

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 23, 2008

IN RE:)	
)	
PETITION OF KING'S CHAPEL CAPACITY, LLC)	DOCKET NO.
FOR APPROVAL OF A LOAN IN AN AMOUNT)	08-00181
NOT TO EXCEED \$152,000 IN ORDER TO)	
FINANCE BONDING COSTS REQUIRED BY THE)	
WILLIAMSON COUNTY PLANNING)	
COMMISSION)	

ORDER APPROVING FINANCING TRANSACTION

This matter came before Chairman Tre Hargett, Director Eddie Roberson 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 for consideration of the *Petition* filed on September 24, 2008 by King's Chapel Capacity ("KCC" or the "Company") for approval of a loan in an amount not to exceed \$152,000 in order for the Company to finance bonding costs required by the Williamson County Planning Commission. KCC is authorized to provide wastewater services pursuant to Authority Order in Docket No. 04-00335 issued on January 3, 2006¹ and currently provides service to approximately fifty customers in Williamson County, Tennessee.

The Petition

KCC's initial bonding costs required by the Williamson County Planning Commission were \$1,780,248. A significant portion of this bonding cost was subsidized by Ashby

¹ *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 Community*, Docket No. 04-00335, *Order Approving Petition for Certificate of Public Convenience and Necessity* (January 3, 2006).

Communities, LLC (“Ashby” or “the Developer”), the Developer of KCC’s service territory.² On May 15, 2008, KCC received notice from the Developer that it would no longer be in a position to underwrite the bonding costs required by the Williamson County Planning Commission related to wastewater treatment and dispersal for KCC.

On May 8, 2008, KCC received notice from the Williamson County Planning Commission that its total bond requirement had been reduced from \$1,780,248 to \$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. The remaining bond requirement of \$108,758 is considered a temporary bond related to the construction of the wastewater collection system that will continue to be the responsibility of the Developer.

KCC obtained a commitment letter dated November 17, 2008, from Ashby to loan KCC the principal sum of \$151,642 to finance the permanent bonding costs required by the Williamson County Planning Commission for the treatment and dispersal of wastewater.³ The term of the loan is five years with an 8% fixed interest rate and a balloon payment of the entire principal payment at the end of the loan. The *Petition* asserts that because this loan is considered as permanent financing the principal will be rolled over into a new loan at the end of five years. According to the *Petition*, KCC also states that it believes the 8% interest rate charged by Ashby is the best rate that would be available to KCC under any circumstances by a third-party lender.

FINDINGS AND CONCLUSIONS

Tenn. Code Ann. § 65-4-109 (2004) provides

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the authority for such proposed issue. It shall be the duty of the authority after hearing to approve any such proposed issue

² Mr. John Powell, the owner of KCC, is also a fifty percent owner of Ashby.

³ *Data Response*, Attachment (November 19, 2008).

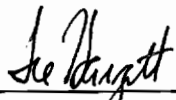
maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the authority.

At a regularly scheduled Authority Conference held on December 15, 2008, the panel voted unanimously to approve the *Petition* and made the following findings:


1. The proposed financing transaction is subject to Authority approval pursuant to Tenn. Code Ann. § 65-4-109 (2004).
2. The proposed financing transaction is being made in accordance with laws enforceable by this agency.
3. The proposed transaction is in the public interest because it will allow KCC to comply with bonding requirements.

IT IS THEREFORE ORDERED THAT:

1. Kings' Chapel Capacity is authorized to enter into the financing transaction described in the *Petition* and discussed herein pursuant to Tenn. Code Ann. § 65-4-109 (2004).
2. The authorization and approval given hereby shall not be used by any party for the purpose of inferring an analysis or assessment of the risks involved.
3. This decision is not intended to create any liability on the part of the Tennessee Regulatory Authority, the State of Tennessee or any political subdivision thereof.



Tre Hargett, Chairman



Eddie Roberson, Director



Mary W. Freeman, Director