

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 23, 2017

IN RE:

**PETITION OF OLD HICKORY WATER,
LLC TO POST ALTERNATIVE FINANCIAL
SECURITY**

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**DOCKET NO.
17-00066**

**ORDER APPROVING PETITION FOR APPROVAL
OF ALTERNATIVE FINANCIAL SECURITY**

This matter came before Vice Chairman Robin L. Morrison, Commissioner Kenneth C. Hill and Commissioner Keith Jordan of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, at a regularly scheduled Commission Conference held on August 15, 2017, to hear and consider the *Petition of Old Hickory Water, LLC to Post Alternative Financial Security* (“*Petition*”) filed on July 5, 2017.

BACKGROUND AND PETITION

Old Hickory Water, LLC (“Old Hickory” or the “Company”) is a wastewater utility that serves customers in Tennessee and is subject to the Commission’s jurisdiction. On July 5, 2017, Old Hickory filed its *Petition* with the Commission seeking approval of the Company’s posting of alternative financial security. The *Petition* states that the Company’s current surety bond is in the amount of \$25,000 and was previously approved in TPUC Docket Nos. 12-00039, 14-00091, 15-00049 and 16-00077.¹ According to Old Hickory’s most recent UD20 report filed

¹ *Petition*, p. 1-2 (July 5, 2017).

with the TRA, the Company's annual revenue for 2016 was \$71,120, of which \$2,252 constituted wastewater revenue.²

According to Old Hickory, the amount of the bond is adequate because the Company has been operating the utility since 2011 without any financial problems, the Company is financially stable and the bond amount is more than 100% of the wastewater revenue.³

STANDARD FOR AUTHORITY APPROVAL

Tenn. Code Ann. § 65-4-201(e) (2017 supp.) 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 \$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.

² Justin Noah, Pre-filed Direct Testimony, p. 3 (July 5, 2017).

³ *Id.* at 3-4.

THE HEARING

The Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on August 15, 2017, as noticed by the Commission on August 4, 2017. On August 11, 2017, the Hearing Officer in this matter issued an order authorizing the Company witness to participate in the hearing electronically.⁴ Participating in the Hearing was:

Old Hickory Water, LLC – H. LaDon Baltimore, Esq., Farris Bobango, PLC, 414 Union Street, Suite 1105, Nashville, Tennessee 37219.

The general manager of the Company, Justin Noah, provided testimony telephonically following the taking of an oath in the presence of a notary. During the Hearing, Mr. Noah 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*, Old Hickory has asked the Authority for approval of alternative financial security under TRA Rule 1220-04-13-.07(5). After review and consideration of the pleadings, pre-filed testimony and the entire administrative record, the voting panel found that the alternative form and amount of the proposed bond, which is more than 100% of the Company's annual wastewater revenues, are consistent with the alternative security approved for the Company previously in TRA Docket No. 16-00077. Further, the panel found that the proposed alternative security continues to be sufficient and is in the public interest. Thereafter, the panel voted unanimously to approve the *Petition*.

⁴ *Order Granting Electronic Participation in Hearing*, (August 11, 2017).

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Old Hickory Water, LLC to Post Alternative Financial Security* filed on July 5, 2017, is approved.

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 (15) 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 (60) days from the date of this Order.

Vice Chairman Robin L. Morrison, Commissioner Kenneth C. Hill and Commissioner Keith Jordan concur.

ATTEST:



Earl R. Taylor, Executive Director