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2015 JAN 16 PM 3:43

IN RE:

T.R.A. DOCKET ROOM

SHOW CAUSE PROCEEDING AGAINST KING'S
CHAPEL, LLC, FOR ALLEGED VIOLATIONS
OF WASTEWATER UTILITY LAWS AND TRA
RULES

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DOCKET NO. 14-00007

**PARTY STAFF'S RESPONSES TO THE
DISCOVERY REQUESTS OF KING'S CHAPEL, LLC
TO TRA PARTY STAFF**

This Discovery Request is hereby served upon TRA Party Staff (hereafter "Party Staff") pursuant to the Authority's Order Granting TRA Party Staff Petition to Appear and Show Cause Why the TRA Should Not Take Action Against It for Violation of State Law and TRA Rules entered on October 13, 2014. King's Chapel requests that full and complete responses be provided and supplemented, as necessary in accordance with the Tennessee Rules of Civil Procedure and TRA Rule 1220-1-2-.11.

PRELIMINARY MATTERS AND DEFINITIONS

These discovery requests are to be considered continuing in nature, and are to be supplemented from time to time as information is received by the Party Staff, which would make a prior response inaccurate, incomplete, or incorrect.

If any objections to this discovery are raised on the basis of privilege or immunity, please include in your response a complete explanation concerning the privilege or immunity asserted. If you contend that you are entitled to refuse to fully answer any of this discovery, please state the exact legal basis for each such refusal.

The term "communication" means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations,

telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise.

The term “document” as used herein shall have the broadest possible meaning under applicable law. “Document” as used herein means any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, letter, note, report, electronic mail, memorandum (including memoranda, electronic mail, report, or note of a meeting or communication), workpaper, spreadsheet, photograph, videotape, audio tape, computer disk or record, or any other data compilation in any form without limitation, which is in your possession, custody or control. If any such document was, but no longer is, in your possession, custody or control, please state what disposition was made of the document and when it was made.

DISCOVERY REQUESTS

1. Admit or deny that King’s Chapel file for an exemption and was approved for alternative financial security in Docket Nos. 06-00061, 07-00151, and 08-00069 which was approved just before the 2009 filing due date.

Admit

2. Admit or deny that in 2010, King’s Chapel filed for another exemption at the request of Party Staff, in Docket No. 10-00207.

Deny. Party Staff was not a party in Docket No. 10-00207.

3. Admit or deny that no order, oral or written, was provided in Docket 10-00207.

Admit. King's Chapel Capacity failed to respond to repeated requests for the information necessary to issue an order in TRA Docket No. 10-00207.

4. Admit or deny that immediately after the Authority's General Counsel's inquiry, King's Chapel again filed a Petition for Exemption from Financial Security in Docket No. 13-00141.

Deny. The first request from the TRA General Counsel was made on May 20, 2011 (See Exhibit A). King's Chapel made no response. The second request from the TRA General Counsel was made on July 3, 2012 (See Exhibit B). King's Chapel made no response until October 31, 2013. There is no interpretation of the word immediately that counsel for Party Staff is familiar with that would consider a gap of over three years immediate.

5. Admit or deny that King's Chapel Petition in Docket No. 13-00141 was orally denied by the Directors at the Conference on the January 13, 2013, but no written order was ever executed.

Admit in part and Deny in part. The TRA issued an Order Denying Request for Alternative Financial Security in Docket No. 13-00141 on January 12, 2015, after first denying it orally at an Authority Conference.

6. Admit or deny that the surcharge for the Williamson County's bonds was approved in a tariff that is still binding today.

Denied. The TRA ordered a tariff that commenced on February 1, 2009. Pursuant to Tenn. Comp. R. & Regs. 1220-4-13-.07(7)(b) that tariff was only effective until the required true up was required to be filed on July 1, 2009.

7. Admit or deny that King's Chapel is required to charge the rate in the filed tariff-regardless if costs change.

Admit in part and Deny in part. While it is true that a utility is only allowed to charge rates in approved tariffs there is no prohibition on a utility seeking higher rates when costs increase. Any cost changes to a utility's required expenses can be the basis for a rate case or other request for a change in the utility's tariff. In regards to bonding costs associated with the financial security requirements of TRA rules those requests are to be filed annually.

8. Admit or deny that although the Authority has recently rejected the Williamson County bonds as an alternative to the financial security, they are still necessary costs to the facility and utilities are entitled to recover necessary cost to the facility.

Denied. The TRA questioned the use of Williamson County bonds in writing as early as November 29, 2010 (See Exhibit C). Until this docket the Authority has not been presented with the Williamson County required bonds since November of 2009 and as such has not rejected their use.

9. Admit or deny that requiring King's Chapel to obtain bonds for both the TRA and Williamson County will require additional financial costs that will negatively impact the consumers through increase of rates.

Party Staff does not have sufficient information to Admit or Deny this statement. Based upon the information available it is unclear whether the Williamson County bonds are even costs of King's Chapel Capacity or different entity or affiliate.

10. Please describe and list specifics as to how King's Chapel has violated Tenn. Code. §§ 65-3-106(b), 65-4-115, and 65-4-117(a)(1) as described in the Show Cause Order.

King's Chapel Capacity has failed to respond to data requests sent by TRA staff and Party Staff on November 29, 2010 (See Exhibit C), January 11, 2011 (See Exhibit D), May 20, 2011 (See Exhibit A), November 8, 2013 (See Exhibit E), and November 22, 2013 (See Exhibit F)¹ all of these failures to respond constitute violations of Tenn. Code Ann. §§ 65-3-106 and 65-4-117. Additionally, collecting from customers for bonding costs which have not been approved by the TRA is an unjust and unreasonable practice in violation of Tenn. Code Ann. § 65-4-115.

11. Please describe and list specifics as to how King's Chapel has violated TRA's Wastewater Rules, Tenn. Comp. R. & Regs. 1220-04-13-.07(2), (5) and (7)(b) as described in the Show Cause Order.

King's Chapel Capacity has failed to file proof of a financial security on or before July 1 in the years 2009, 2010, 2011, 2012, 2013, and 2014 in violation of Tenn. Comp. R. & Regs. 1220-04-13-.07(2).

King's Chapel Capacity has failed to file an alternative to the financial security required in Tenn. Comp. R. & Regs. 1220-04-13-.07(2) on or before May 1 in the years 2009, 2010, 2011, 2012, 2013, and 2014 in violation of Tenn. Comp. R. & Regs. 1220-04-13-.07(5).

King's Chapel Capacity has failed to file a tariff true up of financial security costs as on or before July 1 in the years 2009, 2010, 2011, 2012, 2013, and 2014 in violation of Tenn. Comp. R. & Regs. 1220-04-13-.07(7)(b).

12. Tenn. Code Ann. § 65-2-106 demands the TRA afford a utility an opportunity to correct conditions alleged unless imminent threat to public health or safety, or the utility is unable to provide safe, adequate, and reliable service. Please describe how King's Chapel poses

¹ Exhibit F was wrongly dated November 15, 2013, however a review of Party Staff's computer files reveals that it was created on November 22, 2013.

a threat to public safety or is unable to provide adequate or reliable service. In the alternative, please list the occasions the TRA have given King's Chapel opportunity to correct the perceived violations as alleged in the Show Cause Order.


King's Chapel Capacity's violations do not pose a threat to the health or safety of its consumers or the public.

Representatives of King's Chapel Capacity and counsel for Party Staff had numerous conversations about the financial security prior to Party Staff filing the Request to Appoint a Hearing Officer filed on January 23, 2014 (See Exhibit G). Since January 23, 2014 until now King's Chapel has failed to file a financial security as required by TRA rules. King's Chapel has had since April of 2009 to file a financial security and has persistently refused to come into compliance with the law.

13. Admit or deny that King's Chapel never had a consumer complaint, refused service to a consumer, or ever had an environmental violation.

Party Staff does not have sufficient information to Admit or Deny this statement. There have been no complaints filed with the TRA by consumers. Consumer complaints and environmental violations may have been filed with other agencies or groups.

Respectfully submitted,



Shiva K. Bozarth, BPR No.22685
Chief of Compliance
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

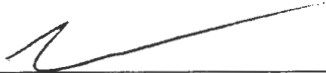
CERTIFICATE OF SERVICE

I certify that I have served a copy of the forgoing document on the following persons by depositing a copy of same in the U.S. Mail, postage prepaid, addressed to them at the addresses shown below:

Richard Militana
Michelle McGill
109 Holiday Court, Suite B-5
Franklin, Tennessee 37067

Vance Broemel
Office of Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202

This the 20th day of January 2015.



Shiva K. Bozarth

EXHIBIT A

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

EXHIBIT B

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:

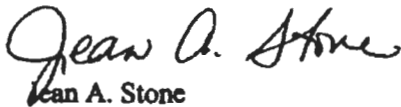
If the public wastewater utility proposes to post financial security other than the type permitted above, it must file with the Authority by May 1 of each year a petition requesting acceptance of the security....The public wastewater utility shall comply with Rule 1220-4-13.07(2) until the alternative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

EXHIBIT C

TENNESSEE REGULATORY AUTHORITY



RECEIVED
NOV 29 AM 2:44
A. DOCKET ROOM

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 29, 2010

Mr. John Powell
King's Chapel Capacity, LLC
1413 Plymouth Drive
Brentwood, Tennessee 37027

Re: Docket No. 10-00207 – *Petition of Kings Chapel Capacity for Exemption from Financial Security as Required by the TRA's Wastewater Regulations-Request to Continue Exemption.*

Dear Mr. Powell:

We are in receipt of your recent Petition dated October 29, 2010, requesting the Authority to extend Kings Chapel Capacity's ("KCC") exemption from the financial security requirement for another twelve (12) months. Please note that the previous petition for exemption from financial security was filed by KCC on May 1, 2008 in Docket No. 08-00069. The Authority granted a twelve (12) month extension through June 30, 2009. To assist the Authority in evaluating your current Petition, it is requested that you respond to the following:

1. Pursuant to TRA Rule 1220-4-13-.07(5), if a public wastewater utility proposes to post financial security other than the type or amount permitted by TRA Rule 1220-4-13-.07(2), it must file with the Authority by May 1 of each year a petition requesting acceptance of the proposed security. Please explain why KCC did not file petitions by May 1, 2009 and May 1, 2010 to request continuance of its exemption approved in Docket No. 08-00069.
2. In addition, if a public wastewater utility elects to recover the cost of the financial security from customers, pursuant to TRA Rule 1220-4-13-.07(7)(b) on or before July 1 of each year, the utility must file (1) proof of security, (2) a proposed tariff to become effective August 1, (3) documentation supporting the calculation of the proposed rate adjustment and (4) a true-up calculation of the new monthly rate adjustment. KCC did not file these annual true-ups by July 1, 2009 and July 1, 2010. Therefore, provide a proposed tariff to true-up KCC's bond cost recovery from February 1, 2009 through October 31, 2010. Provide all documentation and calculations required by TRA Rule 1220-4-13-.07(7)(b). As part of the documentation, include number of customers (by month), invoice(s) from bank for Letter of Credit fees, TRA Form UD-20 filed April 2009 for year-end 2008 and April 2010 for year-end 2009, Federal tax returns and all

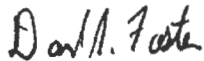
supporting documentation for Ashby Communities, LLC for 2008 and 2009, and any other supporting documents used in calculating the true-up.

3. Provide an explanation of the purpose of the Williamson County Bond.
4. Will the Williamson County Bond amount be awarded to the TRA to cover operation expenses in the event Kings Chapel Capacity ceases operations?
5. Provide a letter from the Williamson County Planning Commission and the Franklin Synergy Bank certifying how the TRA will be notified in the event the Letter of Credit (LOC) is cancelled or claimed (if the LOC is approved as alternative security for KCC).

If you have any questions, please contact Patsy Fulton at (615) 741-2904, extension 193 for clarification before responding.

It is requested that this information be provided no later than Wednesday, December 15, 2010 and that you reference Docket 10-00207 on the response. In accordance with TRA rules submit either (1) original and thirteen written copies of your response or (2) original and four written copies and an electronic version. Thank you for your attention to this matter.

Sincerely,



David Foster,
Chief, Utilities Division

EXHIBIT D

From: Patsy Fulton
To: john-powell@comcast.net
Date: 1/11/2011 3:56 PM
Subject: Docket No. 10-00207
Attachments: Request for Extension.doc

Mr. Powell;

Attached, please find your letter of December 9, 2010 requesting an extension of the component of the Data Request of the tariff to file for the bond true-up; however, we never received an extension nor a response for the remainder of the Data Request of November 29, 2010. Please file the response, due December 15, 2010, to Docket No. 10-00207.

In accordance with TRA rules submit either (1) original and thirteen written copies of your response or (2) original and four written copies and an electronic version. Thank you for your attention to this matter.

Sincerely,

Patsy Fulton

Patsy Fulton
Utility Rate Specialist
Tennessee Regulatory Authority
615-741-2904 ext. 193
615-741-2336 (fax)
patsy.fulton@state.tn.us

EXHIBIT E

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

EXHIBIT F

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 15, 2013

shiva.bozarth@tn.gov

Mr. John Powell
King's Chapel Capacity
1413 Plymouth Drive
Brentwood, TN 37027

Dear Mr. Powell:

Party Staff has reviewed King's Chapel Capacity's November 21, 2013, response to Party Staff's data request. In your letter you assert that you continue to believe that this matter should be turned into a contested case and a hearing officer should be appointed.

Allow me to clear up what appears to be a misconception on the part of King's Chapel Capacity (King's Chapel). It appears that you believe that the data requests arise solely out of docket 13-00141. While some requests arise from that docket others are part of an investigation that Party Staff is pursuing pursuant to Tenn. Code Ann. §65-4-117(a)(1).¹

Because these data requests are made pursuant to Tenn. Code Ann. §65-4-117(a)(1) your objections regarding the scope of data requests 3 & 5 - 8 are inappropriate. Regarding your other objections they are addressed individually below.

Data Request 2 originally contained a typographical error and should read as follows:

2. Please review the letter from Kristi Dunlap Earwood attached hereto as Exhibit 3 and explain why in your opinion the bonds discussed in Ms. Earwood's letter may be utilized to fulfill King's Chapel obligations to the TRA.

Data Request 10 requires that King's Chapel identify who its affiliates are. Affiliates are defined in the question. I am uncertain

¹ The Authority has the power to investigate upon its own initiative... any matter concerning any public utility as defined in §65-4-101.

how to make the question clearer. Perhaps if you could identify what is confusing about the question I can assist you in understanding the nature of the request.

Data Request 14 required sample bills for ten (10) customers and your response indicates that you believe this will require that you provide "specific customer identifiable information." At this time party staff will accept ten (10) sample customer bills that have had the customer name and addresses redacted from the bills.

Please provide a response to the previously unanswered data requests no later than December 2, 2013. 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

EXHIBIT G

TENNESSEE REGULATORY AUTHORITY



500 Deaderick Street, 4th Floor
Nashville, Tennessee 37242-0001

MEMORANDUM

To: Docket No.

From: Jerry Kettles, Chief *JK*
Shiva Bozarth, Legal Counsel *SB*

Date: January 23, 2014

Re: Request to appoint a Hearing Officer to determine whether to initiate a show cause proceeding against King's Chapel Capacity for violations of the statutes and rules regulating waste water utilities

Background:

Compliance Division staff asserts that King's Chapel Capacity ("King's Chapel") has violated the laws regulating waste water utilities and that these violations may require customer refunds as well as the imposition of civil penalties in order to ensure future compliance by King's Chapel.

On May 20, 2011, the previous General Counsel for the Authority sent King's Chapel a letter explaining that the bonds that had previously been submitted were no longer acceptable for compliance with TENN. COMP. R. & REGS. 1220-4-13-.07(2) and that proof of compliance with the rules was to be submitted not later than July 1, 2011. King's Chapel has failed to submit any evidence of compliance with TENN. COMP. R. & REGS. 1220-4-13-.07 to the Authority. The last time the Authority approved King's Chapel's financial security was in an order dated September 16, 2008.

King's Chapel was sent a data request pursuant to TENN. CODE ANN. §65-4-117(a)(1) by TRA staff on November 29, 2010. To date King's Chapel has refused to respond to the data request.

On December 2, 2013, King's Chapel refused to respond to TRA staff data requests made pursuant to TENN. CODE ANN. §65-4-117(a)(1). To date King's Chapel has refused to respond to the data request.

On January 13, 2014, King's Chapel representative John Powell admitted under oath that King's Chapel had operated at different times without the full bond amount that the utility was billing customers for under the December 19, 2008, Order Approving Tariff in Docket No. 08-00069.¹

King's Chapel has failed to file a tariff true-up as required by TENN. COMP. R. & REGS. 1220-4-13-.07(7).

King's Chapel's lack of transparency in responding to repeated TRA data requests may conceal additional violations of law.

Recommendation:

The Compliance Division respectfully requests that the Authority appoint a hearing officer to determine whether to initiate a Show Cause proceeding against King's Chapel for failure to comply with various statutory and regulatory requirements of the law outlined below. The Compliance Division also requests that the hearing officer prepare this matter for hearing.

ⁱ See *In Re: Petition of King's Chapel Capacity for Exemption from Financial Security required by TRA Wastewater Regulations*, Docket No. 13-00141, Transcript of Hearing, p. 24 (January 13, 2014).