

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF CEDAR HILLS DISPOSAL )  
SANITATION CORPORATION'S NOTICE OF ) CASE NO.  
INTENT TO ABANDON SERVICE ) 2015-00100

ORDER

On March 30, 2015, Cedar Hills Disposal Sanitation Corporation ("Cedar Hills") tendered a letter to the Commission requesting approval to discontinue all sewer services to its customers.<sup>1</sup> In support of its request, Cedar Hills states that it has been losing money and can no longer afford to continue to operate, that its facilities are deteriorating, and that its certified operator is having increasing difficulty in complying with testing and reporting requirements. Additionally, Cedar Hills' owner wants to retire and does not want to pass the utility on to his children. Cedar Hills states that it does not have any other employees to serve as an operator and due to its worsening financial condition it is unable to pay for any additional personnel.

Cedar Hills asserts that other companies in the Daviess County region could provide sewer service to the Cedar Hills customers. It specifically notes that the preferable solution would be for the customers to connect to the Regional Water Resource Agency ("RWRA"), which is the regional wastewater service provider for Owensboro and Daviess County, Kentucky, through connecting to the Owensboro East Waste Water Treatment Plant ("Owensboro East").

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<sup>1</sup> Letter from A.V. Conway, II, Conway & Keown to Jeff Derouen, Executive Director, Kentucky Public Service Commission (dated March 24, 2015). Attached as the Appendix to this Order.

Cedar Hills requests authorization, pursuant to KRS 278.021(2)(b), to abandon all interests in its real and personal property necessary to provide sewer service and to cease operation no later than April 30, 2015. It notes that as of April 1, 2015, it will no longer have a valid permit to continue operating.<sup>2</sup> Cedar Hills intends to notify its customers by March 31, 2015, of its intent to abandon.

Cedar Hills is a for-profit sewer utility that provides sanitary sewer services to 119 customers in Daviess County, Kentucky.<sup>3</sup> It is a utility subject to the Commission's jurisdiction and regulation.<sup>4</sup>

KRS 278.020(5) provides that:

[n]o utility shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission.

KRS 278.021 further provides, in part:

If the commission, after notice and hearing, enters an order in which it finds that a utility is abandoned, the commission may bring an action in the Franklin Circuit Court for an order attaching the assets of the utility and placing those assets under the sole control and responsibility of a receiver.

Based on the evidence of record, the Commission finds that an investigation should be conducted to examine Cedar Hills' request to abandon its sewer facilities. We further find that the Attorney General's Office of Rate Intervention ("AG"), RWRA,

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<sup>2</sup> Cedar Hills states that "we do intend to seek or otherwise make application for additional permit(s);" however, this statement appears to be the result of a typographical omission of the word "not."

<sup>3</sup> *Annual Report of Cedar Hills Sanitation Disposal Corporation to the Public Service Commission of Kentucky for the Calendar Year Ended December 31, 2013* at 9 and 25.

<sup>4</sup> KRS 278.010(3)(f); KRS 278.040.

Owensboro East, and the Daviess County Judge-Executive should be served with a copy of this Order.

IT IS THEREFORE ORDERED that:

1. This case is initiated to investigate the request by Cedar Hills to abandon its utility services and facilities.
2. Cedar Hills shall continue to operate its utility facilities during the pendency of this investigation and shall continue operating until the Commission issues an Order adjudicating Cedar Hills' request to abandon its facilities.
3. The Executive Director shall serve a copy of this Order upon the AG, RWRA, Owensboro East, and the Daviess County judge-Executive.

By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2015-00100 DATED **APR 02 2015**

# CONWAY & KEOWN

RECEIVED

MAR 30 2015

PUBLIC SERVICE  
COMMISSION

JUSTIN S. KEOWN  
LICENSED IN KY

ATTORNEYS AT LAW

A. V. CONWAY, II  
LICENSED IN KY & TN

March 24, 2015

*Via Certified Mail, Return Receipt Requested*

Mr. Jeff Derouen, Executive Director  
Kentucky Public Service Commission  
P. O. Box 615  
211 Sower Blvd.  
Frankfort, KY 40602-0615

Re: Cedar Hills Disposal Sanitation Corporation –  
Intent to Abandon Pursuant to KRS 278.021(2)(b)

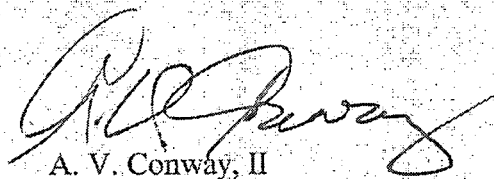
Dear Mr. Derouen:

Enclosed is the notification of my client, Cedar Hills Disposal Sanitation Corporation's, intent to abandon operation of its facilities pursuant to KRS 278.021(2)(b). Please list me as attorney of record for and on behalf of Cedar Hills Disposal Sanitation Corporation, and copy me with all orders and directives issued by the Public Service Commission.

We look forward to hearing from you.

Sincerely,

CONWAY & KEOWN



A. V. Conway, II

AVC:sbc  
enclosure

RECEIVED

MAR 30 2015

PUBLIC SERVICE  
COMMISSION

Cedar Hills Disposal Sanitation Corporation  
101 North Main Street  
Beaver Dam, Kentucky 42320

March 17, 2015

Mr. Jeff Derouen, Executive Director  
Kentucky Public Service Commission  
P. O. Box 615  
211 Sower Blvd.  
Frankfort, Kentucky 40602-0615

Re: Notification of Cedar Hills Disposal Sanitation Corporation's of intent to abandon the operation of its facilities pursuant to KRS 278.021(2)(b)

Dear Sir:

On behalf of Cedar Hills Disposal Sanitation Corporation ("Cedar Hills"), you are notified of Cedar Hills' request to be permitted to abandon the operation of its facilities used to provide solid waste and waste water disposal and discontinue all services to its customers in Daviess County, Kentucky. For purposes of this notice, you are advised that Cedar Hills' corporate address is 101 North Main Street, Beaver Dam, Kentucky 42320, and its registered agent is the undersigned, A. Scott Lewis, whose address is also 101 North Main Street, Beaver Dam, Kentucky 42320. This request is being made for the following reasons:

- (1) For several years, Cedar Hills has been losing money and can no longer afford to continue in operation.
- (2) Our facilities are in a deteriorating condition and will only get worse over time, with the corporation having inadequate income to make needed improvements.
- (3) Cedar Hills' certified operator is Eugene Richeson (certified operator number 28227). Because of age, declining health issues, and technology changes associated both with the operation and maintenance of the facility, and the testing and reporting requirements now mandated by both statute and regulations, Mr. Richeson has had ever increasing difficulties in performing the necessary work of an operator. The owner is also wanting to retire and does not want the burden passed on to his children.

March 17, 2015

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Re: Cedar Hills Disposal Sanitation Corporation

Cedar Hills has no other employee that qualifies as an operator, and considering the ever worsening financial issues is not in position to update the equipment necessary to continue in operation, or to retain and pay the services of an additional operator and/or other employees necessary for continued operation. For all of these reasons, we are forced to request the abandonment of this facility pursuant to KRS 278.021(2)(b).

We believe that there are other companies in Daviess County who have the capability of providing the solid waste and waste water services which are now being provided by Cedar Hills to its customers. In addition, and as referenced in Exhibit 1, the optimum solution would be for the customers to be able to connect onto RWRA and Owensboro East Waste Water Treatment Plant as soon as possible.

We are requesting authorization to abandon the operation of our facilities and to cease any further services by not later than April 30, 2015. However, as of April 1, 2015, Cedar Hills will no longer have a valid permit to continue to operate this facility and you are informed that we do intend to seek or otherwise make application for any additional permit(s). It is our intent to notify each customer of Cedar Hills by letter by on or before March 31, 2015 that we are requesting authorization from this Commission to discontinue all services by April 30, 2015. This should give each of our customers more than adequate time to secure services as needed.

All records, taxes, and filings required by statute or regulation are current at this time.

We will attempt to continue to provide services and look forward to your direction and decision with regard to our request to be permitted to abandon this facility as authorized by KRS 278.021(2)(b).

Respectfully,



A. Scott Lewis

\*Cedar Hills Sanitation Disposal Corporation  
101 North Main Street  
Beaver Dam, KY 42320

\*A.V. Conway, II  
Conway & Keown Attorneys At Law  
124 West Union Street  
P.O. Box 25  
Hartford, KENTUCKY 42347