

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

JOINT APPLICATION OF SHADOW WOOD )  
SUBDIVISION SEWER SERVICE AND )  
SHADOW WOOD WASTE ENVIRONMENTAL )  
FOR APPROVAL OF THE TRANSFER OF ) CASE NO. 2004-00364  
WASTEWATER TREATMENT FACILITIES )  
PURSUANT TO PURCHASE AGREEMENTS )  
BETWEEN THE PARTIES )

ORDER

On September 13, 2004, Shadow Wood Subdivision Sewer Service (“Shadow Sewer”), a joint venture of Fourth Avenue Corporation and Long Corporation, and Shadow Wood Waste Environmental, LLC (“Shadow Waste”) (collectively “the Joint Applicants”) applied for Commission approval of Shadow Waste’s purchase of Shadow Sewer’s wastewater treatment and collection system. The Attorney General was granted the status of intervenor by Order dated September 24, 2004. There are no other intervenors.

By Order dated November 12, 2004, the Commission continued the statutory 60-day review period for an additional 60 days up to and including January 11, 2005. An informal conference was conducted on November 23, 2004, in which representatives of the Joint Applicants and the Commission were in attendance. The parties in attendance agreed that the Joint Applicants would supplement the application to address the issues discussed at the informal conference. An informal conference memorandum was filed in the record on December 7, 2004. On December 8, 2004, the Joint Applicants filed a

revised purchase agreement along with additional information requested at the informal conference. On December 29, 2004, the Joint Applicants filed supplemental information and a revision to its Agreement for Purchase and Sale of Joint Venture Assets.

A hearing was neither requested nor conducted, and the Commission makes its decision on the written record.

KRS 278.020(4) provides that no person may acquire or transfer control or ownership of a utility without prior approval by the Commission. The Commission will approve such a transfer if it determines that the acquirer has the financial, technical, and managerial abilities to provide reasonable service. The Commission must also determine that the acquisition is made in accordance with the law, for a proper purpose, and is consistent with the public interest. KRS 278.020(5). The Commission may grant an application upon terms and conditions it deems necessary to protect the public interest.

In demonstration of its financial ability to operate a wastewater treatment and collection system, Shadow Waste has provided an irrevocable letter of credit up to an aggregate of \$125,000 from Premier Land Company ("Premier"), its parent company. According to Premier's June 30, 2004 financial statements, it has a net investment in real estate of \$1,743,174. Premier has also pledged its financial and administrative resources to assist Shadow Waste in the operation of the wastewater treatment and collection system.

Shadow Waste has demonstrated the technical ability to operate the system. Shadow Waste has committed to employ Joe Sanders, the certified operator previously hired by Shadow Sewer. Shadow Waste is managed by its two members, Julie K.

Tinnell and Craig Perdue. With regard to managerial ability, Julie K. Tinnell has extensive experience in accounting and real estate development and Craig Perdue has extensive experience in real estate development.

The purchase price of the assets is \$225,000. When the sale of a utility results in a purchase price greater than the original cost less accumulated depreciation and net contributions in aid of construction (net book value), the difference between the purchase price and the net book value is accounted for as a plant acquisition adjustment in accordance with the Uniform System of Accounts for Sewer Utilities.

The net book value of Shadow Sewer's assets is \$109,603<sup>1</sup> as stated in its annual report filed with this Commission for the year ended December 31, 2003. In its annual report Shadow Sewer reported contributions in aid of construction at zero. In Case No. 2001-00423<sup>2</sup> the Commission found that Shadow Sewer's net contributions were understated for the year ended December 31, 2000, by an amount equal to that reported as net utility plant in service at that time. It further found that uncontributed property of \$24,598.61 had not been reported as utility plant in service and granted recovery of depreciation on such property.

In this case, net plant shall be the amount previously approved by the Commission, \$24,598.61, net of accumulated depreciation as of December 31, 2004, in

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<sup>1</sup> Utility Plant in Service	\$438,339
Accumulated Depreciation	<u>(328,736)</u>
Net Plant	<u>\$109,603</u>

<sup>2</sup> Case No. 2001-00423, Application of Shadow Wood Subdivision Sewer Service, a Joint Venture of Fourth Avenue Corporation and Long Corporation d/b/a Shadow Wood Subdivision Sewer Service for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities (Ky. PSC September 6, 2002).

the amount of \$21,932.91, as determined from the information shown in the Staff Report of Case No. 2001-00423 and applying a half-year provision for depreciation for the asset's first and last years of service. The Commission therefore finds that the net plant in service as of December 31, 2004 shall be \$2,665.70. The amount reported as an acquisition adjustment shall be based upon this amount adjusted for any differences made necessary by the actual closing date of the transaction. The Commission will allow this amount to be adjusted for plant placed into service after December 31, 2000, where Shadow Sewer or Shadow Waste can show that the plant was not funded through contributions in aid of construction. Any evidence supporting such shall be submitted along with the journal entry recording the transfer transaction.

The journal entry filed to record the purchase should be prepared in accordance with Utility Plant Instruction Number 4 of the Uniform System of Accounts for Sewer Utilities. Since any acquisition adjustment recorded relates to the utility plant investment, it should be amortized over the remaining life of the assets. The amortization may be recorded in Account 406, Amortization of Utility Plant Acquisition Adjustments. However, the Commission finds that the amortization of the acquisition adjustment should be approved in this proceeding for accounting purposes only, with the decision on rate-making treatment deferred to any future rate proceeding.

After carefully reviewing the record established in this proceeding, the Commission concludes that Shadow Waste has the financial, technical, and managerial ability to provide reasonable service to Kentucky customers. The Commission finds that the proposed acquisition is consistent with the public interest and that Shadow Waste has the ability to maintain the level and quality of service currently received by Shadow

Sewer customers. The matter of rate recovery of the acquisition adjustment will be addressed by this Commission when brought before it in a general rate application.

The Commission, having reviewed the record and having been sufficiently advised, HEREBY ORDERS that:

1. The proposed transfer of ownership and control of the wastewater collection and treatment facilities of Shadow Sewer to Shadow Waste is approved.

2. Within 30 days from the date of the transfer, Shadow Waste shall file a copy of the journal entry recording the transfer.

3. Within 10 days of the date of the transfer, Shadow Waste shall file an adoption notice conforming to the requirements of Administrative Regulation 807 KAR 5:011, Section 15(6).

4. Within 10 days of the filing of its adoption notice, Shadow Waste shall issue and file with the Commission in its own name Shadow Sewer's tariff, or such other tariff as it proposes to put into effect in lieu thereof, in the form prescribed in Administrative Regulation 807 KAR 5:011, Sections 2 through 5, with proper identifying designation.

5. Shadow Sewer shall be responsible for submitting to the Commission a financial and statistical report, as described in Administrative Regulation 807 KAR 5:006, Section 3, for the period in calendar year 2005 that it owned and operated the transferred assets.

6. The rate-making treatment of the plant acquisition adjustment and any associated costs (i.e., amortization) shall be deferred until Shadow Waste's next rate case proceeding.

7. Shadow Waste shall employ a certified sewage system operator to maintain the plant. In the event that the current certified operator is unable or unwilling to continue service, Shadow Waste shall immediately hire another certified sewage system operator.

Done at Frankfort, Kentucky, this 11<sup>th</sup> day of January, 2005.

By the Commission

ATTEST:



Executive Director