

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

June 7, 2018

IN RE:)	
)	DOCKET NO.
CUMBERLAND BASIN WASTEWATER)	18-00055
SYSTEMS PETITION TO POST)	
ALTERNATIVE FINANCIAL SECURITY)	

ORDER APPROVING PETITION FOR ALTERNATIVE FINANCIAL SECURITY

This matter came before Vice Chairman Robin L. Morrison, Commissioner Herbert H. Hilliard and Commissioner Keith Jordan 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, for hearing and consideration of the *Petition of Cumberland Basin Wastewater Systems to Post Alternative Financial Security* (“*Petition*”) filed on April 30, 2018, by Cumberland Basin Wastewater Systems (“Cumberland Basin” or the “Company”).

BACKGROUND AND PETITION

On April 30, 2018, Cumberland Basin filed its *Petition* with the Commission seeking approval to post alternative financial security pursuant to TPUC Rule 1220-04-13-.07(5). The Company requests approval of a letter of credit in the amount of \$20,000 as a form of alternative security.¹ According to Cumberland Basin’s *Petition* and supporting documentation, the Company’s total income for 2017 was \$33,590.²

¹ *Petition*, pp. 1-2 (April 30, 2018).

² *Petition*, p. 1 (April 30, 2018).

In its *Petition*, Cumberland Basin states that the \$20,000 amount of its existing line of credit 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 approved by the Commission in Docket No. 16-00112.³ Cumberland Basin states that while its total receipts for calendar year 2017 were approximately \$34,000, the Company's net wastewater service revenue was approximately \$31,000.⁴ Cumberland Basin therefore requests that the Commission recognize and approve \$20,000 as the appropriate revenue level for determining financial security. On April 30, 2018 in support of its *Petition*, Cumberland Basin filed testimony of Tim Huddleston, President of Cumberland basin, as Attachment #2.

STANDARD FOR COMMISSION 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 \$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

³ *Id.*

⁴ *Id.*

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 May 14, 2018, as noticed by the Commission on May 4, 2018. Participating in the Hearing was:

Cumberland Basin Wastewater Systems – Henry Walker, Esq., Bradley Arant
Boulton Cummings, LLP, 1600 Division Street, Suite 700, Nashville, TN 37203.

During the Hearing, Cumberland Basin witness, Mr. Huddleston, 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*, Cumberland Basin seeks Commission approval to post 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 consistent with Commission Rule 1220-4-13-.07(5). In its *Petition*, Cumberland Basin states that the \$20,000 amount of its proposed bond 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 approved by the

Commission in Docket No. 16-00112.⁵ Although the new financial security rules are not yet effective, Cumberland Basin maintains that the approval by the Commission “reflect[s] the intent of the Commission.”⁶ 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 Cumberland Basin’s *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Cumberland Basin Wastewater Systems to Post Alternative Financial Security* filed on April 30, 2018 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.

✓ **Vice Chairman Robin L. Morrison, Commissioner Herbert H. Hilliard and Commissioner**
✓ **Keith Jordan concur.**

ATTEST:



Earl R. Taylor, Executive Director

⁵ The wastewater rules approved by the Commission are pending and are not yet effective.

⁶ *Petition*, p. 2 (April 30, 2018).