

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of the petition of:

APPALACHIAN WASTE CONTROL, INC.

PETITIONER

VS:

THELMA WASTE CONTROL, INC.

RESPONDENT

RECEIVED

FEB 08 2012

PUBLIC SERVICE
COMMISSION

CASE NO. 2012-00035

RESPONSE TO PETITION TO TRANSFER
OWNERSHIP

Comes Thelma Waste Control, Inc., by and through aid of counsel, and states in response to Petition to Transfer Ownership as follows:

1. The respondent herein admits that the Thelma Waste Control is under the jurisdiction of the Public Service Commission, to the extent provided by law, but denies all other allegations in Paragraph 1 for lack of knowledge.
2. Paragraph 2 of the Petition is denied for lack of knowledge.
3. In respect to Paragraph 3 of the petition, the respondent admits that Thelma Waste No. 2 is "closest waste water treatment plant" but denies the rest

of the complaint for lack of knowledge, and further states that citing the statute in question is not factual allegations for petition or appropriate and should be stricken.

4. Paragraph 4 is admitted.

5. Paragraph 5 is denied for lack of knowledge.

6. Affirmative Defense No. 1 that neither the statute in question cited in the petition nor the Public Service Commission has the legal authority to require Thelma Waste Control, Inc., as a private corporation, to transfer or accept ownership of Appalachian Waste Control, Inc. To do so would be unconstitutional and infringement upon the property rights of the respondent, and a reverse condemnation of the respondent's rights, and clearly unconstitutional.

7. Affirmative Defense No. 2. This petition fails to identify all real parties in interest, namely the Johnson County Fiscal Court who would be required to provide right of way;

8. The Department of Highways who would be required to provide right of way easements to run the lines;

9. That there are residents located where the proposed lines would be run

to connect the two plants and private property owners would be required to made a party to this action.

10. Affirmative Defense No. 3 That the plaintiff herein lacks standing to file a claim against the respondent herein as a private corporation;

11. Affirmative Defense No. 4 this petition would be superceded by the contract clause, commerce clause, due process rights and the state and federal laws, the United States Constitution;

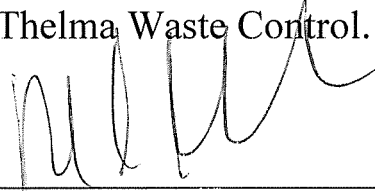
12. The allegations in the complaint alleged by the statute grants such authority the Public Service Commission would be clearly unconstitutional infringement.

13. Thelma Waste Control, does not have the financial means in which to provide or take over ownership of Appalachian Waste Control, for the following reasons:

It has no employees and the only two volunteers work to provide the billing herein.

Thelma Waste Control, Inc. has been operating in the red for many years and does not have the feasibility to maintain two plants and any repairs that may occur in the event of a breakdown. Any attempt to transfer ownership would

require Thelma Waste Control, Inc., to obtain, run and operate Appalachian Waste would be burdensome, unfair, risk the current operation as it exists now and the residents currently utilizing Thelma Waste Control.



MICHAEL S. ENDICOTT
ATTORNEY FOR RESPONDENT
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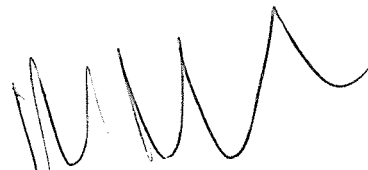
CERTIFICATE OF SERVICE

This is to certify to service of the within by mailing a true and correct copy of same to the following:

Hon. John B. Baughman
P. O. Box 676
Frankfort, KY 40602

Edward Thomasson
P. O. Box 327
Thelma, KY 41260

This the 7th day of February, 2012.



MICHAEL S. ENDICOTT