

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE APPLICATION OF WINDSOR)
FACILITIES INC., D/B/A WINDSOR)
FOREST SEWER SYSTEM FOR AN) CASE NO. 9138
ADJUSTMENT OF RATES PURSUANT TO)
THE ALTERNATIVE PROCEDURE FOR)
SMALL UTILITIES)

O R D E R

On March 26, 1985, the Commission issued an Order in this proceeding wherein it granted Windsor Facilities, Inc., d/b/a Windsor Forest Sewer System ("Windsor") a rate increase in the amount of \$16,643. On April 19, 1985, Windsor filed a petition for rehearing on two of the issues discussed in the Commission's Order.

The first issue raised by Windsor involved its routine maintenance service fee. Windsor reported a test-period routine monthly maintenance fee of \$650. No adjustment was proposed by Windsor. In Windsor's previous rate Order of August 7, 1981, the Commission allowed an annual fee of \$3,684. Since Mr. Carroll Cogan owns both Windsor and the vendor performing the routine maintenance services, Andriot-Davidson's Service Company, Inc., ("Andriot-Davidson") the transaction is at less than arms-length. In the course of this proceeding, information was requested to assist in the determination of whether the proposed fee is fair, just and reasonable. However, Windsor's responses to these

requests were incomplete and Windsor failed to offer any additional evidence that the routine maintenance fee is reasonable.

The Commission maintains its position that transactions between affiliated companies cannot be accepted without substantive evidence that the services rendered are adequate and the price for those services is reasonable. The Commission has expressed this position in numerous Orders involving sewer utilities owned by Mr. Cogan, and has denied adjustments to increase the routine maintenance fee because the evidence did not support a finding that the affiliated company transactions are reasonable. The Commission in this instance will allow Windsor a hearing on this issue since this case was filed under the Alternative Rate Adjustment Procedure for Small Utilities ("ARF") and no hearing was conducted in the original proceedings. However, the Commission hereby notifies Windsor that it will not alter its position on the affiliated company transactions with mere discussions of general business practices in the sewage industry. The Commission emphasizes that it will not accept the type of evidence offered on this issue in the past. More specifically, in order to meet its burden of proof on this issue, Windsor must show, through verifiable and documented evidence, that:

(1) The level of service received by Windsor from Andriot-Davidson is comparable to the level of service provided by Andriot-Davidson to non-affiliated companies.

(2) The contract of Windsor for routine maintenance is comparable to the contracts of Andriot-Davidson with non-affiliated companies and the prices for routine maintenance to affiliated and non-affiliated companies are comparable for comparable contracts.

(3) The determination of the cost of materials and services provided to Windsor is comparable to the determination of the cost of materials and services to non-affiliated companies.

(4) The return to Andriot-Davidson for materials and services provided to Windsor is comparable to the return received for materials and services provided to non-affiliated companies.

(5) The rate of return of Andriot-Davidson on materials and services provided to Windsor is reasonable in comparison with the returns of similar sewage treatment plant service companies or other related businesses.

(6) There is no subsidization among affiliated companies or non-affiliated and affiliated companies through the pricing mechanisms used by Andriot-Davidson to determine the costs of materials and services.

(7) The prices paid for materials and services are at market prices or below based on bids from non-affiliated vendors with complete details of the materials or services offered by non-affiliated vendors and evidence that the bids are for comparable materials and services.

(8) No economically viable alternative to the acquisition of materials and services from affiliated companies exists.

(9) Without the benefit of some independent control over materials and services acquired from affiliated companies, the customers of the utility are afforded services at the lowest possible cost.

For the purposes of this proceeding, the Commission may consider evidence presented in other cases involving utilities owned by Carroll Cogan on this issue, and expects Windsor to present its case with the knowledge that, to this date, its evidence on this issue has been unacceptable. If Windsor chooses to submit evidence it considers to be confidential, the Commission has a procedure whereby such information can be given such treatment and still be a part of the record in this case.

The second issue raised by Windsor concerned the Commission's decision to disallow, for rate-making purposes, interest expense of \$3,462 on a loan negotiated with the Carroll Cogan Companies Special Loan Account. In its Order of March 26, 1985, the Commission noted that Windsor had neither requested nor was it granted approval to enter into this indebtedness. Moreover, the allowance of this interest expense would constitute retroactive rate-making. Therefore, the Commission remains of the opinion that this interest expense of \$3,462 is not allowable for rate-making purposes, and also that it should not be an issue on rehearing.

Windsor should be given 30 days in which to file testimony and present other proof on the issues involved in this petition.

SUMMARY

Based on the issues presented in this petition for rehearing and the evidence of record and being advised, the Commission is of the opinion and finds that a hearing should be granted for the purpose of reconsideration of the routine maintenance service fee issue only as raised by Windsor in its petition.

IT IS THEREFORE ORDERED that Windsor is granted a rehearing on the issue of routine maintenance raised by its petition and that Windsor shall file testimony and additional proof on this issue within 30 days from the date of this Order.

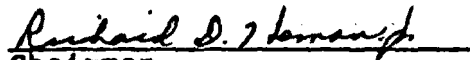
IT IS FURTHER ORDERED that Windsor's petition for rehearing on the issue of interest on short-term debt be and it hereby is denied.

IT IS FURTHER ORDERED that this case be it hereby is scheduled for hearing in the Commission's offices, Frankfort, Kentucky, on the 26th day of June, 1985, at 1:30 p. .m., Eastern Daylight Time.

IT IS FURTHER ORDERED that Windsor shall give notice of the hearing in accordance with the provisions of 807 KAR 5:011, Section 8.

Done at Frankfort, Kentucky, this 10th day of May, 1985.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary