

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
PETITION OF KING'S CHAPEL CAPACITY, LLC TO AMEND SERVICE TERRITORY TO INCLUDE THE HILL PARCEL AND ROBERTS PARCEL FOR THE KINGS CHAPEL DEVELOPMENT IN WILLIAMSON COUNTY)	Docket No. 19-00043

PETITION TO INTERVENE

Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (Consumer Advocate), pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (TPUC or Commission) to grant the Consumer Advocate's intervention into this proceeding because consumers' interests, rights, duties or privileges may be determined or affected by the *Petition of King's Chapel Capacity, LLC to Amend Service Territory to Include the Hill Parcel and Roberts Parcel for the Kings Chapel Development in Williamson County (Petition)* filed in this Docket. For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in any matter or proceeding before the TPUC in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.*, and TPUC rules.

2. On January 24, 2019, King's Chapel Capacity, LLC filed a Notice of Name Change.¹ On June 28, 2019, the Commission acknowledged receipt of the notification that King's Chapel Capacity, LLC has changed its name to Superior Wastewater Systems, LLC.²

3. Superior Wastewater Systems, LLC (Company) is a public utility regulated by the Commission and provides wastewater to approximately 269 residential customers in its current service area.³ Its principal office and place of business is 9539 Mullins Road, Arrington, Tennessee 37014.⁴

4. On March 29, 2019, the Company filed its *Petition* requesting the approval to amend its Certificate of Convenience and Necessity (CCN) to include two "parcels called 'Roberts Parcel' and 'Hill Parcel' located in Williamson County, Tennessee, directly adjacent to the north and west of the Company's present service territory."⁵ These two parcels will add 170 residential customers.⁶ The Company expects to provide service to approximately 632 customers once the developments are completely built out.⁷

5. On April 24, 2019, Commission Staff issued a Data Request to Tennessee Wastewater Systems, Inc. (Tennessee Wastewater) to ask if the Hill and Robert Parcels were in Tennessee Wastewater's existing service area and if Tennessee Wastewater was willing to provide service to the two parcels. Tennessee Wastewater responded that the two parcels were in its existing service area and it was willing to provide service to the two parcels.

¹ *Notice of Name Change Pursuant to TRA Rule 1220-4-1-.08*, TPUC Docket No. 19-00015 (Jan. 24, 2019).

² Letter from David Foster, Director of TPUC Utilities Division, to John Powell, Superior Wastewater Systems, LLC, TPUC Docket No. 19-00015 (June 28, 2019).

³ *Petition* at p. 1.

⁴ *Id.* at p. 2

⁵ *Id.* at p. 1

⁶ *Id.*

⁷ *Id.*

6. On June 3, 2019, Tennessee Wastewater filed a Petition to Intervene in this Docket.⁸ The Petition to Intervene was granted.⁹ Subsequently, Tennessee Wastewater withdrew its Petition to Intervene stating that it would transfer these properties from its Milcrofton service territory to the Company if the Commission determined that the Company had the financial, managerial, and technical capabilities to provide wastewater service to these two Parcels.¹⁰

7. Although the Company states that it “has the technical, managerial, and financial capabilities to provide wastewater service to this area,”¹¹ the Company has, thus far, failed to provide documentation to support this statement. Some examples¹² of the Company’s failure to meet the minimum filing requirements¹³ for amendments to CCNs are as follows:

- a. General Information.¹⁴ The Company failed to provide: (1) an organizational chart showing each officer and key personnel; (2) list of owners, members, and officers of the utility; (3) a corporate organizational chart showing all affiliate relationships and descriptions of the transactions, direct or indirect, that occur or are expected to occur between affiliate entities; and (4) a detailed map with the specific requirements set out in subparts (i)-(v) of Rule 1220-04-13-.17(2)(a)7.
- b. Property Rights.¹⁵ The Company has not provided any contracts or agreements between the builder of the treatment plant and/or collection system, the utility and the property and/or subdivision developer with specified terms including entitlement and ownership of the land and system.

⁸ *Petition of Tennessee Wastewater Systems to Intervene*, TPUC Docket No. 19-00043 (June 3, 2019).

⁹ *Order Granting Petition to Intervene Filed by Tennessee Wastewater Systems, Inc.*, TPUC Docket No. 19-00043 (July 8, 2019).

¹⁰ *Withdrawal of Petition to Intervene*, TPUC Docket No. 19-00043 (July 9, 2019).

¹¹ *Petition* at p. 2.

¹² Please note, this is not an exhaustive list of the non-compliance with the minimum filing requirements.

¹³ Tenn. Comp. R. & Regs. 1220-04-13-.17 (Dec. 2018).

¹⁴ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(a).

¹⁵ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(b).

- c. Sufficient managerial ability.¹⁶ The Company has not provided the biographies of its officers and key wastewater utility staff and has not provided proof that the party contracted to install the proposed system (or expansion of the system) has a valid and current Tennessee contractor's license.
- d. Sufficient technical ability.¹⁷ The Company has not provided a copy of the State Operator Certificate for the wastewater system nor has it provided the name and contact information of the certified operator of the system.
- e. Sufficient Financial Ability.¹⁸ The Company failed to provide: (1) a Balance Sheet, Income Statement or Statement of Cash Flow for the most recent year ended; (2) Income Statements for the past three years; (3) a detailed breakdown of the estimated amount to contributed capital to be recorded on the Company's books; (4) estimates of costs and customers added by month for the first 5 years based upon the construction build-out schedule; and (5) proof that the Company has acquired a performance bond from the developer.

8. Although the Commission previously approved a petition for CCN by the Company,¹⁹ an amendment to a CCN is subject to the same minimum filing requirements²⁰ and analysis as an initial request for CCN. Additionally, the previous CCN was granted almost 14 years ago, and the Company needs to provide current documentation on its technical, managerial, and financial capabilities to provide wastewater service to this proposed area.

¹⁶ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(c).

¹⁷ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(d).

¹⁸ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(e).

¹⁹ *Order Approving Petition for Certificate of Public Convenience and Necessity, In Re: Petition of King's Chapel Capacity, LLC for a Certificate of Convenience and Necessity to Serve an Area in Williamson County, Tennessee Known as Ashby Community*, TPUC Docket No. 04-00335 (Jan. 3, 2006).

²⁰ The Commission recently revised its regulations to include minimum filing requirements for both new and amendments to certificates of convenience and necessity. Tenn. Comp. R. & Regs. 1220-04-13-.17 (Dec. 2018).


9. Under the current *Petition*, neither the Commission nor the Consumer Advocate can analyze the technical, managerial, and financial capabilities of the Company to provide wastewater service to the proposed area due to the missing information and documentation.


10. In addition to the need to fully develop the record in this Docket, the interests of consumers, including without limitation, the terms and conditions of the agreement between the Company, the developer, and the builder of the treatment plant; the Company's organizational structure including affiliate relationships; the identification of officers and key wastewater utility staff including a certified operator; and the analysis of the Company's financial ability, may be affected by the determinations and orders made by the TPUC with respect to Company's Petition.

11. Only by participating as a party in this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

Wherefore, the Consumer Advocate requests TPUC grant this *Petition to Intervene*.

RESPECTFULLY SUBMITTED,


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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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This the 4th day of September, 2019.

Karen H Stachowski
KAREN H. STACHOWSKI