

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 5, 2016

IN RE:

**PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. FOR APPROVAL OF
FINANCING ARRANGEMENTS**

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DOCKET NO. 15-00071

ORDER APPROVING FINANCING ARRANGEMENTS

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Kenneth C. Hill of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on January 11, 2016, for hearing and consideration of the *Petition for Approval of Financing Arrangements* (the “*Petition*”) filed on August 5, 2015, and the *Amended Petition for Approval of Financing Arrangements* (the “*Amended Petition*”) filed on October 23, 2015, by Tennessee Wastewater Systems, Inc. (“Petitioner,” “TWSI” or “Company”).

RELEVANT BACKGROUND

Tennessee Wastewater Systems, Inc. is a public utility that provides wastewater services in Tennessee and is subject to the regulatory jurisdiction of the TRA. On August 5, 2015, Petitioner filed the *Petition* requesting approval of financing arrangements related to the purchase of vehicles, heavy machinery and land. Specifically, TWSI has negotiated a loan with Wilson Bank and Trust for \$75,796.47 and two loans with First Bank totaling \$106,902.33 for the purchase of equipment and vehicles. According to TWSI, the vehicles and heavy equipment are necessary for

system operators to perform operational and maintenance duties. Additionally, TWSI requested approval of a promissory note in the amount of \$38,472.50 for the purchase of land, which TWSI asserts is necessary to comply with a new state regulation relating to a drip field at the Dyers Hollow treatment facility. On October 23, 2015, TWSI filed the *Amended Petition*, which added a promissory note in the amount of \$37,556.48 for the purchase of another truck that the company asserts will allow a system operator to perform his or her job responsibilities.

During the regularly scheduled Authority Conference held on September 14, 2015, the voting panel appointed General Counsel or her designee as Hearing Officer to address preliminary matters and prepare this case for hearing before the panel. On October 6, 2015, the Hearing Officer granted the *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General and Reporter (“Consumer Advocate”). Following TWSI’s responses to discovery, the Consumer Advocate filed its *Statement of Position* (“*Statement*”) on November 24, 2015. In its *Statement*, the Consumer Advocate indicates that it does not oppose the *Petition* or *Amended Petition*. The Consumer Advocate notes that TWSI has stated that it will seek recovery from customers of the costs related to the *Petition* and *Amended Petition* in a subsequent proceeding. The Consumer Advocate reserves the right to request to intervene in a future proceeding which would consider whether the costs were prudently incurred and whether TWSI should be allowed to recover the costs from customers.

HEARING ON THE MERITS

In accordance with Tenn. Code Ann. § 65-4-109, the Hearing Officer issued public notice of the hearing in this matter on December 30, 2015. Mr. Charles Hyatt, President of TWSI, appeared personally during the Hearing along with TWSI’s General Counsel, Mr. Jeff Riden. Ms. Erin Merrick appeared for the Consumer Advocate. During the hearing, Mr. Hyatt ratified his

sworn pre-filed direct and supplemental testimonies that had been filed in the docket file and was subject to examination by the panel of Directors. In response to questioning, Mr. Hyatt further stated that the purchases and financing requests made in the *Petition* and *Amended Petition* are intended to streamline TWSI's operations by bringing its system activities and maintenance in-house and less dependent on its affiliated companies.¹ After Mr. Hyatt's testimony was concluded, the panel solicited comments from the public. No member of the public came forward to comment.

FINDINGS AND CONCLUSIONS

Tenn. Code Ann. § 65-4-109 provides:

No public utility shall issue any stocks, stock certificates, bonds debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the authority for such proposed issue. It shall be the duty of the authority after hearing to approve any such proposed issue maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the authority.

Following the conclusion of the hearing, the panel voted unanimously to approve the *Petition* and the *Amended Petition* and made the following findings:

1. The proposed financing transactions are subject to Authority approval pursuant to Tenn. Code Ann. § 65-4-109.
2. The proposed financing transactions are being made in accordance with laws enforceable by this agency.
3. The proposed debt instruments support purchases that are not uncommon in the utility and wastewater industries.
4. The proposed financing transactions are in the public interest.

¹ Transcript of Authority Conference, pp. 8-10 (January 11, 2016).

5. Approval of the *Petition* and the *Amended Petition* does not guarantee TWSI's cost recovery of expenses resulting from these transactions from its customers.

6. As appropriate, the Authority will determine in a future rate proceeding whether any expenses incurred by TWSI associated with the indebtedness related to the *Petition* and *Amended Petition* were necessary, reasonable, and prudently incurred, and whether such costs should be permitted to be recovered through consumer rates.

IT IS THEREFORE ORDERED THAT:

1. Tennessee Wastewater Systems Inc. is authorized to enter into the proposed transactions as described in the *Petition* and the *Amended Petition*, and discussed herein.

2. Tennessee Wastewaters Systems Inc. is ordered to maintain detailed information regarding the usage of the items and real property purchased with the indebtedness included in the *Petition* and *Amended Petition*.

3. The authorization and approval given hereby shall not be used by any party, including but not limited to, any lending party, for the purpose of inferring an analysis or assessment of the risks involved.

4. This decision is not intended to create any liability on the part of the Tennessee Regulatory Authority, the State of Tennessee or any political subdivision thereof.

Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Kenneth C. Hill concur.

ATTEST:



Earl R. Taylor, Executive Director