



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Linda K. Breathitt
Commissioner

January 23, 2013

Mr. Jack Kaninberg
Middletown Waste Disposal, Inc.
Suite 1
13005 Middletown Industrial Boulevard
Louisville, Kentucky 40223

David Edward Spenard, Esq.
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

Re: Case No. 2012-00375
Middletown Waste Disposal, Inc.

Gentlemen:

The enclosed memorandum has been filed in the record of the above-referenced case. Any comments regarding this memorandum's contents should be submitted to the Commission within five days of receipt of this letter. Direct any questions regarding this memorandum to Gerald Wuetcher, Executive Advisor/Attorney at 502/782-2590.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director

gw
Enclosure

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File No. 2012-00375

FROM: Gerald Wuetcher **GEW**
Executive Advisor/Attorney

DATE: January 23, 2013

RE: Informal Conference of December 27, 2012

On December 27, 2012, Commission Staff conducted a telephone conference call in this matter. Participating in the conference call were:

Jack Kaninberg	-	Middletown Waste Disposal
Jonathan Beyer	-	Commission Staff
Mark Frost	-	Commission Staff
Scott Lawless	-	Commission Staff
Sam Reid	-	Commission Staff
James Rice	-	Commission Staff
Gerald Wuetcher	-	Commission Staff

The conference call was arranged after an exchange of electronic mail messages between Mr. Kaninberg and Commission Staff. A copy of these messages are attached.

Beginning the conference, Mr. Wuetcher also stated that Commission Staff would prepare minutes of the conference call for the case record, that a copy of the minutes would be provided to all parties, and that all parties would be given an opportunity to submit written comments upon those minutes.

Mr. Wuetcher questioned whether Middletown Waste Disposal objected or disagreed with any findings contained in the Commission Staff Report other than those presented in its response of December 20, 2012: the revenue normalization, electricity expense and interest expense. Mr. Kaninberg indicated that Middletown Waste Disposal did not object to any findings other than those specifically listed in its response.

Mr. Reid acknowledged that Commission Staff had misinterpreted Middletown Waste Disposal's billing analysis and that, upon further review, now agreed with the sewer utility's proposed adjustment of \$6,679.

Mr. Frost explained Commission Staff's methodology in calculating the proposed electricity expense increase. Mr. Kaninberg accepted Commission Staff's recommended expense adjustment in the amount of \$996. Mr. Frost stated that due to the two adjustments, an adjustment in Middletown Waste Disposal's insurance expense would also be necessary.

Mr. Wuetcher then inquired into Middletown Waste Disposal's intent regarding interest expense on its proposed loan. He stated that recovery for interest would only be permitted if the Commission authorized the proposed loan and the loan agreement was executed prior to the issuance of a final Order. Mr. Kaninberg inquired whether final decisions in Cases No. 2012-00375 and No. 2012-00526 could be issued simultaneously or within a short period of each other. He stated that Middletown Waste Disposal was agreeable to a delay in the issuance of a final Order in Case No. 2012-00375 to enable the Commission to render a final decision in Case No. 2012-00526. Mr. Wuetcher suggested that Middletown Waste Disposal discuss with its lender the timing for executing a loan agreement after any Commission authorization to enter such agreement.

Mr. Wuetcher stated that Commission Staff would notify Middletown Waste Disposal of the total estimated adjustment and would submit a proposed stipulation for Middletown Waste Disposal's review.

The conference call then concluded.

Attachments

From: [Jack Kaninberg](#)
To: [Wuetcher, Jerry \(PSC\)](#)
Subject: Middletown Waste Disposal Staff Report Case No. 2012-00375
Date: Tuesday, December 18, 2012 8:35:25 PM

Hi Jerry,

I've reviewed the Middletown Waste Disposal rate case Staff Report, and I know comments are due back 14 days from the December 14 issuance date. At this point, my areas of disagreement with the report are few, and I believe this case can largely be resolved with one correction to the report. I just wanted to touch base with you to see if I could discuss the situation with you and perhaps have the Staff consider issuing an Amended Staff Report, which would save some time and trouble for all of us. Please consider this, and I hope to hear back from you soon.

Best wishes,

Jack Kaninberg, Treasurer
Middletown Waste Disposal, Inc.
(502) 671-0214 - Home
(502) 554-7541 - Cell

From: [Jack Kaninberg](#)
To: [Frost, Mark C \(PSC\)](#); [Frost, Mark C \(PSC\)](#); [Wuetcher, Jerry \(PSC\)](#); [Wuetcher, Jerry \(PSC\)](#)
Subject: Response to Middletown Staff Report Case No. 2012-00375
Date: Thursday, December 20, 2012 8:42:57 PM

Gentlemen,

I just wanted to give you both a heads-up that I plan to mail my comments to the PSC this evening in the Middletown Waste Disposal rate case to get this matter behind me before Christmas. Those comments will express my belief that this case can best be resolved with the issuance of an Amended Staff Report (not an Informal Conference or Formal Hearing) relative to three issues: updating the two electricity and interest expense adjustments once they become known and measurable, and recognizing Middletown's normalized revenue amount of \$168,163 as appropriate rather than the Staff Report amount of \$174,842 - a difference of \$6,679.

Relative to the billing analysis number, there is no supporting calculation in the Staff Report for the \$6,679 Staff adjustment, but my interpretation of the sketchy discussion at the bottom of page 4 suggests to me that Staff misinterpreted the numbers in the summary billing analysis and thereby assumed that there were more commercial and industrial bills issued than was actually the case. My comments state that 172 total commercial and 287 total industrial bills were issued in 2011, and that 116 of those commercial and 28 of those industrial bills included usage-based charges. My comments will also show the revenues generated by both the first rate step (minimum bills) and the second rate step (bills with usage charges) for commercial and industrial customers. If the actual customer numbers and bills are clearly understood and Middletown's revenue number of \$168,163 is adopted in an Amended Staff Report, then I believe this case can be easily finalized with the updating of the two above-mentioned expense adjustments.

Finally, if there is a procedural way to streamline the remainder of this case without undue delay and formal proceedings, I'm open to any advice you may have in this regard.

Happy Holidays!

Jack Kaninberg, Treasurer
Middletown Waste Disposal, Inc.
(502) 671-0214 - Home
(502) 554-7541 - Cell

From: [Jack Kaninberg](#)
To: [Wuetcher, Jerry \(PSC\)](#)
Cc: [Frost, Mark C \(PSC\)](#); [Wuetcher, Jerry \(PSC\)](#)
Subject: Re: Response to Middletown Staff Report Case No. 2012-00375
Date: Friday, December 21, 2012 12:26:00 PM

Jerry,

Of course I'd be interested in a conference call next week to help resolve this. As for the time, please decide what time you'd like to do it, and I think I'm open for Wednesday and Thursday but tied up early Friday morning. Just let me know.

As for avoiding an Amended Staff Report, let me state clearly that I was suggesting that to avoid incurring attorney fees through an Informal Conference, Formal Hearing, or settlement process. If we can resolve the billing analysis issue, maybe a memo to the file could be done as an alternative to an Amended Staff Report. Just a thought.

Merry Christmas, and I look forward to hearing back from you on the telephone conference. Please call my home or my cell rather than the office.

Jack Kaninberg
(502) 671-0214 - Home
(502) 554-7541 - Cell

From: "Jerry Wuetcher (PSC)" <JWuetcher@ky.gov>
To: "Jack Kaninberg" <jwkaninberg@insightbb.com>
Cc: "Mark C Frost (PSC)" <mcfrost@ky.gov>, "Jerry Wuetcher (PSC)" <JWuetcher@ky.gov>
Sent: Thursday, December 20, 2012 8:49:56 PM
Subject: Re: Response to Middletown Staff Report Case No. 2012-00375

Mr. Kaninburg:

Would you consider a conference call next week? Commission Staff's preference is to avoid an amended Staff Report. If yes, please let me know the times that you are available for a call.

Wuetcher

Sent from my iPod

On Dec 20, 2012, at 8:42 PM, "Jack Kaninberg" <jwkaninberg@insightbb.com> wrote:

Gentlemen,

I just wanted to give you both a heads-up that I plan to mail my comments to the PSC this evening in the Middletown Waste Disposal rate case to get this matter behind me before Christmas. Those comments will express my belief that this case can best be resolved with the issuance of an Amended Staff Report (not an

Informal Conference or Formal Hearing) relative to three issues: updating the two electricity and interest expense adjustments once they become known and measurable, and recognizing Middletown's normalized revenue amount of \$168,163 as appropriate rather than the Staff Report amount of \$174,842 - a difference of \$6,679.

Relative to the billing analysis number, there is no supporting calculation in the Staff Report for the \$6,679 Staff adjustment, but my interpretation of the sketchy discussion at the bottom of page 4 suggests to me that Staff misinterpreted the numbers in the summary billing analysis and thereby assumed that there were more commercial and industrial bills issued than was actually the case. My comments state that 172 total commercial and 287 total industrial bills were issued in 2011, and that 116 of those commercial and 28 of those industrial bills included usage-based charges. My comments will also show the revenues generated by both the first rate step (minimum bills) and the second rate step (bills with usage charges) for commercial and industrial customers. If the actual customer numbers and bills are clearly understood and Middletown's revenue number of \$168,163 is adopted in an Amended Staff Report, then I believe this case can be easily finalized with the updating of the two above-mentioned expense adjustments.

Finally, if there is a procedural way to streamline the remainder of this case without undue delay and formal proceedings, I'm open to any advice you may have in this regard.

Happy Holidays!

Jack Kaninberg, Treasurer
Middletown Waste Disposal, Inc.
(502) 671-0214 - Home
(502) 554-7541 - Cell

From: [Jack Kaninberg](#)
To: [Wuetcher, Jerry \(PSC\)](#)
Cc: [Frost, Mark C \(PSC\)](#)
Subject: Re: Response to Middletown Staff Report Case No. 2012-00375
Date: Friday, December 21, 2012 4:31:58 PM

Jerry,

Thursday at 10:30 am sounds fine; please call my home number (502-671-0214) to reach me then.

As for the stipulation, I'm less familiar with that than I am the Amended Staff Report process. I clearly want to avoid attorney fees if at all possible. Also, one additional concern that led me to suggest an Amended Staff Report was the nightmarish experience Middletown had with its last rate case decided on April 30, 2010 when the Commission rejected the third of three settlement agreements agreed to at various times in that case. I'd hoped an Amended Staff Report, which Middletown would accept if it updates interest and electricity expense and corrects the normalized revenue number, would give Middletown additional confidence of the probable outcome in this case pending the issuance of a Final Order (although I recognize the Staff's recommendation is never binding upon the Commission). I'm only mentioning this concern in advance because it might be helpful in drafting any potential stipulation language, assuming a stipulation is preferable to you.

Thanks for your efforts and patience on this matter right before the Holidays, and again, Merry Christmas to all of you.

Jack Kaninberg
(502) 671-0214 - Home

From: "Jerry Wuetcher (PSC)" <JWuetcher@ky.gov>
To: "Jack Kaninberg" <jwkaninberg@insightbb.com>
Cc: "Mark C Frost (PSC)" <mfrost@ky.gov>
Sent: Friday, December 21, 2012 2:13:14 PM
Subject: RE: Response to Middletown Staff Report Case No. 2012-00375

Mr. Kaninburg:

I will set up a conference call for Thursday at 10:30 a.m. I will send the contact info later today.

If an agreement can be reach, Commission Staff and the utility can enter into a stipulation. No attorney has entered an appearance for Middletown in this case. 807 KAR 5:076 would permit a non-attorney who is authorized to act on behalf of the utility to sign a stipulation. Unless Middletown saw the need to bring an attorney into the matter, the issues can be resolved without an attorney.

Please confirm that 10:30 a.m. on 12/27/2012 is an acceptable time.

Sincerely,

Gerald E. Wuetcher
Executive Advisor/Attorney
Public Service Commission of Kentucky
gerald.wuetcher@ky.gov
Office: (502) 564-3940
Direct: (502) 782-2590
Cell: (502) 229-6500

From: Jack Kaninberg [mailto:jwkaninberg@insightbb.com]
Sent: Friday, December 21, 2012 12:26 PM
To: Wuetcher, Jerry (PSC)
Cc: Frost, Mark C (PSC); Wuetcher, Jerry (PSC)
Subject: Re: Response to Middletown Staff Report Case No. 2012-00375

Jerry,

Of course I'd be interested in a conference call next week to help resolve this. As for the time, please decide what time you'd like to do it, and I think I'm open for Wednesday and Thursday but tied up early Friday morning. Just let me know.

As for avoiding an Amended Staff Report, let me state clearly that I was suggesting that to avoid incurring attorney fees through an Informal Conference, Formal Hearing, or settlement process. If we can resolve the billing analysis issue, maybe a memo to the file could be done as an alternative to an Amended Staff Report. Just a thought.

Merry Christmas, and I look forward to hearing back from you on the telephone conference. Please call my home or my cell rather than the office.

Jack Kaninberg
(502) 671-0214 - Home
(502) 554-7541 - Cell

From: "Jerry Wuetcher (PSC)" <JWuetcher@ky.gov>
To: "Jack Kaninberg" <jwkaninberg@insightbb.com>
Cc: "Mark C Frost (PSC)" <mcfrost@ky.gov>, "Jerry Wuetcher (PSC)" <JWuetcher@ky.gov>
Sent: Thursday, December 20, 2012 8:49:56 PM
Subject: Re: Response to Middletown Staff Report Case No. 2012-00375

Mr. Kaninburg:

Would you consider a conference call next week? Commission Staff's preference is to avoid an amended Staff Report. If yes, please let me know the times that you are available for a call.

Wuetcher

Sent from my iPod

On Dec 20, 2012, at 8:42 PM, "Jack Kaninberg" <jwkaninberg@insightbb.com> wrote:

Gentlemen,

I just wanted to give you both a heads-up that I plan to mail my comments to the PSC this evening in the Middletown Waste Disposal rate case to get this matter behind me before Christmas. Those comments will express my belief that this case can best be resolved with the issuance of an Amended Staff Report (not an Informal Conference or Formal Hearing) relative to three issues: updating the two electricity and interest expense adjustments once they become known and measurable, and recognizing Middletown's normalized revenue amount of \$168,163 as appropriate rather than the Staff Report amount of \$174,842 - a difference of \$6,679.

Relative to the billing analysis number, there is no supporting calculation in the Staff Report for the \$6,679 Staff adjustment, but my interpretation of the sketchy discussion at the bottom of page 4 suggests to me that Staff misinterpreted the numbers in the summary billing analysis and thereby assumed that there were more commercial and industrial bills issued than was actually the case. My comments state that 172 total commercial and 287 total industrial bills were issued in 2011, and that 116 of those commercial and 28 of those industrial bills included usage-based charges. My comments will also show the revenues generated by both the first rate step (minimum bills) and the second rate step (bills with usage charges) for commercial and industrial customers. If the actual customer numbers and bills are clearly understood and Middletown's revenue number of \$168,163 is adopted in an Amended Staff Report, then I believe this case can be easily finalized with the updating of the two above-mentioned expense adjustments.

Finally, if there is a procedural way to streamline the remainder of this case without undue delay and formal proceedings, I'm open to any advice you may have in this regard.

Happy Holidays!

Jack Kaninberg, Treasurer
Middletown Waste Disposal, Inc.
(502) 671-0214 - Home
(502) 554-7541 - Cell