

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF CARDINAL UTILITIES, INC.;)
LARRAINE P. KIMBRELL; AND STEVE POPE)
) CASE NO.
) 90-189
)
)
ALLEGED VIOLATIONS OF KRS CHAPTER 278)

O R D E R

Cardinal Utilities, Inc. ("Cardinal"), a Kentucky corporation, owns six sewage treatment plants in western Kentucky. It was incorporated by Lorraine P. Kimbrell in 1985, with Ms. Kimbrell assuming ownership of the majority of the stock. Steve Pope, the son of Lorraine Kimbrell, became a minority stockholder and has been the person primarily responsible for the daily operation of Cardinal's six sewage treatment plants since 1985.

Cardinal at present has an application for a rate increase pending before the Commission.¹ In the course of that proceeding, information has been provided and documents reviewed which indicate that in 1987 or 1988,² Lorraine Kimbrell transferred all

¹ Case No. 89-336, The Application of Cardinal Utilities, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities.

² Exhibit B indicates that the date of transfer was November of 1987. However, Mr. Pope has stated that the stock was transferred in June of 1988.

outstanding shares of Cardinal stock to Steve Pope. (See Exhibits A and B attached hereto and incorporated herein by reference.) Commission approval of the transfer was neither sought nor obtained prior to the transaction.

On June 13, 1989, Steve Pope filed an application requesting Commission approval of the transfer to him of all issued and outstanding common stock of Cardinal from Lorraine Kimbrell.³ By Order dated October 5, 1989, the Commission denied Steve Pope's application, finding that he did not have the financial, technical, and managerial abilities to provide reasonable service to Cardinal's customers.

The Commission finds from Exhibits A and B that a prima facie showing has been made that Lorraine Kimbrell transferred ownership of Cardinal to Steve Pope without the authorization of the Commission in violation of KRS 278.020(4) and (5).

The Commission also received information in the course of Cardinal's pending rate case which indicates that, beginning in 1987, Cardinal charged rates for sewage service to Southern Pride Truck Stop which were never approved by the Commission nor filed in Cardinal's tariff as required by KRS 278.160. (See Exhibits C and D.)

The Commission finds from Exhibits C and D that a prima facie showing has been made that Cardinal charged and collected a rate

³ Case No. 89-161, The Application of Cardinal Utilities, Inc. for the Transfer of Common Stock to Steve Pope.

that was not prescribed in its filed tariff in violation of KRS 278.160.

KRS 278.280 authorizes the Commission to prescribe rules for the performance of any service furnished or supplied by a utility. 807 KAR 5:071, Section 7, requires sewage treatment facilities to be constructed, installed, maintained, and operated in accordance with good engineering practice.

On May 15, 1990, Commission Staff conducted an inspection of Cardinal's sewage treatment facilities for compliance with the above regulation. Staff subsequently submitted to the Commission a Utility Inspection Report, attached hereto as Exhibit E and incorporated herein by reference, which reported over 50 instances of plant maintenance and operation which were not in conformity with accepted good engineering practices. The Commission provided a copy of the Utility Inspection Report to Cardinal by letter dated May 25, 1990. That letter instructed Cardinal to respond to the report no later than June 25, 1990, the response to include a schedule for correction of the deficiencies and the related cost of each improvement. Cardinal was also reminded that several of the deficiencies listed were repeat violations noted in the inspection report of 1989, and that failure to correct the violations could be considered cause for the initiation of enforcement proceedings. As of the date of this Order, no response has been received from Cardinal.

The Commission finds from Exhibit E that a prima facie showing has been made that Cardinal has violated 807 KAR 5:071,

Section 7, by failing to maintain and operate its facility in accordance with accepted good engineering practices.

IT IS THEREFORE ORDERED that Steve Pope and Lorraine Kimbrell shall appear at a hearing scheduled for August 10, 1990 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1, 730 Schenkel Lane, Frankfort, Kentucky, and be prepared to show cause:

(a) Why they should not be penalized pursuant to KRS 278.990 for violating KRS 278.020(4) and (5).

(b) Why Cardinal should not be penalized pursuant to KRS 278.990 for violating KRS 278.160.

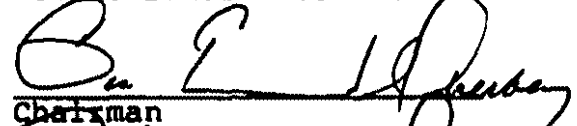
(c) Why Cardinal should not be required to refund all unauthorized rates for sewage service collected from Southern Pride Truck Stop.

(d) Why Cardinal should not be penalized pursuant to KRS 278.990 for failing to comply with 807 KAR 5:071, Section 7.

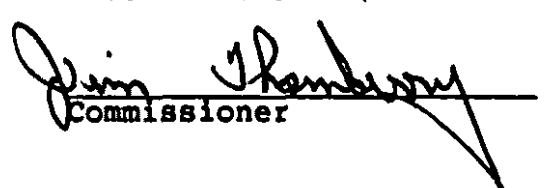
(e) Lorraine Kimbrell, Steve Pope and Cardinal shall submit a written response to all allegations contained herein within 20 days of the date of this Order.

Done at Frankfort, Kentucky, this 9th day of July, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

all common stock. Larraine Kimbrell is not a share holder [sic] or officer or director of the company." Mr. Pope stated that "Cardinal Realty" should correctly read "Cardinal Utilities."

FURTHER THE AFFIANT SAYETH NOT

Mark C. Frost
Mark Frost

COMMONWEALTH OF KENTUCKY

COUNTY OF FRANKLIN

Subscribed and sworn to before me by Mark Frost this
2nd day of July, 1990.

Mary Theresa Bostad
Notary Public

My Commission Expires: Nov. 30, 1992

NAME OF STOCKHOLDER	PLACE OF RESIDENCE	DATE OF ISSUE 1954	NUMBER OF SHARES	AMOUNT PAID	FROM WHOM SHARES WERE TRANSFERRED (If Original Issue Enter As Such)
LACCIANE P KIRKCELL	901 NORTH 32ND ST PADUCAH, KY 42001	11-26	1	300	ORIGINAL ISSUE
STEVE POPS	901 NORTH 32ND ST PADUCAH, KY 42001	11-26	2	100	ORIGINAL ISSUE
JAN BRANOSTETER	901 NORTH 32ND ST PADUCAH, KY 42001	11-26	3	100	ORIGINAL ISSUE

AFFIDAVIT

COMMONWEALTH OF KENTUCKY)

) S.S.

COUNTY OF FRANKLIN)

The Affiant, John Geoghegan, being first duly sworn, states as follows:

My name is John Geoghegan and I am employed as a Public Utility Rate Analyst with the Kentucky Public Service Commission.

On June 1, 1990, I attended an informal conference which was held at the Commission's offices at the request of Steve Pope, a representative of Cardinal Utilities, Inc. The purpose of the informal conference was to discuss issues arising in Case No. 89-336, the rate proceeding filed by Cardinal Utilities, Inc. which is currently pending before the Commission. Also present at the conference were Steve Pope, a representative of the Attorney General, other Commission Staff members, and an Intervenor, Action, Inc.

In response to a Commission Order issued on May 24, 1990, Mr. Pope provided Commission Staff with Cardinal Utilities' billing ledger showing amounts paid to Cardinal by its customers for sewer service from January 1988 to the present. Commission Staff and all parties present were provided the opportunity to inspect the billing ledger and duplicate any and all parts of it. Attached to this

Affidavit are true copies of two pages from said billing ledger which Staff copied at the informal conference showing the rates charged to and paid by Southern Pride Truck Stop from January of 1988 to the present.

FURTHER THE AFFIANT SAYETH NOT

John Geoghegan
John Geoghegan

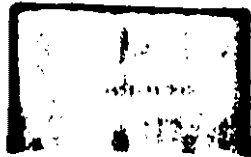
COMMONWEALTH OF KENTUCKY

COUNTY OF FRANKLIN

Subscribed and sworn to before me by John Geoghegan this
2nd day of July, 1990.

Mary Frances Bethas
Notary Public

My Commission Expires: Nov. 30, 1992



acct. # 7090

SOUTHERN PRIDE SERVICE STATION

NAME Wallace Grocery Co., Inc.
ADDRESS P O BOX 7269

SHEET NO.

DATE	ITEMS	TERMS	CREDIT LIMIT		RATING		BALANCE
			FOL	Y	DEBITS	CREDITS	
1988							
Jan	billed for Oct Nov Dec				80176		80176
1/2						80176	-0-
Feb	for Jan + Feb						
3/10					36484		36484
						36484	-0-
5/3	billed for March + April				74150		74150
5/30						74150	-0-
7/22	billed for May June July				84954		84954
8/15						84956	-0-
10/18					74633		74633
10/31						74633	-0-
Jan 1989					54583		54583
1/19						54583	-0-
3/30							
4/10							
7/11					111163		111163
7/31						111163	-0-
8/24					90760		90760
						90769	-0-
9/13					87267		87267
						87267	-0-

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ELIZABETH N. JONES MADE IN U.S.A.





48-803 Eye-Ease®
 48-703 20/20 Bull
 Made in USA

0007096
 Southern Fried Lunch Shop
 Wallace Grocery, Inc.
 P O Box 7059
 Paducah, Ky 42001

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Form for filing Rate Schedules

GOLDEN ACRES SUBDIVISION
GATEWAY SUBDIVISION
MARSHALL COUNTY, KENTUCKY
For _____
Community, Town or City

CARDINAL UTILITIES, INC.
901 No. 32nd Street
Paducah, Kentucky 42001

Name of Issuing Corporation

P.S.C. NO. 2

1st Revised SHEET NO. 1

CANCELLING P.S.C. NO. 1

Original SHEET NO. 1

CLASSIFICATION OF SERVICE

	RATE PER UNIT
Single Family Residence Flat Rate	17.10
Multi Unit Residence Flat Rate per unit	17.10
All Other Flat Rate	25.10

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

FEB 23 1988

PURSUANT TO 807 KAR 5:011,
SECTION 9(1)

BY: George Keller
PUBLIC SERVICE COMMISSION MANAGER

DATE OF ISSUE 2/28/88

DATE EFFECTIVE 2/28/88

ISSUED BY Lorraine P. Kimbrell
Name of Officer

TITLE President

Issued by authority of an Order of the Public Service Commission of Kentucky
in Case No. 9876 dated 2/29/87

Form for filing Rate Schedules

EXHIBIT D
BLANDVILLE WEST ESTATES

GREEN ACRES SUBDIVISION
FIELDMONT SUBDIVISION
For PADUCAH, KENTUCKY MCCracken Co
Community, Town or City

CARDINAL UTILITIES, INC.
901 No. 32nd Street
Paducah, Kentucky 42001

Name of Issuing Corporation

P.S.C. NO. 2

Let Revised SHEET NO. 1

CANCELLING P.S.C. NO. 1

Original SHEET NO. 1

CLASSIFICATION OF SERVICE

		RATE PER UNIT
Single Family Residence	Flat Rate	17.10
Multi-Unit Residence per unit	Flat Rate	17.10
All Other	Flat Rate	25.10

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

FEB 23 1988

PURSUANT TO 807 KAR 5:011,
SECTION 9(1)

BY: James L. Hill
PUBLIC SERVICE COMMISSION MANAGER

DATE OF ISSUE 1/28/88

DATE EFFECTIVE 2/28/88

ISSUED BY Lorraine P Kimbrell
Name of Officer

TITLE President

Issued by authority of an Order of the Public Service Commission of Kentucky
in Case No. 9876 dated 9/29/87

HOLIFIELD HEIGHTS SUBDIV.
MAYFIELD, KENTUCKY
GRAVES COUNTY

Form for filing Rate Schedules

For _____
Community, Town or City

CARDINAL UTILITIES, INC.
901 No. 32nd Street
Paducah, Kentucky 42001

P.S.C. NO. 2

Let Revised SHEET NO. 1

CANCELLING P.S.C. NO. 1

Original SHEET NO. 1

Name of Issuing Corporation

CLASSIFICATION OF SERVICE

		RATE PER UNIT
Single Family Residence	Flat Rate	17.10
All Other	Flat Rate	25.10

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

FEB 23 1988

PURSUANT TO 807 KAR 5:011,
SECTION 9(1)

BY: Lorraine P. Kimbrell
PUBLIC SERVICE COMMISSION MANAGER

DATE OF ISSUE 1/28/88

DATE EFFECTIVE 2/28/88

ISSUED BY Lorraine P. Kimbrell
Name of Officer

TITLE President

Lorraine P. Kimbrell

Issued by authority of an Order of the Public Service Commission of Kentucky
in Case No. 9876 dated 9/29/87



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

May 25, 1990

Mr. Steve Pope
President
Cardinal Utilities, Inc.
P. O. Box 7766
Paducah, KY 42001

Dear Mr. Pope:

On May 15, 1990, Cardinal Utilities, Inc., sewage facilities were inspected for compliance with KRS 278 and Commission regulations. A report on this inspection has been prepared, and a copy is enclosed for your review. The recommended improvements included in this report are necessary to bring your facilities into compliance with Commission regulations.

Please respond to this Report by June 25, 1990, outlining a correction schedule and the related cost of each improvement. If you require any clarification on the recommended improvements, please contact Larry N. Updike at (502) 564-7590 on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Eddie B. Smith".

Eddie B. Smith, Manager
Water & Sewer Branch
Division of Utility Engineering
& Services

EBS:LNU:aem
Enclosure

Commonwealth of Kentucky
Public Service Commission

UTILITY INSPECTION REPORT

Cardinal Utilities, Inc.
McCracken County, Kentucky

Utility operations, utility maintenance, utility management and their impact on utility services and operating costs are a primary concern of the Commission and this Division. Our ongoing inspection program is to determine if the utility is in compliance with Kentucky Revised Statutes (KRS Chapter 278), Public Service Commission (PSC) Regulations (807 KAR) and that adequate, efficient and reasonable service is being provided.

Daily maintenance, daily operations and good operating records are essential in the operation of an efficient utility. Our inspections are intended to determine if the utility is in compliance with PSC regulations in these areas.

On May 15, 1990, Cardinal Utilities, Inc., sewage treatment system was inspected for compliance with KRS Chapter 278 and PSC regulations (807 KAR). This utility consists of 6 wastewater treatment plants, 6 collection systems and 1 lagoon. These systems are located in three counties, McCracken, Graves, and Marshall and have approximately 284 customers. Providing information and assistance during the inspection was Steve Pope, plant operator.

The facilities located in McCracken County are Green Acres Subdivision, Fieldmont Subdivision and the Gum Spring Road Plant.

Golden Acres Subdivision and Gateway Subdivision are located in Marshall County and Holifield Heights Subdivision is located in Graves County.

The improvements or corrections necessary to bring this facility into compliance with KRS Chapter 278 and PSC regulations (807 KAR) are as follows:

Blandville, West Sewage Treatment Plant

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)
2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)
3. The lagoon impoundment bank needs to be inspected for muskrat damage and repaired if necessary. (807 KAR 5:071, Section 7, 1)
4. The grass and weeds around the surface edge of the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)
5. The sludge needs to be removed from the tank being used to pump the effluent from the clarifier to the lagoon. (807 KAR 5:071, Section 7, 1)
6. A comminutor or bar screen needs to be placed on the plant. (807 KAR 5:071, Section 7, 1)
7. The old chlorine contact tank not in use needs to be pumped out. (807 KAR 5:071, Section 7, 1)
8. The effluent is not being chlorinated. (807 KAR 5:071, Section 7, 1)

Green Acres Subdivision Sewage Treatment Plant

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)
3. Two diffuser drops with diffusers need to be replaced. (807 KAR 5:071, Section 7, 1)
4. The old chlorine contact basin not in use needs to be cleaned out. (807 KAR 5:071, Section 7, 1)
5. The plant needs to be serviced by either a bar screen or a comminutor. (807 KAR 5:071, Section 7, 1)
6. The plant needs water service for wash down. (807 KAR 5:071, Section 7, 1)
7. The fence needs to be secured to the block-building housing the blower/motor unit. (807 KAR 5:071, Section 7, 4)
8. The effluent needs to be chlorinated. (807 KAR 5:071, Section 7, 1)
9. The tertiary treatment unit needs to be made operational. (807 KAR 5:071, Section 7, 1)
10. The tertiary treatment unit needs all sludge removed. (807 KAR 5:071, Section 7, 1)
11. The sand filter backwash blower needs to be replaced. (807 KAR 5:071, Section 7, 1)
12. The mud tanks need to be repiped so that when the filter is backwashed and the sludge from the filter overflows into the mud tank that it is piped back to the aeration tank and not straight to the stream. (807 KAR 5:071, Section 7, 1)
13. One pump at the lift station needs to be inspected and repaired if necessary. (807 KAR 5:071, Section 7, 1)
14. The alarm needs to be repaired. (807 KAR 5:071, Section 7, 1)
15. The reset buttons on the pump control need to be repaired. (807 KAR 5:071, Section 7, 1)

Fieldmont Subdivision Sewage Treatment Plant

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)
2. The scum behind the baffle in the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)
3. The fence around the plant needs to be repaired. (807 KAR 5:071, Section 7, 4)
4. The mud tank needs to be cleaned out. (807 KAR 5:071, Section 7, 1)
5. The sand filter needs to be cleaned out and new media placed in. (807 KAR 5:071, Section 7, 1)
6. The clearwell next to the sand filter needs to be cleaned out. (807 KAR 5:071, Section 7, 1)
7. All exposed electrical connections need to be protected. (807 KAR 5:071, Section 7, 4)
8. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Golden Acres Subdivision Sewage Treatment Plant

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)
2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)
3. The fence around the plant needs to be repaired. (807 KAR 5:071, Section 7, 4)

4. The block wall around the plant needs to be repaired. (807 KAR 5:071, Section 7, 4)
5. Water service is needed at the plant for wash down. (807 KAR 5:071, Section 7, 1)
6. A chlorination unit is needed at the plant site. (807 KAR 5:071, Section 7, 1)
7. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Gateway Subdivision Sewage Treatment Plant

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)
2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)
3. The chlorine contact tank needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)
4. A gravel access road to the plant is needed. (807 KAR 5:071, Section 7, 1)
5. The lift station on Route 7, Box 6V 41 needs a backup pump and an alarm for emergencies. (807 KAR 5:071, Section 7, 1)
6. The lift station behind the Pro Equipment Company in Draffenville on US 68 needs the control box repaired and a backup pump for emergencies. (807 KAR 5:071, Section 7, 1)
7. The lift station in Gateway Development Subdivision needs a backup pump and an alarm for emergencies. (807 KAR 5:071, Section 7, 1)

8. The lid at the lift station in the Gateway Development Subdivision needs to be locked down. (807 KAR 5:071, Section 7, 4)
9. The bar screen needs to be kept clean. (807 KAR 5:071, Section 7, 1)
10. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Holifield Heights Subdivision Sewage Treatment Plant

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)
2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)
3. Water service is needed at the plant. (807 KAR 5:071, Section 7, 1)
4. The effluent needs to be chlorinated. (807 KAR 5:071, Section 7, 1)
5. The thick scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)
6. The sand filter beds need to be cleaned of all grass and weeds. (807 KAR 5:071, Section 7, 1)
7. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Recommendations


The repair or correction of the deficiencies listed above is necessary in order to restore this facility to an acceptable operating condition. The pertinent section of the Kentucky Administrative Regulations has been listed by each deficiency for your convenience. A written response should be prepared and forwarded to the Commission by June 25, 1990, outlining a correction schedule stating what has been completed or what will be done to correct each deficiency and the related cost of each correction. A starting date and a completion date should be given for corrections that are to be completed after the date this response is mailed.

Items 7, 8 and 9 under Blandville West; items 4, 5 and 9 - 13 under Green Acres; items 4-7 under Fieldmont; items 3 and 4 under Golden Acres and items 3-7 under Gateway are repeat violations. These violations were noted in the inspection report of 1989. The Commission staff feels that an appropriate amount of time has been allowed to correct this deficiency. We are concerned about the utility's failure to make all corrections necessary to bring the facility into compliance with KRS 278 and PSC regulations (807 Chapter KAR). The failure to correct any violations may be

Report - Cardinal Utilities, Inc.
Page 8

considered cause for enforcement proceedings to be initiated. If such action becomes necessary, penalties may be imposed against the utility pursuant to KRS 278.990.

Submitted,
May 25, 1990



Larry N. Updike
Utility Investigator

LU

CGR:LNU:aem