

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION TO REQUEST COMMISSION )  
APPROVAL FOR AN INCREASE IN FARMDALE )  
DEVELOPMENT CORPORATION SEWAGE ) CASE NO. 2006-00028  
TREATMENT PLANT'S RATE PURSUANT TO )  
THE ALTERNATIVE RATE FILING PROCEDURE )  
FOR SMALL UTILITIES )

O R D E R

The Attorney General ("AG") has moved to be "present or otherwise participate" in any field review or audit performed by Commission Staff in connection with the Commission's review of Farmdale Development Corporation's application for rate adjustment. In support of his motion, the AG states that, as Commission Staff's review "is for the purpose of examining evidence and establishing the evidentiary record that will serve as the basis upon which the Commission will make its determination," he should be afforded "the opportunity for full and meaningful participation in this direct interaction with the Applicant by Commission Staff."

Finding that the AG's motion presents issues that should be examined before ruling on his motion, the Commission HEREBY ORDERS that the AG and any other interested party to this proceeding file with the Commission, within 20 days of the date of this Order, a written memorandum addressing the issues described in Appendix A. Responses to the memorandum, if any, should be filed no later than 10 days thereafter.

Done at Frankfort, Kentucky, this 20<sup>th</sup> day of March, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2006-00028 DATED March 20, 2006

#### ISSUES TO BE ADDRESSED IN WRITTEN MEMORANDUM

1. Provide the constitutional or statutory provisions, if any, that permit the presence or participation of the AG or other parties at any field review that Commission Staff conducts as part of a rate adjustment proceeding.
2. Does due process require the presence of all parties at any field review that Commission Staff conducts as part of a rate adjustment proceeding if Commission Staff prepares and files in the record a written report of its findings and recommendations and submits to discovery and cross-examination by all parties at any hearing?
3. How is any intervening party's ability to examine the evidence hindered if the party is provided a copy of any written report of Commission Staff's findings and recommendations, and if the party is permitted to conduct discovery of and cross-examination of those Commission Staff members who prepared the written report?
4. If the AG is permitted to be present at any field review that Commission Staff conducts as part of a rate adjustment proceeding, does due process require the Commission to offer all other parties to the proceeding a similar opportunity?
5. KRS 278.230(1) permits the Commission and its employees to enter the premises of any jurisdictional utility for the purpose of examining its books or records, but that permission does not extend to all parties in a Commission proceeding. Provide

the statutory or regulatory authority that allows the Commission to compel a utility to permit intervening parties to inspect utility records and interview utility personnel.

6. Must the utility applicant consent to the presence of other parties at any field review that Commission Staff conducts as part of a rate adjustment proceeding?

7. In determining whether non-Commission Staff members, e.g., intervening parties, should be permitted to accompany Commission Staff on a Commission Staff field review, what weight, if any, should be given to the potential effect on the reviewers' ability to interview the utility employees, examine utility records and facilities, and otherwise conduct the review?

8. Does the AG expect to obtain any information by his presence at the Commission Staff field review that could not otherwise be obtained from review of Commission Staff's written report, discovery, and cross-examination of Commission Staff?