

# KINGS' CHAPEL CAPACITY

Providing Superior Wastewater Service to Tennessee

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October 16, 2008

**VIA HAND DELIVERY**

Mr. Tre Hargett, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37219

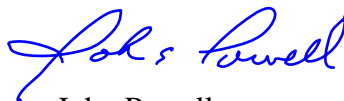
**Re: Petition of Kings' Chapel Capacity for approval of a loan in an amount not to exceed \$152,000 pursuant to T.C.A. § 65-4-109 in order to finance bonding costs required by the Williamson County Planning Commission. Docket 08-00181**

Dear Chairman Hargett:

Attached is the Company's Response to the TRA Staff's Data Request No. 1 dated October 2<sup>nd</sup>. The responses to this request were due October 9<sup>th</sup>. However, because of delays from third party banks for the information requested, the Company was unable to provide a complete response until this time. Kings' Chapel Capacity apologizes for this delay, and any scheduling conflicts that it may have caused.

If you have any questions in regards to this response, please let me know.

Sincerely,



John Powell  
President

Cc: William H. Novak

**King's Chapel Capacity  
First Data Request Response – Docket 08-00181**

- 1. Did King's Chapel Capacity ("KCC") consider any options to meet the Williamson County Planning Commission bonding requirements other than that described in the Petition in Docket 08-00181. If so, please describe each option and the associated customer cost of each alternative.**

**COMPANY RESPONSE:**

KCC has actively pursued for either the reduction or elimination of the Williamson County Planning Commission bond requirements at both the county and state levels. To this end, the Williamson County bond was reduced from approximately \$1,780,000 to \$152,000.

As noted in the Petition, up until this time the developer has substantially funded all of the bonding requirements of the Williamson County Planning Commission. On May 15, 2008 KCC received notice that the developer was no longer willing to fund the continuing bonding requirements which were required for the ongoing operation of the utility.

KCC has no other source of funding to provide for the bonding requirements of the Williamson County Planning Commission. KCC has attempted to obtain financing from third-party banks as discussed in Item #3 below. Unfortunately, these banks have been unwilling to issue a letter of credit which stands behind the bonds, both of which are required by Williamson County. The banks that KCC has held discussions with have requested that KCC have cash deposits of 100% or other liquid security which after assessment by the bank would be approximately 125% or more of the letter of credit amount. As a result, these banks were not willing to issue the letter of credits based on KCC's stand alone assets and financial statements.

KCC's only other source of funds is to obtain debt from Ashby Communities, the developer of King's Chapel Subdivision. KCC knows of no other feasible options available to it that would enable it to meet the bonding requirements of the Williamson County Planning Commission.

**King's Chapel Capacity**  
**First Data Request Response – Docket 08-00181**

2. **How much collateral must be provided to secure the letter of credit meeting the Williamson County Planning Commission bonding requirements? How will this collateral be held by financial institution, ie. CD, Money Market Account, Savings Account, etc. Will this required collateral supporting the letter of credit earn interest? If so, what will be the guaranteed interest rate on the secured funds?**

**COMPANY RESPONSE:**

The bonds required by the Williamson County Planning Commission mandate that they be supported by a letter of credit which necessitates a cash deposit equal to 100% of the bonded amount to be placed in a Tennessee bank.

Attached is a copy of the latest bank statement from Suntrust Bank that provides the letter of credit for these bonds. These funds on deposit are placed in a money market account that currently pays interest at 1.05%.

3. **List all third-party banks that KCC attempted to obtain debt financing from for the purpose of establishing the bond required by the Williamson County Planning Commission.**

**COMPANY RESPONSE:**

KCC attempted to obtain debt financing from SunTrust Bank in Nashville, and Reliant Bank in Franklin.

4. **Provide documentation received from banks declining to provide loans to KCC to secure the letter of credit for the amount of the Williamson County Planning Commission.**

**COMPANY RESPONSE:**

KCC was notified in separate face-to-face meetings, by both Reliant Bank and SunTrust Bank that they were unable to provide an adequate loan to KCC for the purpose of financing the bonds required by the Williamson County Planning Commission. Therefore, there was no initial documentation provided to KCC.

However, KCC has now contacted both banks and asked for supporting documentation. Attached is the documentation from both banks.

**King's Chapel Capacity  
First Data Request Response – Docket 08-00181**

5. **Provide documentation received from any entity declining to provide a bond to KCC for the amount of the Williamson County Planning Commission bond requirement.**

**COMPANY RESPONSE:**

See response to #4 above.

6. **Provide documentation that supports the claim that an 8% interest rate for the loan is the best rate available to KCC.**

**COMPANY RESPONSE:**

KCC has not been able to obtain third-party financing to fund the bonds required by the Williamson County planning Commission at *any* interest rate. However, it is KCC's assertion that the 8% interest rate included in its promissory note with Ashby Communities would be the best interest rate available for an unsecured loan to an entity with negative operating income.

In support of this interest rate, KCC would ask the TRA to take notice of its decision in Docket 07-00263 concerning the Petition of Lynwood Utility Company to issue debt at interest rates from 7.5% to 9.75%.

7. **Name the employee of Ashby Communities, LLC ("Ashby") that approved the loan commitment terms with KCC as listed in Exhibit 3 of the Petition filed in Docket 08-00181.**

**COMPANY RESPONSE:**

The loan commitment terms contained in the promissory note were approved by both owners of Ashby Communities. As the managing partner of Ashby Communities, Mr. Powell was then directed to have these loan commitment terms reduced to writing.

8. **Explain why the original tariff submitted in Docket No. 04-00335 for recovery of Williamson County Planning Commission bonding costs was based on recovery from 218 lots while the tariff submitted in Docket No. 08-00069 proposes to recover the cost from 54 lots.**

**COMPANY RESPONSE:**

As noted in our response to Item #1 above, up until this time the developer has substantially funded all of the bonding requirements of the Williamson County Planning Commission. As a result, previous bonding surcharges were

**King's Chapel Capacity**  
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based upon recovery from all 218 planned lots (both sold and unsold, built or not, final plated or not) in King's Chapel Subdivision.

On May 15, 2008 KCC received notice from the developer of King's Chapel Subdivision, that they were no longer willing to fund the continuing bonding requirements for the operations of the utility. Therefore, the funding costs related to the bonding requirements for King's Chapel Subdivision must now be recovered solely from the existing customers of King's Chapel Capacity.

Presently there are 54 customers of King's Chapel Capacity. As this number changes, the bonding surcharges and recoveries will be appropriately trued-up on an annual basis.

9. **The Williamson County Planning Commission Bond Action Form list Kings Chapel, Section 1 as requiring a bond in the amount of \$151,642. How many lots are contained in Kings Chapel Section 1?**

**COMPANY RESPONSE:**

The bonds referred to in King's Chapel, Section 1 require a wastewater treatment and dispersal system designed to process up to 66,000 gallons per day of wastewater affluent. This capacity was designed to provide service to 218 lots in King's Chapel Subdivision.

However, at present there are only 54 existing customers (end user lots) that are available to fund the bonding requirements of the Williamson County Planning Commission. KCC intends to true-up, on an annual basis, the bonding cost rate that is applied to customers of King's Chapel Subdivision. Therefore, as the number of customers increases, the bonding rate per customer will decline.

10. **Exhibit 2 of the Petition filed in Docket No. 08-00181 indicates that the length of the bonding requirement is two years. Why is KCC requesting approval of a loan with a five year term?**

**COMPANY RESPONSE:**

The performance bonds required by the Williamson County Planning Commission are typically renewed on expiration at amounts that may either be higher or lower than current levels. This was the case recently when the bonds were reduced from approximately \$1,780,000 to \$152,000. Therefore, in all likelihood, KCC will be required to renew these performance bonds upon their expiration. However, to the extent that the amounts of the bonds

**King's Chapel Capacity**  
**First Data Request Response – Docket 08-00181**

are changed, KCC will appropriately true-up the bond surcharge to its customers.

- 11. Indicate whether the funds supporting the loan from Ashby to KCC will be made from cash reserves or from funds loaned to Ashby. If Ashby's funding comes from loaned funds, provide the interest rate of the loan.**

**COMPANY RESPONSE:**

The funds supporting the loan from Ashby Communities to KCC will be made from the cash reserves of Ashby Communities.

SUNTRUST BANK  
P O BOX 622227  
ORLANDO FL 32862-2227

Page 1 of 2  
99/E00/0175/0 /54  
1000048673015  
09/30/2008



## Account Statement



ASHBY COMMUNITIES LLC  
CO SUNTRUST BANK LC COLLATERAL ACCOUNT  
401 COMMERCE ST STE 3100  
NASHVILLE TN 37219-2449

Questions? Please call  
1-800-786-8787

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Account Summary	Account Type	Account Number	Statement Period
	BUS MONEY MARKET PERFORMANCE ***CLOSED***	1000048673015	09/01/2008 - 09/30/2008

Description	Amount	Description	Amount
Beginning Balance	\$126,577.91	Average Balance	\$67,508.21
Deposits/Credits	\$57.72	Average Collected Balance	\$67,508.21
Checks	\$0.00	Number of Days in Statement Period	30
Withdrawals/Debits	\$126,635.63	Annual Percentage Yield Earned	1.05%
Ending Balance	\$0.00	Interest Paid Year to Date	\$486.23

Deposits/ Credits	Date	Amount	Serial #	Description
	09/17	57.72		INTEREST PAID THIS STATEMENT THRU 09/17
Deposits/Credits: 1				Total Items Deposited: 0

Withdrawals/ Debits	Date Paid	Amount	Serial #	Description
	09/17	126,635.63		CLOSING DEBIT
Withdrawals/Debits: 1				

Balance Activity History	Date	Balance	Collected Balance	Date	Balance	Collected Balance
	09/01	126,577.91	126,577.91	09/30	.00	.00
	09/17	.00	.00			



October 7, 2008

Mr. John Powell  
1413 Plymouth Drive  
Brentwood, TN 37027

Re: Kings Chapel Capacity, Letter of Credit Request.

To Whom It May Concern:

Earlier this year, John Powell and his accountant met with this bank discussing a requesting for an irrevocable letter of credit needed to back up a bond required by Williamson County for the Kings Chapel Utility. Kings Chapel needed this irrevocable letter of credit to be issued based solely on assets of the utility.

Our bank primarily requires irrevocable Letters of Credit to be secured with cash deposits and or pledged marketable securities. As Kings Chapel could not deposit cash in the same amount as the letter of Credit nor did they have liquid securities to pledge we could were unable to issue the requested letter of credit.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark E. Ryman", with a long horizontal flourish extending to the right.

Mark E. Ryman  
Senior Vice President



**Fw: Attorney's Fee****From:** John Powell (john-powell@comcast.net)**Sent:** Thu 10/16/08 9:42 AM**To:** hal Novak (halnovak@whnconsulting.com)

----- Original Message -----

**From:** [Jones, Brian](#)**To:** [John Powell](#)**Cc:** [Staley, Kenneth](#)**Sent:** Thursday, October 16, 2008 9:25 AM**Subject:** Attorney's Fee

John,

The attorney's fee for the letter is \$250.00. I can get an invoice for that if you like.

Also, I don't think it would be a problem if you need that funded on your next draw request...let me know if you want to do that and I'll get the ok from Amanda.

Let me know if you need anything else.

Thanks,

Brian Jones

Commercial Real Estate

SunTrust Bank

401 Commerce Street, Suite 3100

Nashville, TN 37219

Phone: 615.748.4823

Fax: 615.748.4840

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[ST:XCL]

**Fw: Document1****From:** John Powell (john-powell@comcast.net)**Sent:** Thu 10/16/08 9:43 AM**To:** hal Novak (halnovak@whnconsulting.com)

----- Original Message -----

**From:** [Jones.Brian](#)**To:** [John Powell](#)**Sent:** Thursday, October 16, 2008 9:35 AM**Subject:** RE: Document1

John,

They are getting that changed for me, but not sure when I'll get it. Probably within the hour.

Brian Jones

Commercial Real Estate

SunTrust Bank

401 Commerce Street, Suite 3100

Nashville, TN 37219

Phone: 615.748.4823

Fax: 615.748.4840

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**From:** John Powell [mailto:john-powell@comcast.net]**Sent:** Thursday, October 16, 2008 8:55 AM**To:** Jones.Brian**Subject:** Re: Document1

Brian - I really need to submit my responses to TRA this Am. if there is a hold up go a head and tell me so I can change my response and get it in.

----- Original Message -----

**From:** [Jones.Brian](#)**To:** [John Powell](#)**Cc:** [Staley.Kenneth](#)

**Sent:** Tuesday, October 07, 2008 5:07 PM

**Subject:** RE: Document1

Hi John,

I haven't forgotten about you. I'm still working on 1) getting the ok to do the letter and 2) if I can do the letter, it would be drafted by our attorney. Hopefully I'll have some news for you tomorrow.

Thanks,

Brian Jones

Commercial Real Estate

SunTrust Bank

401 Commerce Street, Suite 3100

Nashville, TN 37219

Phone: 615.748.4823

Fax: 615.748.4840

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**From:** John Powell [mailto:john-powell@comcast.net]

**Sent:** Monday, October 06, 2008 2:20 PM

**To:** Jones.Brian

**Subject:** Document1

Brian, I hate to ask you to give me a letter, But the Tennessee Regulatory authority has asked me to. In one of their famous data requests.

They ask several questions, this is one,

**Provide documentation received from banks declining to provide loans to KCC to secure the letter of credit for the amount of the Williamson County Planning Commission bond requirement.**

You may recall that we wanted Kings Chapel Capacity to stand alone financially. Attached I have written a draft you may use to reduce your time involved, I must return all requests to TRA by the 9th. I have already told them the banks told me no face to face.

Thanks John

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