

Commonwealth of Kentucky
Before the Public Service Commission

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PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION FOR ALTERNATIVE RATE)

FILING OF FERN LAKE COMPANY)

Case No. 2013-00172

ATTORNEY GENERAL'S WRITTEN COMMENTS
ON REPORT OF COMMISSION STAFF

With

NOTICE OF SUBSTITUTION OF COUNSEL

The Attorney General, in accordance with the Commission's 12 July 2013 Order of procedure, submits his Written Comments on the Report of Commission Staff. While the Attorney General reserves the right to participate in any additional proceedings this Commission may hold in this matter, he provides notice that he does not request an evidentiary hearing and the matter may be submitted for a decision based upon the existing record.

The Attorney General provides Notice of the substitution of Gregory T. Dutton, Assistant Attorney General, for David Edward Spenard who is withdrawing from the case. Jennifer B. Hans will continue as counsel.

I. FISHING CLUB/BOAT DOCK EXPENSES

On 30 April 2013, Fern Lake Company ("Fern Lake") submitted an application for Rate Adjustment.¹ Fern Lake Company requests an increase in the monthly water bill for its sole customer, Water Service Corporation of Kentucky ("WSKY"), from \$7,100 to \$12,483, or 75.8 percent.² Fern Lake's current rates (\$7,100 for first 41,667,000 gallons³) were established in Case No. 7928 through an Order dated 17 December 1986.⁴

As explained by Commission Staff in their Report, Fern Lake either operates, or allows to operate, a fishing club/boat dock on Fern lake.⁵ The fishing club/boat dock currently receives benefits from the operation of the Fern Lake Company, which are financed through the water rates.⁶ Some of the benefits that the fishing club/boat dock receives include maintenance, insurance, lake security, environmental protection, taxes, and labor. Based on current knowledge and documents provide by Fern Lake, the fishing club/boat dock does not cover any of the expenses associated with operating Fern Lake. Based on this information,

¹ *In the Matter of: Application of Fern Lake Company For Rate Adjustment For Small Utilities Pursuant to 807 KAR 5:076, PSC Case No. 2013-00172.*

² Case No. 2013-00172, Staff Report, page 1.

³ This minimum gallon amount has not been met nor exceeded in the previous year, thus every payment by WSKY to Fern Lake has been for \$7,100.

⁴ *Notice of Fern Lake Company Pursuant to KRS 278.180, 278.180, 278.190 and related statutes and 807 KAR 25:010, Sections 5 Through 9 and Related Sections, That on December 1, 1980, Fern Lake Company Will Place Into Effect a Tariff Increasing the Wholesale Cost of Water to Kentucky Water Service Company, Inc. PSC Case No. 7928.*

⁵ *Id.* at 8.

⁶ *Id.*

the Attorney General is wholly in accord with Commission Staff that the fishing club/boat dock should be allocated a 50/50 share of the operation costs.⁷

Without dividing the costs of operating Fern Lake between both ratepayers and the fishing club/boat dock, the members of the fishing club/boat dock would be unjustly enriched at the expense of the ratepayer. It is established law that expenses must be borne by shareholders unless such expenses are proven to be beneficial to ratepayers in furnishing utility service.⁸ The Commission has previously stated:

“that service company charges will be subjected to very close scrutiny in future rate cases and that significant increases will not be tolerated without complete evidence that these charges are necessary to the ratepayers, that...[the utility] is using every means available to hold these expenses to a minimum and that a positive cost/benefit relationship can be shown.”⁹

The Attorney General argues that complete evidence has not been presented that these charges are necessary to the rate payers, that Fern Lake Company has not used every means available to hold these expenses to a minimum, and that no positive cost/ benefit relationship exists, based on the fact that Fern Lake Company has failed to offset expenses that ratepayers bare by income derived from the fishing club/boat dock.

⁷ Share recommended by Commission Staff in their Report, p. 8.

⁸ In the Matter of:” Notice of Adjustment of Rates of Kentucky-American Water Company, Case 9482, Order entered July 8, 1986 as reduced by Order on Rehearing entered October 15, 1986, P.22.

⁹ *Id.* At 16.

In the alternative, if Fern Lake argues that operation of the fishing club/boat dock is a charitable activity, and not a generator of revenue, then shareholders should still be required to bear the costs associated with the charitable activity. The Commission has previously expressed that charitable contributions "are not essential to the provision of services and are below the line items, the expense of which should be borne by stockholders and not the ratepayers."¹⁰

2. CONCLUSION

In conclusion, the Attorney General supports the Commission Staff recommendation of a decrease in Fern Lake Company rates to \$6,581 per month. This is a decrease of 7.315%, or \$6,232 annually.

¹⁰ In the Matter of: Adjustment of Rates of Columbia Gas of Kentucky, Inc., Case No. 10498, Order entered October 6, 1989, p. 48.

WHEREFORE, the Attorney General submits these Written Comments and this Notice.

Respectfully submitted,

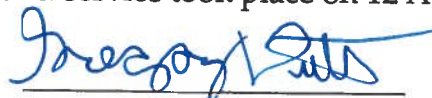
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Notice of Filing, Certifications, and Notice of Service

Counsel certifies that an original and ten copies of this Motion to Intervene were served and filed by hand-delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601. A copy was served on the Applicant by U. S. Mail, first-class, postage-prepaid, to David S. Samford, Goss Samford, PLLC, 2365 Harrodsburg Road, Suite B325, Lexington, Kentucky 40504; and the intervenor to M. Todd Osterloh, Sturgill, Turner, Barker & Moloney, PLLC, 333 West Vine Street, Suite 1400, Lexington, Kentucky 40507. The filing and service took place on 12 August 2013.



Assistant Attorney General