COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN APPLICATION OF FERN CREEK SEWER COMPANY, INC., FOR AN ADJUSTMENT OF RATES	)))	CASE NO. 9137

O R D E R

On September 12, 1984, Fern Creek Sewer Company, Inc., ("Fern Creek") filed an application with the Commission to increase its sewer rate pursuant to 807 KAR 5:076, Alternative Rate Adjustment Procedure for Small Utilities ("ARF"). Fern Creek's proposed rates would produce additional revenue of approximately $14,487 annually, an increase of 181.5 percent over test-period actual operating revenues of $7,983. In its Order of March 12, 1985, the Commission granted Fern Creek an increase in revenue of $7,184, an increase of 90 percent.

Prior to issuance of that Order, the Commission had issued two information requests in which it required Fern Creek to submit information on a number of issues including the two issues eventually raised by Fern Creek in its petition for rehearing which was filed March 21, 1985, which were: (1) routine maintenance fees and (2) non-routine maintenance of treatment plant expenses. In its Order of April 10, 1985, the Commission granted rehearing on the two issues raised by Fern Creek, primarily because there had been no hearing prior to issuance of the Commission's Order of March 12, 1985, since the case was filed under the ARF procedure.

Also, Fern Creek was required to submit prefiled testimony. The Order allowing rehearing scheduled a hearing for May 29, 1985, at the offices of the Commission.

Fern Creek filed neither testimony nor additional proof on the two issues within 30 days as required by the Commission's Order of April 10, 1985. On May 28, 1985, Fern Creek filed with the Commission a motion to have the hearing scheduled for May 29, 1985, postponed. Then, on September 4, 1985, Fern Creek filed a letter advising the Commission that it would not seek a formal hearing on the issue of non-routine maintenance of treatment plant expenses. The issue of routine maintenance was considered at the hearing of June 5, 1985, in Case No. 9101, The Application of Enviro Utilities, Inc. Since several utilities owned by Carroll Cogan and serviced by Andriot-Davidson's Service Company, Inc., had cases pending in which routine maintenance fees were at issue, it was agreed that routine maintenance fees would be considered generically in the case involving Enviro and the testimony would be incorporated into the other cases involving Carroll Cogan-owned utilities.

The Commission received one protest letter filed September 20, 1985, and by an Order entered September 20, 1985, the Commission granted full intervention status to the Fern Creek Community Association. Although a hearing was not conducted in this case, Fern Creek filed a brief with the Commission on October 2, 1985, in which it discussed the two issues of routine and non-routine maintenance of treatment plant expenses. In that brief, Fern Creek requested that the portion of a brief filed

September 30, 1985, on behalf of Enviro dealing with routine maintenance fees be applied to this case.

Routine Maintenance Fees

As understood, the Commission's determination with respect to the routine maintenance issue in Case No. 9101 will be followed in this case. Therefore, the findings with regard to the routine maintenance fee as delineated in the Order in this proceeding dated March 12, 1985, are affirmed. Thus, no increase in the routine maintenance fees is allowed.

Maintenance of Treatment and Disposal Plant

In its petition for rehearing, Fern Creek offered no discussion of this issue, and, as mentioned previously in this Order, no testimony or additional proof on this issue was filed within 30 days of the Commission's Order of April 10, 1985.

In a brief filed with the Commission on October 2, 1985, Fern Creek stated that non-routine maintenance expenses for the years 1980, 1981, 1982 and 1983 represented only emergency repairs due to the need for a rate adjustment and the losses experienced during each of those years. This argument does not directly address the Commission's finding in its Order of March 12, 1985, that the test-year expense level of non-routine maintenance is not representative of normal operating conditions. In regard to Fern Creek's argument, it was management's responsibility to seek rate relief on a more timely basis. Since Fern Creek has presented no new information directly relevant to the issue of non-routine maintenance expense, the Commission cannot accept Fern Creek's

contention that an increase over the amount included for rate-making purposes in its Order of March 12, 1985, should be allowed.

OTHER ISSUES

On January 14, 1985, Fern Creek submitted notice to the Commission of its intent to begin charging the rates advertised in its original application as of February 15, 1985. By letter, through its Secretary, the Commission notified Fern Creek on February 11, 1985, that it could not place its proposed rates in effect until March 2, 1985, because it was not until that date that the 5 months and 20 days suspension period ended. In its Order of Feburary 28, 1985, the Commission ordered Fern Creek to maintain its records in such manner as would enable it, the Commission, or any of its customers to determine the amounts to be refunded and to whom due in the event a refund was ordered upon final determination of this case. In its Order of March 12, 1985, the Commission ordered Fern Creek to refund any revenues collected subsequent to March 2, 1985, through rates higher than those found reasonable in that Order. In its petition for rehearing filed March 21, 1985, Fern Creek stated that the rates which it proposed to put into effect as of March 2, 1985, had not been installed and that it would install the rates approved by the Commission's Order of March 12, 1985. Fern Creek stated further that, due to the Louisville Water Company billing cycle, those rates would not go into effect until the latter part of March. Therefore, the issue of refunds due customers has been rendered moot.

SUMMARY

The Commission, after consideration of the evidence of record and being advised, is of the opinion and finds that Fern Creek has failed to present sufficient evidence to support its argument that the monthly routine maintenance fee and the level of non-routine maintenance expenses, included for rate-making purposes in the Order of March 12, 1985, should be increased.

IT IS THEREFORE ORDERED that the Findings and Orders of the Commission's Order of March 12, 1985, except those relating to customer refunds, be and they hereby are affirmed.

Done at Frankfort, Kentucky, this 4th day of September, 1986.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Executive Director