

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 7, 2006

IN RE:

PETITION OF KING'S CHAPEL CAPACITY FOR
EXEMPTION FROM FINANCIAL SECURITY AS
REQUIRED BY THE TENNESSEE REGULATORY
AUTHORITY'S PROPOSED WASTEWATER
REGULATIONS

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DOCKET NO.
06-00061

ORDER GRANTING PETITION

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on April 3, 2006 upon the *Petition* of King's Chapel Capacity ("King's Chapel" or the "Company") requesting the "TRA exempt it from providing additional financial security and instead find that the financial security already in place and required by the local government authority are adequate to fulfill the requirements"¹ of TRA Rule 1220-4-13-.07.²

BACKGROUND

On October 5, 2004, King's Chapel filed a *Petition for a Certificate of Public Convenience and Necessity* to provide wastewater service to the Ashby Communities Development in Williamson County, Tennessee.³ The bonding requirements of Williamson County, Tennessee, are

¹ *Petition of King's Chapel Capacity for Exemption from Financial Security as Required by the Tennessee Regulatory Authority's Proposed Wastewater Regulations*, p. 1 (March 15, 2006).

² The Authority promulgated public necessity rules for wastewater, effective December 29, 2005 through June 12, 2006. The permanent TRA Rules 1220-4-13 became effective on June 12, 2006.

³ King's Chapel Capacity, LLC, with its principal office located in Brentwood, Tennessee, is certified to do business in the State of Tennessee and currently holds a CCN with the State of Tennessee as a public wastewater utility. The Company was first granted a Certificate of Public Convenience and Necessity on January 3, 2006, in Docket No.04-00335.

in excess of the financial security obligations required under the Public Necessity Rule, Tenn. Comp. R. & Regs. 1220-4-13-.07. As this is the case, in its *Petition*, King's Chapel requests exemption from the specific requirements of the Rule and asserts that, as it has already fulfilled the bonding requirements of the local government of Williamson County, Tennessee, it has ostensibly proven that it has the financial security necessary to fulfill the requirements of TRA Rule 1220-4-13-.07. As a result, the Company contends that it should not be required to provide financial security in accordance with Rule 1220-4-13-.07, because to do so would constitute additional, or excessive, financial security beyond that which the Rule mandates, and such would be burdensome to the Company.

STANDARD OF REVIEW

In accordance with Tenn. Comp. R. & Regs. 1220-4-13, wastewater utilities regulated by the TRA are required to provide proof of financial security pursuant to the terms established in the regulations. TRA Rule 1220-4-13-.07 (6) provides:

Financial securities required by any local government may be considered by the Authority as fulfilling this financial security obligation. The public wastewater utility shall file with the Authority evidence of this financial security and a written request that the Authority consider the security as fulfilling the requirements of this Chapter.

ANALYSIS

The Certificate of Public Convenience and Necessity ("CCN") held by King's Chapel is effective in Williamson County, Tennessee. Since Williamson County, Tennessee, mandates certain bonding requirements that are in monetary excess of the financial security requirements prescribed under Rule 1220-4-13-.07, King's Chapel asserts that the security that it has previously submitted to Williamson County, Tennessee, further and contemporaneously fulfills the Company's financial security obligations under the TRA Rule.

King's Chapel has proffered proof of its financial condition and security, which includes two (2) Letters of Credit, which satisfy the performance and maintenance costs of the wastewater

treatment system and name the Williamson County Planning Commission as beneficiary.⁴ The first Letter of Credit, Number P001540, is written in the amount of \$651,000, and the second Letter of Credit, Number P001545, is written in the amount of \$998,208. The Company's Tariff, filed along with the original *Petition for a Certificate of Public Convenience and Necessity*, included a separate billing rate in the amount of \$6.31 for Bonding Cost (Pass Through).⁵

In light of the evidence, and careful consideration of the record, the panel took administrative notice of the Tariff and Letters of Credit filed in Docket No. 04-00335, and found that King's Chapel has satisfied the criteria of TRA Rule 1220-4-13-.07, and further determined that the Company has substantiated its performance of the requisite financial security under the Rules.

IT IS THEREFORE ORDERED THAT:

1. The Tariff and Letters of Credit filed by or on behalf of King's Chapel Capacity, LLC in Docket No. 04-00335 are hereby administratively noticed by the Tennessee Regulatory Authority for all matters considered herein; and
2. The *Petition* of King's Chapel Capacity, LLC for an exemption from the provision of the TRA Rules 1220-4-13 which mandate the submission of financial security, insofar as the *Petition* requests a finding by the Authority that the security submitted by the Company to Williamson County, Tennessee, fulfills the requirements of TRA Rule 1220-4-13-.07, is *granted*.



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director

⁴ See, Docket No. 04-00335.

⁵ Tariff filed with the *Petition* in Docket No 04-00335.