

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE FAILURE OF	)	CASE NO.
WOODLAND ACRES UTILITIES, LLC TO FILE	)	2011- 00349
REQUIRED REPORTS	)	

O R D E R

On October 11, 2011, the Commission ordered Woodland Acres Utilities, LLC (“Woodland Acres”) to appear before us on October 27, 2011 and show cause why it should not be subject to a civil penalty for its alleged failure to comply with KRS 278.140 and KRS 278.230(3). We further ordered that, in lieu of appearing before us, Woodland Acres could waive its right to a hearing, pay a civil penalty of \$250.00, and file the required reports.

Woodland Acres appeared before the Commission on October 27, 2011, represented by legal counsel. Counsel for Woodland Acres made an oral motion for an extension of time, up to and including November 30, 2011, for Woodland Acres to file the required reports. Counsel also waived the right to a hearing in the matter or to contest the assessment of a civil penalty for its failure to comply with KRS 278.230(3) and KRS 278.140. Counsel tendered payment of \$250.00 at the hearing.

On November 30, 2011, Woodland Acres filed an Amended Motion for Extension of Time to File Reports with the Commission (the “Motion”). The Motion stated that Woodland Acres has only owned the Woodland Acres wastewater treatment plant (“WWTP”) since July 2, 2009, and the Commission approved its Application for Transfer

of the Woodland Acres WWTP on September 1, 2010, subject to the requirement to file an Irrevocable Letter of Credit and Notice of Adoption and Journal Entry. Documents were filed with the Commission in the fall of 2011. The Commission's Order of October 11, 2011 required that Woodland Acres file its annual sewer reports and sewer gross operating reports for the 2006, 2007, 2008, 2009, and 2010 calendar years. Woodland Acres' Motion requested that the Commission's Order not require Woodland Acres to file reports for the time periods prior to its ownership of the Woodland Acres WWTP. The Motion also requested an extension of time to file the required reports, up to and including December 31, 2011. On December 21, 2011, the Commission granted Woodland Acres' Motion.

The Commission's Order required that Woodland Acres file its annual sewer reports and sewer gross operating reports for only the 2009 and 2010 calendar years by December 31, 2011. On December 29, 2011, Woodland Acres filed a Second Amended Motion for Extension of Time to File Reports (the "Second Motion"). The Second Motion requested that Woodland Acres be granted an extension of time through and until January 31, 2012 to file the required reports. The Second Motion stated that Woodland Acres has begun preparing the required reports, but has not been able to complete them. Woodland Acres' Second Motion alleged that it has requested copies of its bank statements for the relevant time period from its bank, but the bank has not yet been able to produce the same. Woodland Acres alleges that these statements are required to complete the required reports. The Commission, by Order of January 17, 2012, granted Woodland Acres' motion for an extension and ordered that the reports be filed no later than January 31, 2012.

On February 1, 2012, Woodland Acres filed a Third Amended Motion for Extension of Time to File Required Reports (the "Third Motion"). The Third Motion requested an extension of time up to and including February 29, 2012. The Third Motion stated that Woodland Acres requested copies of its bank statements for the relevant time period from its bank, which are needed to complete the required reports. Woodland Acres asserted that it had just recently received copies of the requested records, and was purportedly working to complete the required reports.

On February 29, 2012, the Commission issued an Order granting Woodland Acres' Third Motion for Extension of Time and ordered that Woodland Acres file the required reports no later than February 29, 2012. The February 29, 2012 Order stated that no further extensions of time would be granted absent a factual showing of undue hardship or exceptional circumstances. The Order also stated that, if Woodland Acres failed to file the required reports within the prescribed time, Woodland Acres would be subject to additional penalties. Woodland Acres did not file the required reports by February 29, 2012.

On March 28, 2012, William Hollister, Woodland Acres' accountant, filed with the Commission a request for an extension of time until June 30, 2012 in which to file its annual report for the year ending December 21, 2011. Mr. Hollister also stated that Woodland Acres would file its 2009 Annual Report by April 30, 2012 and its 2010 Annual Report by May 31, 2012. However, an employee in Mr. Hollister's office

subsequently informed Commission Staff that Woodland Acres was no longer using the accounting agency to prepare the annual reports.<sup>1</sup>

It appeared that Woodland Acres, because it was no longer engaging Mr. Hollister's accounting firm, was not attempting to comply with the Commission's February 29, 2012 Order. An Order was entered on April 18, 2012 scheduling a hearing on May 9, 2012 for the purposes of showing cause why Woodland Acres should not be subjected to the penalties of KRS 278.990 for its failure to comply with previous Orders of the Commission.

At the May 9, 2012 Hearing, counsel for Woodland Acres appeared and requested a continuance of the Hearing. Counsel stated that Mr. Joe Murphy, owner of Woodland Acres, was sick and recently hospitalized. Counsel provided a statement from Mr. Murphy's physician that Mr. Murphy would be unable to attend any hearing for at least another two weeks. As a statement from Mr. Murphy's physician was provided, it is appropriate that a continuance be granted in this case. The Commission, however, is mindful that three extensions and a continuance have now been granted in this case with no guarantees that this continuance will be the last. In order to ensure that this case is brought to finality, the Commission finds that certain conditions should be attached to this Order granting a continuance.

IT IS HEREBY ORDERED that:

1. Woodland Acres motion for a continuance is granted. Woodland Acres shall appear in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, on June 28, 2012 at 10:00 a.m., Eastern Daylight Time, for the

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<sup>1</sup> E-mail received from Richard Paulmann of William W. Hollister, PSC, to Jerry Wuetcher on April 5, 2012, filed on April 13, 2012.

purposes of showing cause why it should not be subjected to the penalties of KRS 278.990 for its failure to comply with the Commission's February 29, 2012 Order.

2. a. Written testimony shall be filed in response to the information requested in the Appendix to this Order and is due no later than June 21, 2012. Written testimony shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record and an original and ten copies to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicated that the response was incorrect when made or, though correct when made, is not incorrect in any material respect.

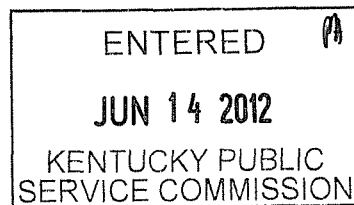
d. For any request to which a party refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

3. If for any reason Woodland Acres fails to appear at the Hearing scheduled for June 28, 2012, then this case shall be submitted for a decision on the record based

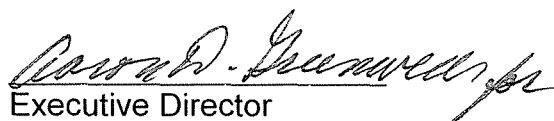
on the written testimony provided in response to the information requested in the Appendix to this Order.

4. If written testimony provided in response to the information requested in the Appendix to this Order is not filed by June 21, 2012, and Woodland Acres does not appear at the June 28, 2012 Hearing, then a subpoena shall be issued for Mr. Joe Murphy through Franklin Circuit Court. Failure of Mr. Murphy to answer the subpoena shall result in the Commission requesting a bench warrant for Mr. Murphy's arrest through Franklin Circuit Court.

By the Commission



ATTEST:

  
Executive Director

## APPENDIX

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2011-00349 DATED JUN 14 2012

1. Provide an explanation for Woodland Acres failure to file the reports by February 29, 2012, as required by the Commission's February 29, 2012 Order.
2. Provide an explanation for Woodland Acres failure to request another extension or communicate with the Commission after Woodland Acres failed to file the reports by February 29, 2012, as required by the Commission's February 29, 2012 Order.
3. What is the status of completing and filing the reports as required by the Commission's February 29, 2012 Order?
4. Given the e-mail from Richard Paulmann of William W. Hollister, PSC, to Jerry Wuetcher on April 5, 2012, filed on April 13, 2012, stating that Woodland Acres was no longer using the accounting agency to prepare the annual reports, what evidence can be provided showing that the annual reports are being prepared or will be completed?
5. Provide an explanation for the failure of Woodland Acres to file its 2011 calendar year annual sewer reports and sewer gross operating reports by the March 31, 2012 deadline.
6. What is the current status of Woodland Acres preparing and filing its annual sewer reports and gross sewer operating reports for the 2011 calendar year?

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