

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 8, 2013

Shiva.bozarth@tn.gov

Mr. John Powell
1413 Plymouth Drive
Brentwood, TN 37027

Dear Mr. Powell:

Tennessee Regulatory Authority ("TRA" or the "Authority") party staff requires the following information for our investigation into this matter:

1. In King's Chapel Capacity's ("King's Chapel") Request to Continue Exemption you state you are requesting that the Authority "continue to exempt" King's Chapel "from providing additional financial security and instead find that the financial security already in place and required by the local government authority is adequate to fulfill the requirements of the TRA's rules."¹ Based upon the letters attached hereto as Exhibits 1 & 2 please explain how you can categorize this petition as a continuance of previous requests.
2. Please review the letter from Kristi Dunlap Earwood attached hereto as Exhibit 3 and explain why in your opinion bonds utilized to fulfill King's Chapel obligations to the TRA.
3. Who is the beneficiary of the bonds required by the Williamson County Planning Commission.
4. Provide copies of all bonds required by the Williamson County Planning Commission.
5. Provide the executed promissory note related to the financing transaction approved by the TRA in Docket No. 08-00181.


¹Request to Continue Exemption, Docket No. 13-00141

6. Provide documentation of all payments made from King's Chapel capacity to Ashby Communities for the promissory note approved in Docket No. 08-00181.
7. The promissory note approved in Docket No. 08-00181 called for a balloon payment at the end of a five year term. Does King's Chapel have sufficient funds on-hand to make the balloon payment? If not, what sources of capital can King's Chapel access to make the payment?
8. Provide copies of all letters of credit or other financial instruments secured by funds from the financing transaction approved in Docket No. 08-00181.
9. Provide copies of all correspondence from the Williamson County Planning Commission received by King's Chapel related to bonding requirements since January 2009.
10. List all companies that are affiliates of King's Chapel. For the purpose of this question, affiliate is any company where an equity holder in King's Chapel also has an equity stake, is a corporate officer or is an employee.
11. Provide copies of all correspondence from the Williamson County Planning Commission received by any affiliate of King's Chapel related to bonding requirements since January 2009.
12. Provide copies of all correspondence from the Williamson County Planning Commission received by any developer of a project that will connect to facilities owned or operated by King's Chapel related to bonding requirements since January 2009.
13. Provide by month from January 2010 to October 2013 the number of customers King's Chapel provided service.
14. Provide a sample of ten (10) consumer bills for each month from January 2010 until October 2013.

We require the information be provided within five business days. If you have questions or need further assistance, please call me at 615-741-2904, ext. 132 or email me at shiva.bozarth@tn.gov. Please respond by sending the original and 13 copies either by U.S. Mail or express mail. Alternatively, you may send the original and four (4) copies along with an electronic file to:

Ms. Sharla Dillon, Docket Room Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-050
Email: Sharla.Dillon@tn.gov

Sincerely,



Shiva K. Bozarth
Legal Counsel
Compliance Division

Enclosures : As stated above

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

VIA FACSIMILE AND U.S. MAIL, RETURN RECEIPT REQUESTED

May 20, 2011

John Powell, Owner
King's Chapel Capacity, LLC
1413 Plymouth Drive
Brentwood, TN 37207

Re: Financial Security for King's Chapel Capacity, LLC

Dear Mr. Powell:

According to the Utilities Division, King's Chapel Capacity, LLC ("King's Chapel" or "Company") currently does not have in place financial security as required by the Tennessee Regulatory Authority ("TRA") Rules for wastewater utilities. The TRA last granted an alternative financial security for King's Chapel in Docket No. 08-00069 through June 30, 2009, pursuant to TRA Rule 1220-4-13-.07(6). In that docket, the Authority determined that the bond required by Williamson County would count toward fulfilling King's Chapel's security requirement. In addition, King's Chapel was permitted to file a tariff to pass through the cost of the bond to customers at the rate of \$18.60 per month. That alternative security was approved through June 30, 2009. King's Chapel did not file a request to extend or provide other alternative security by May 1, 2009, thereby rendering the Company out of compliance for the reporting period May 2009 through April 2010. The Company also did not file a tariff on or before July 1, 2009 to true-up the Williamson County bond pass-through charge for the previous year pursuant to TRA Rule 1220-4-13-.07(7).

TRA Rule 1220-4-13-.07(2)(a) sets forth the financial security requirement as follows:

On or before July 1 of each year, public wastewater utilities holding a CCN and providing service shall file proof with the Authority of a security in the amount of one hundred percent (100%) of the gross annual revenue in the most recent Authority Form UD20 or \$20,000, whichever is greater.

Also, as to alternative financial security, TRA Rule 1220-4-13-.07(5) provides:

If the public wastewater utility proposes to post financial security other than the type permitted above, it must file with the Authority by May 1 of each year a petition requesting acceptance of the security....The public wastewater utility shall comply with Rule 1220-4-13-.07(2) until the alternative financial security is approved by the Authority.

Telephone (615) 741-2904, Toll-Free 1-800-342-8359, Facsimile (615) 741-5015
www.state.tn.us/tra



John Powell, Owner
May 20, 2011
Page 2

Notwithstanding the pendency of pleading Docket No. 10-00207, in which your responses to TRA data requests have remained outstanding for several months, the TRA Rules require that a request for consideration of alternative financial security be made on an annual basis and that each such request be filed "with the Authority by May 1 of each year." No such request for the coming year (July 1, 2011-June 30, 2012) has been filed. In light of the issues raised by the attorney for Williamson County in her letter of November 5, 2010, a copy of which is attached, please advise the TRA whether King's Chapel intends to seek an exemption from providing financial security.

Due to circumstances surrounding Williamson County's bond requirement, it appears that the bond can no longer be used as a substitute for the financial security required in TRA Rule 1220-4-13-.07(2). If King's Chapel is seeking an exemption, such request must address the concerns raised by Williamson County and explain how the financial security provided to Williamson County meets the requirements of the TRA insofar as that security is for the "continued operation of the public wastewater utility." King's Chapel is requested to provide a request for financial security together with said explanation no later than June 6, 2011. If a request is not forthcoming, proof of the required financial security must be received by this Authority no later than close of business on July 1, 2011 to avoid this matter being brought before the Directors at the next regularly scheduled Authority Conference.

Thank you for your cooperation regarding this matter. Should you have any questions, please do not hesitate to contact Patsy Fulton at (615) 741-2904, Ext. 193.

Very truly yours,



J. Richard Collier
General Counsel

Enclosure

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

July 3, 2012

VIA ELECTRONIC MAIL AND U.S. MAIL

John Powell, Owner
King's Chapel Capacity, LLC
1413 Plymouth Drive
Brentwood, TN 37207

Re: Financial Security for King's Chapel Capacity, LLC – Notice of Violation

Dear Mr. Powell:

The records of the Tennessee Regulatory Authority ("TRA") indicate that King's Chapel Capacity, LLC ("King's Chapel" or "Company") currently does not have in place financial security as required by the TRA Rules for wastewater utilities. TRA Rule 1220-4-13-.07(2)(a) sets forth the financial security requirement as follows:

On or before July 1 of each year, public wastewater utilities holding a CCN and providing service shall file proof with the Authority of a security in the amount of one hundred percent (100%) of the gross annual revenue in the most recent Authority Form UD20 or \$20,000, whichever is greater.

Also, as to alternative financial security, TRA Rule 1220-4-13-.07(5) provides:

If the public wastewater utility proposes to post financial security other than the type permitted above, it must file with the Authority by May 1 of each year a petition requesting acceptance of the security....The public wastewater utility shall comply with Rule 1220-4-13.07(2) until the alternative financial security is approved by the Authority.

King's Chapel has not filed a proposal for alternative financial security, nor has it filed proof of financial security within the statutory deadline for *this year*. Therefore, you are advised that based upon this violation, King's Chapel may be subject to a penalty of \$50 per day of violation pursuant to Tenn. Code Ann. §65-4-120 beginning on July 3, 2012, as well as revocation of its Certificate of Public Convenience and Necessity, as determined by the Directors of the TRA. You will receive a notice requiring you to appear at the TRA to explain to the Directors your non-compliance regarding this and other prior matters at a later date.



If you have any questions, please do not hesitate to contact Jerry Kettles at (615) 741-2904, Ext. 153 or me at (615) 741-2904, Ext. 170.

Sincerely,

A handwritten signature in cursive script that reads "Jean A. Stone".

Jean A. Stone
General Counsel

c: ✓ Jerry Kettles, Chief, Economic and Policy Division
David Foster, Chief, Utilities Division

Kristi Kuntz Earwood
Attorney at Law

2020 Fieldstone Parkway, Suite 900-93 Franklin, Tennessee 37069
Telephone: (615) 283-4003 • Telecopier: (615) 538-9993 • kristi@kuntzearwoodlaw.com

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November 5, 2010

VIA UNITED STATES MAIL

J. Richard Collier, Esq.
General Counsel
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

**Re: Williamson County, Tennessee – Water and Wastewater Authority
Docket No. 10-00207**

Dear Mr. Collier:

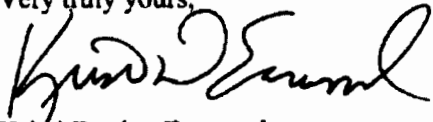
It has been brought to my attention that Kings Chapel Capacity has petitioned the Tennessee Regulatory Authority to be exempted from providing financial security to the TRA because of the bonding requirements of Williamson County. As you know from our past discussions, the bond required by Williamson County is for the installation of said system and a maintenance term for same. It is not intended for operation of the system in the event of financial or any other difficulties of the utility or operator of the system. Therefore, Williamson County is concerned about the potential loss of operational funds that would result if the request by Kings Chapel is granted.

I wanted to make Williamson County's concerns with this request known. Further, I would like to inquire about another potential ramification of Kings Chapel's request. Specifically, if the TRA permits the request, would the TRA still utilize its required bond for the systems operating in Williamson County, just as they would for systems operating elsewhere? If that is not the case, Williamson County must necessarily revisit its required bonding mechanism and the purpose of same.

Thank you, in advance, for your consideration of this information and your response to the inquiry above. I look forward to hearing from you.



Very truly yours,

A handwritten signature in black ink, appearing to read "Kristi Dunlap Earwood". The signature is fluid and cursive, with the first name "Kristi" being more prominent.

Kristi Dunlap Earwood
Attorney for Planning and Environment
Williamson County, Tennessee

xc: Honorable Rogers Anderson, Williamson County Mayor
Mr. John Lackey, Chairman, Water and Wastewater Authority
Mr. Joe Horne, Community Development Director
Mr. Mike Matteson, Planning Director