

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 26, 2016

IN RE:)	
)	
PETITION OF DSH & ASSOCIATES, LLC)	DOCKET NO. 16-00032
FOR APPROVAL OF ALTERNATIVE)	
FINANCIAL SECURITY)	

ORDER APPROVING PETITION OF DSH & ASSOCIATES, LLC
TO POST ALTERNATIVE FINANCIAL SECURITY

This matter came before Vice Chairman Robin L. Morrison, Director 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 the regularly scheduled Authority Conference held on July 11, 2016, for hearing and consideration of the *Petition for Approval of Alternative Financial Security* (“*Petition*”) filed on April 5, 2016 by DSH & Associates, LLC (“DSH” or the “Company”).

BACKGROUND AND PETITION

DSH is a wastewater utility that serves customers in Campbell County, Tennessee and is subject to the Authority’s jurisdiction.¹ On April 5, 2016, DSH filed its *Petition* with the Authority seeking approval of the Company’s posting of alternative financial security. The Company’s current surety bond is in the amount of \$26,000.² According to DSH’s most recent UD20 report filed with the TRA, the Company’s annual revenue for 2015 was \$27,991.³ The

¹ Doug Hodge, Pre-Filed Direct Testimony, pp. 1-2 (April 5, 2016). *See also In re: Petition of DSH & Associates, LLC for Approval to Amend Its Rates and Charges*, Docket No. 11-00162, *Final Order Approving Rate Petition* (May 16, 2012).

² Doug Hodge, Pre-Filed Direct Testimony, p. 3 (April 5, 2016).

³ *Petition*, p. 2 (April 5, 2016).

bond amount is approximately 93% of DSH's gross annual revenue and its form differs somewhat from the exact form prescribed by TRA Rule 1220-4-13-.08.

STANDARD FOR AUTHORITY APPROVAL

Tenn. Code Ann. § 65-4-201(e) (2015) provides:

The authority shall direct the posting of a bond or other security by a public utility providing wastewater service or for a particular project proposed by a public utility providing wastewater service. The purpose of the bond or other security shall be to ensure the proper operation and maintenance of the public utility or project. The authority shall establish by rule the form of such bond or other security, the circumstances under which a bond or other security may be required, and the manner and circumstances under which the bond or other security may be forfeited.

Pursuant to TRA Rule 1220-04-13-.07(2), a public wastewater utility must furnish proof of financial security to the Authority in the amount of 100% of its gross annual revenue or \$20,000, whichever is greater. However, financial security in an alternative form to that above may be provided pursuant to TRA Rule 1220-04-13-.07(5), which states:

If the public wastewater utility proposes to post financial security other than the type or amount permitted above, it must file with the Authority by May 1 of each year a petition requesting acceptance of the security. A hearing shall be held to determine the amount of the financial security and if the form of the proposed financial security serves the public interest. At this hearing, the burden of proof shall be on the public wastewater utility to show that the proposed financial security and the proposed amount will be in the public interest. The public wastewater utility shall comply with Rule 1220-4-13-.07(2) until the alternative financial security is approved by the Authority.

Finally, TRA Rule 1220-04-13-.07(1) requires that public wastewater utilities provide proof of financial security using a format prescribed by the Authority, which can be found at TRA Rule 1220-04-13-.08.

THE HEARING

After being continued from the June 20, 2016 Authority conference, the Hearing in this matter was held before the voting panel of Directors during the regularly scheduled Authority

Conference on July 11, 2016, as re-noticed by the Authority on July 1, 2016. Participating in the Hearing was:

DSH & Associates, LLC – Douglas S. Hodge, Owner, 2099 Thunderhead Road, Suite 204, Knoxville, Tennessee 37992.

During the Hearing, Mr. Hodge ratified, then summarized his pre-filed testimony and was subject to questioning before the panel. There were no intervening parties to the Docket. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

In its *Petition*, DSH has asked the Authority for approval of alternative financial security under TRA Rule 1220-04-13-.07(5). Based on a review and consideration of the pleadings, pre-filed testimony and the entire administrative record, the panel found that the \$26,000 bond the Company provided is sufficient and in the public interest. DSH has demonstrated that it has a bond that is approximately 93% of its current annual revenue and the Company is financially secure. Additionally, the panel found that although the form of the bond DSH has obtained is not identical to that prescribed for wastewater utilities under TRA Rule 1220-04-13-.08, it is in substantial compliance with the rules and is sufficient to meet statutory and regulatory requirements under Tenn. Code Ann. § 65-4-201(e) and TRA Rule 1220-04-13-.07. Accordingly, the panel voted unanimously to approve the Company's request for alternative financial security pursuant to TRA Rule 1220-04-13-.07(5).

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Approval of Alternative Financial Security* filed on April 5, 2016 by DSH & Associates, LLC is granted.

2. Any person who is aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.

3. Any person who is aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Vice Chairman Robin L. Morrison, Director Herbert H. Hilliard, and Director Kenneth C. Hill concur.

ATTEST:



Earl R. Taylor, Executive Director