

STATE OF TENNESSEE

Office of the Attorney General



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January 9, 2017

The Honorable Earl Taylor
c/o Sharla Dillon
Tennessee Public Utilities Commission
502 Deaderick Street, Fourth Floor
Nashville, TN 37243

Re: Petition of Superior Water Service, LLC for a Certificate of Convenience and Necessity to Provide Water Service to a Portion of King's Chapel Subdivision in Williamson County, TPUC Docket No. 17-00120

Dear Mr. Taylor:

On October 30, 2017, John Powell filed a Petition for a Certificate of Convenience and Necessity (CCN), which initiated this Docket.¹ Both the cover letter and the Petition itself were signed by Mr. Powell as President of Superior Water Service, LLC (Superior). Mr. Powell, however, is not a licensed attorney.

Tenn. Code Ann. § 23-3-103 states in pertinent part:

No person shall engage in the practice of law or do law business, or both, as defined in § 23-3-101, unless the person has been duly licensed and while the person's license is in full force and effect, **nor shall any association or corporation engage in the practice of the law or do law business, or both.** (Emphasis added).

Mr. Powell's acts of drafting, signing, and filing a Petition on behalf of a business entity to initiate a hearing before the Tennessee Public Utility Commission (TPUC) constitutes the practice of law because the drafting of court pleadings requires a lawyer's professional judgment.²

¹ Mr. Powell also filed a letter on behalf of the Company expressing the Company's intention to proceed in this matter.

² See *Old Hickory Eng'g & Mach. Co. v. Henry*, 937 S.W.2d 782, 785 (Tenn. 1996).

While TPUC rules may allow for certain lay involvement from a duly authorized representative of a company, these rules do not allow this representative to contradict the State's prohibition on the unauthorized practice of law or to undertake an act that requires the professional judgment of a lawyer."³

Further, Mr. Powell should be aware of Tennessee's law requiring lawyers to make filings on behalf of business entities. On October 24, 2008, Mr. Powell filed a *Petition to Intervene* on behalf of King's Chapel Capacity, LLC in TPUC Docket No. 08-00202. The Hearing Officer in that Docket issued an Order stating "because Mr. Powell is not an attorney, his participation does not allow him to perform any act that requires the professional judgment of a lawyer."⁴

TPUC issued its Order Convening a Contested Case and Appointing a Hearing Officer on December 15, 2017. As Mr. Powell's December 21, 2017 letter demonstrates that Superior will continue to seek a CCN in this Docket, this Docket will continue as a contested case. Thus, it would be inappropriate, and in fact unlawful, for Mr. Powell to continue to act in a representative capacity on behalf of Superior.

Sincerely,



Daniel P. Whitaker, III
Assistant Attorney General

³ See, e.g., *In re Burson*, 909 S.W.2d 768 (Tenn. 1995).

⁴ *Initial Order on Petitions For Reconsideration of the Discretionary Grant of Limited Intervention, and Report and Recommendation to Separate Corollary Issues Into New Docket*, TPUC Docket No. 08-00202, January 22, 2009, at page 7.