

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 5, 2017

IN RE:	)	
	)	
CARTWRIGHT CREEK, LLC, REQUEST TO	)	DOCKET NO. 17-00035
UTILIZE ALTERNATIVE FINANCIAL SECURITY	)	
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ORDER APPROVING PETITION FOR ALTERNATIVE FINANCIAL SECURITY

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This matter came before Chairman David F. Jones, Vice Chairman Robin L. Morrison and Commissioner Herbert H. Hilliard of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, at the regularly scheduled Commission Conference held on October 23, 2017, for hearing and consideration of the *Petition for Alternative Financial Security* (“*Petition*”) filed on May 1, 2017 by Cartwright Creek, LLC (“Cartwright Creek” or the “Company”).

**BACKGROUND AND PETITION**

On May 1, 2017, Cartwright Creek filed its *Petition* with the Commission seeking approval of the Company’s posting of alternative financial security pursuant to TPUC Rule 1220-04-13-.07(5). The Company requests approval of a bond in the amount of \$50,000 as a form of alternative security.<sup>1</sup> The Company seeks approval of the same bond the Commission found acceptable as a form of alternative security in TPUC Docket No. 15-00052.<sup>2</sup> According to

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<sup>1</sup> *Petition*, pp. 1-2 (May 1, 2017).

<sup>2</sup> *In re: Petition of Cartwright Creek, LLC to Utilize Alternative Financial Security*, Docket No. 15-00052, *Order Approving Petition for Alternative Financial Security* (August 17, 2016).

Cartwright Creek's *Petition* and supporting documentation, the Company's total income for 2016 was \$476,351.<sup>3</sup>

In its *Petition*, Cartwright Creek states that the \$50,000 amount of its proposed bond is an amount sufficient to cover its operating expenses for approximately two months.<sup>4</sup> Prior to the filing of the *Petition*, the Company filed for a rate increase with the assistance of Commission Staff. The Company was granted a rate increase on December 12, 2016.<sup>5</sup> On June 27, 2017, the Company filed the pre-filed direct testimony of Bruce Meyer, the Company's Operations Manager. Mr. Meyer stated that the rate increase approved by the Commission is expected to help the Company long term, but that the impact cannot be evaluated until the end of 2017 when projected revenues and expenses can be compared with actual results.<sup>6</sup> Mr. Meyer testified that no major changes or major problems have occurred to substantially change the circumstances of the Company.<sup>7</sup>

#### **STANDARD FOR AUTHORITY APPROVAL**

Tenn. Code Ann. § 65-4-201(e) (2017) provides:

The commission 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 commission 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 TPUC Rule 1220-04-13-.07(2), a public wastewater utility must furnish proof of financial security to the Commission in the amount of 100% of its gross annual revenue or

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<sup>3</sup> *Petition*, p. 1 (May 1, 2017).

<sup>4</sup> *Id.*

<sup>5</sup> *In re: Joint Petition of Cartwright Creek, LLC and TRA Staff (As a Party) to Increase Rates and Charges*, TPUC Docket No. 16-00127, *Order Approving Rate Increase* (January 10, 2017).

<sup>6</sup> Bruce Meyer, Pre-filed Direct Testimony, p. 2 (June 27, 2017).

<sup>7</sup> *Id.*

\$20,000, whichever is greater. However, financial security in an alternative form to that above may be provided pursuant to TPUC 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 Commission 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 Commission.

### **THE HEARING**

The Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on October 23, 2017, as noticed by the Commission on October 13, 2017.<sup>8</sup> Participating in the Hearing were:

Cartwright Creek, LLC – Henry M. Walker, Esq., Bradley, Arant, Boult, Cummings, LLP, 1600 Division Street, Suite 700, Nashville, Tennessee 37203 and Bruce Meyer, Operations manager, Cartwright Creek, LLC, 800 Roosevelt Road, Building A-120, Glen Ellyn, Illinois 60137.

During the Hearing, Mr. Meyer ratified, then summarized his pre-filed testimony and was subject to questioning before the panel. There were no intervening parties to the proceeding. 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*, Cartwright Creek has asked the Commission for approval of alternative financial security under TPUC Rule 1220-04-13-.07(5). Based on a review and consideration of the pleadings, pre-filed testimony and the entire administrative record and the circumstances of this case, the panel found that the proposed alternative security is in the public interest and

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<sup>8</sup> The Hearing for the *Petition* had previously been noticed for consideration at Commission Conferences on July 10, 2017 and August 15, 2017, but was postponed and rescheduled in both instances at the request of the Company.

consistent with Commission Rule 1220-4-13-.07(5). The Company has provided information that its \$50,000 alternative security amount would provide sufficient funds to operate the company on a temporary basis for two months. The panel found that the bond form is in substantial compliance with the rules and is sufficient to meet statutory and regulatory requirements. Based on these findings, the panel voted unanimously to approve Cartwright Creek's *Petition*.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Alternative Financial Security* filed on May 1, 2017 by Cartwright Creek, LLC is granted.
2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.
3. Any person who is aggrieved by the Commission'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.

**Chairman David F. Jones, Vice Chairman Robin L. Morrison and Commissioner Herbert H. Hilliard concur.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**