

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF AIRVIEW	)	
ESTATES, INC. AND ELIZABETHTOWN	)	
UTILITIES, LLC FOR APPROVAL OF	)	CASE NO.
THE TRANSFER OF WASTEWATER	)	2005-00022
TREATMENT PLANT TO	)	
ELIZABETHTOWN UTILITIES, LLC	)	

COMMISSION STAFF'S INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Administrative Regulation 807 KAR 5:001, Commission Staff requests that Airview, Inc. ("Airview") and Elizabethtown Utilities, LLC ("Elizabethtown Utilities") (jointly, "Applicants") file with the Commission, within 14 days of the date of this request, the original and 8 copies of the following information, with a copy to all parties of record. Each copy of the data requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the person who is responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible. Where information requested herein has been previously provided, in the format requested herein, reference may be made to the specific location of said information in responding to this information request.

1. At page 3 of their application, the Joint Applicants state, "Marty Cogan and Larry Smither, the members of Airview Elizabethtown Utilities, LLC, have the necessary

financial reserves to loan the limited liability company the funding necessary to assure continued operation of the plant.”

a. Provide financial statements, tax returns, and any other evidence of the financial integrity of Mr. Cogan and Mr. Smither.

b. Under what circumstances do Mr. Cogan and Mr. Smither believe that it will be necessary to loan Elizabethtown Utilities money to operate the treatment plant? Describe the expected loan amount, terms, and specific uses of the loan funds.

2. At page 4 of their application, the Joint Applicants state, “[t]here is no one that the Joint Applicants are aware of that would be willing to participate in the execution of a third party beneficiary agreement.”

a. Describe Elizabethtown Utilities’ efforts to obtain a third party beneficiary agreement.

b. Provide the evidence of financial integrity that Elizabethtown Utilities will file in lieu of a third party beneficiary agreement.

3. In Case No. 2004-00336,<sup>1</sup> the Commission approved the proposed transfer of the utility assets of B&H, Inc. to Richmond Utilities, LLC subject to the condition that “Richmond Utilities obtain an irrevocable letter of credit in the amount of \$20,000 with a minimum term of 10 years and payable to any receiver appointed by a court of competent jurisdiction to operate the B & H sewage treatment system upon Richmond Utilities or its successors’ failure to properly operate that system or its abandonment of that system.”

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<sup>1</sup> See, Case No. 2004-00336, Joint Application of B & H, Inc. and Richmond Utilities, LLC for Approval of the Transfer of Wastewater Treatment Plant to Richmond Utilities, LLC (Ky. PSC Dec. 22, 2004) at 6.

a. Explain why, in light of this decision, Mr. Cogan and Mr. Smither did not obtain an irrevocable letter of credit in this proceeding.

b. Will Elizabethtown Utilities proceed with the proposed transfer if the Commission imposes a similar condition to the proposed transfer? If the response is no, provide a detailed explanation.

4. At page 5 of their application, the Joint Applicants state, "Elizabethtown Utilities, LLC has filed a Notice of Adoption as described in 807 KAR 5:011." The referenced Notice, however, was not attached to the application. Provide a copy of the referenced Notice of Adoption of Elizabethtown Utilities.

5. At page 2 of their application, the Joint Applicants state, "[t]he assets purchased by Elizabethtown Utilities, LLC, are described more fully in the Agreement, but include the Airview Estates Subdivision wastewater treatment plant, the wastewater collection system and any pump station related thereto, cash and cash equivalents and the sewer easements." However, the Assets Purchase Agreement ("Agreement") does not indicate that cash and cash equivalents will be transferred to Elizabethtown Utilities. Will cash and cash equivalents (including the surcharge account) be transferred to Elizabethtown Utilities at closing?

6. In Case Number 2003-00494,<sup>2</sup> Airview Estates was granted a surcharge to be used to replace the remote lift station, make repairs to the treatment plant, and video inspect the gravity mains. Numerous conditions were placed upon the surcharge, including a construction schedule indicating when repairs are to be made.

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<sup>2</sup> Case No. 2003-00494, Application of Airview Estates, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities (Ky. PSC June 14, 2004).

a. Provide a schedule comparing the amount of surcharge collections that have been billed as of January 15, 2005 with the amounts that have actually been collected and deposited.

b. Is Elizabethtown Utilities aware of all of the conditions placed upon the surcharge and that failure to comply with those conditions will result in the revocation of the surcharge and the refunding of the monies already collected, plus interest?

c. The construction schedule requires that the replacement of the remote lift station begin in the month of January 2005. Has Airview begun the replacement of its remote lift station? If not, when will the construction begin?

d. Is Elizabethtown Utilities willing to agree to comply with the conditions placed on Airview's construction surcharge as a condition for approval of the proposed transfer?

e. Will surcharge receivables as of the closing date be transferred to Elizabethtown Utilities? If not, how will these receivables be handled?

f. Identify any affiliated companies that will be performing the surcharge construction at the Airview wastewater facilities. The response should include a description of the affiliated company's relationship to Elizabethtown Utilities, a description of the work that will be performed, and an itemized list of the costs.

g. Describe the bidding process that Elizabethtown Utilities will use to ensure that the construction cost is reasonable.

7. Identify any affiliated companies that will be providing services for Elizabethtown Utilities. This response should include the affiliate company's

relationship to Elizabethtown Utilities, a description of the service that will be preformed, and a list of the fees that will be charged to Elizabethtown Utilities. Describe the bidding process that Elizabethtown Utilities will use to ensure that the fees charged by the affiliated companies are competitive.

8. At page 2 of their application, the Joint Applicants state, “[t]he property upon which the wastewater treatment plant is located is being leased to Elizabethtown Utilities, LLC.” Provide the terms of the lease.

9. At page 2 of the Agreement, in Section 2.1(a)(i), the Agreement refers to Exhibit A. Exhibit A, however, is not attached to the Agreement. Provide a copy of Exhibit A.

10. At page 2 of the Agreement, there is a reference to an Agreed Order entered into by Airview in Environmental and Public Protection Cabinet vs. Airview Estates, Inc., Administrative File No. DOW-32651-037. Provide a copy of the Agreed Order.

11. Provide the journal entry that Elizabethtown Utilities proposes to record the transfer.

12. Refer to the Sewer Utilities Annual Report of Airview Estates to the Public Service Commission of Kentucky for the Year Ended December 31, 2003. Other Investments and Other Deferred Debits have balances of \$3,275 and \$1,085, respectively. Explain the nature of these accounts. Will these assets be transferred to Elizabethtown Utilities?

13. Will customer accounts receivable as of the closing date be transferred to Elizabethtown Utilities? If not, how will these receivables be handled?

14. At page 3 of their application, the Applicants state, "Mr. Cogan is a licensed wastewater treatment plant operator in the Commonwealth of Kentucky." In Case No. 2004-00336, however, Richmond Utilities stated that Mr. Cogan's certification had expired. State the date that Mr. Cogan's wastewater treatment plant operator certification expired and describe the circumstances under which the certification was allowed to expire.

15. Provide a copy of Mr. Smither's wastewater treatment plant operators' license.



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Beth O'Donnell  
Executive Director  
Public Service Commission  
P. O. Box 615  
Frankfort, KY 40602

Dated: February 7, 2005

cc: Parties of Record