

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of

THE TRANSFER BY THE MARS HILL COR-)
PORATION TO HAROLD W. WALTON OF THE)
SEWER UTILITY SERVING THE MARS HILL) CASE NO. 9207
SUBDIVISION, HEBRON, KENTUCKY)

O R D E R

On October 10, 1984, the Commission received a letter from Mr. Harold W. Walton advising that he had acquired the Mars Hill Subdivision, Hebron, Kentucky. The Commission initiated an investigation to determine the facts surrounding the transfer of the sewer utility serving the Mars Hill Subdivision. A copy of the Commission's investigative report dated November 7, 1984, is attached hereto as Exhibit A.

Based on the evidence of record, and being advised, the Commission is of the opinion and hereby finds that:

1. The Mars Hill Corporation owned and operated a sewage utility serving the Mars Hill Subdivision, Hebron, Kentucky.
2. The Mars Hill Corporation was subject to the jurisdiction of the United States Bankruptcy Court.
3. On June 21, 1984, a purchase offer was signed by Mr. Harold W. Walton, 1653 Tanner Road, Hebron, Kentucky, whereby Mr. Walton would purchase certain acreage in the Mars Hill Subdivision, including a sewage treatment system, from the Honorable

Charles L. J. Freihofer, Trustee in Bankruptcy, on behalf of the Mars Hill Corporation.

4. Mr. Walton has employed a state licensed sewage treatment operator to perform the daily operation and maintenance of the Mars Hill sewage system.

5. Mr. Walton possesses the requisite expertise to own the Mars Hill sewage system.

6. By March 31, 1985, Mr. Walton should file a 1984 Annual Report with the Commission.

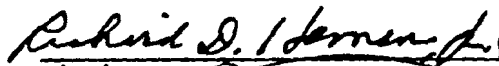
7. Mr. Walton should make every effort to correct the mechanical and operational deficiencies noted in the Commission's investigative report dated November 7, 1984.

IT IS THEREFORE ORDERED that the transfer of the sewage system serving the Mars Hill Subidvision from the Mars Hill Corporation to Mr. Harold W. Walton be and it hereby is approved.

IT IS FURTHER ORDERED that within 10 days of the date of this Order Mr. Walton shall issue and file in its own name the tariffs of its predecessor utility, pursuant to 807 KAR 5:011, Section 10.

Done at Frankfort, Kentucky, this 3rd day of January, 1985.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:

Secretary


Commissioner

EXHIBIT A

INVESTIGATION REPORT

TO: Claude G. Rhorer, Jr., Director *CR*
Division of Engineering and Services

THRU: Byrnes C. Fairchild, Chief Engineer
Water and Sewage Section

FROM: Larry N. Updike, Utility Investigator Chief
Water and Sewage Section

RE: Investigation of unauthorized transfer of
ownership of Mars Hill Corporation to
Harold W. Walton

DATE: November 7, 1984

Brief

On October 11, 1984, the Division of Engineering and Services received a request from Forest Skaggs, Secretary of the Public Service Commission, to conduct a field investigation of Mars Hill Corporation to determine: (a) whether or not ownership of this utility has actually been transferred, (b) if the company is operating as a public utility pursuant to state laws and regulations, and (c) the conditions under which the utility is currently operating. Also, the investigator was to discuss various operating requirements with the new purchaser.

Investigation

On October 31, 1984, contact was made by telephone with Mr. Harold W. Walton, purchaser of Mars Hill Corporation, in order to establish the current owner of the sewage treatment plant in question. On November 1, 1984, a field inspection was conducted to contact the customers, to

see if they had any complaints about the change of ownership or service, and to try to establish the operating condition of the sewage treatment plant. In attendance during the inspection of the sewage treatment system was Mr. Harold W. Walton, purchaser of the Mars Hill Corporation.

During the investigation the following information was obtained:

1. Mr. Harold W. Walton had notified the Public Service Commission on October 10, 1984, that he had purchased out of bankruptcy the Mars Hill Corporation.

2. On October 11, 1984, the P.S.C. requested from Mr. Walton by letter that he furnish a copy of the executed purchase/sale agreement, a description of the method of financing and a management plan describing how he intended to continue operating the system.

3. On October 28, 1984, the P.S.C. received the requested information stated in Item No. 2.

4. Mr. Walton has assumed ownership and operation of Mars Hill Corporation.

5. Mr. Walton has hired a certified plant operator, Mr. Harold Clayton, to operate the sewage treatment plant.

6. The customers are aware of the change of ownership.

7. Mr. Walton has been notified that the transfer of ownership of the utility requires the approval of the P.S.C.

8. Mr. Walton has raised the existing rates from \$10 to \$17.

9. Mr. Walton has been notified that he cannot increase the rates without P.S.C. approval.

10. Mr. Walton stated that anyone who paid the increase will be credited for that amount until he is in compliance with P.S.C. regulations.

11. Mr. Walton requested that the customers pay for service one month in advance.

12. Mr. Walton was notified that he could not collect for one month in advance.

13. Mr. Walton stated that any customer who paid the one-month advance fee will be credited the following month for that amount.

14. Mr. Walton stated that he was not familiar with the procedures of the P.S.C., but would comply and make application to the P.S.C. for approval of transfer and an increase in rates.

15. Mr. Walton has received a copy of the P.S.C. Administrative Regulations, a copy of the Kentucky Revised Statutes and an Alternate Rate filing application.

16. The Mars Hill Corporation has not filed its 1983 annual report.

17. Mr. Walton should file with this Commission its 1983 annual report.

18. Mr. Walton and the Mars Hill Corporation did not follow proper procedure in seeking approval of transfer of ownership.

19. The following improvements and/or corrections are necessary to bring the sewage treatment system into compliance with Kentucky Revised Statutes (KRS 278) and Public Service Commission Regulations (807 KAR).

- a. The diffusers need to be repaired or replaced.
- b. The clarifier needs to be cleaned.
- c. A backup blower and motor are needed or immediate access to one in case of an emergency.
- d. Water service needs to be available at the sewage treatment plant.
- e. The tertiary sand filter needs to be operational.
- f. The utility needs to maintain a record of all interruptions of service with regard to date, time, duration, cause, and remedy.
- g. The utility needs to maintain a file of applications for service for all future customers.

- h. The utility should maintain for customer review a schedule of rates applicable to the customer.
- i. The utility should file its existing rates with this Commission.
- j. The utility should maintain a file on all general complaints which show the name and address of the complainant, the date and nature of the complaint, and the action taken.

Conclusions

1. The Trustee in Bankruptcy, Hon. Charles L. J. Freihofer, is ready, willing and able to transfer ownership of said sewage treatment system to Mr. Harold W. Walton.
2. Mr. Harold W. Walton is ready, willing and able to accept the transfer of ownership of the Mars Hill Corporation.
3. A purchase/sale agreement has been signed between Mr. Walton and Mr. Freihofer.
4. The purchase/sale agreement is on file with this Commission.
5. Mr. Walton has assumed ownership and operation of the Mars Hill Corporation.
6. The customers are aware of the transfer of ownership.

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7. Mr. Walton has hired a certified plant operator to operate the sewage treatment system.

8. Mr. Walton has stated that he would comply with the Commission's Rules and Regulations and other various governmental requirements.

9. Mr. Walton should make the repairs and/or corrections listed in Item 19, in order to restore this facility to an acceptable operating condition.

10. It is in the best interest of the public and in the interest of public health, safety and welfare for Mr. Walton to assume ownership and operation of the sewage treatment plant.

11. In my opinion, the transfer should be approved.

LNU:mfb