

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF ORCHARD	)	
GRASS UTILITIES, INC. AND OLDHAM	)	
COUNTY SEWER DISTRICT FOR APPROVAL	)	CASE NO.
OF THE TRANSFER OF WASTEWATER	)	2004-00029
TREATMENT FACILITIES PURSUANT TO	)	
AN ASSET PURCHASE AGREEMENT	)	
BETWEEN THE PARTIES	)	

O R D E R

Orchard Grass Utilities, Inc. ("Orchard Grass") and Oldham County Sewer District ("Oldham District") (collectively "Joint Applicants") have moved the Commission to strike the rebuttal of Robert L. Madison submitted to the Commission on March 16, 2004. The Joint Applicants state in support of their motion that the Commission is required by KRS 278.020(4) to approve the transfer if the person acquiring the utility has the "financial, technical and managerial abilities to provide reasonable service." They assert that the vast majority of the statements contained or referred to in the rebuttal are completely irrelevant to the issue of whether Oldham District has the required abilities to provide reasonable service. They also argue that the documents contained in Mr. Madison's rebuttal are hearsay and do not contain sworn testimony. Mr. Madison filed a response to the motion to strike, asserting that the information filed in his rebuttal is relevant to the issue of whether Oldham District has the requisite abilities to provide reasonable utility service and is relevant to whether the proposed

transfer is to be made in accordance with law, for a proper purpose, and is consistent with the public interest.

The Commission agrees with the Joint Applicants that we are mandated by KRS 278.020(4) to approve a transfer if we determine that an acquirer has the financial, technical, and managerial abilities to provide reasonable service. However, the Commission finds that KRS 278.020(5) requires that we also determine that the acquisition is made in accordance with the law, is for a proper purpose, and is consistent with the public interest.

The Commission, having reviewed the motion and the response thereto and being otherwise sufficiently advised, finds that the text of the document as well as Enclosures 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, and 18 of the rebuttal are irrelevant to our decision and that the Joint Applicants' motion should be granted as to these documents. We find that Enclosures 5, 9, and 16 of the rebuttal may be relevant to the Commission's decision and that the Joint Applicants' motion should be denied as to these documents.

IT IS THEREFORE ORDERED that:

1. The Joint Applicants' motion to strike the rebuttal of Mr. Madison is granted as to the text of the document and Enclosures 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, and 18 of the rebuttal.

2. The Joint Applicants' motion to strike the rebuttal of Mr. Madison is denied as to Enclosures 5, 9, and 16 of the rebuttal.

Done at Frankfort, Kentucky, this 14<sup>th</sup> day of April, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas H. (T) [unclear]", written over a horizontal line.

Executive Director

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