

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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SEP 28 2016

PUBLIC SERVICE  
COMMISSION

In the Matter of:

AIRVIEW UTILITIES, LLC )  
PETITION FOR ABANDONMENT )

CASE NO. 2016-00207

**ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits this Second Request for Information to Airview Utilities, LLC ("Airview" or "Company") to be answered in accord with the following instructions:

(1) In each case where a request seeks data provided in response to a staff request, reference to the appropriate request item will be deemed a satisfactory response.

(2) Please identify the witness(es) who will be prepared to answer questions concerning each request.

(3) Please repeat the question to which each response is intended to refer. The Office of the Attorney General can provide counsel for Airview with an electronic version of these data requests, upon request.

(4) These requests shall be deemed continuing so as to require further and supplemental responses if the company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.

(5) Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association, be accompanied by a signed certification of the preparer or 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.

(6) If you believe any request appears confusing, please request clarification directly from Counsel for the Office of Attorney General.

(7) To the extent that the specific document, workpaper or information as requested does not exist, but a similar document, workpaper or information does exist, provide the similar document, workpaper, or information.

(8) To the extent that any request may be answered by way of a computer printout, please identify each variable contained in the printout which would not be self-evident to a person not familiar with the printout.

(9) If the company has objections to any request on the grounds that the requested information is proprietary in nature, or for any other reason, please notify the Office of the Attorney General as soon as possible.

(10) As used herein, the words "document" or "documents" are to be construed broadly and shall mean the original of the same (and all non-identical copies or drafts thereof) and if the original is not available, the best copy available. These terms shall include all information recorded in any written, graphic or other tangible form and shall include, without limiting the generality of the foregoing, all reports; memoranda; books or notebooks; written or recorded statements, interviews, affidavits and depositions; all letters or correspondence; telegrams, cables and telex messages; contracts, leases, insurance policies or other agreements; warnings and

caution/hazard notices or labels; mechanical and electronic recordings and all information so stored, or transcripts of such recordings; calendars, appointment books, schedules, agendas and diary entries; notes or memoranda of conversations (telephonic or otherwise), meetings or conferences; legal pleadings and transcripts of legal proceedings; maps, models, charts, diagrams, graphs and other demonstrative materials; financial statements, annual reports, balance sheets and other accounting records; quotations or offers; bulletins, newsletters, pamphlets, brochures and all other similar publications; summaries or compilations of data; deeds, titles, or other instruments of ownership; blueprints and specifications; manuals, guidelines, regulations, procedures, policies and instructional materials of any type; photographs or pictures, film, microfilm and microfiche; videotapes; articles; announcements and notices of any type; surveys, studies, evaluations, tests and all research and development (R&D) materials; newspaper clippings and press releases; time cards, employee schedules or rosters, and other payroll records; cancelled checks, invoices, bills and receipts; and writings of any kind and all other tangible things upon which any handwriting, typing, printing, drawings, representations, graphic matter, magnetic or electrical impulses, or other forms of communication are recorded or produced, including audio and video recordings, computer stored information (whether or not in printout form), computer-readable media or other electronically maintained or transmitted information, and all other rough drafts, revised drafts (including all handwritten notes or other marks on the same) and copies of documents as hereinbefore defined by whatever means made.

(11) For any document withheld on the basis of privilege, state the following: date; author; addressee; indicated or blind copies; all persons to whom distributed, shown, or explained; and, the nature and legal basis for the privilege asserted.

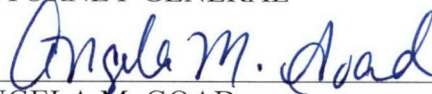
(12) In the event any document called for has been destroyed or transferred beyond the control of the company, please state: the identity of the person by whom it was destroyed or transferred, and the person authorizing the destruction or transfer; the time, place, and method of destruction or transfer; and, the reason(s) for its destruction or transfer. If destroyed or disposed of by operation of a retention policy, state the retention policy.

(13) Please provide written responses, together with any and all exhibits pertaining thereto, in one or more bound volumes, separately indexed and tabbed by each response, in compliance with Kentucky Public Service Commission Regulations.

(14) The Attorney General reserves the right to pose additional preliminary data requests on or before the due date specified in the Commission's procedural schedule.

Respectfully submitted,

ANDY BESHEAR  
ATTORNEY GENERAL



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1. Reference Airview's response to AG 1-1(b) and (c) to answer the following questions:
  - a. Provide copies of the Kentucky Secretary of State's certificates of existence and authorization for Lake Columbia, LLC, Brocklyn Utilities, LLC, Coolbrook Utilities, LLC, and Fox Run Utilities, LLC.
  - b. Do the member owners of Airview, Lawrence W. Smither and Martin G. Cogan, own any other wastewater treatment plant/sewer utilities separate and independent of each other? If so, have any of these utilities been abandoned? Explain in full detail.
2. Reference Airview's response to AG 1-1(d). Advise whether Airview or the City of Elizabethtown performed studies, or used any other method to determine the monetary cost of connecting the Airview neighborhood to Elizabethtown's sewer system. If yes, then provide copies of all documentation and studies that have been performed. If not, explain why a study or other method has not been performed to determine the costs.
3. Reference Airview's response to AG 1-2(a) to answer the following questions:
  - a. Explain in full detail why Hardin County Water District No. 2 refused to provide billing/collection services for Airview.
  - b. Airview states that, "[p]ackage treatment plants were designed to be a temporary remedy to provide wastewater treatment services to its customers until service could be provided on a permanent WWTP."
    - i. Provide documentation supporting this assertion.
    - ii. What permanent wastewater treatment plant was envisioned for the Airview neighborhood? Explain in full detail.
    - iii. Were the member owners of Airview supposed to provide the permanent wastewater treatment plant alluded to in the prior statement? Explain in full detail.
4. Reference Airview's response to AG 1-2(b), Attachment A, to answer the following questions:
  - a. Provide a detailed explanation of the Auto Expense category, the cost components included in this category, and to what entity/person the payments were made.

- b. Provide a detailed explanation of the Bad Debt Expense category, the cost components included, and why there are large variances in expense amounts between 2013 and 2015.
- c. Provide a detailed explanation of the Bankcard Charges category, as well as the cost components included in this category.
- d. Provide a detailed explanation of the Management category, the cost components included, and to what entity/person the payments were made.
- e. Provide a detailed explanation of the Sludge Hauling category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2015.
- f. Provide a detailed explanation of the Continuing Education category, and the cost components included in this category.
- g. Provide a detailed explanation of the Lab Testing category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- h. Provide a detailed explanation of the Chemicals category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- i. Provide a detailed explanation of the Rent Expense category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2014 through 2016.
- j. Provide a detailed explanation of the Utilities category, the cost components included, and to what entity/person the payments were made.
- k. Provide a detailed explanation of the Plant Operator category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- l. Provide a detailed explanation of the Treatment System Maintenance category, the cost components included, to what entity/person the payments were made, and

why there are large variances in expense amounts between the years 2012 through 2016.

- m. Provide a detailed explanation of the Collection Expense category, the cost components included, and to what entity/person the payments were made.
- n. Provide a detailed explanation of the Office category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- o. Provide a detailed explanation of the Bank and Merchant Charges category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- p. Provide a detailed explanation of the Customer Invoicing category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- q. Provide a detailed explanation of the Legal and Professional fees category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
- r. Provide a detailed explanation of the Supervision category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2015.
- s. Provide a detailed explanation of the Tier II Emergency Fee category, the cost components included, and to what entity/person the payments were made.
- t. Provide a detailed explanation of the Insurance category, the cost components included, and to what entity/person the payments were made.
- u. Provide a detailed explanation of the Miscellaneous: Storage, Damage Claim category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.

- v. Provide a detailed explanation of the Tax category, the cost components included, to what entity/person the payments were made, and why there are large variances in expense amounts between the years 2012 through 2016.
  - w. Provide a detailed explanation of the Loans category, the cost components included, what entity/person provided the loan to Airview, copy of all loan documents, reason for the loans, and whether or not each loan complied with KRS 278.300 which requires Commission approval of utility indebtedness, with minor exceptions.
  - x. Provide a detailed explanation as to the variance of the total expenses to operate the treatment plant from 2012 through 2016. For example, in 2012 the total expenditures were \$64,958.51 while in 2013 the expenditures were \$90,970.63.
5. Reference Airview's response to AG 1-2(d), Attachment B, that provides all of Airview's creditors and outstanding debts to answer the following questions:
- a. Brocklyn Utilities, currently owed \$4,950:
    - i. Provide a copy of any and all note/loan agreements between Airview and Brocklyn Utilities.
    - ii. Provide the name of the owner(s) of Brocklyn Utilities.
    - iii. Provide a full explanation as to whether a conflict of interest exists between Brocklyn Utilities and Airview.
    - iv. Did Airview request the Commission's permission before entering into loan agreement(s) with Brocklyn Utilities? If so, provide the case number(s). If not, explain how the loan did not violate KRS 278.300 which requires Commission approval of utility indebtedness with minor exceptions.
  - b. Covered Bridge Utilities, currently owed \$39,950.56:
    - i. Provide a copy of any and all invoices regarding the outstanding debt, and note/loan agreements between Airview and Covered Bridge Utilities, if any.
    - ii. Provide the name of the owner(s) of Covered Bridge Utilities.
    - iii. Provide a full explanation as to whether a conflict of interest exists between Covered Bridge Utilities and Airview.



- iv. Did Airview issue a request for proposal (RFP) for any of the work performed by Covered Bridge Utilities including but not limited to the repairs/maintenance and/or the remote lift station? Provide a copy of all bids Airview received by Covered Bridge Utilities, and indicate whether or not it was the lowest cost bid. If Airview did not request bids, explain in full detail why not.
  - v. If any loans exist, did Airview request the Commission's permission before entering into a loan agreement(s) with Covered Bridge Utilities? If so, provide the case number. If not, explain how the loan did not violate KRS 278.300 which requires Commission approval of utility indebtedness with minor exceptions.
- c. Shawn Ford, currently owed \$12,950.00:
- i. Provide a copy of any and all invoices from Shawn Ford to Airview Utilities regarding the outstanding debt.
  - ii. Provide the name of the company that Shawn Ford is employed by, as well as the name of the owner(s) of this company.
  - iii. Provide a full explanation as to whether a conflict of interest exists between Shawn Ford and/or his employer and Airview.
  - iv. Did Airview issue a request for proposal (RFP) for any of the work performed by Shawn Ford? Provide a copy of all bids Airview received by Shawn Ford, and indicate whether or not it was the lowest cost bid. If Airview did not request bids, explain in full detail why not.
- d. Hazelrigg & Cox, LLP, currently owed \$3,485.28:
- i. Provide a copy of any and all invoices submitted by Hazelrigg & Cox to Airview Utilities regarding the outstanding debt.
  - ii. Provide a detailed explanation of what work was performed in conjunction to the outstanding debt.
- e. Coolbrook Utilities, currently owed \$4,115.00:
- i. Provide a copy of any and all note/loan agreements between Airview and Coolbrook Utilities.
  - ii. Provide the name of the owner(s) of Coolbrook Utilities.

- iii. Provide a full explanation as to whether a conflict of interest exists between Coolbrook Utilities and Airview.
  - iv. Did Airview request the Commission's permission before entering into loan agreement(s) with Coolbrook Utilities? If so, provide the case number(s). If not, explain how the loan did not violate KRS 278.300 which requires Commission approval of utility indebtedness with minor exceptions.
- f. Murphy Excavating, currently owed \$6,650.00:
- i. Provide a copy of any and all invoices submitted by Murphy Excavating to Airview regarding the outstanding debt.
  - ii. Provide the name of the owner(s) of Murphy Excavating.
  - iii. Provide a full explanation as to whether a conflict of interest exists between Murphy Excavating and Airview.
  - iv. Did Airview issue a request for proposal (RFP) for any of the work performed by Murphy Excavating? Provide a copy of all bids Airview received by Murphy Excavating, and indicate whether or not it was the lowest cost bid. If Airview did not request bids, explain in full detail why not.
- g. Integrity Bookkeeping, currently owed \$11,400.00:
- i. Provide a copy of any and all invoices submitted by Integrity Bookkeeping to Airview regarding the outstanding debt.
  - ii. Provide the name of the owner(s) of Integrity Bookkeeping.
  - iii. Provide a full explanation as to whether a conflict of interest exists between Integrity Bookkeeping and Airview.
- h. Hornback Plumbing, currently owed \$476.00:
- i. Provide a copy of any and all invoices submitted by Hornback Plumbing to Airview Utilities regarding the outstanding debt.
- i. Stites & Harbison, PLLC, currently owed \$3,536.60:
- i. Provide a copy of any and all invoices submitted by Stites & Harbison, PLLC to Airview Utilities regarding the outstanding debt.

- ii. Provide a detailed explanation of what work was performed in conjunction to the outstanding debt.
  - j. Strothman & Co, CPA, currently owed \$2,400.00:
    - i. Provide a copy of any and all invoices submitted by Strothman & Co, CPA regarding the outstanding debt.
    - ii. Provide a detailed explanation of what work was performed in conjunction to the outstanding debt.
  - k. Kentucky State Property Tax, currently owed \$299.66:
    - i. Provide a copy of Airview's tax bill.
  - l. Instead of taking multiple loans and going into debt of \$90,213.10, why did Airview not file a rate or abandonment case previously?
  - m. Explain in full detail whether any of the entities/person(s) owed money by Airview intend to request a surcharge, file an action for involuntary bankruptcy, or take any other legal action to collect the debts against Airview, the potential receiver, and/or its ratepayers?
  - n. Do the member owners of Airview, Lawrence W. Smither and Martin G. Cogan, receive tangible or intangible compensation from any of the companies that are creditors listed in Attachment B?
- 6. Reference Airview's Application generally. Provide a list of all Airview employees with position title, in addition to yearly salary for the past five (5) calendar years, raises, benefits, bonuses, etc.
- 7. Reference Airview's response to AG 1-2(g) and Attachment C to answer the following questions:
  - a. Explain in full detail the status of the Energy and Environment Cabinet's ("EEC") Administrative Complaint filed against Airview on February 24, 2016. Include any and all costs already incurred associated with this enforcement action, including but not limited to legal costs, penalties, and compliance measures.
  - b. In the event that the PSC grants Airview's request to abandon, will Airview's member owners retain responsibility to pay any penalties imposed from the EEC's Administrative Complaint?

- c. Will Airview continue to maintain responsibility for any legal fees incurred in defending against the EEC's Administrative Complaint?
8. Reference Airview's response to AG 1-3(a). Are the Airview ratepayers refusing to make payment due to poor service? Provide the number of customer complaints that Airview received from ratepayers for the years 2012 – 2016.
9. Reference Airview's response to AG 1-3(b). Provide the dates during which Airview utilized Credit Solutions, LLC as a collection agency, and any documentation that demonstrates the inability of Credit Solutions to collect on delinquent accounts.
10. Reference Airview's response to AG 1-4(a) and (b), as well as Attachment D to answer the following questions:
  - a. Airview asserted that its monthly expenses were \$7,780.70, and it received \$8,262.89 in monthly revenue based on the last seven months of operations. If this is the case, why does Airview continuously state that it takes in less revenue than the cost to operate the wastewater treatment plant?
  - b. Refer to Airview's response to PSC 1-7 where Airview states that the average monthly operating cost is \$8,400.81. However, Airview stated in response to AG 1-4(a) and (b), Attachment D that the monthly expenses were \$7,780.70. Explain in full detail the discrepancy between the answers to the PSC and the Attorney General's Office.
11. Reference Airview's response to AG 1-5(a), (b), and (c). Provide a detailed status update on Airview's discussions with other entities to own and/or operate the Airview wastewater treatment plant and collection system. Provide a copy of the contract if one has been entered, as well as the monthly fee that will be imposed on the ratepayers.
12. Reference PSC 1-16 where Airview states that if abandonment is authorized then Airview will turn over the wastewater treatment plant and collection system to the Receiver appointed by the Franklin Circuit Court. Reconcile this statement with Airview's response to PSC 1-14 where the Company asserts that it intends to sell the wastewater treatment plant, related equipment, and the real property it sits upon in order to pay outstanding debts.

13. Reference Airview's response to PSC 1-14 to answer the following questions:
  - a. Airview has filed a notice "of its surrender, pursuant to KRS 278.021(2)(a), of all of its property interests and rights in and to the property owned by Airview, necessary to provide utility service..." Explain in full detail why Airview should be authorized to sell the wastewater treatment plant, related equipment, and the real property it sits upon when the Company has filed to abandon all of its property interests and rights in the utility.
  - b. Explain in full detail how Airview retaining and selling assets of the utility complies with KRS 278.021.
14. Reference Airview's response to PSC 1-14 to answer the following questions:
  - a. What is the fair market value of the wastewater treatment plant and related equipment?
  - b. Airview states that the real property that the wastewater treatment plant is located upon has an estimated value of \$30,000 to \$50,000. Provide documentation of the real property's value.
15. Reference Airview's response to PSC 1-14 and AG 1-2(d), Attachment B. Hypothetically, if the Commission/Franklin Circuit Court allowed Airview to sell the assets/real property to pay the outstanding debt, it appears there would not be enough money to pay off all debts in full. Are the entities/persons that are owed money from Airview, willing to accept less than the full amount? Explain the answer in full detail.
16. Reference Airview's response to PSC 1-11. Explain in full detail the current status of Airview's application to renew its KPDES permit, and why no new permit has been issued since the previous permit expired in January 2014. Include any and all documentation pertaining to the current KPDES permit, and application for renewal with your response.
17. Reference the Verification page that Airview filed with the responses to the Attorney General's Initial Request for Information. The Verification page is not signed nor notarized. Provide a properly executed Verification page for Airview's responses to the Initial Request for Information. Additionally, ensure to file a fully executed Verification page with the responses to the Attorney General's Second Request for Information as well.

18. Did Lawrence Smith provide all of the responses to the Attorney General's Initial Request for Information? If not, provide the responses with the corresponding witness. Ensure that the responses to the Attorney General's Second Request for Information will have the corresponding witness provided for each response.

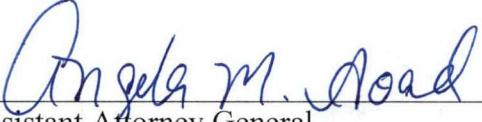
*Certificate of Service and Filing*

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Talina R. Mathews, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail to:

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this 28<sup>th</sup> day of September, 2016.

  
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Assistant Attorney General