

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	filed electronically 1/28/09
PETITION OF TENNESSEE WASTEWATER)	
SYSTEMS, INC. TO CHANGE AND)	
INCREASE CERTAIN RATES AND)	DOCKET NO. 08-00202
CHARGES SO AS TO PERMIT IT TO)	
RECOVER COSTS ASSOCIATED WITH)	
FURNISHING WASTEWATER SERVICE TO)	
ITS CUSTOMERS)	

JOINT MOTION TO STRIKE

Tennessee Wastewater Systems, Inc. ("TWS") and the Staff of the Tennessee Regulatory Authority ("Staff") move to strike the four filings made by Mr. John Powell on behalf of King's Chapel Capacity, LLC ("King's Chapel") on January 22, 2009. These filings consist of one legal brief and discovery requests to TWS, the Staff, and the Consumer Advocate Division of the Office of the Attorney General ("CAD").¹ Each filing is signed by Mr. Powell, a non-attorney who is representing King's Chapel in this proceeding.

The filing of each of these documents violates the "Initial Order" of the Hearing Officer issued January 22, 2009, the same day the filings were made. In that Order, the Hearing Officer prohibited Mr. Powell from filing with the Authority "discovery requests" or "legal briefs of any kind" unless such filings are also "signed by an attorney duly licensed in Tennessee." Initial Order, at 7. Mr. Powell's filings are not signed by anyone except Mr. Powell himself. Therefore, these filings violate the Order should be deleted from the agency's files.²

¹ TWS understands that a separate filing will be made by the CAD concerning Mr. Powell's request for discovery from the CAD.

² Since the filings were made on the same day as the issuance of the "Initial Order," Mr. Powell presumably was not aware of the terms of the Order when he made these filings. Had he been aware of the Order prior to making these filings, he would be subject to sanctions. As it is, the proper remedy is simply to strike the pleadings.

Granting this Motion will not prejudice King's Chapel. The Initial Order prohibited the issuance of discovery requests unless signed by counsel. The Order also resolved each of the issues raised in Mr. Powell's legal brief. In other words, the discovery requests and the arguments in the brief are now moot. If King's Chapel later retains counsel in this matter, that attorney can determine whether any of the allegations and arguments raised in Mr. Powell's brief merit further use. Counsel can also determine whether to file discovery requests in accordance with the limitations set out in the Initial Order. Therefore, King's Chapel is not prejudiced in any way if this Motion is granted.³ The filings are either moot or can be recycled if the intervenor hires a lawyer.

Therefore, TWS and the Staff respectfully request that the three discovery requests and the legal brief filed by Mr. Powell on January 22, 2009 be struck and that all copies of these filings be deleted from the Authority's public records.⁴

Respectfully submitted,

BRADLEY ARANT BOULT CUMMINGS LLP

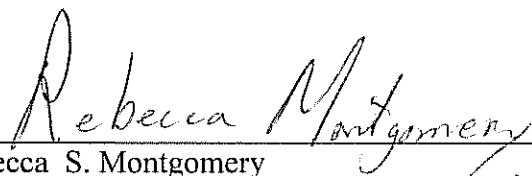
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³ The brief filed by Mr. Powell is styled as a "response" to the comments filed by TWS on December 19, 2008. The Hearing Officer's schedule did not provide for any "response" from King's Chapel, especially not a response filed more than a month after the comments of TWS. This is another reason why the brief should be struck.

⁴ Mr. Powell's legal brief raises a number of allegations which, if they are not struck from the record, require a public response from TWS. Granting this motion will obviate the need for that response and expedite these already much delayed proceedings.

By:



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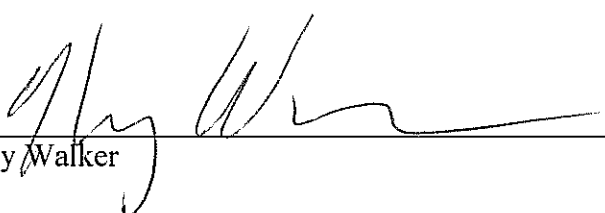
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by the*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by placing it in the U.S. Mail, First Class, postage prepaid, on the following counsel of record, this the 28 day of January, 2009.

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