

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EVERGREEN SEWAGE DISPOSAL, INC., NOTICE)	CASE NO.
OF SURRENDER AND ABANDONMENT OF)	2016-00290
UTILITY PROPERTY CONSISTING OF A)	
FRANKLIN COUNTY WASTEWATER TREATMENT)	
PLANT)	

ORDER

On August 8, 2016, Evergreen Sewage Disposal, Inc. (“Evergreen”) tendered a notice of surrender and abandonment of utility property (“Notice”) stating its intent to surrender its wastewater treatment plant (“WWTP”) in Franklin County, Kentucky, and abandon the operation of its utility.¹ After curing a deficiency by filing an amended application (“Amended Application”),² Evergreen’s Amended Application was accepted for filing as of August 12, 2016.

Evergreen requests that the Commission enter an Order which finds that the Commission has the legal basis to find that Evergreen has abandoned its Franklin County, Kentucky, WWTP and that the WWTP plant has been abandoned.³ Evergreen requests that the Commission authorize and direct its Staff to file an action in the Franklin Circuit Court seeking an order of the court attaching the assets of the Evergreen WWTP and placing those assets under the sole responsibility of a receiver.⁴

¹ Notice at 1.

² Amended Application (filed Aug. 12, 2016).

³ *Id.* at 2.

⁴ *Id.*

Evergreen is a for-profit sewer utility that provides sanitary sewer services to 42 residential customers in Franklin County, Kentucky.⁵ It is a utility subject to the Commission's jurisdiction and regulation.⁶

KRS 278.020(6) provides that "[n]o person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission." KRS 278.021 further provides in part:

If the commission, after notice and hearing, enters an order in which it finds that a utility is abandoned, the commission may bring an action in the Franklin Circuit Court for an order attaching the assets of the utility and placing those assets under the sole control and responsibility of a receiver.

The Commission finds that an investigation in this matter should be conducted to examine Evergreen's request to abandon its sewer facilities. We further find that the Franklin County Judge-Executive should be served with a copy of this Order.

IT IS THEREFORE ORDERED that:

1. This case is initiated to investigate the request by Evergreen to abandon its utility services and facilities.
2. Evergreen shall continue to operate its utility facilities during the pendency of this investigation and shall continue operating until the Commission issues an Order adjudicating Evergreen's request to abandon its facilities.
3. The information requested in the Appendix of this Order is due within 14 days of the date of this Order. Pursuant to 807 KAR 5:001, Evergreen is to file with the

⁵ Notice at 1.

⁶ KRS 278.010(3)(f); KRS 278.040.

Commission the original and eight copies of the following information, with a copy to all parties of record.

a. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record, and the original and eight copies to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. Any party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

4. Service of any document or pleading required by this Order shall be filed with the Commission and served upon all parties of record in accordance with 807 KAR 5:001, Section 4(8).

5. The Executive Director shall serve a copy of this Order upon the Franklin County Judge-Executive.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2016-00290 DATED **SEP 06 2016**

1. State and describe in detail any upgrades that Evergreen currently needs in order to continue operating and remain in compliance with all regulations, and provide the corresponding cost of each upgrade.
2. State the current number of customers.
3. State the current number of customers with delinquent accounts.
4. State the number of disconnections performed year to date.
5. State and describe the steps taken to collect on delinquent accounts, including whether late notices are sent, service is cut off, or any court-enforcement actions are commenced.
6. State the number of customers who have had water service cut off for delinquent sewer bills year to date.
7. Explain in detail Evergreen's average monthly operating costs.
8. State whether Evergreen would consider applying for and requesting a rate increase.
9. State whether Evergreen is willing to continue operating the system if a rate increase is granted.
10. State whether the system is currently in compliance with all Public Service Commission and Kentucky Division of Water regulations. If not, describe in detail each area of noncompliance.
11. Provide the status of the Evergreen discharge permit.

12. Identify all individuals, surrounding sanitation districts, and municipal systems contacted regarding a potential transfer or sale of the system, and the result of any such communications.

13. State whether any Evergreen residents have been approached or have expressed interest regarding operating or taking over the system.

14. Does Evergreen intend to relinquish control and ownership of interests in all property necessary for providing utility service as provided for under KRS 278.021? List and describe all such property interests and their estimated value.

15. Identify any other state or local agencies that have been contacted regarding the proposed abandonment.

16. If Evergreen is authorized to abandon, detail the procedures and processes it will follow in shutting down the utility.

17. State whether the affirmative vote, approval, or consent of the director(s) of Evergreen was required to authorize the filing of an action to surrender all of its property interests and rights in and to the property owned by Evergreen necessary to provide utility service. If such is the case, provide a summary of the process of affirmative vote, approval, or consent and supply all related business records that document the process. If not, explain why, and fully describe the process that authorized the filing of the Notice in the instant case.

18. Provide a list of all property held by Evergreen used in providing utility service. Provide a copy of each deed, easement, or agreement corresponding to the real property utilized by Evergreen in providing utility service.

19. Identify how Evergreen has authorized the transfer of the property used in providing utility service and provide any instrument of transfer that has been executed by Evergreen. If an instrument of transfer has not been executed, state whether one will be prepared in connection with the proposed abandonment.

20. Provide a list of each pending court case in which Evergreen is a party.

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