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January 26, 2016

RECEIVED

JAN 27 2016

PUBLIC SERVICE
COMMISSION

Jeff Derouen
Executive Director
KY Public Service Commission
PO Box 615
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

RE: In the Matter of: Application for Alternative Rate
Filing of Bush Gardens Enterprises, LLC
PSC Case No. 2015-00306

Mr. Derouen,

Enclosed please find for filing with the Commission in the above-referenced case an original and ten (10) copies of Bush Gardens' Response and Objections to Commission Staff Report. Please return a file-stamped copy to me.

Do not hesitate to contact me if you have any questions.

Respectfully Submitted,

Aaron R. Davis

Enclosure

Aaron R. Davis
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sdavis@thedavisfirmpllc.com

JAN 27 2016

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

APPLICATION OF BUSH GARDENS
ENTERPRISES, LLC FOR APPROVAL OF
INITIAL SEWER RATES PURSUANT TO THE
ALTERNATIVE RATE FILING PROCEDURES
FOR SMALL UTILITIES AND TARIFF

CASE NO. 2015-00306

**BUSH GARDENS' WRITTEN COMMENTS AND OBJECTIONS TO
COMMISSION STAFF'S REPORT AND REQUEST FOR INFORMAL CONFERENCE
AND FORMAL HEARING**

Comes now Bush Gardens Enterprises, LLC ("Bush Gardens"), by counsel, and hereby provides its Written Comments and Objections to the Commission Staff Report filed on January 13, 2016 ("Staff Report"), pursuant to the Commission's Order of October 14, 2015 and other applicable law, respectfully stating as follows:

Comments and Objections

Pursuant to Paragraph 3(a) of the Order¹, Bush Gardens makes the following comments and objections:

1. Bush Gardens objects to the Staff Report finding that for management negligence and violation history, an owner/manager fee should be withheld from Bush Gardens. Bush Gardens was formed on June 22, 2015. Before this date, the Bush Garden Treatment Plant was managed by its Owner, Linda Bowling and her husband, David Bowling. Linda and David Bowling provided and managed sewer service for the Bush Gardens subdivision, free of charge, throughout its existence. During that time, it is possible that they may be

¹ Order (entered October 14, 2015) at 2.

perceived to have been negligent in maintaining invoices, keeping a formal receipts and disbursements journal, as well as in the overall supervision of the plant, specifically, to eliminate violations. However, before June 22, 2015, Lance Bowling had no managerial duties of the Bush Gardens Treatment Plant. Therefore, it is inequitable to hold any negligence attributed to Linda and David Bowling against their son, Lance Bowling. Furthermore, since June 22, 2015, Linda and David Bowling continue to manage this treatment plant because such management duties continue to be gratuitous. Nevertheless, when a rate is established, Bush Gardens will hire Lance Bowling with its owner/manager fee (originally, incorrectly termed “owner/manager” fee² and later, correctly termed a “manager” fee³) to manage its affairs. Lance Bowling will receive this compensation exclusively. Lance Bowling is more than well-qualified to manage the plant and receive compensation for doing so as he holds a B.S. Biology degree, as well as a B.S. Chemistry degree (Pikeville College, 2001). Thus, it is unconscionable that he would be compelled to manage this treatment plant without compensation. Bush Gardens has been forthcoming in anticipating what duties, obligations, and responsibilities Lance Bowling may face if a rate is set and he is hired as Manager of Bush Gardens. Bush Gardens maintains the position that a \$3,600 manager fee would be reasonable compensation for Lance Bowling.

2. Bush Gardens objects to the Staff Report’s finding that fuel and power expense should decrease by \$64. Invoices provided by The Big Sandy Rural Electric Cooperative Corporation (“Big Sand RECC”) and included in the Bush Garden submittal unequivocally state amounts showing that the Bush Gardens Treatment plant power usage for 2014 totals \$878.84, an amount equal to the Bush Gardens submittal in September 2015.⁴

² Application at ARF-Form 1-Attachment-SAO-S.

³ Bush Gardens Enterprises’ Answer to Commission Staff’s Initial Request for Information at 11.

⁴ Supra, n. 3 at Exhibit 3.

3. Bush Gardens does not object to the exclusion of the \$1,240 for maintenance structures and improvements.
4. Bush Gardens does not object to the Staff Report's analysis of depreciation, specifically the exclusion of the original construction costs and the inclusion of the Discharge Pipe and Pump and Blower Motor in depreciation.
5. Bush Gardens agrees that the Commission should authorize the assessment of the \$480 for KPDES Testing, which was inadvertently omitted from the original submittal.
6. Bush Gardens agrees that the Commission should exclude the property tax for the treatment plant. The treatment plant property was transferred to Bush Gardens on September 1, 2015 (Johnson County Records, Deed Book 448, Page 778). Bush Gardens anticipated a property tax bill by December 2015; however, after talking with the Johnson County PVA, a property tax bill will not be issued until late in 2016. When a property tax bill is assessed to Bush Gardens, Bush Gardens plans to revise its sewer rate accordingly.
7. Bush Gardens agrees with the Staff Report's recommendations of non-recurring charges.
8. Bush Gardens agrees with the Staff Report's recommendations regarding "Tariff Submission."

Written Request for Hearing and Informal Conference

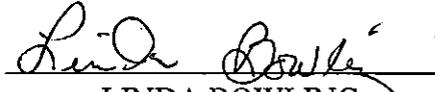
Pursuant to Paragraph 7 of the Order⁵, Bush Gardens requests both an informal conference and a hearing. Unless otherwise ordered, Bush Gardens shall serve the homeowners by mail pursuant to 807 KAR 5:001, Section 9(2)(b)(3). For further clarification, this submittal serves as notice that this matter may **NOT** be submitted for a decision based upon the existing record, without a hearing, as referenced in Paragraph 3(c) of the Order.⁶

⁵ Order (entered October 14, 2015) at 3.

⁶ Supra, n. 5.

CERTIFICATION

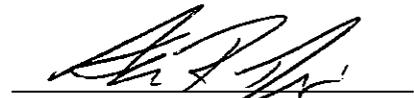
I, LINDA BOWLING, do hereby verify the contents of the above Complaint are true and correct to the best of my knowledge, information, and belief formed after a reasonable inquiry.


LINDA BOWLING

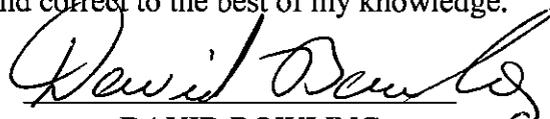
STATE OF KENTUCKY
COUNTY OF PIKE

Subscribed and sworn to before me by LINDA BOWLING on this 26th
day of January, 2016.

MY COMMISSION EXPIRES: 12/5/18


NOTARY PUBLIC

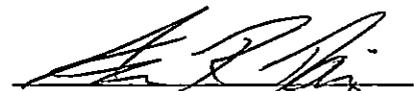
I, DAVID BOWLING, do hereby verify the contents of the above Complaint are true and correct to the best of my knowledge.


DAVID BOWLING

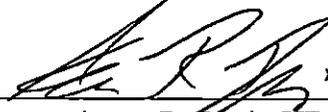
STATE OF KENTUCKY
COUNTY OF PIKE

Subscribed and sworn to before me by DAVID BOWLING on this 26th
day of January, 2016.

MY COMMISSION EXPIRES: 12/5/18


NOTARY PUBLIC

Respectfully submitted,



Aaron R. Davis, KBA #96155

Member of The Davis Firm, PLLC
Attorneys for Bush Gardens Enterprises, LLC
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Certificate of Service and Filing

Counsel certifies that an original and one copy of the foregoing were served and filed by First Class U.S. Mail, postage pre-paid, to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Hon. Andy Beshear, Attorney General
Hon. Angela M. Goad
Hon. Gregory T. Dutton
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

This 26th day of JANUARY, 2016.



Aaron R. Davis