

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF RIDGELEA)
INVESTMENTS INCORPORATED) CASE NO. 2000-330
FOR SALE OF CORPORATE STOCK)

ORDER

On June 22, 2000, Ridgelea Investments Incorporated (“Ridgelea”) submitted an application to the Commission for authority to transfer all outstanding stock in, and ownership rights of, Ridgelea to Charles Hungler (“Hungler”). The application was rejected pursuant to Commission Regulation 807 KAR 5:001, Section 2 for its failure to meet the initial filing requirements. All deficiencies were cured and the application filed on August 14, 2000. Commission Staff requested information in addition to that provided in the application. Extensions to the statutory period of time were granted in order for the applicant to obtain and file the requested information so that the Commission could render its decision on an adequate record. The latest extension requires the Commission to render its decision in this matter by April 16, 2001.

KRS 278.020(4) prohibits any person from acquiring or transferring ownership or control of any utility under the jurisdiction of the Commission without having received prior approval. KRS 278.020(5) prohibits any entity from acquiring control of any utility under the jurisdiction of the Commission without prior approval. Ridgelea is a Kentucky corporation which owns, controls, operates and manages facilities used for and in connection with the collection and treatment of sewage for the public for compensation

and, as such, is a utility subject to Commission jurisdiction pursuant to KRS 278.010(3)(f). The Commission finds that KRS 278.020(4) and (5) apply to the transaction proposed in the application and that Commission approval is required.

The requirements for determining if a transfer should be approved are contained in KRS 278.020(4) and (5). KRS 278.020(4) provides that the Commission must approve the transfer if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service. KRS 278.020(5) provides that the Commission shall approve the transfer if it finds that the transfer is in accordance with the law, is for a proper purpose and is consistent with the public interest.

On May 16, 2000, Ronnie L. Mann and Phillip G. Hicks, the sole shareholders of Ridgelea, Ridgelea, and Hungler entered into an Agreement for the transfer of corporate ownership of Ridgelea to Hungler for the sum of \$125,000,¹ a sum which, Hungler states, will not be passed on to customers. Hungler is licensed to operate wastewater treatment plants by the Commonwealth of Kentucky, License No. 1584, and is the sole proprietor of Perfect-A-Waste, which is currently providing the day-to-day management and operation of Ridgelea.² Hungler states that the management and operations will not change as a result of the proposed transfer of control and that Ridgelea will provide service to its customers pursuant to the terms of the tariff currently on file with the Commission.

¹Hungler will pay \$25,000 in cash and \$100,000 from a personal loan secured from Northside Bank in Cincinnati, Ohio

² Ridgelea should be aware that the Kentucky legislature recently enacted KRS 278.2201 through KRS 278.2219 regarding, inter alia, specific rules governing a utility's transactions with its affiliate.

A Third-Party Beneficiary Agreement entered into by Ridgelea, its shareholders and the Grant County Fiscal Court on August 31, 1982 was submitted with the application. On January 22, 2001, Counsel for Ridgelea filed a Resolution by the Grant County Fiscal Court ratifying the Third-Party Beneficiary Agreement and resolving that it has no objection to the transfer of the ownership of Ridgelea to Hungler.

The applicant, in its response to the second data request of Commission Staff, states that the customer deposit liability balance on the 1999 annual report of \$16,488 is incorrect and that the correct balance is \$2,350. Hungler states that he is aware that an interest credit is due on the deposits and that no credits have been paid for year 2000. Hungler further states that he will address this situation upon approval of the transfer and that he assumes responsibility for the deposits and the interest credits. The Commission finds that, unless interest has been paid prior to year 2000, Ridgelea should be required to pay or credit the interest from the date each customer's deposit was collected to the present date and then annually thereafter. Ridgelea should be aware that, according to an Order issued by the Commission in Case No. 89-057, interest on deposits should be calculated at no less than what is described by the Court in McWilliams v. Northwestern Mutual Life Insurance Company, Ky., 147 S.W.2d 79 (1941) as a middle course between simple and compound interest. The Commission noted in that Order, however, that utilities might prefer to pay compound interest in order to simplify the necessary calculations.

Based on the evidence of record, the Commission finds the transfer of Ridgelea to Charles Hungler to be in accordance with the law, for a proper purpose, and consistent with KRS 278.020(4) and (5). The Commission further finds that the transfer

will not result in diminished financial, technical, or managerial ability to provide adequate sewer service to the customers of Ridgelea.

IT IS THEREFORE ORDERED that:

1. The proposed transfer of ownership and control of Ridgelea is approved.
2. Ridgelea shall notify the Commission within 20 days of the date of completion of the transfer or, in the alternative, Ridgelea shall notify the Commission if the transfer does not occur.
3. Within 60 days of the date of this Order, Ridgelea shall file verification that interest accrued from the date of the deposit to the date of this Order has been paid or credited. This verification shall include each customer's name, the amount paid or credited to each, and the date payment was made or the account was credited.

Done at Frankfort, Kentucky, this 10th day of April, 2001.

By the Commission

ATTEST:


Executive Director