

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 19, 2008

IN RE:

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

**DOCKET NO.
08-00069**

ORDER APPROVING TARIFF

This matter came before Chairman Tre Hargett, Director Sara Kyle, and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 15, 2008 to consider Tariff No. 2008-0370 filed on September 24, 2008 by King’s Chapel Capacity, LLC (“KCC” or the “Company”).

BACKGROUND

At the September 8, 2008 Authority Conference, the panel in this docket approved the Company’s request to accept the Williamson County bonding requirements in lieu of the Authority’s requirement for financial security pursuant to TRA Rule 1220-4-13-.07(6). KCC was also directed by the panel to file a tariff to true-up the bond cost rate charged to customers as outlined in TRA Rule 1220-4-13-.07(7). The true-up was necessary in light of Williamson County’s reduction in the Company’s bonding requirements from \$1,780,248 to \$260,400.¹ KCC filed the requested tariff on September 24, 2008 with an effective date of December 1,

¹ May 12, 2008 Letter from John Powell.

2008. Concurrent with its September 24, 2008 tariff filing, KCC also filed a petition in Docket No. 08-00181² requesting approval of a loan to finance the bonding costs required by the Williamson County Planning Commission. At its regularly scheduled Authority Conference held on November 10, 2008, the panel voted unanimously to suspend the effective date of the proposed tariff in this docket for thirty days to allow the panel assigned to Docket No. 08-00181 to deliberate the Company's request for approval of a loan to finance its bonding costs.

KCC TARIFF PROVISIONS REGARDING BOND COSTS

The current monthly pass through bond rate is \$6.31 as originally established for KCC by a tariff filing effective October 1, 2005. This surcharge was calculated based upon a Williamson County security requirement of \$1,649,208. Bond costs were 1% of the face amount or \$16,492.08.³ This amount was recovered from all 218 planned lots, sold or unsold, and the developer, Ashby Communities, LLC ("Ashby" or "Developer"), substantially subsidized the bonding requirements by paying the amount allocated to the undeveloped lots.⁴ In a letter dated May 15, 2008, the Developer notified KCC that it would no longer subsidize the bonding costs required for the ongoing operation of the utility.⁵

The proposed bond pass through rate of \$21.06 in the current tariff filing is based on the recently reduced Williamson County bonding requirements of \$260,400. Of the \$260,400 total bonding requirement, only \$151,642 is considered a permanent utility bond related to the treatment and dispersal of wastewater and therefore the responsibility of the customers. The remaining bond requirement of \$108,758 is considered to be a temporary bond related to the

² See *In re: Petition of King's Chapel Capacity for Approval of a Loan in Order to Finance Bonding Costs Required by the Williamson County Planning Commission*, Docket No. 08-00181.

³ *In re: Petition of King's Chapel Capacity, LLC for a Certificate of Convenience and Necessity to Serve an Area in Williamson County, Tennessee Known as Ashby Communities*, Docket No. 04-00335, September 16, 2005 Letter from William H. Novak, Attachment – TRA Tariff #3, Sheet #2, effective October 1, 2005.

⁴ *In re: Petition of King's Chapel Capacity for Approval of a Loan in Order to Finance Bonding Costs Required by the Williamson County Planning Commission*, Docket No. 08-00181, *Data Response*, pp. 3-4 (October 16, 2008).

⁵ *Id.*

construction of the wastewater collection system that will continue to be the responsibility of the Developer.⁶ In Docket No. 08-00181, KCC stated that it does not have the necessary funds to deposit in order to obtain a letter of credit and would need to borrow the face amount of the \$151,642.⁷ Therefore, the annual cost to be recovered from customers is the letter of credit fees of \$1,516 plus interest costs on the loan of \$12,131. The total of \$13,648 will be recovered from the fifty four current customers which equals a monthly surcharge of \$21.06.

FINDINGS AND CONCLUSIONS

Noting that the panel assigned to Docket No. 08-00181 had granted the Company's request for approval of a loan to finance its bonding costs, the panel then considered the proposed tariff. In light of the approval of the loan to finance bonding costs in Docket No. 08-00181, the panel voted unanimously to approve the Company's tariff with the following modification. Because the panel determined that the interest accrued from the amount of the loan proceeds that are deposited into a money market account should be used to offset the interest rate charged on the loan, the effective rate of the loan would be 6.95%, not 8%. Therefore, the panel voted to approve a monthly charge per customer of \$18.60 for recovery of bonding costs. The panel further voted that King's Chapel should file proof of customer notification in the docket file as soon as possible. The panel also voted that the Company should file a revised tariff in compliance with the panel's decision with an effective date thirty days after the date of customer notification.

⁶ *Petition*, p. 2.

⁷ *In re: Petition of King's Chapel Capacity for Approval of a Loan in Order to Finance Bonding Costs Required by the Williamson County Planning Commission*, Docket No. 08-00181, *Data Response*, p. 1 (October 16, 2008).

IT IS THEREFORE ORDERED THAT:

1. Tariff No. 2008-0370 filed by King's Chapel Capacity, LLC on September 24, 2008 shall be approved as modified herein to result in a monthly charge to each customer of \$18.60 for recovery of security costs.

2. King's Chapel Capacity, LLC shall file with the Authority proof of customer notification as soon as possible.

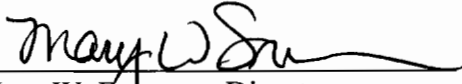
3. King's Chapel Capacity, LLC shall file a revised tariff in compliance with the panel's decision with an effective date thirty days after the date of customer notification.



Tre Hargett, Chairman



Sara Kyle, Director



Mary W. Freeman, Director