

BEFORE THE TENNESSEE REGULATORY AUTHORITY

2014 DEC -8 PM 2:23

IN RE:

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

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T.R.A. DOCKET NO. 14-00007  
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**OBJECTION**

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Comes now the Tennessee Regulatory Authority ("TRA" or "Authority") Compliance Division ("Compliance") by and through counsel and requests that the Hearing Officer issue an Order denying the Tennessee Attorney General and Reporter's Consumer Advocate and Protection Division's ("Advocate") Petition to Intervene ("Petition").

**ALLEGATIONS OF FACT**

1. King's Chapel Capacity ("King's Chapel") is a waste water public utility certificated by the Authority.
2. On January 23, 2014, Compliance requested that the Authority appoint a Hearing Officer to open a Show Cause proceeding against King's Chapel for violations of the Authority's laws and regulations relating to financial securities and a failure to respond to TRA data requests.
3. On January 31, 2014, the Advocate filed a petition to intervene in the Show Cause claiming that "consumers **may** be adversely affected...." And that "Only by participating in this proceeding can the Consumer Advocate work adequately to protect the interests of consumers".<sup>1</sup>
4. On August 19, 2014, the Authority issued an Order appointing a Hearing Officer.

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<sup>1</sup> *Petition to Intervene*, Consumer Advocate, pp. 1 and 2.

5. On September 24, 2014, Compliance filed a Petition requesting that the Hearing Officer issue a Show Cause Order against King's Chapel.
6. On October 13, 2014, the Hearing Officer issued an 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.
7. The Advocate has failed to provide any specific consumer interest at stake in the Show Cause proceeding. They have not articulated how their intervention in a Show Cause proceeding concerning whether or not a regulated public utility has filed the required documentation or responded to data requests impacts consumers.

### **ARGUMENT**

8. Party Staff would assert this is an enforcement action against King's Chapel for violations of the law.
9. The only parties that are entitled under the law to participate in a Show Cause docket that does not affect utility rates are Party Staff appointed by the TRA and the respondent utility. The statute allows the Authority "to issue orders on its own motion citing persons under its jurisdiction to appear before it and show cause why the authority should not take such action as the authority shall indicate in its show cause order...."<sup>2</sup>
10. The Show cause statute does not contemplate third party intervention when the only issue is whether there has been a violation of the law.
11. Additionally, the Advocate's originating statute states that they **may** petition the Authority to intervene but it does not grant them blanket intervention or entitle them to intervene in this or any other Show Cause docket.<sup>3</sup> The Advocate has given no specific

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<sup>2</sup> Tenn. Code Ann. §65-2-106

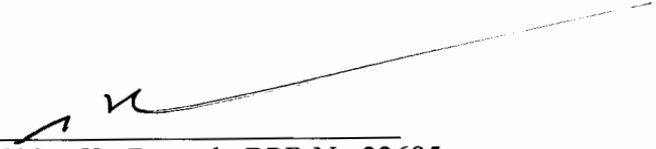
<sup>3</sup> Tenn. Code Ann. §65-4-118

basis for intervention and has instead raised generalized concerns for unidentified consumers.

12. The TRA is authorized to exercise “practically plenary authority over the utilities within its jurisdiction.”<sup>4</sup> This broad grant of authority empowers the TRA to conduct an enforcement action relying upon counsel employed by the Authority for that purpose.
13. It is the Authority that is responsible for ensuring the public good. The mission of the Authority is “to promote the public interest by balancing the interests of utility consumers and providers....”<sup>5</sup>
14. An enforcement action is the Authority fulfilling its role of enforcing the law for the public good. The Advocate cannot simply intrude into any case it wishes without first showing that they have “a right under the provisions of the laws applicable to the authority” to intervene<sup>6</sup>.
15. Absent a clear basis for intervention no party should be granted intervention in an Authority Show Cause proceeding.

WHEREFORE, Party Staff respectfully requests that the Hearing Officer deny the Advocate’s Motion to Intervene.

Respectfully submitted,



Shiva K. Bozarth, BPR No.22685  
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<sup>4</sup> *Tenn. Cable Television Assoc. v. Tenn. Public Service Comm.* 844 S.W.2d 151, 159 (Tenn. Ct. App., 1992).

<sup>5</sup> Tennessee Regulatory Authority Mission Statement

<sup>6</sup> Tenn. Code Ann. § 65-2-107

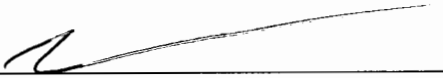
**CERTIFICATE OF SERVICE**

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 8<sup>th</sup> day of December, 2014.

  
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Shiva K. Bozarth