

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE ALLEGED )  
OWNERSHIP AND OPERATIONS OF AIRVIEW, ) CASE NO.  
INC., BY FRED SCHLATTER ) 10401

O R D E R

In December 1985, the Commission received information from the Department of Natural Resources and Environmental Protection, Division of Water, concerning the existence of a small wastewater treatment facility, d/b/a Airview, owned by Fred Schlatter and serving the residents of Airview Estates Subdivision in Hardin County, Kentucky.

On January 3, 1986, Commission investigators conducted an inspection of Airview to determine whether it was operating as a utility as defined by KRS 278.010(3)(f).<sup>1</sup> Operating conditions and the level of compliance to Commission administrative regulations were also subject to inspection. Fred Schlatter appeared and assisted Commission Staff in conducting the inspection. Bob Best, the plant operator, was also present.

As a result of the January 1986 inspection, Staff concluded that Airview was a utility as defined by KRS 278.010(3)(f) and

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<sup>1</sup> KRS 278.010(3)(f) states: "'Utility' means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with the treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plan, . . . ."

pursuant to KRS 278.040 (2) subject to the jurisdiction of this Commission.<sup>2</sup> The findings of that investigation were reduced to a report<sup>3</sup> and sent to Fred Schlatter for his comments. No response was received. Three subsequent inspections<sup>4</sup> of Airview have been conducted and the findings of each investigation have been reduced to report form. Fred Schlatter was notified of the findings of the 1987 and April 1988 inspections and was requested to file responses. Again, no responses were received.

The Commission, on its own motion, instituted show cause proceedings by Order dated October 17, 1988 directing Fred Schlatter to appear for Airview. A hearing was scheduled for November 10, 1988, however, Fred Schlatter failed to appear. The hearing was rescheduled for December 16, 1988, and a subpoena was issued to compel Mr. Schlatter's attendance. Once again, Mr. Schlatter failed to appear. The Commission proceeded with the hearing despite Mr. Schlatter's absence. Larry N. Updike, a Staff utility investigator, testified for the Commission Staff.

#### PLANT MAINTENANCE

Mr. Updike testified that he inspected Airview on January 3, 1986 and subsequently on March 2, 1987, March 29, 1988, and November 7, 1988.<sup>5</sup> During his first inspection several

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<sup>2</sup> "The jurisdiction of the commission shall extend to all utilities in this state. . . ."

<sup>3</sup> Inspection Report January 21, 1986. Commission Staff Exhibit 1.

<sup>4</sup> April 28, 1987, April 6 and November 10, 1988. Staff Exhibits 2, 3, and 4, respectively.

<sup>5</sup> Transcript ("Tr."), December 16, 1988, pages 7-8.

deficiencies were identified relating to plant maintenance, including a missing blower and one blower which was not operational.<sup>6</sup> The investigation disclosed that the plant had been allowed to overflow and sludge was present on the ground around the plant.<sup>7</sup> The clarifier was not in operation and the plant was not being properly chlorinated.<sup>8</sup>

Mr. Updike testified that on his second inspection of Airview repeat violations were found including problems with the diffusers, weed control, skimmer arm and clarifier, blowers and insufficient sludge removal.<sup>9</sup> The third inspection revealed repeat violations from the two earlier inspections; one blower was still missing, the diffusers needed to be inspected and repaired or replaced, the area around the plant and lagoon was overgrown by weeds, and the plant needed a general cleanup.<sup>10</sup>

Referencing the November 1988 inspection, Mr. Updike testified that:

The diffuser still needed to be inspected or replaced or repaired as necessary. The still well in the center of the clarifier was full of scum. The trough from the clarifier to the chlorination contact basin needed to be cleaned. The chlorine contact basin needed to be cleaned of sludge deposits. The plant area needed to be

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<sup>6</sup> A complete listing of the plants' deficiencies is contained in Mr. Updike's Inspection Report. Staff Exhibit 2.

<sup>7</sup> Staff Exhibit 2.

<sup>8</sup> Staff Exhibit 2.

<sup>9</sup> Tr., pages 9-10.

<sup>10</sup> Tr., pages 10-11.

cleaned of all trees, weeds, and vines. The effluent is not being treated with chlorine. The skimmers in the clarifier were not operational. The lagoon impoundment bank needed to be inspected for muskrat damage. . . . The sludge was splashing over the edge of the aeration basin on the ground, and the sludge. . . splashing over the basin. . . .<sup>11</sup>

#### FINDINGS AND ORDERS

After examining the evidence of record and being advised, the Commission is of the opinion and finds that:

1. Fred Schlatter is the owner of Airview, a subdivision treatment facility which treats sewage for the public for compensation. The Commission has jurisdiction over Airview and its owner Fred Schlatter pursuant to the provisions of KRS 278.010 and 278.040.

2. Fred Schlatter and Airview received proper notice of this proceeding as shown by Staff Exhibit 1.

3. Commission regulations require that sewage treatment facilities be "maintained and operated in accordance with accepted good engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property." 807 KAR 5:071, Section 7. Commission regulations require Mr. Schlatter to maintain and operate Airview in accordance with accepted good engineering practice. 807 KAR 5:071, Section 7.

4. Deficiencies in the maintenance and operation of Airview which were alleged in the Utility Inspection Reports of January

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<sup>11</sup> Tr., pages 11-12.

21, 1986, April 28, 1987, April 6 and November 10, 1988 existed from the time of the first inspection on January 3, 1986.

5. The evidence clearly shows that Airview has not been maintained and operated in accordance with accepted good engineering practices. Poor maintenance adversely affects the quality of service provided by Airview and affects public health and safety with the threat of contamination due to lack of chlorination, lack of sludge removal and inoperable treatment facilities. A list of current deficiencies is contained in Appendix A, attached and incorporated hereto.

6. Mr. Schlatter's failure to correct the above deficiencies and to maintain and operate Airview in accordance with accepted engineering practices is a violation of Commission Regulation 807 KAR 5:071. Airview and Fred Schlatter, in his individual capacity, have willfully violated Commission regulations and the above-mentioned provisions of Chapter 278.

7. All deficiencies listed in Appendix A should be corrected, and Mr. Schlatter should furnish the Commission with a report certifying that all deficiencies have been corrected.

8. Pursuant to KRS 278.160, Airview should file with the Commission schedules showing all rates and conditions for service established by it and collected and enforced. Said schedules shall be filed within 30 days of the date of this Order.

9. Pursuant to its authority under KRS 278.990, the Commission should fine Mr. Schlatter individually the sum of \$500 for his violation of Commission Regulation 807 KAR 5:071.

IT IS THEREFORE ORDERED that:

1. Airview and Fred Schlatter are ordered to correct the following deficiencies within 30 days of the date of this Order:

- (a) Cleaning of the still well in the center of the clarifier.
- (b) Cleaning of the trough from the clarifier to the chlorine contact basin.
- (c) Cleaning of sludge deposits from the chlorine contact basin.
- (d) Clearing of all weeds, trees, and vines in the area of the plant.
- (e) Chlorine treatment of the effluent.
- (f) Nonfunctioning skimmers and diffusers.
- (g) Inspection of the impoundment bank for muskrat damage.
- (h) Repair of air leaks in the line feeding the diffuser or diffuser drops.
- (i) Sludge splashing over the aeration basin.
- (j) Liming of the sludge on the ground.

2. Mr. Schlatter shall certify by sworn statement to the Commission that the above-mentioned deficiencies have been corrected. Said statement is due within 30 days of the date of this Order.

3. Airview shall file within 30 days of the date of this Order its tariff setting forth all rates and charges for sewer service and all regulations and conditions of service.

4. A fine of \$500 be assessed against Mr. Fred Schlatter for his continuing violations of Commission regulations and KRS

Chapter 278. Said fine shall be due and payable within 10 days of the date of this Order. The fine shall be made payable to the Treasurer, Commonwealth of Kentucky, and mailed to the Office of General Counsel, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 3rd day of April, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 10401 DATED 4/3/89

1. Cleaning of the still well in the center of the clarifier.
2. Cleaning of the trough from the clarifier to the chlorine contact basin.
3. Cleaning of sludge deposits from the chlorine contact basin.
4. Clearing of all weeds, trees, and vines in the area of the plant.
5. Chlorine treatment of the effluent.
6. Nonfunctioning skimmers and diffusers.
7. Inspection of the impoundment bank for muskrat damage.
8. Air leak in either the line feeding the diffuser or diffuser drops.
9. Sludge splashing over the aeration basin.
10. Liming of the sludge on the ground.