

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 23, 2007

IN RE:

PETITION OF KING'S CHAPEL CAPACITY, LLC  
FOR A DECLARATORY RULING REGARDING  
THE ASSIGNMENT OF WASTEWATER SERVICE  
TERRITORY TO PRIVATE UTILITIES IN TENNESSEE

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DOCKET NO.  
05-00062

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ORDER RETURNING DOCKET TO HEARING OFFICER

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 6, 2006 for consideration of whether this docket should remain open in light of the resolution of other related dockets. The *Petition for a Declaratory Ruling* ("Petition") was filed by King's Chapel Capacity, LLC ("King's Chapel") on February 25, 2005. On March 2, 2005, Tennessee Wastewater Systems, Inc. ("TWS") filed a petition to intervene in this matter. During the April 4, 2005 Authority Conference, the voting panel assigned to this docket convened a contested case proceeding in this matter and appointed a Hearing Officer to prepare this matter for a hearing before the panel.

A Status Conference was held on July 21, 2005, at which time the Hearing Officer requested that TWS file its response to the *Petition* seven days after the issuance of the final order in Docket No. 03-00329.<sup>1</sup> On May 18, 2006, the Hearing Officer issued a Notice reminding the parties of the deadline to file a response in this docket. The Hearing Officer also acknowledged the settlement agreement between the parties in TRA Docket No. 04-00335 but stated uncertainty as to whether that agreement included this docket.<sup>2</sup>

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<sup>1</sup> The TRA *Order Affirming the Hearing Officer's Findings and Conclusions in Initial Order Issued February 4, 2005* was issued May 16, 2006 in Docket No. 03-00329. See *In re: Petition of On-Site Systems, Inc. to Expand Its Service Area to Include an Area Known as Sevier County*, Docket No. 03-00329.

<sup>2</sup> *Notice of Filing* (May 18, 2006).

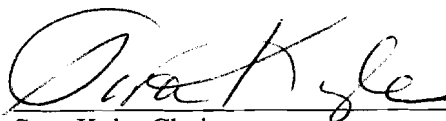
On October 27, 2006, the Authority issued an Agenda Notice, which included consideration of this docket during the November 6, 2006 Authority Conference. On October 31, 2006, King's Chapel filed a letter renewing its request for a declaratory ruling stating that there has been no settlement in this docket. TWS filed a response on November 3, 2006 stating that the issues in this docket have been settled. TWS stated that the settlement agreement filed in Authority Docket No. 04-00335 encompassed all matters that may exist between King's Chapel and TWS.

During the November 6, 2006 Authority Conference, the panel heard argument from John Powell, corporate representative for King's Chapel, and Henry Walker, Esq., counsel for TWS. The parties asserted opposing positions regarding whether the settlement agreement in Docket No. 04-00335 encompasses this docket and requires the dismissal of this docket.

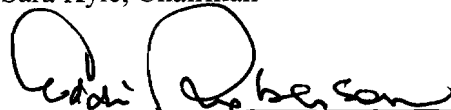
Because of the contradictory interpretations of the settlement agreement, the panel voted unanimously to return this docket to the Hearing Officer to determine whether any issues remain in this docket and, if so, to prepare the matter for a hearing before the panel.

**IT IS THEREFORE ORDERED THAT:**

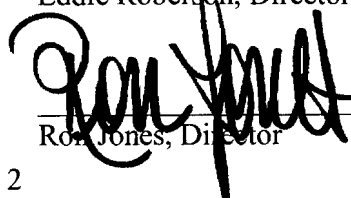
1. This matter is returned to the Hearing Officer for the purpose of determining whether the settlement agreement between the parties filed in Docket No. 04-00335 encompasses and requires the dismissal of this docket.
2. If an order of dismissal is not required, the Hearing Officer shall proceed to set a procedural schedule to completion and prepare this matter for hearing before the panel.



Sara Kyle, Chairman



Eddie Roberson, Director



Ron Jones, Director