINDINGS AND CONCLUSIONS

At the regularly scheduled Authority Conference held on June 29, 2015, the panel conducted a Hearing in this matter, which was noticed by the Authority on June 19, 2015. At the Hearing, Mr.

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

³ Tenn. Comp. R. & Regs. 1220-4-13-.07(2)(a) and (3).

⁴ Tenn. Comp. R. & Regs. 1220-4-13-.08.

⁵ Tenn. Comp. R. & Regs. 1220-4-13-.07(5).

⁶ The same bond was previously approved by the Authority in TRA Docket Nos. 11-00187, 13-00148, and 14-00047. See *Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security*, Docket No. 14-00047, *Order Approving Alternative Financial Security*, fn. 6 (July 8, 2014).

⁷ See *Petition*, pp. 1-2 (April 29, 2015).

Henry 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 a witness for the Company and provided a summary of the *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, the panel found that the amount of the bond is acceptable even though it equals only 76% of the Company's gross annual revenue, an amount less than the amount 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.⁸

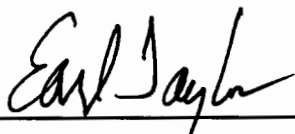
Therefore, upon finding that the alternative form of the bond and the amount are sufficient under the circumstances of this particular docket and that approval is in the public interest, the panel voted unanimously to grant the *Petition* pursuant to TRA Rule 1220-4-13-.07(5).

IT IS THEREFORE ORDERED THAT:

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

Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, and Director Robin Bennett concur.

ATTEST:



Earl R. Taylor, Executive Director

⁸ The purpose of the financial security requirement, and of the Wastewater Regulations as a whole, is to "ensure continued adequate and reasonable service." Tenn. Comp. R. & Regs. 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.