

BEFORE THE TENNESSEE REGULATORY AUTHORITY

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IN RE:

ALLEGED VIOLATIONS OF
WASTE WATER UTILITY LAWS
BY KING'S CHAPEL CAPACITY

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T.R.A. DOCKET ROOM
DOCKET NO. 14-00007

PETITION

Comes now the Tennessee Regulatory Authority ("TRA" or "Authority") Compliance Division ("Compliance") by and through counsel and requests that the Hearing Officer appointed by the Directors on August 19, 2014, issue an Order requiring that King's Chapel Capacity ("Respondent") appear and show cause before the Authority why it should not be found liable for violations of the statutes and rules promulgated by the Authority to regulate waste water utilities. Compliance gives notice that at the hearing before the Authority that it will request that the Directors impose the maximum civil penalty allowed by law, require Respondent to refund any and all money received by Respondent illegally, and order that Respondent immediately cease providing waste water service to new and additional customers until such time as Respondent is fully in compliance with all legal requirements.

ALLEGATIONS OF FACT

1. Respondent is a waste water public utility certificated by the Authority.
2. Respondent failed to comply with the requirements of Tenn. Comp. R. & Regs. 1220-4-13-.07 regarding financial security and alternative financial security in 2009, 2010, 2011, 2012, 2013, and 2014.¹
3. Respondent has failed to file a tariff true-up on or before July 1 in 2009, 2010, 2011, 2012, 2013, and 2014.²

¹ Paragraph 6 of the Affidavit of Darlene Standley. Attached hereto as Exhibit 1

4. On or about November 22, 2013, TRA staff sent Respondent data requests pursuant to Tenn. Code Ann. §65-4-117(a)(1). To date King's Chapel has refused to respond to the data request.³
5. On January 13, 2014, Respondent's representative, John Powell, admitted under oath that King's Chapel did not have the bond amount required under the December 19, 2008, Order Approving Tariff in Docket No. 08-00069.⁴ Upon information and belief Respondent continued to charge customers as if the bond amounts were the same.

CAUSES OF ACTION

6. The facts alleged in paragraphs 2, 3, and 5 constitute an as yet undetermined number of violations of Tenn. Code Ann. §65-4-115.
7. The facts alleged in paragraph 2 constitute six violations of Tenn. Comp. R. & Regs. 1220-4-13-.07(2).
8. The facts alleged in paragraph 2 constitute six violations of Tenn. Comp. R. & Regs. 1220-4-13-.07(5).
9. The facts alleged in paragraphs 3 and 5 constitute an as yet undetermined number of violations of Tenn. Comp. R. & Regs. 1220-4-13-.07(7)(b).
10. The facts alleged in paragraph 4 constitute a violation of Tenn. Code Ann. §65-4-117(a)(1).
11. The facts alleged in paragraph 4 constitute a violation of Tenn. Code Ann. §65-3-106(b).

PRAYER FOR RELIEF

12. The Compliance Division requests that the Hearing Officer place this matter on the docket for hearing at the December 1, 2014, Authority Conference.

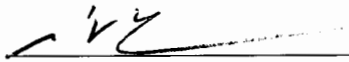
² Id. at paragraph 7

³ December 2, 2013, letter from King's Chapel Capacity attached hereto as Exhibit 2

⁴ *Authority Conference Transcript*, January 13, 2014, p 17 lines 20 – 24 and p 24, lines 8 – 11.

13. That at that hearing the Authority issue an Order:
- a. Requiring that Respondent cease and desist providing waste water service to new and additional customers until such time as Respondent is fully in compliance with all legal requirements;
 - b. Requiring that Respondent immediately refund any and all money obtained from customers based upon bonding costs that were not approved by the authority or that differed from amounts approved by the Authority;
 - c. Imposing the maximum amount of civil penalties allowed by law or fifty dollars per violation for each day that the violation existed; and
 - d. Imposing such other restrictions upon Respondent as are necessary to ensure that Respondent complies with all laws and regulations in the future.

Respectfully submitted,


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

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 9, 2014

IN RE:

PETITION OF TENNESSEE REGULATORY)
AUTHORITY FOR ALLEGED VIOLATIONS) Docket No. 14-00007
OF WASTEWATER UTILITY LAWS)
BY KING'S CHAPEL CAPACITY)

AFFIDAVIT OF DARLENE STANDLEY

I, Darlene Standley, being duly sworn, do hereby depose and state as follows:

1. My name is Darlene Standley, and I am employed by the Tennessee Regulatory Authority, 502 Deaderick Street, Nashville, Tennessee on a part-time basis. Prior to my Retirement in July 2010, I was Chief of the Utilities Division. I have worked for the TRA since 1996. From 1988 to 1996, I was employed by the Authority's predecessor, the Tennessee Public Service Commission.
2. I received a B.S. degree in Accounting from Middle Tennessee State University in Murfreesboro, Tennessee in May 1982.
3. I have been a Certified Public Accountant in Tennessee since February 26, 1988. The current status of my Certificate is inactive.
4. During my employment with the TRA, I supervised the filing of financial securities by regulated wastewater companies, which includes Kings Chapel Capacity LLC ("KCC").
5. On September 9, 2014, I was appointed Party Staff in this Docket. I have had no verbal or written communications with the TRA Directors regarding this case.
6. It is my position that KCC has failed to meet the requirements as outlined in Tenn. Comp. R. & Regs. 1220-4-13-.07 regarding the filing of a financial security for the following time periods:

July 1, 2009 to July 1, 2010



July 1, 2010 to July 1, 2011

July 1, 2011 to July 1, 2012

July 1, 2012 to July 1, 2013

July 1, 2013 to July 1, 2014

7. It is my position that KCC has failed to meet the requirements as outlined in Tenn. Comp. R. & Regs. 1220-4-13-.07 regarding the filing of a true-up for the recovery of its security costs for the following time periods:

December 2, 2008 to July 1, 2009

July 1, 2009 to July 1, 2010

July 1, 2010 to July 1, 2011

July 1, 2011 to July 1, 2012

July 1, 2012 to July 1, 2013

July 1, 2013 to July 1, 2014

8. All of these positions are made with a reasonable degree of professional certainty based upon documentation on file with the TRA.

FURTHER AFFIANT SAYETH NOT.

Darlene Standley
Darlene Standley

Subscribed and signed before me on this 9th day of September, 2014

Reene Lawless
Notary Public

My Commission Expires 1/9/2018



KINGS CHAPEL CAPACITY

Providing Superior Wastewater Service to Tennessee

December 2, 2013

Via Electronic

Hon. James M. Allison, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

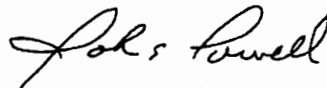
**Re: Petition of Kings Chapel Capacity for Exemption from Financial Security as
Required by the TRA's Wastewater Regulations -- Request to Continue Exemption
Docket 13-00141**

Dear Chairman Allison:

Kings Chapel Capacity files the attached **third initial response** to the TRA Party Staff's letter of November 15, 2013.

Please contact me if you have any questions.

Sincerely,


John Powell

Enclosure

Cc: William H. Novak



KINGS CHAPEL CAPACITY

Providing Superior Wastewater Service to Tennessee

December 2, 2013

Mr. Shiva Bozarth
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

**Re: Petition of Kings Chapel Capacity for Exemption from Financial Security as
Required by the TRA's Wastewater Regulations -- Request to Continue Exemption
Docket 13-00141**

Dear Mr. Bozarth:

Kings Chapel Capacity (KCC) has received your latest correspondence (dated in error as November 15th and attached hereto) as a second follow-up to your data request of November 8, 2013. KCC is providing this third initial response as a partial answer to your data request.

KCC continues its objections to the outstanding requests as we have previously stated. KCC also objects to your request for information in this docket that are "part of an investigation that Party Staff is pursuing pursuant to Tenn. Code Ann. §65-4-117(a)(1)" as you indicated in your last correspondence.

After careful consideration, KCC is declining to provide any further data responses until these objections can be presented to a hearing officer for a resolution.

Sincerely,


John Powell

Attachment

PO Box34, Arrington, TN 37014
Phone: 615-395-0001 Fax: 615-370-3095

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.

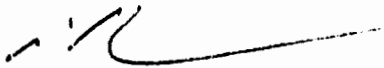
how to make the question clearer. Perhaps if you could identify what is confusing about the question I can assist you in understanding the nature of the request.

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