

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST OF OLDHAM WOODS)	
SANITATION, INC. REQUEST FOR)	CASE NO.
DEVIATION FROM 807 KAR 5:006)	2017-00393
AND 807 KAR 5:011)	

ORDER

On September 28, 2017, Oldham Woods Sanitation, Inc. (“OWS”) filed a motion requesting Commission approval to deviate from certain administrative regulations that require a utility to maintain an office with specific business hours and to make a designated representative available for customer inquiries.¹ OWS filed its motion after being cited in a Periodic Compliance Inspection Report for allegedly violating the regulations from which it now requests a deviation.² OWS proposes a deviation to permit it to offer a website in lieu of providing office space, specific business hours, a telephone, and designated representative available for customer inquiries.

OWS requests to deviate from the following regulations:

- 807 KAR 5:006, Section 3(a), which requires a utility to provide the Commission with the address of its principal office in Kentucky, including street address.
- 807 KAR 5:006, Section 10(1), which provides that, upon complaint to a utility by a customer at the utility’s office, by telephone, or in writing, the utility shall make prompt and complete investigation.

¹ In its motion, OWS sought to deviate from the entirety of 807 KAR 5:006 and 807 KAR 5:011. In its response to a subsequent data request, OWS clarified that it sought to deviate from only the specified regulations.

² See Commission Staff’s First Request for Information (filed Oct. 26, 2017), Appendix, August 11, 2017, Periodic Inspection Report.

- 807 KAR 5:006, Section 14(1), which requires a utility to post and maintain regular business hours, and provide representatives available to assist its customers and to respond to inquiries from the commission regarding customer complaints.
- 807 KAR 5:006, Section 14(3)(b), which requires a utility to designate at least one representative to be available to answer customer questions, resolve disputes, and negotiate partial payment plans at the utility's office.
- 807 KAR 5:006, Section 14(1)(b)(2), which requires a utility with an annual operating revenue of less than \$250,000 to make a designated representative available during established working hours not fewer than seven hours per day, one day per week.
- 807 KAR 5:006, Section 14(1)(c)(1), which requires a utility to display a summary of customers' rights in its office open to the public for customer service and on its website.
- 807 KAR 5:006, Section 23, which requires a utility to have a system map on file at its principal office located within Kentucky and on file with the Commission.
- 807 KAR 5:006, Section 24, which requires that all utility records be kept in the utility office and be made available to Commission Staff upon reasonable notice at all reasonable hours.
- 807 KAR 5:011, Section (2)(4), which requires a utility to make a copy of its tariff available for public inspection in the utility's office or place of business.
- 807 KAR 5:011, Section 3(2)(a), which requires that a tariff sheet filed with Commission contain the utility's name, mailing address, and street address of the principal office if different from the mailing address, and website.

- 807 KAR 5:011, Section 8(4)(e), which requires that any notice of a change to a charge, fee, or condition of service should include a statement that a person may examine the tariff filing at the utility's offices.
- 807 KAR 5:011, Section 12, which requires a utility to display in its office that its tariff and applicable administrative regulations and statutes are available for public inspection.
- 807 KAR 5:011, Section 12(2), which requires a utility to provide a suitable table or desk in its office on which it shall make available for public viewing a copy of all effective tariffs.

As a basis for its request, OWS explains that it is a privately-owned small sewer system with a principal office located in the private home of its President. OWS further explains that it contracts with third parties for services provided to OWS's 135 customers in Oldham County, Kentucky. OWS contracts with Camden Environmental Service Company ("Camden") to operate and maintain OWS facilities. OWS customers contact Camden's office during regular business hours or on an after-hours emergency number to report service issues. OWS contracts with Oldham County Water District ("OCWD") to provide designated customer service representatives available to handle complaints and billing disputes, negotiate partial payments, and establish new service or discontinue existing service. OCWD representatives are available in person at OCWD's office, or by email, telephone, or mail. Additionally, OWS maintains a post office box and telephone number for customers who have non-emergency customer service questions. OWS President Patience Martin is available to meet with customers by appointment at the plant site or other public location.

OWS argues that the cost to rent and staff an office in order to comply with the regulations is not justified in light of the services provided to customers by third parties. OWS estimates that the annual cost to rent an office space would be \$7,725, based upon rental costs between \$12.50 per square foot to \$20.33 per square foot, and that the annual cost of staffing the office seven hours per week would be \$4,160 to \$6,240, based upon an hourly wage of \$10 to \$15 per hour. OWS further argues that it would have to increase its flat fee monthly rate from \$47.27 per month to between \$53.07 and \$55.02 per month if it were required to rent and staff an office.

OWS proposes to provide a website in place of a physical office to serve as a virtual office for OWS. The website would include links to OWS's tariff and system map, as well as the means to contact Camden, OCWD, or OWS. OWS contends that a website provides 24-hour customer service, which expands the regulatory requirement that a utility the size of OWS provide a representative seven hours per day, one day per week. OWS further contends that, since Camden provides maintenance services and OCWD provides customer service, permitting OWS to offer a website in place of a physical office does not change the type and availability of service that is currently provided to OWS customers.

In connection with its request, OWS established a website that is currently in operation. The website address is: www.oldhamwoodssanitation.com. The cost to set up the website included a one-time \$606 fee, which represents \$306 to obtain the domain name, \$200 for web design, and \$100 for future maintenance. OWS does not expect to pay additional fees to provide the website other than the \$9.90 annual fee it pays for the

website. OWS argues that it will not have to increase its rates to offer required services via the website.

807 KAR 5:006, Section 28, and 807 KAR 5:011, Section 15, provides that the Commission may grant a deviation from its general rules in special cases for good cause shown. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that OWS has established good cause and should be allowed to deviate only from the following regulations that relate to requirements to provide an office space and a designated representative so that customers may access information that affects customers' accounts: 807 KAR 5:006, Sections 3(a), 10(1), 14(1), 14(1)(b)(2), 14(1)(c)(1), 14(3)(b), 23, and 24; and 807 KAR 5:011, Sections 2(4), 8(4)(e), and 12.

The facts presented in this matter support a finding that OWS's request presents a special case. Of the regulations for which the Commission has granted deviation, the requirements that customers have direct access to customer service representatives and customer service information are satisfied by contractual relationship between OWS and third parties. Therefore, the Commission finds that OWS customers have a reasonable means of direct access to representatives who are capable of answering questions, resolving disputes, and negotiating partial payment plans.

Other requirements, such as public access to OWS's existing and proposed tariffs, and OWS system map could be provided via links on OWS's website. For example, OWS could create a link on its own website to the OWS system map on the Kentucky Infrastructure Authority ("KIA") Kentucky Wastewater Mapping website. The Commission finds that OWS should include on its website links to its current tariff; to any proposed

tariffs filed in the future with the Commission; to its system map on the KIA website; and contact information for Camden, OCWD, and OWS.

The Commission further finds that renting office space and hiring an additional employee to meet the regulatory requirements to provide an office space for customer service purposes is a significant financial burden to OWS at this time. Per its 2016 annual financial report filed with the Commission, OWS operated at a \$5,803 deficit for calendar year 2016, with operating revenues of \$56,675, and operating expenses of \$62,478. Using the low end of the range provided by OWS, renting an office and hiring an employee would increase OWS's annual operating expenses by \$11,885, or approximately 19% percent.

The Commission further finds that OWS failed to establish good cause and therefore its request to deviate from 807 KAR 5:006, Section 3(a) and 807 KAR 5:011, Section 3(2)(a) should be denied. 807 KAR 5:006, Section 3(a), which requires a street address of the principal office be on file with the Commission, and 807 KAR 5:011, Section 3(2)(a), which requires that a tariff sheet filed with Commission contain the street address of the principal office if different from the mailing address, serve an administrative function separate from regulations related to customer service. Thus, OWS's argument that deviation from 807 KAR 5:006, Section 3(a) and 807 KAR 5:011, Section 3(2)(a) is justified on customer service grounds fails. In another argument, OWS raises privacy and safety concerns if its street address was made public because OWS's principal office is in a private home. However, OWS's street address is already publicly available in public filings with the Kentucky Secretary of State. OWS and its registered agent share the same street address, which is publicly available on the Kentucky Secretary of State's

website pursuant to KRS 14A.4-020, which requires the registered agent's street address be included in public filings with the Kentucky Secretary of State. Based on the above, the Commission finds that OWS failed to establish good cause to deviate from 807 KAR 5:006, Section 3(a) and 807 KAR 5:011, Section 3(2)(a).

Last, the Commission finds that a permanent deviation is not warranted and that the deviation granted through this Order should be for a term of three years from the date of entry of this Order. Prior to the expiration of the deviation, OWS should provide written notice as to whether it will request a successive deviation. If OWS applies for a successive deviation, OWS should be prepared to demonstrate that its alternatives provide reasonable access to customer service representatives and customer service information required by 807 KAR 5:006, Sections 3(a), 10(1), 14(1), 14(1)(b)(2), 14(1)(c)(1), 14(3)(b), 23, and 24; and 807 KAR 5:011, Sections 2(4), 8(4)(e), and 12. The Commission further finds that if OCWD loses authorization to negotiate settlements, implement partial settlements, or resolve disputes on behalf of OWS, then OWS should promptly inform the Commission through a written notice.

IT IS THEREFORE ORDERED that:

1. OWS's request to deviate is granted in part and denied in part.
2. OWS's request to deviate from 807 KAR 5:006, Sections 10(1), 14(1), 14(1)(b)(2), 14(1)(c)(1), 14(3)(b), 23, and 24; and 807 KAR 5:011, Sections 2(4), 8(4)(e), and 12, is granted for a period of three years from the date of entry of this Order.
3. OWS's request to deviate from 807 KAR 5:006, Section 3(a) and 807 KAR 5:011, Section 3(2)(a) is denied.

4. OWS shall file documents in compliance with 807 KAR 5:006, Section 3(a) and 807 KAR 5:011, Section 3(2)(a) within 30 days of the date of entry of this Order

5. No less than three months prior to the expiration of the deviation granted through this Order, OWS shall file a written notice indicating whether it will submit a request for a successive deviation. If OWS, through the written notice, indicates that it does not plan to request a successive deviation, OWS shall state how it will comply with from 807 KAR 5:006, Sections 3(a), 10(1), 14(1), 14(1)(b)(2), 14(1)(c)(1), 14(3)(b), 23, and 24; and 807 KAR 5:011, Sections 2(4), 8(4)(e), and 12.

6. If at any point while the deviation granted through this Order is in effect OCWD loses authorization to negotiate settlements, implement partial settlements, or resolve disputes, OWS shall provide written notice to the Commission's Executive Director within seven days of the designated representative's loss of an authorization described above.

7. Any document filed in the future pursuant to ordering paragraphs 5 or 6 shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED
JAN 11 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

For 

Executive Director

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