

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALTERNATIVE RATE FILING APPLICATION OF) CASE NO.
HILLRIDGE FACILITIES, INC.) 2010-00426

ORDER

Louisville and Jefferson County Metropolitan Sewer District (“MSD”) has moved for intervention in this matter. Hillridge Facilities, Inc. (“Hillridge”) opposes this motion. Finding that MSD states sufficient grounds in its motion to satisfy the requirements of 807 KAR 5:001, Section 3, we grant the motion.

Hillridge, a corporation organized under KRS Chapter 271C,¹ owns and operates sewage collection and treatment facilities that serve 720 customers in the Hillridge, Hillridge East, Bristol Oak, Kirby Lane and Watterson Trail Subdivisions of eastern Jefferson County, Kentucky.²

On November 1, 2010, Hillridge applied for a rate adjustment pursuant to 807 KAR 5:076 and for authority to assess a monthly surcharge of \$11.19 for 36 months. Hillridge states that proceeds of the proposed surcharge will be used for improvements to its collection mains to remedy inflow and infiltration problems.

¹ See <https://app.sos.ky.gov/ftshow/%28S%28kcys4o45f1u4bumrrkuxivbl%29%29/default.aspx?path=ftsearch&id=0023190&ct=09&cs=99999> (last visited Jan. 14, 2011).

² *Annual Report of Hillridge Facilities, Inc. to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2009* at 1 and 8.

MSD, a public corporation organized pursuant to KRS Chapter 76, owns and operates the majority of sewer and drainage facilities in Jefferson County, Kentucky.³ Asserting that it has an interest in the proceeding, MSD has moved for leave to intervene in this matter. It asserts that, because Hillridge's sewage collection and treatment facilities are located in Jefferson County and serve residents of Jefferson County, any plans to alter or replace these facilities are subject to MSD review and approval.⁴ It further states that, under the terms of Hillridge's discharge permit, Hillridge must connect its facilities to MSD's facilities once those facilities become available in Hillridge's service area. As MSD facilities are now available to serve Hillridge's service area, MSD asserts, it has an interest in any proceeding that involves the funding of replacement collection mains and of repairs to Hillridge's facilities.

Opposing MSD's motion, Hillridge argues that MSD is not a customer of Hillridge and therefore has no interest in the rates that the privately-owned sewer utility charges. It further argues that MSD has no supervisory role over Hillridge's planned repairs. "Because Hillridge is only making repairs to its collection system," it asserts, "MSD cannot rely upon KRS 76.080(12) as a basis for intervention in this matter."⁵ Finally, Hillridge notes that the Attorney General has already intervened in this matter and "as MSD's interests should be merely to protect the interest of the consumers,"⁶ MSD's intervention would be redundant and duplicative of the Attorney General's efforts.

³ Metropolitan Sewer District, *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2010* at 1.

⁴ See KRS 76.080(12).

⁵ Hillridge's Objection to Motion for Intervention at 2.

⁶ *Id.*

The only person entitled to intervene as a matter of statutory right in this rate-making proceeding is the Attorney General.⁷ Intervention by all others is permissive and is within the Commission's discretion.⁸ In exercising its discretion to determine permissive intervention, the Commission follows 807 KAR 5:001, Section 3(8), which provides:

If the Commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.⁹

In its request, MSD has failed to articulate a special interest in this proceeding. As it is not a customer of Hillridge, it is not directly affected by the proposed rate adjustment or surcharge. While Hillridge's proposed use of the proceeds may require MSD's approval, this possibility does not provide MSD with a special interest in this proceeding.

While MSD lacks a special interest in this proceeding, the Commission finds that MSD's involvement in the proceeding is likely to present issues and develop facts that will assist us in considering Hillridge's application. As MSD exercises regulatory authority over the replacement of the collection mains and as the terms of Hillridge's continued service to the area (and hence its need for replacement mains and other repair work) are related to the presence of MSD facilities, MSD's intervention in this

⁷ KRS 367.150(8)(b).

⁸ Inter-County Rural Elec. Cooperative v. Publ. Serv. Comm'n, 407 S.W.2d 127, 130 (Ky. 1966).

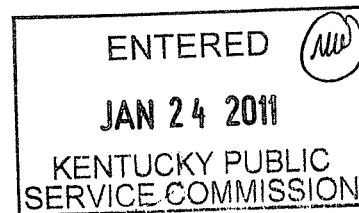
⁹ 807 KAR 5:001, Section 3(8)(b).

case will allow for a full and complete development of the record and assist the Commission in determining whether the proposed surcharge is reasonable.

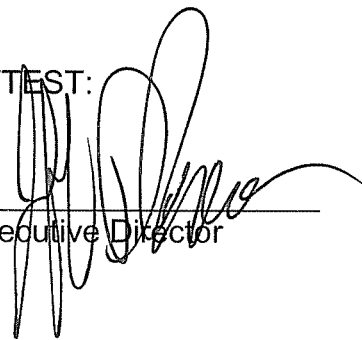
IT IS THEREFORE ORDERED that:

1. MSD's Motion for Full Intervention is granted.
2. MSD shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by any party after the date of this Order.
3. Should MSD file any documents with the Commission in the course of these proceedings, it shall also serve a copy of such documents on all other parties of record.

By the Commission



ATTEST:



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