DELAPLAIN DISPOSAL COMPANY
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MAY 25 2011

PUBLIC SERVICE
COMMISSION

May 25, 2011

Mr. Jeff Derouen, Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

RE: Case 2010-00349

Dear Mr. Derouen,

Delplain Disposal is in receipt of the Public Service Commission's Staff Report and related order dated May 11, 2011. Delaplain has attached a response to this report and request that the Commission carefully review and response to the stated concerns.

If you have any questions or need any additional information please do not hesitate to let us know.

Sincerely,

Elbert C. Ray

Elbert C. Ray
President

Response to Commission Report

Delaplain Disposal Company

Case No. 2010-00349

May 25, 2011

Delaplain Disposal is in receipt of the PSC Staff Report and related order dated May 11, 2011. Since a final decision must be issued in this case by July 2, 2011, Delaplain does not wish to request a formal hearing at this time. Instead, Delaplain specifically requests that the PSC carefully consider the following written comments and objections and reevaluate the Staff Report recommendations in light of same. Assuming the Commission's Final Order addresses the objections raised herein, Delaplain should not require a formal hearing.

Delaplain is very concerned that the 13.6% increase proposed by Staff will not allow the provision of safe, reliable and adequate service. Specifically, Delaplain's application documented and Staff did not dispute the fact that since the 2008 mandated rate adjustment Delaplain's commercial flows have decreased 25%, resulting in a $78,000 revenue reduction **in addition** to the $150,000 revenue reduction that was agreed to in 2008. The Staff proposed rates offered no opportunity to compensate for the revenue loss due to flow reduction.

Delaplain offers the following specific comments and objections to Staff proposed adjustments:

1). **Owner/Manager Fee** –Staff notes that the reasonableness of the owner manager fee will depend on the circumstances of the particular utility, to include the owner's responsibilities and duties and **the size and complexity of the sewer utilities operations (emphasis added).**

Delaplain takes issue with the statement in the Commission report that it is similar to other small privately owned utilities in Kentucky. As noted in the original rate filing documents, Delaplain is the **largest** privately owned sewer system regulated by the PSC in terms of both capacity and gross plant. The next closest plant in terms of capacity is Hillridge Facilities with half the capacity of Delaplain. Delaplain's flows are generated by mostly industrial and commercial customers. With the exception of Middletown Waste Disposal all other private sewer utilities in the state serve residential customers almost exclusively. Treatment of domestic waste versus industrial and commercial waste is similar to comparing your home finances to those of a small industry which are obviously much more complex. Given their operating environment and the legal liabilities resulting from a permit violation, Delaplain believes it is well served by retaining the services of a professional engineer on an hourly rate basis to address daily operational matters.

Staff indicated in their findings that the payment of $21,000 for the routine management duties that include invoice review and check signing related to 245 checks throughout the year was excessive. It should be noted that there are numerous small utilities in the state whose owners are paid $3,600 for services. A case in point is Lake Columbia with only 32 customers and $20,000 a year in revenues writing probably 2 checks a month or 24 checks a year. If this typical payment "per check" is applied to Delaplain, the management cost paid would appear much less than the norm for other small utilities.

Delaplain management believes to obtain the necessary financial control and segregation of duties required for a fiscally sound operation that Mr. Ray's time to review and approve supporting invoices, sign checks and perform other various routine administrative functions is appropriate given the size and complexity of Delaplain.

Delaplain asserts that both the rate and the hours as previously submitted are well justified and requests that the Commission reconsider the complexity of Delaplain's customer base, operations and finances. An approved cost of $25,000 which is between Delaplain's actual costs of $46,550 for professional engineering management and the $3,600 provided to a small residential package plant with 32 customers results in a more reasonable recognition of costs needed for an operation of Delaplain's magnitude. It should also be noted that the $3,600 guideline for residential package plants has been in place without change for over 20 years and that the impact of inflation alone makes it obsolete for even the small package plant.

2). Repairs and Maintenance Staff indicated that Delaplain had incorrectly expensed capital expenditures from 2007-2009 of $55,725.

Delaplain does not believe that there is any merit in arguing the classification of these expenses between capital and repair and maintenance with Staff. However, if the Staff will not allow the recognition of these items as repair and maintenance to allow a "normal" level of repair and maintenance expense to be presented in the test year, then it would seem fair to allow these costs to be recovered as depreciation for all three years with reclassified items. All the items would have been included in the depreciation basis in 2009 if classified according to the Staff's criteria. Delaplain requests that depreciation be increased by $6,879 to recognize depreciation on items reclassified from 2007 and 2008 in addition to the amounts included for 2009 by the Staff.

3). Outside Services The amount for outside administrative services that Delaplain paid was based on an hourly pay rate, payroll tax factor, an employee benefit factor, an office overhead factor and an adjustment to market factor. The hourly rate that resulted from that calculation fell within rates charged by a **named** local accounting firm and thus would appear to reasonably indicate market cost. The Staff did not address the reasonableness of the overall rate in their response nor provide any support as to what an "acceptable" cost for these services would be.

In addition, the Staff did not allow any dollars for overhead office costs in their revised rates. An employee must have a place to work, a phone, paper and postage in order to transact business. Using third party costs to provide the bare minimum in overhead costs that are REQUIRED to operate, the following support is offered:

Office Suites charges $500 to 1,000 a month for one person to occupy a "furnished instant office". The rate includes the cost of utilities and janitorial. Since it is not possible to rent office space by the hour then a minimum of $6,000 per year would be required to provide one staff a work location.

A cell phone is required in order that the administrative staff person can be reached at all times in the event of plant/customer emergencies. The cost of a cell phone is estimated at a minimum of $600 per year.

Mileage for one round trip a month to Georgetown is required to check for illegal system connections. The cost of this annually is $600 based on IRS mileage guidelines.

Paper/envelopes/printer ink and postage for mailing 266 monthly invoices and 20 vendor payments is at least $1,800 given US postage rates and office supply costs.

Workers compensation insurance and BOP coverage for one employee would approximate $1,200.

Delaplain requests that the total of this base level of overhead costs of $10,200 be included in addition to the previously allowed salary costs of personnel.

4) Depreciation It was noted in the application that Delaplain was an aging plant with infrastructure put in place 20 plus years ago. Delaplain has in house bids for approximately $150,000 of needed capital repairs and had proposed to cover the costs of these capital repairs by adding the resulting depreciation into the cost stream in order to obtain the necessary revenue to fund the costs. Staff argued that costs could not be authorized in advance of the expenditure of same. Delaplain understands this concern, but believes that the Staff has failed to recognize the reality of the current lending environment. Specifically, banks will not lend to a company that reflects a loss on their financial statements and can not show adequate cash flows to support the repayment of the debt. The result is a chicken egg quandary. Delaplain suggests a possible compromise of using the Staff guidelines for useful life, but allowing Delaplain the ability to include the projected costs in their rates so that funding might be obtained from a financial institution to allow the needed repairs. Thus Delaplain proposes that depreciation be increased by $22,125 which assumes a 7 year life for the $154,872 in desperately required capital repairs.

In conclusion, Delaplain requests that the Commission increase the allowable operating expenses from the $266,838 proposed by Staff to $327,442 to include the costs justified above. This will result in revenues of $372,093 which is only $22,320 more than the revenue that **was to have been generated by rates that the PSC imposed in 2008.** Essentially, Delaplain is requesting the revenue that was **approved** by the PSC in **2008** if the commercial flows had remained constant plus an increase of 8%.