

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AIRVIEW UTILITIES, LLC'S NOTICE OF) CASE NO.
SURRENDER AND ABANDONMENT OF UTILITY) 2016-00207
PROPERTY)

ORDER

On June 16, 2015, Airview Utilities, LLC ("Airview") tendered a notice of surrender and abandonment of utility property ("Notice"), stating its intent to abandon all the property interests and rights in and to the property owned by Airview, necessary to provide service to its customers.¹ After curing a deficiency by filing a notice of compliance,² Airview's Notice was accepted for filing as of July 11, 2016.

In support of its Notice, Airview states that it is unable to meet its financial obligations to vendors, suppliers, and service entities and that it can no longer afford to continue to operate the Wastewater Treatment Plant ("WWTP") facilities, which are deteriorating and need significant upgrades.³ Airview further states that it has suffered significant difficulty in obtaining payment for its services, which has contributed to its inability to pay for needed upgrades to the Airview WWTP.⁴

¹ Case No. 2016-00207, *Airview Utilities, LLC's Notice of Surrender and Abandonment of Utility Property* "Notice" (filed June 16, 2016).

² Notice of Filing by Airview Utilities, LLC of Notice of Compliance with KRS 278.020(11) (filed July 11, 2016).

³ Notice at 1–2.

⁴ *Id.* at 2.

Airview requests authorization, pursuant to KRS 278.021(2)(a), to abandon all interests in its real and personal property necessary to provide sewer service.

Airview is a for-profit sewer utility that provides sanitary sewer services to 241 customers in the Airview Estates Subdivision in Hardin County, Kentucky.⁵ It is a utility subject to the Commission's jurisdiction and regulation.⁶

KRS 278.020(5) 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 Airview's request to abandon its sewer facilities. We further find that the Hardin 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 Airview to abandon its utility services and facilities.
2. Airview shall continue to operate its utility facilities during the pendency of this investigation and shall continue operating until the Commission issues an Order adjudicating Airview's request to abandon its facilities.

⁵ *Annual Report of Airview Utilities, LLC to the Public Service Commission of Kentucky for the Calendar Year Ended December 31, 2014* at 9 and 25. Airview's Notice states that it provides sanitary sewage treatment for approximately 203 customers in Hardin County, Kentucky. Notice at 2.

⁶ KRS 278.010(3)(f); KRS 278.040.

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, Airview is to file with the Commission the original and 8 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.

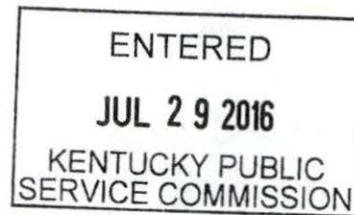
d. For any request to which a party fails or refuses to furnish all or part of the requested information that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. 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.

5. 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).

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

By the Commission



ATTEST:


Executive Director 

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2016-00207 DATED **JUL 29 2016**

1. State and describe in detail any upgrades that Airview 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 Airview's average monthly operating costs.
8. State whether Airview would consider applying for and requesting a rate increase.
9. State whether Airview 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 Airview 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 Airview residents have been approached or have expressed interest regarding operating or taking over the system.

14. Does Airview 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 Airview 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 member(s) of Airview 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 Airview 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 Airview used in providing utility service. Provide a copy of each deed, easement, or agreement corresponding to the real property utilized by Airview in providing utility service.

19. Identify how Airview has authorized the transfer of the property used in providing utility service and provide any instrument of transfer that has been executed by Airview. 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 Airview is a party.

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