

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DAVID COMMUNITY DEVELOPMENT)
CORPORATION, INC., FLOYD COUNTY, KENTUCKY)
FOR AUTHORIZATION OF ITS PROPOSED SALE AND) CASE NO.
CONVEYANCE OF ALL OF ITS WASTEWATER) 2001-208
COLLECTION SYSTEM PROPERTY, ASSETS AND)
FUNDS TO THE CITY OF PRESTONSBURG,)
KENTUCKY)

O R D E R

On July 9, 2001, David Community Development Corporation ("David") submitted an application for Commission approval to transfer its wastewater collection system to the city of Prestonsburg ("Prestonsburg"). The application was considered filed on July 31, 2001, the date the deficiencies in the application were cured. On July 24, 2001, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, pursuant to his motion, was permitted to intervene as a party to these proceedings. On August 2, 2001, the Attorney General notified the Commission that he would not be sponsoring testimony in the proceeding, that he did not have any data requests, and that he did not request a hearing. Accordingly, this matter is now before the Commission on the existing record. Having reviewed the record, the Commission makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Prestonsburg is a municipal corporation organized and existing under the laws of this state.

2. Prestonsburg owns plants, works and facilities through which it provides water service, sewer service and natural gas service to customers both within and outside the city boundaries. The operation, control and management of the city's water, sewer and gas services are vested in the Prestonsburg Utilities Commission ("Utilities Commission"), whose members are appointed by the mayor of the city.

3. To provide sewer service, the Utilities Commission owns and operates a wastewater collection system within and outside the city and a wastewater treatment plant within the city. The system serves 2,089 residential, commercial, industrial and other customers, through 42 miles of collector lines with 26 lift stations. Its treatment plant has the capacity to treat a million gallons per day and is currently operating at approximately 60 percent of its capacity. As specified by 401 KAR 5:010, persons certified as Class II operators operate the plant. Since the parties executed the management contract described in paragraph 6 below, Prestonsburg has managed and operated David's wastewater collection system and conducted customer billing for David.

4. David is a non-profit corporation, organized pursuant to KRS Chapter 273, with its corporate office at David, Kentucky.

5. David owns a wastewater collection system and sewage treatment plant that operates as a utility under the jurisdiction of this Commission. According to its 2000 Annual Report, the system has been in operation since March 1979. The report does not list the number of customers, but it does show that the system has only 70 service laterals.

6. On December 21, 1999, David entered into a management contract with Prestonsburg for an initial term of one year, which renewed automatically for an additional term of one year. Under the terms of the contract, Prestonsburg agreed to operate David's wastewater collection system and to furnish water service to David's customers. The management contract was intended by the parties to serve as a temporary measure until such time as the sale and purchase of David's utility facilities could be negotiated, executed, approved and carried out.

7. On March 14, 2000, in furtherance of the parties' intent, David and Prestonsburg executed a sale and purchase agreement under whose terms David agreed to transfer ownership of its wastewater collection system to Prestonsburg. In consideration of the transfer, Prestonsburg agreed to connect its wastewater collection system to David's and to provide sewer service to David's existing customers and to new customers in David's service territory.

8. An annual audit of the Utilities Commission for the year ending June 30, 2000, demonstrates that the Utilities Commission is financially sound and has adequate operating capital to conduct its operation and to add the David collection system to its system. The auditors also included an analysis of David's sewage system, which found that David's system was in disrepair and in need of overhaul. The report noted that after the proposed transfer is completed, Prestonsburg plans to oversee the needed repairs and to extend its sewage lines to David's lines. In addition to providing David's customers access to its treatment plant, the extension will allow Prestonsburg to serve new customers along Kentucky Route 114. An elementary school will be included among the new customers. The estimated cost to Prestonsburg of overhauling the

system and constructing the extension is \$800,000, of which \$40,000 has been contributed by the Floyd County Board of Education.

CONCLUSIONS OF LAW

1. Prestonsburg has the financial, technical and managerial abilities to provide reasonable sewage service to the customers of David, and the proposed transfer is for a proper purpose.

2. The proposed transfer would serve the public interest by providing for the repair of the David wastewater collection system and by extending sewer service to new customers along Kentucky Route 114.

3. The proposed transfer of David's wastewater collection system to Prestonsburg would be in accordance with the law and should be approved.

This Commission being otherwise sufficiently advised, IT IS HEREBY ORDERED that the proposed transfer of David's wastewater collection system to Prestonsburg is approved.

Done at Frankfort, Kentucky, this 1st day of October, 2001.

By the Commission

ATTEST:


Executive Director