

# KINGS CHAPEL CAPACITY

Providing Superior Wastewater Service to Tennessee

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November 19, 2007

Mr. Eddie Roberson, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

**Re: DOCKET TO DETERMINE THE RESERVE/ESCROW REQUIREMENT  
FOR KING'S CHAPEL CAPACITIES, LLC PURSUANT TO TRA RULE  
1220-4-12-.07(8). DOCKET 07-00062.**

Dear Mr. Roberson:

Attached is the Company's Response to the TRA Staff's Report of November 14<sup>th</sup>.  
Thank you for giving me the opportunity to respond on this matter.

Sincerely,



John Powell  
Owner

Cc: William H. Novak

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**IN RE:**

<b>DOCKET TO DETERMINE THE</b>	)	
<b>RESERVE/ESCROW REQUIREMENT FOR</b>	)	
<b>KINGS CHAPEL CAPACITY, LLC</b>	)	<b>DOCKET NO. 07-00062</b>
<b>PURSUANT TO TRA RULE 1220-4-12-.07(8)</b>	)	

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**RESPONSE OF KINGS CHAPEL CAPACITY TO STAFF REPORT**

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On November 14, 2007, the TRA Staff issued its Report in this matter regarding the escrow requirements for Kings Chapel Capacity (“KCC” or “the Company”). In its Report, the TRA Staff made the following four (4) recommendations:

1. The Authority require Kings Chapel to maintain the current escrow rate of \$10.13 for residential customers;
2. That Kings Chapel be directed to establish a separate bank account to administer the escrowed funds that includes a fidelity bond on persons with authority to withdraw such funds;
3. That Kings Chapel be directed to transfer any revenues collected to date into that account and provide proof of compliance to the Authority within thirty (30) days; and
4. That Kings Chapel be directed to file annual calendar year end reports detailing the balances and activity in the Company’s escrow account. Details should be included for monthly amounts placed into escrow and for amounts taken out of escrow. These reports should be filed no later than April 1 of each year, concurrent with the filing of its annual report to the TRA.

KCC now responds to each of the TRA Staff’s recommendations.

**Recommendation #1 – KCC concurs.** KCC agrees with the TRA Staff’s recommendation that the present monthly escrow rate of \$10.13 should be maintained.

**Recommendation #2 – KCC concurs in part.** KCC agrees with the TRA Staff’s recommendation to establish a separate bank account to administer the escrowed funds. However, KCC disagrees with the TRA Staff’s recommendation to establish a separate fidelity bond on persons with authority to withdraw funds from this bank account.

As the TRA is aware, KCC already has a letter of credit in the amount of approximately \$1.6 million to satisfy the escrow requirements of Williamson County. This letter of credit was recognized by the TRA in Dockets 06-00061 and 07-00151 in exempting KCC from the TRA’s separate requirements for financial security.<sup>1</sup> It is KCC’s position that the fidelity bond recommended in the Staff’s Report would be both redundant and duplicative to the existing letter of credit that the Company is already maintaining and would essentially result in bonding on top of bonding. In addition, the customers of KCC would be required to bear the incremental cost of a fidelity bond in addition to the existing bonding cost that they are presently paying (\$6.31 per month), with no additional benefit or assurance of financial responsibility.

The Company would also point out that the provisions of TRA Rule 1220-4-13-.07(9) state in part that “[P]ublic wastewater utility employees having signature authority over such account may be subject to a fidelity bond” [emphasis added]. KCC presently has no employees of its own. Instead, only the owner has signatory authority over its bank account, and this situation is not expected to change. Therefore, KCC believes that the provisions of the TRA’s rules

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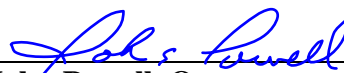
<sup>1</sup> KCC would have only been required to post either a bond or letter of credit in the amount of \$20,000 (the minimum required) without the Williamson County financial security requirements.

regarding fidelity bonds are not applicable, and as such we would ask the TRA to exercise its discretion allowed under the rule by not requiring KCC to establish a separate fidelity bond.<sup>2</sup>

**Recommendation #3 – KCC does not concur.** This recommendation states that KCC will “transfer any revenues collected to date into that [bank] account” [emphasis added]. KCC cannot agree to transfer its aggregate revenues received to date into a separate bank account because a portion of these funds are intended to pay for the ongoing costs of providing wastewater service. KCC feels that the Staff’s recommendation is probably misworded and should instead state that “KCC be directed to transfer any escrow funds collected to date into that account and provide proof of compliance to the Authority within thirty (30) days.” With this modification, KCC would concur with the Staff’s recommendation.

**Recommendation #4 – KCC concurs in part.** KCC agrees with the TRA Staff’s intent for KCC to provide an activity report of its escrow account at year end. However, KCC disagrees with the TRA Staff’s physical reporting requirement for the escrow activity. The reporting requirements contained in the Staff’s recommendation are unclear and likely to be interpreted differently by different wastewater utilities. As a more practical alternative, KCC would recommend that the TRA develop an addendum page to its existing annual report forms for wastewater utilities. Such a form would insure uniform reporting of escrow detail by each wastewater utility. With this modification, KCC would concur with the Staff’s recommendation.

Respectfully submitted:

  
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**John Powell, Owner**  
**Kings Chapel Capacity**

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<sup>2</sup> The TRA also chose not to require Tennessee Wastewater Systems, Inc. to establish a fidelity bond in reaching its decision in Docket 07-00063.