

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 17, 2008

IN RE:

**DOCKET TO DETERMINE THE
RESERVE/ESCROW REQUIREMENT FOR KINGS
CHAPEL CAPACITY, LLC PURSUANT TO TRA
RULE 1220-4-13-.07(8)**

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**DOCKET NO.
07-00062**

ORDER DETERMINING ESCROW REQUIREMENTS

This matter came before Chairman Eddie Roberson, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conferences held on October 22, 2007 and December 3, 2007. This docket was opened to consider whether the escrow account maintained by Kings Chapel Capacity, LLC ("KCC" or the "Company") is adequate or should be adjusted pursuant to the Authority's Wastewater Rules.

At the October 22, 2007 Authority Conference and after reviewing the record and hearing from the parties, the panel instructed Authority Staff ("Staff") to prepare and file a report ("Staff Report") with its recommendations. The panel further determined that it would defer consideration of the matter until after the Staff Report was completed. The Staff Report was issued on November 14, 2007. In the Staff Report, Staff made recommendations encompassing

adopting certain definitions, maintaining KCC's current escrow rate, and setting up a separate escrow account.¹

On November 19, 2007, Mr. John Powell, owner of KCC, filed the Company's response to the recommendations. While KCC agreed with some of the Staff recommendations, including maintaining the current escrow rate and setting up a separate escrow account, the Company also set out its differences with the Staff recommendations regarding the fidelity bond issue and certain aspects related to the separate escrow account, including proposed reporting requirements.²

At the December 3, 2007 Authority Conference, after reviewing the Staff Report and KCC's reply, the panel found that an escrow account should be maintained because such an account is beneficial to both ratepayers and KCC given the financial standing of KCC, the start-up nature of the utility, and the small number of customers currently served by the system. As to the escrow rate, the panel found that KCC is a new wastewater service provider, serves a single service area, and is using a system similar to that used by Tennessee Wastewater, Inc. Therefore, the panel found that it is appropriate for KCC to charge an escrow rate equal to that charged by Tennessee Wastewater when it first began to service customers. As for the clarity of the reporting requirements, the panel found that the language of Staff's recommendation is understandable and affords KCC sufficient notice of what the annual report should include. Additionally, a majority of the panel determined that it is premature to require a fidelity bond.

Based on these findings, the panel determined that the Company shall be required to do the following: maintain an existing monthly escrow rate of \$10.13 for residential customers; establish a separate bank account for the escrowed funds; transfer any escrow revenues collected

¹ *Staff Report*, p. 4 (November 14, 2007).

² *Response of Kings Chapel to Staff Report*, pp. 2-3 (November 19, 2007).

to date into that account and provide proof of compliance to the Authority within thirty days; and file annual calendar year end reports detailing the balances and activity in the Company's escrow account. Such report shall include details of monthly amounts placed into escrow as well as amounts taken out of escrow. These reports should be filed no later than April 1 of each year, concurrent with the filing of the Company's annual report to the TRA. A majority of the panel adopted the definitions of equipment replacement, tank pumping, and preventative maintenance set forth on pages two and three of the Staff Report and determined that it is not necessary for the Company to file a fidelity bond at this time. The panel also determined that funds in the escrow account shall only be utilized for system replacement and/or major repairs and non-routine expenses for residential systems and new business customers offered service via KCC's tariff.

IT IS THEREFORE ORDERED THAT:


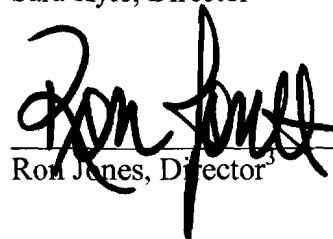
Kings Chapel Capacity, LLC shall:

1. maintain an existing monthly escrow rate of \$10.13 for residential customers;
2. establish a separate bank account to administer the escrowed funds;
3. transfer any escrow revenues collected to date into that account and provide proof of compliance to the Authority within thirty days;
4. 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 the Company's annual report to the TRA; and
5. adopt the definitions of equipment replacement, tank pumping, and preventive maintenance set forth on pages two and three of the Staff Report.

a. Equipment Replacement-Necessary improvements to the wastewater system or to replace vital system components in case of failure. The amount of equipment purchased with escrow funds funded by ratepayers, however, should not be included in rate base, but rather be treated as contributed capital.

b. Tank Pumping-This expense is non-routine and is generally incurred approximately every five years. Since this expense is not incurred annually, it is not included in the cost of service to be recovered by monthly rates.

c. Preventative Maintenance-This would apply only for unique and extraordinary preventative maintenance that may be required; escrow funds should not be used for annual preventative maintenance that is covered by monthly rates.


Eddie Roberson, Chairman
Sara Kyle, Director
Ron Jones, Director³

³ Director Jones dissented from the decision not to require KCC to post a fidelity bond and from the decision to adopt the definitions of equipment replacement, tank pumping, and preventative maintenance contained in the Staff Report. Director Jones filed a separate opinion explaining his analysis.