

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 22, 2016

IN RE:)	
)	
SHOW CAUSE PROCEEDING AGAINST)	DOCKET NO. 14-00007
KING'S CHAPEL CAPACITY, LLC, FOR)	
ALLEGED VIOLATIONS OF WASTEWATER)	
UTILITY LAWS AND TRA RULES)	

ORDER OF CONDITIONAL DISMISSAL

This matter came before Vice Chairman David F. Jones, Director Kenneth C. Hill and Director Robin L. Morrison of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on March 14, 2016, for consideration of the *Request for Dismissal* filed in the above referenced matter on March 7, 2016 by the Compliance Division of the Authority as Party Staff ("Party Staff").¹

BACKGROUND

On January 23, 2014, Party Staff filed a memorandum opening this docket file in which it asserted that King's Chapel Capacity, LLC, ("King's Chapel" or the "Company") had failed to meet various wastewater utility filing and compliance requirements and had refused to respond to Party Staff's requests for information concerning its actions pertaining to those requirements.² On January 31, 2014, the Consumer Advocate and Protection Division of the Office of the

¹ In accordance with TRA Rule 1220-1-2-.21(1), as to show cause proceedings, staff members designated by the Authority and represented by counsel employed by the Authority *shall* participate as a party.

² *Memorandum Requesting Appointment of a Hearing Officer* (January 23, 2014).

Tennessee Attorney General and Reporter (“Consumer Advocate”) filed a *Petition to Intervene*. During a regularly scheduled Authority Conference held on August 11, 2014, the voting panel assigned to this docket voted unanimously to appoint General Counsel or her designee as Hearing Officer in order to determine whether to initiate a show cause proceeding and, if so, to prepare this matter for hearing before the panel.³ On September 24, 2014, Party Staff filed its *Petition* along with the *Affidavit of Darlene Standley*, which alleged that King’s Chapel violated various provisions of state law, including Tenn. Code Ann. §§ 65-3-106(b), 65-4-115, and 65-4-117(a)(1), as well as TRA Rules 1220-04-13-.07(2), (5) and (7)(b).⁴

On October 13, 2014, the Hearing Officer issued her *Order Requiring King’s Chapel Capacity, LLC to Appear and Show Cause Why the TRA Should Not Take Action Against It for Violation of State Law and TRA Rules* (“*Show Cause Order*”) and *Notice to Appear for Hearing*. The *Show Cause Order* lists five Counts, or charges of violation, alleged against King’s Chapel for certain unlawful acts or omissions, as appear from the Authority’s preliminary investigation.⁵ Thereafter, the Parties commenced discovery concerning the charges in the *Show Cause Order*. On December 3, 2014, after considering the format and deadlines proposed by the Parties, the Hearing Officer established a procedural schedule for the orderly administration of the proceedings.

On December 8, 2014, Party Staff filed an *Objection* to the Consumer Advocate’s *Petition to Intervene*. Thereafter, on December 11, 2014, the Consumer Advocate filed its *Reply of the Consumer Advocate and Protection Division of the Attorney General’s Office to the Party Staff’s Objection to Petition to Intervene*. On January 26, 2015, the Hearing Officer issued her *Order Holding Docket in Abeyance Pending Resolution of King’s Chapel’s Tariff to True-Up*

³ *Order Appointing Hearing Officer* (August 19, 2014).

⁴ *TRA Compliance Division’s Petition to Issue Show Cause Order*, p. 1-2 (September 24, 2014).

⁵ *Show Cause Order* (October 13, 2014).

Bonding Costs in Docket No. 14-00158. The Hearing Officer wrote that “a final determination in Docket No. 14-00158 concerning the tariff true-up filed by King’s Chapel on December 12, 2015, might be relevant to the Authority’s considerations and actions in this docket.”⁶ Accordingly, this matter was held in abeyance pending resolution in Docket No. 14-00158.⁷ On March 7, 2016, Party Staff filed a *Request for Dismissal* stating that dismissal was proper because King’s Chapel had filed a reasonable request for alternative financial security and a tariff true-up, and the primary purpose of the show cause proceeding was due to the Company’s previous failure to make these filings.⁸

FINDINGS AND CONCLUSIONS

During the regularly scheduled Authority Conference on March 14, 2015, the panel considered the *Request for Dismissal*. Upon consideration, the panel finds that with the approval of King’s Chapel’s alternative financial security in Docket No. 15-00127 and true-up tariff in Docket No. 14-00158, and contingent upon the filing of a signed and fully executed bond, as set forth in the rulings of the Authority in those dockets, King’s Chapel will be in compliance with the Authority’s financial security filing requirements found in Tenn. Code Ann. §§ 65-3-106(b), 65-4-115, and 65-4-117(a)(1) and TRA Rule 1220-4-13-.07. Accordingly, the panel voted unanimously to grant Party Staff’s *Request for Dismissal* upon the condition that King’s Chapel files a signed and fully executed bond with the Authority, consistent with the Authority’s orders in Docket Nos. 14-00158 and 15-00127.

⁶ *Order Holding Docket in Abeyance Pending Resolution of King’s Chapel’s Tariff to True-Up Bonding Costs in Docket No. 14-00158*, p. 6 (January 26, 2015).

⁷ The Consumer Advocate intervened and participated fully in that Docket.

⁸ *Request for Dismissal*, p. 1 (March 7, 2016).

IT IS THEREFORE ORDERED THAT:

1. Consistent with the Authority's rulings in Docket Nos. 14-00158 and 15-00127, King's Chapel Capacity, LLC, shall submit a signed and fully executed bond to the Authority.
2. Upon satisfaction of the condition noted above in Clause 1, the *Request for Dismissal* filed on March 7, 2016 by Party Staff of the Tennessee Regulatory Authority is hereby approved, and this show cause proceeding is dismissed.
3. Any person who is aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.
4. Any person who is aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Vice Chairman David F. Jones, Director Kenneth C. Hill and Director Robin L. Morrison concur.

ATTEST:



Earl R. Taylor, Executive Director