

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

June 18, 2018

IN RE:)	
)	
PETITION OF TENNESSEE WASTEWATER)	DOCKET NO.
SYSTEMS, INC. TO POST ALTERNATIVE)	18-00053
FINANCIAL SECURITY)	

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

This matter came before Vice Chairman Robin L. Morrison, Commissioner Herbert H. Hilliard and Commissioner Kenneth C. Hill of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during the regularly scheduled Commission Conference held on May 14, 2018, to hear and consider the *Petition of Tennessee Wastewater Systems Inc. to Post Alternative Financial Security* (the “*Petition*”) filed on April 24, 2018 by Tennessee Wastewater Systems, Inc. (“TWSI” or the “Company”).

BACKGROUND AND PETITION

On April 24, 2018, Tennessee Wastewater filed its *Petition* with the Commission seeking approval of the Company’s posting of the alternative financial security pursuant to TPUC Rule 1220-04-13-.07(5). The Company is requesting the Commission approve the form and amount of its existing \$300,000 security bond as alternative financial security.¹ The Commission found in Docket No. 17-00034 that this amount is in the public interest as it meets the Commission’s goals of ensuring sufficient funds are available in the event that a wastewater system becomes insolvent.²

¹ *Petition*, p. 2 (April 24, 2018).

² *In re: Petition of Tennessee Wastewater Systems, Inc. to Post Alternative Financial Security*, Docket No. 17-00034, Order Approving Petition for Alternative Financial Security (August 03, 2017).

In its *Petition*, Tennessee Wastewater states that the bond in the amount of \$300,000 is an appropriate amount for determining financial security to comply with the Commission's rules and further as sufficient financial security to comply with the new financial security rules for wastewater utilities arising from the Commission's rule making proceeding approved by the Commission in Docket 16-00112.³

Along with its *Petition*, the Company filed the pre-filed direct testimony of Charles Hyatt, the Company's President. Mr. Hyatt stated that he recognizes that the new wastewater rules are not yet in effect; however, he asserts that the Commission has discretion under the current rules to maintain TWSI's financial security obligation at the maximum cap of \$300,000 which the Commission determined in Docket No. 17-00034 to be acceptable and in the public interest.⁴

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 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 noted above may be provided pursuant to TPUC Rule 1220-04-13-.07(5), which states:

³ *Petition*, pp.1-2 (April 24, 2018).

⁴ Charles Hyatt, Pre-Filed Direct Testimony, pp. 2-3 (April 24, 2018).

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

THE HEARING

The Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on May 14, 2018, as noticed by the Commission on May 4, 2018. Participating in the Hearing were:

Tennessee Wastewater Systems, Inc. – Jeff Risdien, Esq., General Counsel, and Charles Hyatt, President, Tennessee Wastewater Systems, Inc., 851 Aviation Parkway, Smyrna, Tennessee, 37169.

During the Hearing, Mr. Hyatt 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*, TWSI 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, the panel found that the Company's request to maintain its financial security requirement of \$300,000 was in the public interest. The primary goal of the Commission's financial security rule as relates to public wastewater utilities is to ensure sufficient funds are available in the event that a wastewater

system fails or becomes insolvent, and the Company's proposed alternative security appears to accomplish this goal. Additionally, the panel found that although the form of the bond TWSI has obtained is not identical to that prescribed for wastewater utilities under TPUC 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 TPUC Rule 1220-04-13-.07. Accordingly, the panel voted unanimously to approve the Company's request for alternative financial security pursuant to TPUC Rule 1220-04-13-.07(5).

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

ATTEST:

A handwritten signature in cursive script, appearing to read "Earl Taylor", is written above a horizontal line.

Earl R. Taylor, Executive Director