

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AIRVIEW UTILITIES, LLC'S NOTICE OF )  
SURRENDER AND ABANDONMENT OF UTILITY ) CASE NO. 2016-00207  
PROPERTY )

NOTICE OF FILING

Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on October 12, 2016 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on October 12, 2016 in this proceeding;
- A written log listing, *inter alia*, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on October 12, 2016.

A copy of this Notice, the certification of the digital video record, hearing log, and exhibits have been electronically served upon all persons listed at the end of this Notice. Parties desiring an electronic copy of the digital video recording of the hearing in Windows Media format may download a copy at [http://psc.ky.gov/av\\_broadcast/2016-00207/2016-00207\\_12Oct16\\_Inter.aspx](http://psc.ky.gov/av_broadcast/2016-00207/2016-00207_12Oct16_Inter.aspx). Parties wishing an annotated digital video recording may submit a written request by electronic mail to [pscfilings@ky.gov](mailto:pscfilings@ky.gov). A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 19<sup>th</sup> day of October 2016.

*Talina R. Mathews*

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Executive Director  
Public Service Commission of Kentucky

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Airview Utilities, LLC  
1706 Bardstown Road  
Louisville, KY 40205

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:


AIRVIEW UTILITIES, LLC'S NOTICE )  
OF SURRENDER AND ABANDONMENT ) CASE NO. 2016-00207  
OF UTILITY PROPERTY )

CERTIFICATION

I, Pamela Hughes, hereby certify that:

1. The attached DVD contains a digital recording of the Hearing conducted in the above-styled proceeding on October 12, 2016. Hearing Log, Exhibits, Exhibit List, and Witness List are included with the recording on October 12, 2016.
2. I am responsible for the preparation of the digital recording.
3. The digital recording accurately and correctly depicts the Hearing of October 12, 2016.
4. The "Exhibit List" attached to this Certificate correctly lists all exhibits introduced at the hearing of October 12, 2016.
5. The "Hearing Log" attached to this Certificate accurately and correctly states the events that occurred at the Hearing of October 12, 2016, and the time at which each occurred.

Signed this 13<sup>th</sup> day of October, 2016.

  
Pamela Hughes, Notary Public  
State at Large  
My Commission Expires: April 22, 2019



Date:	Type:	Location:	Department:
10/12/2016	Other	Hearing Room 1	Hearing Room 1 (HR 1)

Judge: Bob Cicero; Dan Logsdon; Michael Schmitt  
 Defendant: Marty Cogan; Lawrence W Smither  
 Witness: Marty Cogan; Lawrence W. Smither  
 Clerk: Pam Hughes

Event Time	Log Event
8:16:36 AM	Session Started
8:16:39 AM	Session Paused
8:59:48 AM	Session Resumed
9:00:32 AM	Chairman Schmitt Note: Hughes, Pam Preliminary remarks and introduction of Commissioners, Bob Cicero and Dan Logsdon Chairman Schmitt
9:01:31 AM	Introductions Note: Hughes, Pam All attorney's introduced themselves: Robert Moore for Airview Utilities- Angela Goad and Morgan Faulkner for AG - David Spenard and Jennifer Fell of the PSC
9:02:24 AM	Chairman Schmitt asks for Public Comments Note: Hughes, Pam Chairman Schmitt asks for Public Comments
9:02:42 AM	Tommy Furlong, making public comments, Note: Hughes, Pam Tommy Furlong making public comments, Resident of the Airview service area.
9:03:08 AM	Camera Lock Applicant Activated
9:03:16 AM	Camera Lock Intervenor Activated
9:08:15 AM	Elizabeth Harper, public comment Note: Hughes, Pam Area resident paying Airview Utilities and lots of problems with water and sewage. Worried about being homeless if no one takes this over.
9:09:42 AM	Chairman Schmitt Note: Hughes, Pam City of Elizabethtown sent in Public comments yesterday. Ltr from Debra Shaw of city of E-town. Chairman read the letter with no objections. Letter will be made part of the record.
9:09:44 AM	Camera Lock Deactivated
9:12:41 AM	Chairman Schmitt Note: Hughes, Pam Chairman Schmitt asked for any exhibits to be given at this time. Robert Moore, AG, and PSC Staff all had exhibits.
9:13:44 AM	Chairman Schmitt Note: Hughes, Pam Asks for any pending Motions- No pending Motions
9:16:51 AM	Camera Lock Applicant Activated
9:17:14 AM	Camera Lock Deactivated
9:17:25 AM	Camera Lock Applicant Activated
9:17:37 AM	Camera Lock Deactivated
9:17:41 AM	Chairman Schmitt Note: Hughes, Pam Asks for any objections as to exhibits Note: Hughes, Pam Robert Moore-Airview objects to AG's exhibits-Chairman Schmitt said he would rule on that later,
9:20:04 AM	Atty Moore Note: Hughes, Pam Robert Moore stated the notice of filing to customers by Airview notifying customers of hearing held today was filed.

9:21:03 AM	Atty Moore-Airview Note: Hughes, Pam	Chairman swears in Mr. SMither Lawrence W, Smither is called to the stand for Airview
9:21:51 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam Note: Hughes, Pam	exam of Witness Smither Mr Smither states that he owns other waste water treatment plants. Member of the Corporation along with Martin Cogan. No other members. Mr. SMither oversees the day to day operations and supply sewer service tothe Airview estates. Took over in 2005.
9:23:51 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Experience in financing for repairs
9:24:29 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Mr. Smither states thatAirview Utilties, LLC is located at Pine Valley Drive in the city of E-town. City of E-town and Hardin C WD 2 is the closest to Airview. Hardin Co WD 1 provides sewer service to its customers but he isn't sure. 203 customers of Airview. Monthly rate is 41.36 per mo
9:26:53 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam Note: Hughes, Pam	exam of Witness Smither Upgrades needed-WWTP needs to be replaced and has exceeded the life as a WWTP. The steel tanks are not in good condition. Condition of the AWWTP. Description of the plant-not in best condition, installed in 1969 and was meant to be temporary solution for the development for only 20 to 25 years. Made of steel. Designed for a housing complex.
9:29:35 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither WWTP has outlived it's planned treatment life. Questions regardingSpecific upgrades to be made by request of DOW- Consistent compliance with the permit, declorination, new flow meter.
9:33:16 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither 30,000 for new tank and 3 to 4 thousand for declorination. \$5000 for new flow meter, and to Clean Lagoon 500,000
9:35:12 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Opinion to replace WWTP with new pkg plant for Airview. 350 to 400 thousand dollars. No engineering figures yet.
9:36:09 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Question regarding monthly rate established in 2014. Yes it was and Mr. SMither recalls requesting more.
9:36:58 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Exhibit A notice of compliance. Atty Moore gave to Mr. Smither and he agreed with the questioning.
9:38:26 AM	Robert Moore-Airview Utilites Attorney Note: Hughes, Pam	direct exam of Witness Smithe Exhibit B Interim local committee on local Gov. Page 2, last paragraph. Any info concerning of life span of normal wwtp, Mr. Smith says yes and reads that info into the record.
9:40:24 AM	Robert Moore-Airview Utilites Attorney Note: Hughes, Pam	direct exam of Witness Smithe Exhibit C - Attachment D is a list of expenses. Mr. Smither agrees this is the average monthly expenses of \$7,726.76 . 7,591.13 is loss monthly.
9:42:06 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Exhibit D-list of payables that Airview owes to companys, utilities and contractors. \$90, 213.10 total, accumulated over several years. Airview is unable to pay these expenses.
9:44:31 AM	Atty Moore-Airview Utilites- direct Note: Hughes, Pam	exam of Witness Smither Regarding why people are not paying for the wwtp services. Mr Smither stated that this is aTransient neighborhood and people move without paying.

9:45:18 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Questions about when Smither and Cogan took over Airview- in 2005, was Hardin Co 2 providing billing and collection services. It stopped in 2008. They still provide the water for Airview, and could just include the sewer on the bill. In 2008 when Hardin Co 2 stopped doing the sewer billing they gave no reason other than they did not want to get back into the situation.

9:47:06 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam If rate adj increase was approved would Airview still suffer difficulties because the bills won't be paid? Mr. Smither says yes.

9:47:59 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Question as to what has been done to try to collect monthly payments or arrearages? Witness Smither stated they hired an agency in Lexington but had no luck and stopped the contract with them.

9:49:22 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Question regarding what happens if Airview former tenant has run up the bill and a new tenant has moved in. Can money be collected by new tenant? Mr. SMither stated NO.

9:50:15 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Exhibit D-were these expenses incurred due to operation of the WWTP? Mr. Smither stated, Yes.  
Note: Hughes, Pam Bank won't loan the money to help with expenses to run WWTP.

9:51:18 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Has Airview tried to work with any govermental entities? City of E-town and Hardin 1 and 2. Ongoing discussions are going on with the city of Elizabethtown to take over.

9:52:49 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Mr. Smither agrees that Airview has made the decision to abandon the Airview WWTP.. Factors were; for a reciever to take over and would have the ability and the funds to take over. The plant is old and needs to be replaced.

9:54:42 AM Atty Moore-Airview Utilites- direct exam of Witness Smither  
Note: Hughes, Pam Will Airview continue to operate until the PSC gives them the ok to stop? Mr. Smither states YES  
Note: Hughes, Pam Does Airview own any other wwtp?--NO

9:55:54 AM AG cross exam of Witness Smither  
Note: Hughes, Pam Are you co-owner, yes and Martin Cogan is the other one. Did you answer the data requests? Yes.

9:57:14 AM AG cross exam of Witness Smither  
Note: Hughes, Pam State other utilities that you and Mr. Cogan own. Do you have plans to abandon these utilities? No

9:58:05 AM AG cross exam of Witness Smither  
Note: Hughes, Pam Questioning of dissolving Lake Cumberland in 2006. Currently operating this utility and will file notification once resolution has been made?

9:59:32 AM AG cross exam of Witness Smither  
Note: Hughes, Pam Leased property of Airview, have you made owners aware that the abandonment is taking place? Mr. Smither states No. Who is lease payment made to? Mr. Smither pays \$1 per year but is not aware that it has ever been paid.

10:00:54 AM AG cross exam of Witness Smither  
Note: Hughes, Pam Questions to why abandonment of Airview WWTP is taking place.

10:01:49 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Questions if a portion of ratepayers not paying due to poor service. Mr Smither agrees they are not making their payments but he doesn't know why they are not paying. He believes Airview is providing good service.
10:03:00 AM	AG cross exam of Witness Smither Note: Hughes, Pam  Note: Hughes, Pam	No records are kept for customer complaints? Mr. SMither states that only when there is a back up of sewer only. How many customer complaints rec'd of bad service? Mr. SMither doesn't know how many complaints rec'd.
10:05:18 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Would like a post hearing data request from 2012 to 2016 of customer complaints rec'd.
10:06:22 AM	Robert Moore- Atty for Airview Note: Hughes, Pam	Robert Moore is objecting to the post data request from the AG.
10:08:03 AM	Chairman Schmitt to AG Note: Hughes, Pam  Note: Hughes, Pam	Chairman Schmitt questions AG what the customer complaints would show. Chairman will not rule at this time but will make a ruling within a few days.
10:09:44 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Petition for rate hike AG Exhibit 1 into the record. Questions as to if Mr. Smither recognizes any names on the Petition.
10:13:43 AM	Atty Moore-Airview Note: Hughes, Pam	objection to this document Exhibit 1 of the AG
10:14:15 AM	Chairman Schmitt Note: Hughes, Pam	Chairman agrees to let the exhibit in the record
10:15:07 AM	AG cross exam of Witness Smither Note: Hughes, Pam  Note: Hughes, Pam	Questions if Mr. Smither agrees that 114 customers signed a document that wasn't truthful. Mr. Smither states they have always tried to respond and take care of the problems. He does not feel this is true. Questions as to Airview having problems getting paid due to poor service. Mr. Smither will not say that it is because of poor service.
10:17:03 AM	AG cross exam of Witness Smither Note: Hughes, Pam  Note: Hughes, Pam	Regarding Violations from the Dept of Enviromental protection. 43 separate violations. Complaint filed in February by the Dept of Environmental Protection
10:21:22 AM	Atty Moore-Airview Note: Hughes, Pam	objection to question of non-compliance. Chairman Schmitt sustains.
10:22:24 AM	AG to Chairman Schmitt Note: Hughes, Pam Note: Hughes, Pam	Chairman Schmitt sustains the objection to this questioning Relevance to questioning.
10:23:49 AM	AG cross exam of Witness Smither Note: Hughes, Pam  Note: Hughes, Pam	Questions why would the loans not be in writing. Airview and Brockland. Linda Wood keeps all records for the utilities and is an employee of Airiew Utilities, LLC Airview's outstanding debts. AG Exhibit 2-Attachment B which is Airview's response to AG's DR
10:27:45 AM	AG to Chaiman Schmitt Note: Hughes, Pam Note: Hughes, Pam	Requests Post-hearing Data request on all Loans requested. Attty Moore objects to this. Chairman Schmitt says AG is entitled to know about this loan from Brockland, what type, when it was made.



10:32:03 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Regarding why Airview or Brockland did not ask PSC permission for these loans.
10:33:30 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Questions about Covered Bridge Utilities. Mr. Smither owns it exclusively and has done the repairs for Airview and all other utilities owned by himself and Mr. Cogan. Smme other bids have been obtained for other things, but not on repairs.
10:35:05 AM	AG cross exam of Witness Smither Note: Hughes, Pam Note: Hughes, Pam	Shawn Ford is the operator. Please explain his job duties at Airview. 12,950.00 is owed to Mr. Ford for his duties. 500.00 a month for each worker (Andrew) they both work for Airview and Covered Bridge Utilities.
10:37:35 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Question 5.C. on supplemental requests from the AG to Airview. Concerning Shawn Ford's duties and payment for services.
10:41:13 AM	Atty Moore Note: Hughes, Pam Note: Hughes, Pam	Atty Moore objects, Chairman Schmitt sustains. Regarding Coolbrook Utilities, owned by both Mr. Smither and Mr. Cogan. Would like Post Data Hearing requests.
10:42:26 AM	AG cross exam of Witness Smither Note: Hughes, Pam  Note: Hughes, Pam	Regarding question 4 in Data Request filed into record 10-11-16 Fox Run Utility loan. Would like Post hearing data request. Chirman Schmitt overrules this request.
10:44:18 AM	AG cross exam of Witness Smither Note: Hughes, Pam	Questions as if any creditor of Airview will take leal action to collect debts owed to them.
10:44:47 AM	Chairman Schmitt calls for 10 minute break	
10:45:00 AM	Session Paused	
10:55:19 AM	Session Resumed	
10:55:26 AM	Chairman Schmitt Note: Hughes, Pam	Asks that everyone please speak into the microphone or speak louder if you move away from it.
10:56:11 AM	PSC Atty Spenard Note: Hughes, Pam	Comm Staff tendered 3 exhibits during the break. Current rate Exhibit 1 is cover page of application. Exhibit 2 is the Ltr, Exhibit 3 is the Order filed 2014-00215 and wants them entered in the record
10:58:25 AM	PSC Atty Spenard cross-exam of Witness Smither Note: Hughes, Pam	Regarding education and training to ownership and operation of the sewer facility.
11:00:03 AM	PSC Atty Spenard cross exam of Witness Smither Note: Hughes, Pam Note: Hughes, Pam	Airview LLC notice of abandonment Regarding 1st page, number paragraph 2.
11:07:29 AM	PSC Atty Spenard cross exam of Witness Smither Note: Hughes, Pam	Statement in Airview's Notice of Abandonment approximate date as to dismantle the system.
11:09:01 AM	Atty Spenard-PSC to Witness Smither Note: Hughes, Pam Note: Hughes, Pam	What rate did Airview propose? Staff Exhibit 1 Notice of election ad Application for abandonment.
11:10:24 AM	PSC Atty Spenard cross exam of Witness Smither Note: Hughes, Pam	PSC Staff Exhibit 2 Letter dated 11/21/2014 signed by Mr. Smither. Para. 2
11:11:16 AM	PSC Atty Spenard cross exam of Witness Smither Note: Hughes, Pam	Staff exhibit 3 Final Order in Case No. 2014-00215. Questioning the rate.

11:12:12 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Staff exhibit 4, Eric Carrico Letter to Airview Utilities, LLC 3-19-14

11:13:06 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Regarding titles and assets held, Are there any assests in the name of any other entity to fund the wwtp.

11:14:20 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Airview's Attachment B-Exhibit D

11:15:12 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Page 6- identification of property. Listing of all property Airview LLC utilizes. Post data hearing request for all properties surrendering and abandoning.  
Note: Hughes, Pam First request for info to Airview from Comm Staff, page 5 #14.

11:19:31 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Regarding lease agreement 10-4-05

11:19:57 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Comm Staff's DR item 14.  
Note: Hughes, Pam #12 of AG's Data request, owned by the Slater's.

11:21:32 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Any liens or judgments against Airview? NO Does Airview relinquish all property rights to provide service and willing to sign all documents necessary to attach a reciever? YES Willing to sign documents to liguidate to transfer to third party? YES  
Note: Hughes, Pam Regarding abandonment returning real property leased from the slater's.

11:23:45 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Mr. Smither Testimomy has authorized abandonment filing  
Note: Hughes, Pam Mr. Smither is responsible for the day to day operations.

11:25:08 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Regarding Discussions between Airview and the city of Elizabethtown.  
Note: Hughes, Pam Mr. Smither states they are interested but concerned about financing and connecting, etc.

11:26:19 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Regarding approximate cost

11:26:42 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Regarding Franklin Circuit Court not attaching a reciever, does Airview have a plan? NO

11:27:18 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam Plant built around 1969, life expectancy is 20 to 25 years. Transfer of ownership in 2005, Where was WWTP life expectancy at that time?

11:28:51 AM PSC Atty Spenard cross exam of Witness Smither  
Note: Hughes, Pam No further questions for Witness Smither

11:29:15 AM Atty Moore-redirect to Witness Smither  
Note: Hughes, Pam redirect questioning to Witness Smither aout DOW encouraging him to take over this WWTP.

11:30:19 AM Atty Moore-redirect to Witness Smither  
Note: Hughes, Pam Regarding Linda Wood as an employee, she is a contractor of Airview, LLC, not an employee as previously stated.

11:31:01 AM Atty Moore-redirect to Witness Smither  
Note: Hughes, Pam Regarding Loans between utilities

11:31:28 AM Atty Moore-redirect to Witness Smither  
Note: Hughes, Pam Staff Exhibit 1-Notice of election and Application for abandonment-2nd page 2nd paragraph.

11:33:27 AM Atty Moore-redirect to Witness Smither  
Note: Hughes, Pam Staff Exhibit 2-Letter from Lawrence Smither to PSC Executive Director  
Note: Hughes, Pam Regarding if letter sent because of Airview's financial situation

11:35:30 AM Atty Moore-redirect to Witness Smither  
Note: Hughes, Pam Airview's exhibits filed

11:36:07 AM Vice Chairman Cicero cross exam of Witness Smither  
Note: Hughes, Pam Regarding purchase of Airview in 2005 because of the encouragement of the DOW.  
Note: Hughes, Pam Regarding rate request from \$28 to \$40? made to the Commission.

11:38:17 AM Vice Chairman Cicero cross exam of Witness Smither  
Note: Hughes, Pam Regarding Exhibit C of Airview, Attachment D

11:42:12 AM Vice Chairman Cicero cross exam of Witness Smither  
Note: Hughes, Pam Regarding Airview's Exhibit D Attachment B-  
Note: Hughes, Pam Regarding Legal fees

11:48:05 AM Vice Chairman Cicero cross exam of Witness Smither  
Note: Hughes, Pam Airview Exhibit E- Attachment A Treatment plants paid expenses for 5 years.  
Note: Hughes, Pam Legal fees for the past 5 years be provided to Staff on post data hearing request.

11:51:22 AM Chairman Schmitt wants to call next witness  
Note: Hughes, Pam Witness Smither leaves the stand.

11:52:24 AM Chairman Schmitt  
Note: Hughes, Pam Witness Cogan is sworn in, and accepts his testimony

11:52:46 AM Atty Moore direct exam of Witness Cogan  
Note: Hughes, Pam Martin Cogan is a member of Airview Utilities, LLC -education background and experience in operating WWTP.

11:54:30 AM Atty Moore direct exam of Witness Cogan  
Note: Hughes, Pam Regarding Staff Exhibit 4- Letter from Eric Carrico

11:56:49 AM Atty Moore direct exam of Witness Cogan  
Note: Hughes, Pam Estimate of cost and repair of Airview

11:57:22 AM Atty Moore direct exam of Witness Cogan  
Note: Hughes, Pam Regarding Hardin Co WD 2 was billing for Airview at the time of taking over.

11:59:28 AM Atty Moore direct exam of Witness Cogan  
Note: Hughes, Pam Regarding Staff Exhibit 4- Letter from Eric Carrico

12:01:53 PM Atty Moore direct exam of Witness Cogan  
Note: Hughes, Pam Regarding decision to abandon the Airview WWTP

12:02:25 PM AG cross exam to Witness Cogan  
Note: Hughes, Pam Regarding confirmation that Mr. Cogan and Mr. Smither are the only members for Airview, and that they both agreed to abandon.

12:03:30 PM Atty Spenard cross exam to Witness Cogan  
Note: Hughes, Pam Regarding site visit made by Eric Carrico to Airview site.

12:04:13 PM Atty Spenard cross exam to Witness Cogan  
Note: Hughes, Pam Staff's 1st request for info Ltr--do you believe the date was a typo? Yes, believes it to be in 2015  
Note: Hughes, Pam Staff wants data request as to dates. Atty Moore objects, Chairman overrules.

12:06:13 PM Atty Spenard cross exam to Witness Cogan  
Note: Hughes, Pam Regarding to sign all documents necessary for Franklion Circuit Court to attach a receiver, and also if it is turned over to a third party.

12:07:09 PM Atty Spenard cross exam to Witness Cogan  
Note: Hughes, Pam Regarding abandonment and commission actions

12:07:35 PM	Atty Spenard cross exam to Witness Cogan Note: Hughes, Pam	If Franklin Circuit Court does not attach a receiver does Airview have a plan?
12:09:27 PM	Vice Chairman Cicero cross exam of Witness Cogan Note: Hughes, Pam	Regarding Mr. Cogan testifying only wanting to be in this short term.
12:12:36 PM	Aty Moore redirect to Witness Cogan Note: Hughes, Pam	Clarify age of tank.
12:13:19 PM	Chairman Schmitt Note: Hughes, Pam	Mr. Cogan excused
12:13:49 PM	Chairman Schmitt Note: Hughes, Pam Note: Hughes, Pam	Post Data Hearing Requests: Legal expenses from 2012- to present; AG requests loan documents from Brockland, Covered Bridge and CoolBrook: AG wants notarized verification of most recent responses; AG requests complaints filed by customers to Airview but was filed by a petition, Chairman overrules this; Staff requests 1st request for info #14 a list of all property abandoning; Staff wants dates Airview rec'd Ltr from Eric Carrico and the date Carrico visited the site. This information needs to be provided by October 24, 2016.
12:19:32 PM	Chairman Schmitt Note: Hughes, Pam	Exhibits filed in the record from the PSC Staff, Airview and the AG and also the notice of hearing that public was notified of hearing; also the letter from the city of Elizabethtown; discovery responses by Atty Moore.
12:23:22 PM	Chairman Schmitt Note: Hughes, Pam	Post Hearing briefing schedule (after Oct. 24th) Briefs to be filed by November 9th by Atty Moore.
12:25:59 PM	Chairman Schmitt Note: Hughes, Pam	Hearing adjourned
12:26:11 PM	Session Paused	
11:17:09 AM	Session Ended	



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<b>Name:</b>	<b>Description:</b>
AG Exhibit 1	Petition of residents of Airview Utilities dated July 4, 2014
AG Exhibit 2	Attachment B- List of expenses owed by Airview Utilities
Airview - Exhibit B	Interim Joint Committee On Local Government-Minutes of 2nd meeting held August 2, 2016
Airview - Exhibit C	Attachment D-List of expenses paid by Airview in 2016
Airview - Exhibit D	Attachment B - List expenses still owed.
Airview - Exhibit E	Attachment A- treatment plants paid expenses for 5 years
Airview-Exhibit A	Notice of Filing of Compliance with KRS 278.020(11).
Staff Exhibit 1	Airview's Application for rate Adjustment dated June 30, 2014. Case No. 2014-00215
Staff Exhibit 2	Letter from Lawrence Smither of Airview Utilities, LLC to Executive Director of PSC, dated 11-25-14
Staff Exhibit 3	Order in Case No. 2014-00215 - Application of Airview for rate adjustment
Staff Exhibit 4	Letter to Lawrence Smither from Eric Carrico, dated 3-19-14 (Witness Cogan stated the date was a typo and should have been 2015.

RECEIVED

JUL 30 2014

PUBLIC SERVICE  
COMMISSION

2014-00215

## PETITION FOR RATE HIKE RE-CONSIDERATION

July 4, 2014

To Whom It May Concern;

We the Residents of Airview Estates are protesting the 47.6% Rate Increase of (\$13.00) on our sewage bills.

We are already paying enough for no more than we are getting from AIRVIEW UTILITIES LLC.

There are sewage problems, and we get absolutely **NO** help from these people when we call. Usually we get an answering machine, in which you leave a message and it goes unanswered. Almost every time it rains 98 % of the residents with basements must call in a plumber, because of the sewage backing up in their basements, back yards and bathroom tubs. One family almost lost their child due to the drain in their bathroom not draining properly, (the child had a near drowning experience and had to be in the ICU at Kosair's Children's Hospital in Louisville KY. (117 Hickory Hill Drive)).

At the present time these people are just taking our money and we are getting nothing in return, as far as help with these above problems. Very seldom do we see a chemical truck or anyone else going to the sewage area. So where is our \$28.45 a month per resident going???

Most of the residents are on a fixed income and can't afford this kind of rate hike. As it is now we are paying too much for no more than what we are getting as a service from Airview Utilities LLC. They could care less about the problems, they don't live out here and they don't have to deal with these issues.

Airview Utilities stated, "That they would provide adequate sewer service." Where is the adequate service????

So as residents we feel that we have a right to make you all in Frankfort aware that there are issues and we are not receiving any help from these people at AIRVIEW UTILITIES LLC. We are opposing a rate hike that will put a financial burden on each resident.

If you could please take these issues at hand in consideration and re-evaluate approving this for AIRVIEW UTILITIES LLC, we as residents would greatly appreciate this!! You may feel free to contact any of the residents who sign this petition.

Thank You again for your time in checking into this matter.

Regards,

Signed Below By the Residents of Airview Estates

Elizabethtown KY 42701

Name	Address
Linda Darrow	99 E Airview
Larry Bruner	97 E. Airview
Melanie Bruner	97 E. Airview
Cindy Swartz	95 E Airview
Denny Whitworth	93 E Airview Dr
Daniel Morgan	92 W. Airview Dr
Tracy Smith	90 W. Airview Dr
Sabby Holt	88 W. Airview Dr
Anna Young	87 W. Airview Dr
Jeremy Burk	26 W Airview
Michelle FHS	27 W Airview Dr.
Bradley Terry	24 W. Airview Dr
Richard M Pease	28 W. Airview Dr
Shirley Kelley	29 W. Airview Dr
Rose Palmer	31 W Airview Dr.
LESA Ammons	105 E Airview Dr
Margie Ammond	105 EAST Airview DR
Erica Odgas	183 East Airview Dr.
Ryan McCoy	102 E. Airview Dr
Ryan McCoy	102 E Airview
Doralee LUCKETT	77 Tall Oak Ct
Lewis Lockett	77 Tall Oak Ct
Bob Jones Johnson	76 TALL OAK CT
Steve Hutchinson	73 TALL OAK CT
Kristen M. Miller	72 Tall Oak Ct
John L. Miller	71 Tall Oak Ct
Richard L. Miller	70 Tall Oak Ct - E. Mary Ky
Kon Lockett	69 Tall Oak Ct E. Ky
John Lockett	82 Tall Oak Ct
Kona PRIEST	81 TALL OAK CT
Mary Huffines	79 Tall Oak Ct
Daniel Schenck	56 West Airview Dr.
Johnny Dyer	57 West Airview Dr

Name	Address
JAMES A CAMPBELL	167 East Airview
Madman Road	239 S. Airview Dr
Charles Clark	239 S. Airview Dr
Margaret Ruthin	153 Airview Drive
Angela Erler	153 Airview Drive
Terese Sebast	240 Airview Dr.
Hill Cayo	241 Airview Dr
Joseph Jester	242 Airview Dr
Eric + Lannagan	247 Airview Dr
Jason Mattingly	152 Airview Dr
<del>John</del>	151 Airview Dr
Billy Minutiello	250 Airview Dr
Emery Mantam	257 Airview Dr
Gloria W. H. Mole	150 Airview Drive
(ALICE KAY JONES)	148 AIRVIEW DR
MARLA SOLLAM	149 AIRVIEW DR
Lou Anna Nail	6E Airview Dr.
Rebecca Clark	147 Airview Dr
Danny Clark	147 Airview DC
Lorrie Roman	259 Airview Dr
Amanda (HARRIS)	261 Airview Dr
Eric Smith	263 Airview Dr
Mike	266 Airview Dr
Kevin	139 Airview DR
Barbara Taylor	146 BARRON
Barbara Deane White	135 Hickory Hill Dr
Don Mc	107 Hickory Hill
SANDRA R. DICKENS	97 BRYAN ST. E-TOWN KY
Jessica Smith	110 Hickory Hill Dr. E-Town Ky
Melissa Keefe	111 Hickory Hill Dr.
Dorlene Kennedy	118 Hickory Hill Dr.
Sam S. Brown	121 Hickory Dr.
Ella L. Killeen	129 Hickory Hill Dr. E-Town Ky



Name	Address
Jordan Ben	106 East Airview Dr.
Cherise Castledge	4 - East Airview Dr.
Lynis Pedrick	5 - E. Airview Dr.
Chris Myers	7 East Airview Dr.
Chris Harris	8 E Airview Dr.
Shan Veltman	12 E Airview Dr.
Lisa Ennis	13 E Airview Dr.
Kyngia Julian	17 Walnut Way
Nadim Willioceus	20 W Airview Dr.
Ronnie Figg	21 W. Airview Dr.
Paul Adams	22 W Airview Dr.
Carney Morales	23 W Airview drive
Kimberly S. East	160 Elm St.
Vicki Buckler	104 E Airview Dr.
Dee Duda	103 E Airview Dr.
Georgia Johnson	106 E. Airview Dr.
LeHela Parker	155 E. Andrew Drive
Kathy Schulenburg	238 East Airview Dr.
Isaiah M. Smith	163 East Air View Dr.
Theresa Bond	172 W. Airview Dr.
Jenny Nellums	174 W. Airview Dr.
Vanessa Lopez	171 W Airview Dr.
Leona Goodman	1108 W Airview Dr.
Traci Latta	49 W Airview Dr.
Brenda Dready	124 Hickory Hill Dr.
ORA + TARA DAY	125 Hickory Hill Dr.
Chris Ann Beckwith	126 Hickory Hill Dr.
Nichole Gilland	127 Hickory Hill Dr.
Clifton Effies	130 Hickory Hill Dr.
Justin Younger	117 Hickory Hill Drive
Jennifer Ysunza	117 Hickory Hill Drive
Wendy Steiman	159 E. Airview Dr.
Cheryl Flores	162 E. Airview Dr.

Name	Address
David Burton	54 W. Airview Dr.
Janet Jensen	53 W. Airview Dr.
Janet Jensen	47 W. Airview Dr.
Mildred <del>Hall</del> <del>Alphason</del>	47 W. Airview Dr.
Linda <del>Howard</del>	42 W. Airview Dr.
Stanley Howard	42 W. Airview Dr.
Janet Goldsmith	56 Airview Dr.
Mavis Garon Melin	40 Airview Dr.
Oliver P. Hall	37 West Airview
Noah Braun	36 West Airview
Hosea Wilson	35 W. Airview Dr.
Linda Hamler	64 W. Airview Dr.
Brandon Hamler	64 W. Airview Dr.
Anna Martin	32 W. Airview Dr.
Mark Fifth	62 W. Airview Dr.

Attachment B

4,950.00	Brocklyn Utilities – Brocklyn Utilities made loans to Airview Utilities so that Airview Utilities could continue to operate and maintain the Airview WWTP.
39,950.56	Covered Bridge Utilities – Airview Utilities owes this amount to Covered Bridge Utilities for repairs and maintenance performed at the Airview WWTP, and the remote lift station.
12,950.00	Shawn Ford – Airview Utilities owes this amount to Shawn Ford for operating the WWTP.
3,485.28	Hazelrigg & Cox, LLP – Airview Utilities owes this amount to Hazelrigg & Cox, LLP for legal work performed for the utility.
6,650.00	Murphy Excavating – Airview owes this amount to Murphy Excavating for sewer repair work, including unclogging sewer mains, property service connections and other general sewer line repair work.
4,115.00	Coolbrook Loan – Coolbrook Utilities made loans to Airview Utilities so that Airview Utilities could continue to operate and maintain the Airview WWTP.
11,400.00	Integrity Bookkeeping – Airview Utilities owes this amount to Integrity Bookkeeping for bookkeeping work done for the company, including but not limited to billing of customers and collections and payment of bills.
476.00	Hornback Plumbing – Airview Utilities owes this amount to Hornback Plumbing for sewer main repairs.
3,536.60	Stites & Harbison, PLLC - Airview Utilities owes this amount to Stites & Harbison PLLC for legal work performed for the utility.
2,400.00	Strothman & Co, CPA - Airview Utilities owes this amount to Strothman & Co for accounting work, including but not limited to the preparation and filing of tax returns.
299.66	KY State Property Tax- Airview Utilities owes this amount for 2015 property taxes.
90,213.10	Total

SUBMIT ORIGINAL AND FIVE ADDITIONAL COPIES, UNLESS FILING ELECTRONICALLY

**APPLICATION FOR RATE ADJUSTMENT  
BEFORE THE PUBLIC SERVICE COMMISSION**

For Small Utilities Pursuant to 807 KAR 5:076  
(Alternative Rate Filing)

**RECEIVED**  
JUN 30 2014  
PUBLIC SERVICE  
COMMISSION

AIRVIEW UTILITIES, LLC  
(Name of Utility)

---

P.O. BOX 91588  
(Business Mailing Address - Number and Street, or P.O. Box)

---

LOUISVILLE, KY 40291  
(Business Mailing Address - City, State, and Zip)

---

(502) 241-4809  
(Telephone Number)

**BASIC INFORMATION**

NAME, TITLE, ADDRESS, TELEPHONE NUMBER and E-MAIL ADDRESS of the person to whom correspondence or communications concerning this application should be directed:

LARRY SMITHER  
(Name)

---

P.O. BOX 91588  
(Address - Number and Street or P.O. Box)

---

LOUISVILLE, KY 40291  
(Address - City, State, Zip)

---

(502) 241-4809  
(Telephone Number)

---

larrys76@bellsouth.net  
(Email Address)

**(For each statement below, the Applicant should check either "YES", "NO", or "NOT APPLICABLE" (N/A))**

- |   | YES                                 | NO                       | N/A                                 |
|---|-------------------------------------|--------------------------|-------------------------------------|
| 1. a. In its immediate past calendar year of operation, Applicant had \$5,000,000 or less in gross annual revenue.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| b. Applicant operates two or more divisions that provide different types of utility service. In its immediate past calendar year of operation, Applicant had \$5,000,000 or less in gross annual revenue from the division for which a rate adjustment is sought. | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. a. Applicant has filed an annual report with the Public Service Commission for the past year.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| b. Applicant has filed an annual report with the Public Service Commission for the two previous years.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| 3. Applicant's records are kept separate from other commonly-owned enterprises.   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |

### Airview "Reasons For Application" Attachment

Airview needs a significant rate increase to properly operate and maintain its aging sewer plant in Hardin County, Kentucky. Airview currently charges a monthly rate of \$28.45 – a rate which has not been increased in over 10 years - and this rate is totally inadequate to provide the cash flow necessary to meet current environmental requirements for testing and treating sewage; to maintain and upgrade aging plant; and to simply pay the bills.

In recent years, Airview has operated with substantial negative cash flow and large net losses. This situation has been exacerbated by high levels of nonpaying customers and uncollectible bills, which are due to the fact that the local water district no longer performs billing and collection services for Airview. The 2013 unadjusted test year includes a high level of uncollectibles, although Airview has removed this expense entirely in determining its proposed rate increase. Still, the Commission should be aware that the revenue requirement approved in this case is unlikely to be fully collected, and that Airview will expend significant efforts just to collect something less than the full revenue requirement.

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Included with Airview's rate application are various bills, quotes and other documents showing substantial cost increases on a going-forward basis. Airview is proposing a \$42.00 monthly sewer rate, but believes it could justify an even higher rate based on its costs.

### Current and Proposed Rates

Airview currently charges a monthly rate of \$28.45, and is proposing to increase this rate to \$42.00 – an increase of approximately 47.6%.

November 21, 2014

Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Post Office Box 615  
Frankfort, KY 40602

RECEIVED

NOV 25 2014

PUBLIC SERVICE  
COMMISSION

Re: Airview Utilities, LLC Rate Case No. 2014-00215

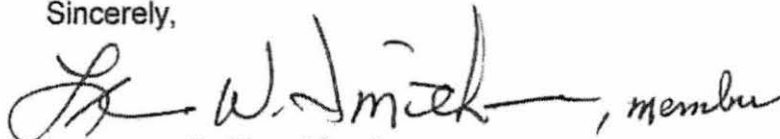
Dear Sirs:

Airview has reviewed the PSC Staff Report issued on November 20, 2014 in the above-referenced case, and has no objections to any of its findings and recommendations. In addition, Airview does not object to the Commission requiring Airview to implement the Staff Report's recommended changes in the manner in which Airview accounts for the depreciation of its assets. Therefore, Airview requests that this matter be submitted to the PSC for decision based upon the existing record without an informal conference or a hearing.

Airview implores the PSC to adopt the Staff Report and issue a Final Order as soon as humanly possible in this case. Airview is the only party to the case, and the Staff Report clearly indicates Airview's negative cash flow is at least \$1,000 each month. Our financial position is precarious, and Airview has no ready access to financing, so we can only hope no major plant breakdowns occur until significant funds are generated from the rate increase. Also, even after any rate increase is approved, there will be more than one month of additional regulatory lag before greater collections from the rate increase occur, because of the PSC's requirement that rates be effective "for service rendered on and after" the date of any Final Order.

Finally, Airview wishes to thank the PSC Staff for its professionalism in handling this case, and also for the recommendations contained in the Staff Report to improve its collection methods. We will attempt to implement those recommendations to the best of our ability.

Sincerely,



Lawrence Smither, Member  
Airview Utilities, LLC

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF AIRVIEW UTILITIES, LLC	)	CASE NO.
FOR RATE ADJUSTMENT FOR SMALL	)	2014-00215
UTILITIES PURSUANT TO 807 KAR 5:076	)	

ORDER

On August 28, 2014, Airview Utilities, LLC ("Airview") filed an application with the Commission, pursuant to 807 KAR 5:076, requesting to adjust its rates for sewer service.<sup>1</sup> Airview requested rates that would increase annual wastewater service revenues by \$32,357, or 47.63 percent. By this Order, the Commission approves rates that will produce annual wastewater service revenues of \$96,291, an increase of \$30,059, or 45.38 percent, over pro forma present rate revenues from wastewater service of \$66,232.<sup>2</sup> A flat-rate residential bill will increase from \$28.45 to \$41.36 per month, an increase of \$12.91, or 45.38 percent.<sup>3</sup>

By Order issued September 11, 2014, the Commission established a procedural schedule for review of Airview's application. The procedural schedule required Commission Staff ("Staff") to file a report ("Staff Report") no later than November 20, 2014, summarizing its findings regarding the rates requested by Airview. The

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<sup>1</sup> Airview tendered its application on June 30, 2014. After Airview corrected filing deficiencies, the Commission accepted the application for filing on August 28, 2014.

<sup>2</sup> Refer to the calculations of the overall revenue requirement and required revenue increase using Operating Ratio Method in the Staff Report at 14.

<sup>3</sup> Staff Report at 2.

procedural schedule also required that Airview file its comments or objections to the Staff Report within 19 days of the date of the Staff Report. Unless all parties agreed that the case would stand submitted to the Commission for a decision based upon the record, an informal conference would be held on December 18, 2014.

On November 20, 2014, Staff submitted its Staff Report finding that Airview's overall revenue requirement is \$96,291 when the Operating Ratio Method is applied, and that a monthly flat rate of \$41.36 will generate the overall revenue requirement.<sup>4</sup> On November 25, 2014, after reviewing the Staff Report, Airview requested approval of the rate calculated by Staff, and requested that the case stand submitted for a Commission decision without a hearing. Airview further agreed to a 7-year asset life for the effluent pump and a 7.5-year asset life for the cost to rebuild the clarifier rake system gear. Pursuant to the terms of the procedural schedule, the informal conference was canceled and the case stood submitted for decision based upon the existing record without a hearing.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Airview, a Kentucky corporation, owns and operates sewage treatment and collection facilities that serve approximately 194 customers in Hardin County, Kentucky.<sup>5</sup>

2. The calendar year ended December 31, 2013, should be used as the test year to determine the reasonableness of Airview's existing and proposed rates.

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<sup>4</sup> *Id* at 14.

<sup>5</sup> *Id* at 3-4.



3. Based upon pro forma test-year operations, Airview's total pro forma present rate revenue and total pro forma operating expenses, after adjusting for known and measurable changes, are \$66,232 and \$84,736, respectively.<sup>6</sup>

4. Given that no basis exists to determine an appropriate rate of return for Airview, the use of an operating ratio<sup>7</sup> to determine its total revenue requirement is appropriate.<sup>8</sup>

5. Airview's pro forma operations, as calculated by Staff using the Operating Ratio Method, support a total revenue requirement of \$96,291, and an increase to wastewater service revenue of \$30,059, or 45.38 percent.<sup>9</sup>

6. Airview's proposed rates will produce annual revenues in excess of \$96,291 and should be denied.

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<sup>6</sup> *Id.* at 3.

<sup>7</sup> Operating ratio is defined as the ratio of expenses, including depreciation and taxes, to gross revenues. It is illustrated by the following equation:

Operating Ratio	<u>Operation &amp; Maintenance Expenses + Depreciation + Taxes</u>	Gross Revenues
Operating Expenses	\$ 84,736	
Divide by: Operating Ratio	<u>88%</u>	
Operating Revenues	96,291	
Less: Operating Expenses	<u>(84,736)</u>	
Allowable NOI	<u>\$ 11,555</u>	

<sup>8</sup> See, e.g., Case No. 8468, *An Adjustment of the rates of Plantation Hill Sewage Treatment Plant, Inc.* (Ky. PSC June 25, 1982); 1 A.J G Priest, *Principles of Public Utility Regulation* (Michie 1969), 220-224.

<sup>9</sup> Staff Report at 14.

7. The rates set forth in Appendix A to this Order will produce the overall revenue requirement, are fair, just, and reasonable and should be approved for service rendered on and after the date of this Order.

8. The Commission received service complaints contained in public comments to Airview's request for an adjustment in rates. The Commission takes service complaints seriously but recognizes that the adjustment of rates and service complaints are separate issues.<sup>10</sup> Airview is to correct any deficiencies noted during plant inspections or be subject to further proceedings.

IT IS THEREFORE ORDERED that:

- 
1. The rates proposed in Airview's application are denied.
  2. The rates shown in Appendix A to this Order are approved for sewer service rendered on and after the date of this Order.
  3. Within 20 days of the date of this Order, Airview shall file revised tariff sheets with the Commission, using the Commission's electronic Tariff Filing System, containing the rates set forth in Appendix A to this Order.
  4. Airview shall, for accounting and ratemaking purposes, use the "PSC Approved Service Lives" set forth in Appendix B to this Order for the listed classes of assets when calculating and reporting depreciation for all reporting periods after the date of this Order. No retroactive adjustment to accumulated depreciation, or retained earnings to account for this change in the accounting estimate, shall be made.

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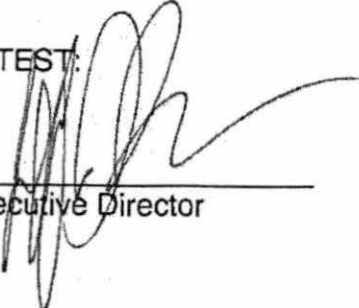
<sup>10</sup> See *South Central Bell Telephone Co. v. Util. Reg. Comm'n*, 637 S.W.2d 649 (Ky. 1982). (Because the ratemaking process addresses only financial matters and separate procedures specifically provide for investigation of service-oriented problems, the question of rates should be kept separate from the question of quality of service.)

By the Commission

ENTERED  
DEC 22 2014  
KENTUCKY PUBLIC  
SERVICE COMMISSION

---

ATTEST:



Executive Director

Case No. 2014-00215

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2014-00215 DATED **DEC 22 2014**

The following rates and charges are prescribed for the customers in the area served by Airview Utilities, LLC. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Monthly Rates

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Single Family Residential – Residential Flat Rate

\$41.36

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2014-00215 DATED **DEC 22 2014**

Asset Classification

PSC Approved  
Service Lives

Effluent pump

7

Clarifier rake system gear rebuilding

7.5

---

Honorable Robert C Moore  
Attorney At Law  
Hazelrigg & Cox, LLP  
415 West Main Street  
P.O. Box 676  
Frankfort, KENTUCKY 40602

Larry Smither  
Airview Utilities, LLC  
P. O. Box 91588  
Louisville, KY 40291

---

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Eric M. Carrico P.E.  
8700 Oldbury Place  
Louisville, KY 40222  
Phone: 502/415-8529

March 19, 2014

Airview Utilities, LLC  
PO Box 91588  
Louisville, KY  
40291  
Attn. Mr. Lawrence W. Smither

By E-mail  
ericcarrico@gmail.com

**RE: Airview WWTP**

Mr. Smither:

Thank you for the opportunity to inspect and provide recommendations for the future treatment plant options associated the Airview Utilities waste water treatment plant located in the city of Elizabethtown, Kentucky. I am submitting this letter based on the information found on the site visit and subsequent follow up meetings. The letter details a work plan, cost assumptions, and summary of pricing including clarifications and exceptions for the work. Feel free to contact me with any questions or comments you may have in regard to anything in this report. I look forward to discussing these items at your convenience.

Sincerely,

Eric M. Carrico PE  
License No. 25090

ATTACHMENT A

## SUMMARY REPORT

The project consisted of evaluating construction alternatives for the existing Airview Utilities Wastewater Treatment plant located in Elizabethtown, Kentucky. The existing treatment plant was constructed approximately 40 years ago. The existing plant has a capacity of approximately 50,000 gallons per day for treatment of sanitary sewage. The treatment plant was originally designed for connections of the Airview neighborhood which consisted of a total 203 connections. Since the initial construction, additional residential services have been added to the treatment plant lowering the overall capacity of the system. Additionally as the overall sewer system has aged an increase of inflow and infiltration has developed from deteriorating pipes, manholes, and other components of the system which occur as a sanitary system treatment life cycle ends. Infiltration and inflow are two such problems that are affecting large and small collection systems around the country.

Infiltration is excess water which flows into old or damaged collection systems from the surrounding soil. For example, high groundwater or water remaining in the soil after rain events will often infiltrate mainline pipes, joints, service laterals, connections, and other parts of the system which have deteriorated, cracked, sagged, or collapsed. Additional unwanted water may also enter the collection systems from above ground sources such as leaky manhole covers or combined storm water/wastewater connections. In addition, private residences may have roof, cellar, yard, area, or foundation drains inappropriately connected to sanitary sewers. Any extra water flowing into the collection system from above ground sources, either intentionally or unintentionally is referred to as inflow. When collection systems become old and in disrepair, it often is very difficult to determine exactly how much of the extra wastewater is in the system as the result of inflow versus infiltration. A system of this age has reached the end of its useful life based on the following conditions which may also indicate the presence of I/I and a need to determine the size of replacing the entire treatment system.

- Greater than anticipated flows measured at the wastewater treatment facility
- Hydraulic overloading of treatment facilities indicated by “washout” of treatment processes
- Sewer system overflows or bypasses after rainfall events
- Lift station overflows
- Excessive power costs for pumping stations
- Overtaxing of station facilities resulting in frequent mechanical replacements
- Excessive treatment costs for the community
- Complaints of odors, pipe corrosion, settlement, structural failure, and collapse of pipes.

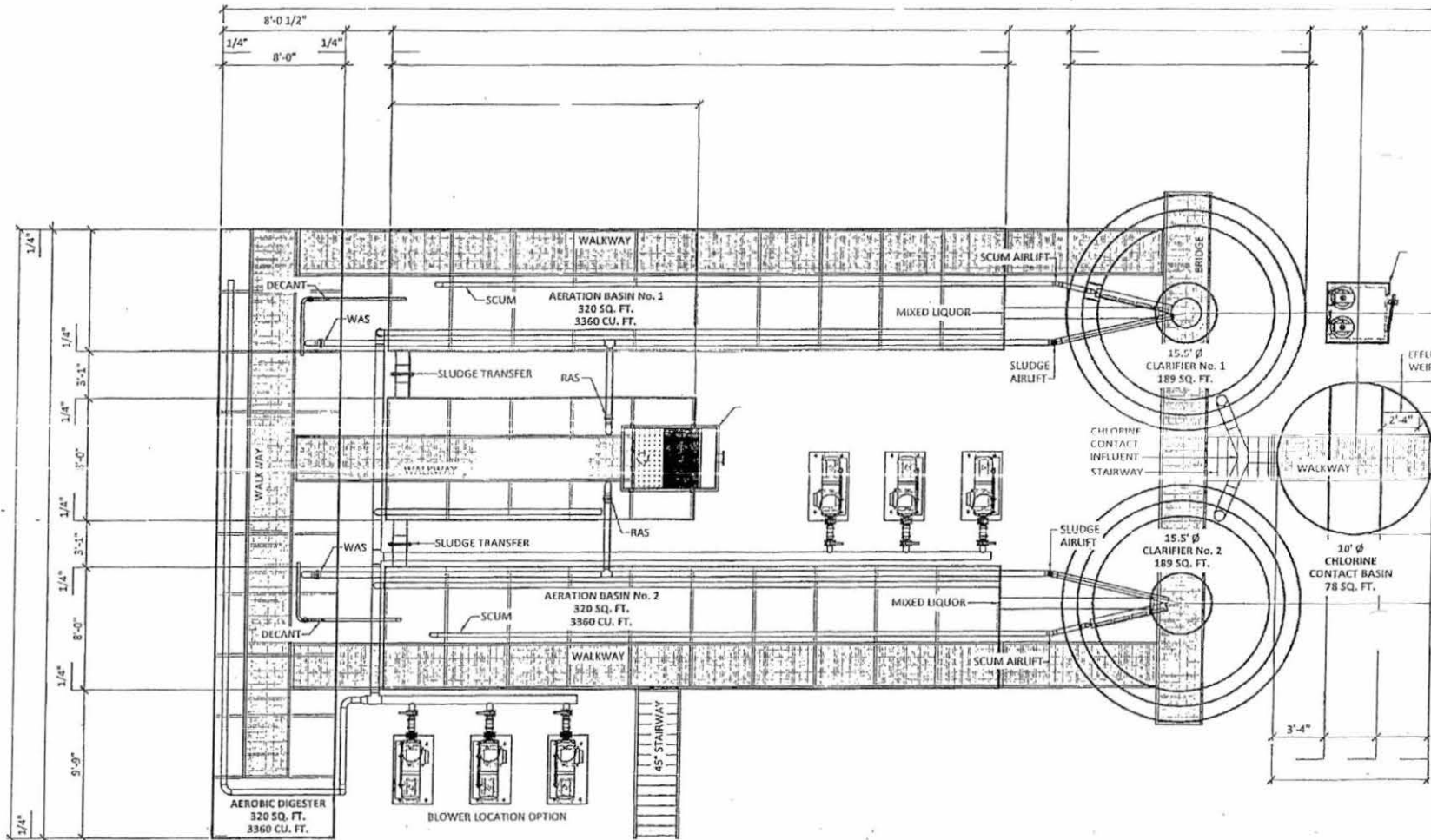
Due to its age and condition, I recommend the replacement the existing system after a full investigation of the impacts of I and I within the existing distribution network which contributes to the existing wastewater treatment plant. Based on these investigations a similar modern plant such as the one shown below should be sized accordingly and installed in parallel to the existing. A estimate of cost for a similar system with capacity of 55,000 GPD is \$300,000 with another \$200,000 required to upgrade from secondary treatment to tertiary treatment if required. It will also require approximately \$45,000 to bring the current plant into compliance to serve as a system



backup and offer extra capacity to address I/I concerns. An estimated additional \$75,000 will be required to restore the current lagoon. I would also suggest a \$20,000 reserve to begin mapping and addressing I/I issues.

Please contact me if you have any further questions or comments.

Eric M. Carrico, PE  
License No. 25090



RECEIVED

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

JUL 11 2016

PUBLIC SERVICE  
COMMISSION

In the Matter of:

AIRVIEW UTILITIES, LLC'S NOTICE	)	
OF SURRENDER AND ABANDONMENT	)	CASE NO. 2016-00207
OF UTILITY PROPERTY	)	

**NOTICE OF FILING BY AIRVIEW UTILITIES, LLC**  
**OF NOTICE OF COMPLIANCE WITH KRS 278.020(11)**

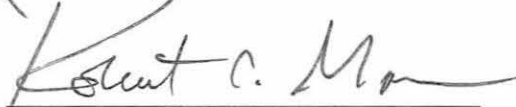
Comes Airview Utilities, LLC ("Airview"), by counsel, and for its response to the Order of the Public Service Commission entered in this matter on July 11, 2016, states as follows:

1. Airview hereby files its Notice of Compliance with KRS 278.020(11) advising the Public Service Commission that on June 8, 2016, it provided written notice of its intention to file an application with the Public Service Commission to abandon its utility property and surrender all of its property interests and rights in and to the property to the following entities:

- Mayor of the City of Elizabethtown, Kentucky
- Department of Water and Wastewater of the City of Elizabethtown
- Department of Planning and Development of the City of Elizabethtown
- Hardin County Water District No. 2
- Hardin County Water District No. 1
- Hardin County Planning and Development Commission
- Lincoln Trail District Health Department
- Office of the Attorney General
- Judge/Executive of Hardin, County, Kentucky
- Kentucky Department of Environmental Protection, Division of Water.

2. Copies of the written notices provided to the entities identified in Paragraph No. 1 above are attached hereto as Attachment A.

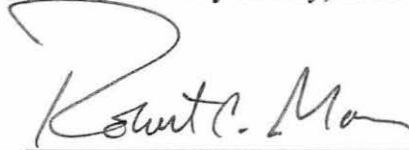
Respectfully submitted,



Robert C. Moore  
STITES & HARBISON PLLC  
421 West Main Street  
P. O. Box 634  
Frankfort, Kentucky 40602-0634  
(502) 209-1218  
Email: Rmoore@Stites.com

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by hand delivery on Aaron D. Greenwell, Acting Executive Director, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, Kentucky 40602 on this the 11<sup>th</sup> day of July, 2016.



Robert C. Moore

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

### Minutes of the 2nd Meeting of the 2016 Interim

August 24, 2016

#### Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 24, 2016, at 10:00 AM, in View Pointe Hall of the Muhammad Ali Center in Louisville, Kentucky. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representatives Linda Belcher, George Brown Jr., Ron Crimm, Mike Denham, Jim DuPlessis, Adam Koenig, Brian Linder, Michael Meredith, Phil Moffett, Jonathan Shell, Arnold Simpson, Chuck Tackett, James Tipton, and Jim Wayne.

Guests: Representative Tom Riner; Peter Goodmann, Division of Water, Daniel Cleveland, General Counsel, and Haley McCoy, Energy and Environment Cabinet; Talina Mathews, Stephanie Bell, Andrew Melnykovich, and David Spenard, Public Service Commission; Roger Recktenwald and Shellie Hampton, Kentucky Association of Counties; Brian Zoeller, Bingham Greenebaum Doll (BGD); Steve Estes, Star Energy Holdings; Deborah Bilitski and Sara Massey, Louisville Metro Government; Tom Fitzgerald, Kentucky Resources Council; Carol Travis Clark and Yolanda Walker, California Neighborhood Leadership Council; Martina Kennecke, Planning and Preservation, Inc.; Bert May, Kentucky League of Cities; Ron Wolf, Associated General Contractors of Kentucky; Mary Woolridge and Aaron Horner, Louisville Metro Council;

LRC Staff: Mark Mitchell, John Ryan, Joe Pinczewski-Lee, Jennifer Hans, and Cheryl Walters.

#### Approval of Minutes

Upon the motion of Representative Tipton and a second by Representative Crimm, the minutes of the June 22, 2016 meeting were approved.

Regarding the topic of package sewer treatment plant abandonment, Senator Bowen stated that, for various reasons, owners of package sewer treatment plants sometimes become unable to run the plants and then may cease operations without

provision for continuance of sewage treatment. This places the users in a precarious position and can put pressure on city and county resources to try to fill the gap left by abandonment. Spurred by this situation, 2016 HB 261 was passed which puts in place fiscal safeguards for future package sewer locations and the subsequent approval by the Public Service Commission. In addition, it also places notice requirements of the prospective utility's location to state and local governments, as well as the Attorney General.

The issue of bio-digester location is got its prominence recently in Louisville with the potential location of a bio-digester plant within Louisville Metro. A bio-digester unit takes waste materials and processes them, producing methane. During the past winter, Louisville was dealing with the potential location of a bio-digester in the West End. Louisville Metro placed a six-month moratorium on the location until a policy could be established to provide for the location of the units in a deliberate way. While this has most recently been an issue in Louisville Metro, it has application throughout Kentucky.

Representative Riggs commented that the committee needs to be updated on these two issues. He also encouraged them to tour the Muhammad Ali Center and attend the State Fair while in town.

#### **Package Sewer Treatment Plant Abandonment**

Mr. Peter Goodmann, Director of the Division of Water (DOW), said that DOW implements most of Kentucky's water regulatory programs, including the Clean Water Act. DOW regulates package wastewater treatment plants (WWTPs) via Clean Water Act discharge permits that require dischargers to meet technology and water quality-based standards. Package plants are operated by private utilities or are owned by neighborhood associations, school boards, or other entities, including the Kentucky Transportation Cabinet at state interstate rest stops. Package plants serve housing developments, subdivisions, mobile home parks, apartment buildings, campgrounds, and small businesses, and are generally located away from municipalities and other regional wastewater treatment collection and treatment facilities.

There are between 500 and 600 package WWTPs with Clean Water Act discharge permits. Thirty to sixty are regulated by the Public Service Commission (PSC). Most package plants date to the 1970s and 1980s and have significantly exceeded their design life. Older, poorly-maintained infrastructure leads to poorer treatment and lower quality of effluent, which leads to water quality and public health problems. These plants sometimes have aesthetic issues. They can become inundated with ground water because of cracked piping, and can be inundated with other sources of water inflow, such as that from sump-pumps. They often have trouble conducting advanced treatment to meet modern standards.

The demographics of the owners of these plants are changing. Many owners are older, and homeowner associations that own them may no longer be capable of operating them.

The PSC regulates the abandonment of regulated WWTPs via KRS 278.021, which establishes the criteria and process for removing and replacing owners/operators due to factors such as sudden death and insolvency. DOW works with PSC to identify interim and permanent solutions. However, non-PSC regulated package plants with discharge permits far outnumber those regulated by the PSC. In many cases, the responsible party lacks the technical, financial, and managerial capacity to operate the system. Many of the systems are not sustainable and will eventually fail physically, or the operators of the facilities will seek relief from local governments or other responsible entities. Compliance failures result in impacts to water quality and potential public health risks.

Rates often do not reflect the true cost to treat the waste flow or maintain infrastructure. Consequently, little or no investment is made in infrastructure repairs and upgrades because of insufficient capital.

The facilities generally serve economically challenged customers, have numerous vacancies, and experience high rates of people not paying their utilities. There are limited options for income challenges. The communities that are experiencing abandonment are looking to other regional facilities, municipalities, sanitation districts, water districts, and local governments to take over operation and maintenance of the package plants. Options include rehabilitating the WWTPs or otherwise connecting the system to an existing regional wastewater system. Solutions are site-specific and can be very complicated. Entities may not have the capital, the capacity or the authority to take on a system. Sometimes entities exist only on paper, have no assets, and are starting from scratch such as Farmdale Sewer District in Franklin County and Harrison County Sewer District. Certified wastewater operators working for other systems are hesitant to take on a system that is out of compliance and run poorly without guarantee that their license and livelihood will not be jeopardized.

In the previous 20 years, DOW has dealt with approximately five abandoned package WWTPs. Half of them were abandoned because the responsible party had died. Over the past two years, DOW has seen seven package plants go through abandonment of one form or another. DOW expects the trend of abandonment to increase over the next several years before leveling off.

Long-term solutions need to be identified for the systems. DOW is working with the Kentucky Infrastructure Authority (KIA) to tier/prioritize the WWTPs based on the age of the system, number of customers, potential for regionalization based on proximity to another system, willingness to be taken over by a local government or local entity, and

Airview Utilities, LLC  
Exhibit C

**Attachment D**

The following is the list of the expenses that have been paid by Airview in 2016. These expenses do not include the outstanding debts of Airview as set forth on Attachment B.

600.00	Sludge hauling
92.70	Continuing Education
8,245.00	Lab Testing
2,365.71	Chemicals
700.00	Rent expense
9,544.50	Utilities
9,350.00	Plant operator
26,123.55	Treatment system maintenance
1,216.37	Other Plant Maintenance (grass cutting and testing equipment)
1,553.63	Office supplies (postage, check order, invoicing supplies, other)
1,570.15	Bank & merchant charges
52.50	Telephone expense
3,600.00	Bookkeeping fees (customer invoicing)
1,050.00	Legal & Professional fees
252.00	Tier II Emergency Fee
792.40	Insurance
382.50	Storage Unit
1,336.65	Tax (Annual Report, Property, PSC Assessment, Other)
<u>713.11</u>	Loan
\$69,540.77	Total divided by 9 = \$7,726.76

Airview has received a total of \$68,320.16 in customer payments from January 1, 2016 through September 30, 2016. Accordingly, the average of Airview's gross monthly revenue during 2016 is \$7,591.13. The total expenses incurred and paid by Airview in 2016 from January 1, 2016 through September 30, 2016, is \$69,540.77. Accordingly, the average of Airview's monthly expenses during 2016 is \$7,726.76. The amount of revenue for 2016 previously reported by Airview in its Answers to the Data Requests of the Attorney General was incorrect.



Attachment B

4,950.00	Brocklyn Utilities – Brocklyn Utilities made loans to Airview Utilities so that Airview Utilities could continue to operate and maintain the Airview WWTP.
39,950.56	Covered Bridge Utilities – Airview Utilities owes this amount to Covered Bridge Utilities for repairs and maintenance performed at the Airview WWTP, and the remote lift station.
12,950.00	Shawn Ford – Airview Utilities owes this amount to Shawn Ford for operating the WWTP.
3,485.28	Hazelrigg & Cox, LLP – Airview Utilities owes this amount to Hazelrigg & Cox, LLP for legal work performed for the utility.
6,650.00	Murphy Excavating – Airview owes this amount to Murphy Excavating for sewer repair work, including unclogging sewer mains, property service connections and other general sewer line repair work.
4,115.00	Coolbrook Loan – Coolbrook Utilities made loans to Airview Utilities so that Airview Utilities could continue to operate and maintain the Airview WWTP.
11,400.00	Integrity Bookkeeping – Airview Utilities owes this amount to Integrity Bookkeeping for bookkeeping work done for the company, including but not limited to billing of customers and collections and payment of bills.
476.00	Hornback Plumbing – Airview Utilities owes this amount to Hornback Plumbing for sewer main repairs.
3,536.60	Stites & Harbison, PLLC - Airview Utilities owes this amount to Stites & Harbison PLLC for legal work performed for the utility.
2,400.00	Strothman & Co, CPA - Airview Utilities owes this amount to Strothman & Co for accounting work, including but not limited to the preparation and filing of tax returns.
299.66	KY State Property Tax- Airview Utilities owes this amount for 2015 property taxes.
90,213.10	Total

## Attachment A

## AIRVIEW INFORMATION FOR PSC IN CASE NO. 2016-00207

#2b Treatment plant's paid expenses for 5 years

	2016	2015	2014	2013	2012
a Auto Expense ✓			64.00	57.15	
b Bad debt expense		144.99	9,741.51	15,169.19	
c Bankcard charges ✓		907.94	953.05	260.14	
d Management		151.20		300.00	
e Sludge hauling		2,100.00	3,275.00	2,225.00	900.00
f Continuing Education ✓	92.70	504.35			213.10
g Lab Testing	6,150.00	10,226.01	6,072.25	9,204.20	8,980.60
h Chemicals	1,473.62	231.12	955.98	617.11	279.28
i Rent expense	600.00	1,100.00	300.00		
j Utilities	7,775.31	15,004.66	14,567.85	14,868.97	13,054.75
k Plant operator	7,350.00	10,261.30	6,300.00	7,000.00	10,500.00
l Treatment system maintenance	22,190.61	26,144.29	22,953.78	27,999.14	22,552.17
m Collection Expense ✓					552.49
n Office	1,043.12	1,338.44	919.31	686.21	170.75
o Bank & merchant charges	1,320.76	397.08		248.50	280.75
p Customer invoicing	2,800.00	4,800.00	2,800.00	3,200.00	1,200.00
q Legal & Professional fees	300.00	5,800.00	4,400.00	3,044.50	2,272.50
r Supervision		286.00	618.00	944.95	228.50
s Tier II Emergency Fee ✓	252.00	252.00	252.00	250.00	250.00
t KPDES Permit				760.00	
u Insurance	575.00	1,154.51	1,100.00	1,135.68	1,300.00
v Misc: Storage, damage claim	212.50	510.00	1,112.50	1,194.00	466.00
w Tax	1,336.65	1,384.81	617.92	1,805.89	1,058.19
x Loans	713.11	800.00			699.43
	54185.38	83498.7	77,003.15	90,970.63	64,958.51

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