

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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OCT 24 2013

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF RIVER ROAD)
DISPOSAL SYSTEMS TO)
TRANSFER)
OWNERSHIP AND CONTROL)

CASE NO. _____

APPLICATION

Applicant River Road Disposal Systems (hereinafter "River Road") hereby applies to the Kentucky Public Service Commission (hereinafter "Commission") for approval pursuant to KRS § 278.020(5) of a transfer of ownership and control of a jurisdictional utility, and any other approval necessary relating to a proposed transaction with the Paintsville Utilities Commission for and on behalf of the City of Paintsville, Kentucky (hereinafter "Paintsville Utilities"). In support of its request, River Road states as follows:

The Applicant

1. The Applicant, River Road Disposal Systems, operates a wastewater facility in the Powell Addition of Van Lear, Kentucky under the name River Road Disposal Systems and carries the PSC Utility Identification Number of 9000200. The application is submitted by Marsha Cantrell, Secretary/Manager with the assistance of Paintsville Utilities' counsel of record, Hon. A. David Blankenship.

Paintsville Utilities

2. Paintsville Utilities is a municipal utility under Kentucky law which provides utility services to the City of Paintsville, a 4th Class City, and to Johnson County. Paintsville Utilities joins in the application for the purpose of verifying its intent to acquire the River Road Disposal Systems wastewater facility, in accordance with the terms of Exhibit A.

Agreement with Paintsville Utilities

3. The action requested by this application is made pursuant to an agreement between River Road and the Paintsville Utilities dated October 14, 2013, a copy of which is attached hereto as Exhibit A.

4. River Road is authorized by this Commission to provide treatment of sewage for compensation within the Commonwealth of Kentucky. (See Order dated March 9, 2012). The Applicant's facilities constitute a treatment plant and pertinent collection and transmission system in a county containing a city of the 4th Class. The wastewater treatment plants, which are the subject of this application, are known as River Road Disposal Systems and provide service to 10 customers.

5. Copies of Orders, pleadings and other communication regarding this application should be directed to:

Marsha Cantrell
River Road Disposal Systems
178 Wallen Drive
Van Lear, KY 41265

David Blankenship
Attorney at Law
239 College Street
Paintsville, KY 41240

John West
Environmental Protection Cabinet
Division of Air
300 Fair Oaks Lane
Frankfort, KY 40601-1135

Gerald Wuetcher
Kentucky Public Service Comm.
P.O. Box 615
Frankfort, KY 40602

Proposed Transaction

6. River Road proposes to transfer to Paintsville Utilities which proposes to acquire, all the utilities, assets and liabilities of the Applicant pursuant to the agreement as set out in Exhibit A to this application.

7. Pursuant to Exhibit A, River Road will transfer all real and personal property owned by the Applicant in the operation of River Road to Paintsville Utilities. After the transaction described in Exhibit A is complete, the Applicant will have completely divested itself of any property, equipment and tangible property, contractual rights, and any other incidents of ownership relative to River Road Disposal.

KRS § 278.020(4) Transfer Requirements

8. The Commission should approve the transfer by River Road pursuant to KRS § 278.020(4). Paintsville Utilities has the financial, technical, and managerial abilities to continue to provide reasonable service following the consummation of the Proposed Transaction.

9. Paintsville Utilities has provided a copy of its most recent audit and a list of its certified operators by electronic mail in conjunction with the application.

10. If this application is granted, Paintsville Utilities does not anticipate any immediate increase in rate charges to customers of River Road Disposal.

11. Prior to the approval requested herein, River Road customers will be charged and will incur the current rate and classification as set forth in the tariff currently on file with this Commission. A rate change is not a part of this transaction.

12. The Applicant acknowledges that until the proposed transfer is approved, this Commission retains jurisdiction over the Applicant and its facilities and it agrees to continue to comply with all the Commission regulations.

13. The proposed transaction is lawful and is made for a proper purpose consistent with the public interest.

CONCLUSION

WHEREFORE, Applicant, River Road Disposal Systems, by and through Marsha Cantrell, its duly authorized officer, requests an Order of the Commission at the earliest possible date which:

a) Grants approval pursuant to KRS § 278.020(4) for the transfer to Paintsville Utilities of ownership and control of River Road Disposal Systems Wastewater Treatment Plants; and

b) Declares that no other Commission approvals are necessary for the proposed transaction or, in the alternative, grants any other approvals necessary.

Respectfully submitted,



Marsha Cantrell
Secretary/Manager
River Road Disposal Systems
178 Wallen Drive
Van Lear, KY 41265

VERIFICATION

I, Marsha Cantrell, do hereby swear or affirm that the contents of the foregoing Application are true and accurate to the best of my knowledge.



MARSHA CANTRELL

I, Eric Ratliff, as General Manager of Paintsville Utilities, do hereby swear or affirm that the contents of the foregoing Application are true and accurate to the best of my knowledge.


ERIC RATLIFF

COMMONWEALTH OF KENTUCKY
COUNTY OF JOHNSON

Signed and sworn to before me on the 15th day of October, 2013, by Marsha Cantrell, Secretary/Manager of River Road Disposal Systems.

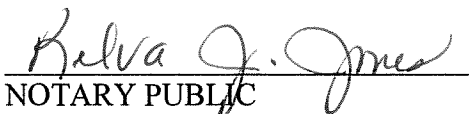

NOTARY PUBLIC

MY COMMISSION EXPIRES:

July 23, 2016

COMMONWEALTH OF KENTUCKY
COUNTY OF JOHNSON

Signed and sworn to before me on the 15th day of October, 2013 by Eric Ratliff, General Manager of Paintsville Utilities.


NOTARY PUBLIC

MY COMMISSION EXPIRES:

July 23, 2016.

CERTIFICATE OF FILING AND MAILING

I hereby certify that on this 16 day of October, 2013, the original and ten (10) copies of this Application were mailed, postage prepaid, to the Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40602 and that a copy was mailed, postage prepaid to:

Assistant Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601

Gerald Wuetcher
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602

John West
Environmental Protection Cabinet
Division of Air
300 Fair Oaks Lane
Frankfort, KY 40601-1135

David Blankenship
328 E. Court Street
Prestonsburg, KY 41653



Applicant

AGREEMENT

THIS AGREEMENT made and entered into this the 14th day of October, 2013, by and between the Paintsville Utilities Commission for and on behalf of the City of Paintsville, hereinafter referred to as "PUC", and River Road Disposal Systems, hereinafter referred to as "RRDS".

WITNESSETH

WHEREAS, RRDS desires to transfer ownership and control of its entire wastewater facilities located in Powell Addition, Kentucky and the PUC desires to acquire ownership and control of said facilities; and

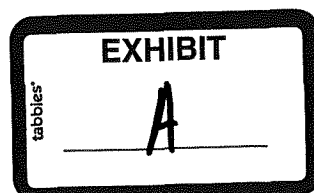
WHEREAS, the PUC and RRDS now desire to formalize their agreement in writing;

NOW, THEREFORE, for valuable consideration, the legal adequacy and sufficiency of which is hereby acknowledged by all parties, the parties do covenant and agree as follows:

SECTION ONE

TRANSFER AND ACCEPTANCE

1.1 Description of Agreement. Subject to the terms and conditions of this Agreement, RRDS hereby agrees to transfer unto the PUC and the PUC hereby agrees to accept from RRDS ownership and control of RRDS's entire wastewater facilities. Included in this transfer and acceptance are all rights in real property, all equipment and personal property, all easement rights, all facilities, all contract rights and accounts of RRDS, and all cash on hand. It is the intent of RRDS and the PUC that this transfer and



acceptance shall include all of RRDS's assets, including both real and personal property, and all rights, and privileges of every kind and nature, and wheresoever situated.

1.2 Title to be Delivered. RRDS agrees to transfer marketable fee simple title to all of the real and personal property of RRDS, which property shall not be subject to any lien or adverse interest of another except as may be acceptable to the PUC.

1.3 Documents of Transfer. RRDS shall execute all documents of transfer, including appropriate and recordable deeds of conveyance and bills of sale. All documents of transfer shall be duly authorized by appropriate instrument of RRDS.

1.4 Assumption of Debt and Contract Agreements. In consideration of the transfer of the wastewater facilities of RRDS to the PUC, PUC agrees that it shall assume all of the debt of RRDS on the date of closing. Additionally, PUC shall accept and honor all legally binding contractual agreements of RRDS with its customers and developers, including all pay back contracts, if any. However, these assumption provisions shall only be valid and enforceable subject to the following conditions:

- 1.4.1 RRDS shall use best efforts to identify to PUC all RRDS debts and contracts; and
- 1.4.2 All conditions precedent to closing shall have been fully satisfied and complied with.

SECTION TWO

REPRESENTATIONS AND WARRANTIES OF RRDS

2.1 Merchantable Title. RRDS hereby represents and warrants to PUC that it has full and complete merchantable title to the real and personal properties. PUC may waive any defect at its option.

2.2 Conditions of Facilities. RRDS hereby represents that to the best of its knowledge the facilities are in compliance with all federal, state and local law.

2.3 Financial Condition of RRDS. RRDS hereby represents that to the best of its knowledge the last audit substantially represents the RRDS's financial condition and/or otherwise represents that the same is in stable financial condition.

2.4 Adverse Proceeding. RRDS hereby represents to PUC that to the best of its knowledge it is not presently a party to any judicial or administrative proceeding (with the exception of that proceeding in front of the Kentucky Public Service Commission which is the impetus of this transfer), nor has it knowledge of any threatened or imminent judicial or administrative proceeding.

2.5 Operations. RRDS hereby represents to PUC that to the best of its knowledge the operation of the wastewater facilities has been and continues to be in compliance with all federal, state and local regulatory law.

SECTION THREE

OBLIGATIONS OF RRDS PRIOR TO CLOSING

3.1 Obligations to Continue Management of Facilities. From and after the date of the execution of this Agreement to date of closing, RRDS shall continue the

management, operation and maintenance of RRDS's wastewater facilities in a sound and reasonable manner and in accordance with standard practices. Additionally, RRDS shall continue to collect its charges from its customers in the usual and customary manner, and shall maintain good operating and accounting records.

3.2 Prohibition Against Further Liability and Expenditures. From and after the date of the execution of this Agreement to date of closing, RRDS shall not incur any additional liability or debt nor make any expenditure of funds unless such liability, debt or expenditure is reasonably necessary to the continued operations of RRDS or RRDS's compliance with its obligations as herein assumed. Additionally, RRDS shall not enter into any additional contractual relationship with any of its customers which is not in the ordinary course of business unless the prior written consent of the PUC is obtained.

3.3 Information to be Disclosed to PUC. RRDS shall make reasonable efforts to identify to PUC each and every liability, debt and contract to be assumed by PUC as provided for herein, and provide to PUC any agreements, documents or writings evidencing same. Additionally, RRDS shall provide to PUC full and complete access to all of its files, records, documents, maps, and writings, and PUC may request that RRDS personnel (if any) be available to PUC to be interviewed about operational matters, or otherwise provide information regarding the operation of the wastewater facilities.

3.4 Access to Real and Personal Property. RRDS shall provide to PUC full and complete access to the real and personal properties. PUC shall have the right to fully inspect same and perform any test or study as relates to same. RRDS shall identify to PUC any known defects or needs of imminent repair or replacement regarding any of the aforesaid property. Additionally, RRDS shall identify and provide to PUC any

manufacturer's warranties, documents of purchase, service agreements, or other written representations as related to any of RRDS's property.

SECTION FOUR

OBLIGATIONS OF PUC PRIOR TO CLOSING

4.1 Investigation. From and after the date of execution of this Agreement, PUC shall immediately commence its due diligence and inspection of the wastewater facilities, including the physical assets and all documents and records relating to liabilities, debts and contracts to be assumed by PUC as provided herein, and of the documents and records relating to the financial worth and condition of RRDS. PUC may employ, at its expense and discretion, any engineer, accountant, attorney or any other expert to perform any part of the investigation and inspection to be performed by PUC.

4.2 Approvals. From and after the date of the execution of this Agreement, PUC, to the extent required and not previously obtained, shall obtain any and all necessary approval for this transfer. PUC and RRDS shall jointly initiate the appropriate proceedings before any state or federal agencies, specifically including the Kentucky Public Service Commission for their consent and approval of this Agreement, and the transfer and acceptance as herein provided.

4.3 Audit. From and after the date of the execution of this Agreement, PUC may, at its discretion and cost, have a certified public accountant perform an audit of RRDS for the years 2011-13.

4.4 Documents of Transfer. PUC shall have prepared, at its cost, all documents of transfer, including any deeds of conveyance and bills of sale which shall be available for inspection by RRDS prior to the time of closing.

SECTION FIVE

CONDITIONS PRECEDENT TO TRANSFER AND ACCEPTANCE

5.1 Conditions Precedent. Notwithstanding the foregoing transfer and acceptance, this transfer and acceptance shall be subject to the following conditions precedent:

- 5.1.1 Title to real and personal property transferred herein shall be marketable fee simple title free and clear of all liens or adverse interests except those acceptable to PUC;
- 5.1.2 The transfer and acceptance shall be approved, if legally necessary and to the extent not already obtained, by the PUC and the City of Paintsville;
- 5.1.3 The transfer and assignment shall be fully and finally approved by applicable state and federal agencies, specifically including the Kentucky Public Service Commission;
- 5.1.4 The debts to be assumed by PUC as provided for herein are acceptable to PUC at its discretion;
- 5.1.5 The liabilities to be assumed by PUC as provided for herein are acceptable to PUC at its discretion;
- 5.1.6 The contractual agreements to be assumed by PUC as provided for herein are acceptable to PUC at its discretion;
- 5.1.7 RRDS shall be solvent and in a good financial condition;
- 5.1.8 The real and personal property to be transferred herein shall be in an acceptable condition and state of repair; and
- 5.1.9 All other representations and warranties of RRDS to PUC have been fully satisfied and complied with.

5.2 Satisfaction of Conditions Precedent. On the date of closing, all of the above-referenced conditions precedent shall be fully satisfied and complied with. In the event any one of the aforesaid conditions precedent is not fully satisfied and complied with, PUC, at its option, may terminate this Agreement, and upon such termination, the Agreement shall be of no further legal force and effect. Upon such termination, the RRDS shall not be liable to PUC in any manner whatsoever.

SECTION SIX

CLOSING

6.1 Date and Place of Closing. Upon PUC's determination that all conditions precedent have been fully satisfied and complied with, PUC shall immediately give written notice of such fact to RRDS. Closing shall take place as soon as practicable following the date of said notice, but in no event shall it be more than ninety (90) days from notice.

6.2 Documents of Transfer. At the time of closing, RRDS shall tender to PUC property executed documents of transfer including any appropriate resolutions of RRDS authorizing the transfer and appropriate deeds of conveyance and bills of sale. Additionally, at the time of transfer, RRDS shall tender to PUC all of its records and documents including, but not limited to, bank accounts, customer accounts and files, engineering plans, financial statements, audits, easements, contracts with customers, etc. It is the intent of the parties herein that on the date of closing, any and all of the property, rights and privileges shall be finally assigned and transferred from RRDS to the PUC.

6.3 Notice of Closing to RRDS Customers. In the event there is any requirement that notification of final transfer of RRDS's assets and property be given to the customers of RRDS, RRDS agrees to provide such notification.

SECTION SEVEN

OBLIGATIONS OF RRDS SUBSEQUENT TO CLOSING

7.1 Assistance in Transition. Immediately subsequent to closing, RRDS shall utilize its best efforts to assist PUC in transferring the customer accounts and files to PUC's system and to otherwise cooperate and assist PUC to finalize the transfer to property and the assumption of RRDS's operations by PUC. RRDS shall not do any act or omit to perform any act which is adverse or inimical to this Agreement.

7.2 Dissolution of RRDS. At such point in time that the transfer of property from RRDS to PUC has been fully finalized, and the assumption by PUC of RRDS's operations has been fully effectuated, RRDS, if necessary, shall file a petition, application or other pleading or document requesting dissolution of RRDS. RRDS shall perform all other acts necessary to finalize the same. All necessary costs including legal services, relating to said proceedings shall be assumed by RRDS.

SECTION EIGHT

POST-CLOSING OBLIGATIONS OF PUC

8.1 Operations of Wastewater Facilities. From and after the date of closing, PUC shall assume full control of the operations of the wastewater facilities and shall assume full responsibility for providing a quality and adequate wastewater disposal and

treatment to the customers of RRDS. It is the intention of this Agreement that PUC shall treat the RRDS customers in all respects the same as present PUC customers.

Additionally, PUC shall have full responsibility to repair, replace and otherwise maintain the RRDS's former wastewater facilities. PUC shall operate and maintain the same in accordance with its general practices and standards which PUC utilizes in relation to its other customers and, additionally, in compliance with all federal and state law.

8.2 Rates. Sewer rates shall be identical rates charged by PUC to all of its customers of the same class uniformly across the PUC wastewater customer base as of the effective date of this Agreement.

8.3 Future Rate Increases. Sewer rate increases to the RRDS's former customers shall be on the same percentage given to all customers of the same class across the PUC wastewater customer base.

8.4 Integration into Wastewater Distribution System. PUC, to the extent economically feasible, shall use its good faith and good business, engineering and operational practices to integrate the RRDS wastewater facilities into the PUC wastewater distribution system. The foregoing notwithstanding, all integration, improvement and extension shall remain in the discretion of PUC and shall at all times be subject to prudent business practices, available funding and standards for utilities.

8.5 Real Property Transferred at Time of Closing – Use by System. All real property which is transferred by RRDS to PUC at the time of closing shall be held by PUC and/or used by PUC for utilities purposes only.

8.6 RRDS's Debts. PUC agrees to pay and satisfy all assumed debts of RRDS in accordance with the arrangements made by RRDS to its various creditors.

8.7 RRDS's Contracts. PUC agrees to assume and perform all contractual obligations of RRDS.

SECTION NINE

MISCELLANEOUS

9.1 Reference to PUC's General Practices and Standards. The references in this Agreement to PUC's "general practices and standards" shall be defined to include not only the general practices and standards presently utilized by PUC, but additionally, any other practices and standards which may be utilized by PUC in the future, so long as said general practices and standards treat RRDS customers in all respects the same as other PUC customers. Nothing contained in this Agreement shall impair or limit PUC from amending or modifying its general practices and standards, or implementing new practices and standards. The intent of the parties hereto is merely that the RRDS customers shall be treated as PUC customers as they are presently treated by PUC and as they may be treated by PUC in the future.

9.2 Entire Agreement. This Agreement represents the entire agreement by and between the parties hereto, and all prior promises, representations, covenants and understandings are fully merged herein. There are no other promises, terms, conditions, or obligations other than those specifically contained herein.

9.3 Captions. The captions appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the clauses to which they pertain.

9.4 Applicable Law. It is mutually understood and agreed that this Agreement shall be governed by the laws of the Commonwealth of Kentucky as to both interpretation and performance.

9.5 Binding Effect. This Agreement shall bind and inure to the benefit of the parties hereto, and each of their respective successors and assigns.

9.6 Assignment. This Agreement, any interest herein, or any claim arising hereunder, shall not be transferred by either party without the prior written consent of the other party.

9.7 Notices. Notice to PUC and RRDS shall be given at the following addresses:

PUC

Eric Ratliff
Paintsville Utilities
P.O. Box 630
Paintsville, KY 41240

RRDS

Marsha Cantrell
Secretary/Manager
178 Wallen Drive
Van Lear, KY 41265

9.8 Severability. The parties agree that if a court of competent jurisdiction holds any one or more of the paragraphs or subparagraphs of this Agreement to be invalid or ineffective for any reason, any such paragraph or subparagraph will be deemed separate from the remainder of this Agreement and will not affect the validity and enforceability of the remaining provisions.

9.9 Indemnification. From and after the date of execution of this Agreement and after closing, PUC agrees to fully indemnify and hold harmless RRDS from any claim by any persons by reason of RRDS entering into this Agreement or obligations which flow therefrom.

It is clearly understood that PUC assumes all rights, obligations, debts, claims, or contingent claims of RRDS at the time of closing and will fully indemnify and hold harmless the RRDS from any such obligation, debt or claim.

9.10 Third Party Beneficiaries. The parties hereto expressly agree that for a period of five (5) years from the date of this Agreement the customers of RRDS, at the time of this Agreement, shall be considered to be third party beneficiaries to this Agreement and during said period any RRDS customer may seek to enforce in a court of law any failures of the parties to honor the duties and obligations set forth herein. It is expressly agreed that any legal dissolution of RRDS shall not abrogate rights of said third party beneficiaries as set forth in this section.

IN WITNESS WHEREOF, the parties hereto have sent their hands on the date first above written.

RIVER ROAD DISPOSAL SYSTEMS

BY: Maisha Cantwell

ITS: Sec. Treasurer

PAINTSVILLE UTILITIES COMMISSION

BY: [Signature]

ITS: GENEAL MALDEN

COMMONWEALTH OF KENTUCKY
COUNTY OF JOHNSON

Subscribed and sworn to before me this 14th day of Oct,
2013, by Marsha Cantrell (title), a duly authorized
representative of River Road Disposal Systems.

Belva J. Jones
NOTARY PUBLIC

MY COMMISSION EXPIRES:

July 23, 2016

COMMONWEALTH OF KENTUCKY
COUNTY OF JOHNSON

Subscribed and sworn to before me this 14 day of Oct.,
2013, by Eric Rathjff (title), a duly authorized
representative of Paintsville Utilities Commission.

Belva J. Jones
NOTARY PUBLIC

MY COMMISSION EXPIRES:

July 23, 2016