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August 30, 2013

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333 West Vine Street  
Suite 1400  
Lexington, Kentucky 40507

Re: Fern Lake Company  
Case No. 2013-00172

Ladies and Gentlemen:

The enclosed memorandum has been filed in the record of the above-referenced case. Any comments regarding this memorandum's contents should be submitted to the Commission within five days of receipt of this letter. Any questions regarding this memorandum should be directed to Ann Ramser, Commission Staff Attorney, at (502) 782-2585.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen  
Executive Director

gw  
Enclosure

## INTRA-AGENCY MEMORANDUM

### KENTUCKY PUBLIC SERVICE COMMISSION

**TO:** Case No. 2013-00172  
Fern Lake Company

**FROM:** Ann Ramser  
Staff Attorney

**DATE:** August 30, 2013

**RE:** Informal Conference of August 26, 2013

Pursuant to the Commission's Order of July 12, 2013, an informal conference was held in Case No. 2013-00172 on August 26, 2013. Attending the conference were:

Mark Frost	-	Commission Staff
Jason Green	-	Commission Staff
Scott Lawless	-	Commission Staff
Ann Ramser	-	Commission Staff
Gerald Wuetcher	-	Commission Staff
Gary Asher	-	Fern Lake Company
Sal Gaudiano	-	Fern Lake Company
Allyson Honaker	-	Fern Lake Company
David Samford	-	Fern Lake Company
Gregory Dutton	-	Office of Attorney General
Todd Osterloh	-	Water Service Company Kentucky

A copy of the signed attendance roster is attached.

Beginning the conference, Ms. Ramser stated that Commission Staff would prepare minutes of the conference for the case record, that a copy of the minutes would be provided to all parties, and that all parties would be given an opportunity to submit written comments upon those minutes.

Mr. Asher and Mr. Gaudiano then described Fern Lake Company's organization and operations. Gary Asher and Larry Asher each own 50 percent of Appolo Fuels, Inc. and each own 50 percent of Fern Lake Company. No agreement addressing the services that Appolo Fuels Inc. provides to Fern Lake Company presently exists. A service agreement, however, is currently being prepared. While the agreement has not been executed, the companies are following the agreement's terms.

Fern Lake Company currently employs Hadden Burnside (Shelly Lewis' son), Shelly Lewis, and Thomas Lewis. A contract does not exist between Fern Lake Company and any Fern Lake Company employee. Fern Lake Company's employees

are paid by Appolo Fuels, Inc. and Fern Lake Company reimburses Appolo Fuels, Inc. Because the Asher brothers have the same ownership interest in both companies and because Fern Lake Company and Appolo Fuels are Subchapter S corporations for federal tax purposes, Mr. Gaudiano stated, it makes no financial difference which company carries the employees on its payroll.

Mr. Gaudiano stated that Hadden Burnside is now performing the job duties that Josh Lewis performed during 2012. His regular job duty is to cut the grass at one end of Fern Lake and below the dam. Cutting the grass takes five days per week. An additional job duty is to help Thomas Lewis remove trees that have been cut and remove large tree limbs that have fallen in Fern Lake.

Gary Asher indicated that the State of Kentucky requires that the grass be cut. He did not know which state agency inspects Fern Lake but indicated he would provide the inspection reports.

Mr. Asher and Mr. Gaudiano stated that Shelly Lewis mows grass; removes weeds; escorts members from the state agency inspecting Fern Lake; and manages Fern Lake Company's other employees. Appolo Fuels, Inc. carries Shelly Lewis on its employee health insurance policy. Appolo Fuels, Inc. also provides health insurance not only for Fern Lake Company employees, but also for contractors. It pays the entire cost of health insurance coverage. There is no required employee contribution.

Mr. Asher and Mr. Gaudiano stated that Thomas Lewis provides security for Fern Lake in addition to his other job duties. He works ten-hour days. Thomas knows the fishing club members. Unless a person is a member of the fishing club or has written permission from Gary Asher, that person is not allowed to be on the property owned by Fern Lake Company. Mr. Lewis contacts the police if a person refuses to leave the area.

Mr. Asher and Mr. Gaudiano stated that Mr. and Ms. Lewis own a house on Fern Lake. As they live near the Fern Lake Company property, they are readily available to watch over the property and discover any trespassers or unauthorized visitors.

Mr. Asher and Mr. Gaudiano stated that Thomas Lewis and Shelly Lewis manage the fishing club in their private capacity, not as Fern Lake Company employees. Both insisted that Fern Lake Company receives little or no benefit from the fishing club. They have little knowledge of the fishing club and stated that any questions regarding the fishing club should be directed to Shelly Lewis. They further stated that Fern Lake Company allows the fishing club to use Fern Lake, but no written agreement between the club and Fern Lake exists. They also noted that the arrangement between the fishing club and Fern Lake Company existed prior to the Asher Brothers' acquisition of Fern Lake Company. They have merely permitted the arrangement to continue. Mr. Asher and Mr. Gaudiano indicated a desire to cancel the fishing club because of the proposed cost allocation in the Commission's Staff Report. They also indicated that the

fishing club has no real property interest in Fern Lake or Fern Lake Company's property.

Mr. Asher and Mr. Gaudio stated that Fern Lake Company has not previously claimed the expenses associated with its three employees because of the arrangement with Appolo Fuels, Inc. Appolo Fuels, Inc. is presently for sale. Once Appolo Fuels, Inc. is sold, they asserted, Fern Lake Company must be able to recover the expenses to employ the three individuals. They noted that Appolo Fuels, Inc. has been supporting Fern Lake Company since Gary Asher and Larry Asher purchased Fern Lake Company. They also stated that Fern Lake Company is not currently for sale.

Mr. Asher and Mr. Gaudio stated that Fern Lake Company does not have any property insurance. The company has liability coverage only.

Mr. Asher and Mr. Gaudio stated that Fern Lake Company is seeking recovery of all legal fees related to the rate adjustment case. Mr. Samford indicated that Fern Lake Company would provide the amount for which recovery is being sought and provide copies of the legal invoices. He further stated that the invoices contain privileged material and should be kept confidential.

Mr. Asher and Mr. Gaudio stated that Jim Golden, Appolo Fuels, Inc.'s corporate attorney, recommended Goss Samford, PLLC, to prepare the application for a rate increase. Fern Lake Company did not contact anyone else about preparing the application. Mr. Gaudio stated that he prepared the financial information used in the application. He acknowledged that he prepares Fern Lake Company's annual report. Coulter & Justice prepares Fern Lake Company's tax returns. Mr. Gaudio stated that Fern Lake Company has not yet filed its 2012 tax returns and was granted an extension until September 15, 2013 to file its returns.

The parties briefly discussed Commission Staff's recommendation regarding the allocation of costs between Fern Lake Company and the fishing club. Mr. Wuetcher stated that Commission Staff's statements regarding an equal allocation of certain costs between the two entities should not be construed a recommendation. Commission Staff's statements were intended only to identify the allocation of costs between the two entities as a possible issue that could be raised at the hearing on the proposed rate adjustment.

The conference attendees agreed that a telephone conference call should be scheduled within the next week to discuss a possible stipulation of some or all issues.

The informal conference then adjourned.

Attachment

cc: Parties of Record

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION FOR ALTERNATIVE RATE ) CASE NO.  
FILING OF FERN LAKE COMPANY ) 2013-00172

August 26, 2013

Please sign in:

NAME	REPRESENTING
<u>Sal Gaudiano</u>	<u>Fern Lake</u>
<u>GARY ASHER</u>	<u>FERN LAKE</u>
<u>Gregory Dutton</u>	<u>OAG</u>
<u>David Samford</u>	<u>Goss Samford - Fern Lake</u>
<u>Allison Henaker</u>	<u>" " " "</u>
<u>Mark Frost</u>	<u>PSC</u>
<u>Gerald Wretcher</u>	<u>PSC Staff</u>
<u>Ann Rausser</u>	<u>PSC</u>
<u>TODD OSTERLOH</u>	<u>WSCK / Utilities Inc</u>
<u>SCOTT LAWLESS</u>	<u>PSC Staff</u>
<u>JASON GREEN</u>	<u>PSC Staff</u>
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