

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF MARSHALL COUNTY) CASE NO.
ENVIRONMENTAL SERVICES, LLC TO FILE) 2017-00032
REQUIRED REPORTS)

ORDER

KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires. 807 KAR 5:006, Section 4(2), requires every utility to file with the Commission, on or before March 31 of each year, a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission. KRS 278.140 requires each utility to file, on or before March 31 of each year, a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year. KRS 278.990 provides penalties for utilities that fail to file the required reports.

Marshall County Environmental Services, LLC (“Marshall County Environmental”) owns, controls, operates, and manages facilities in the Commonwealth of Kentucky which are used for and in connection with the collection, transmission, or treatment of sewage for the public for compensation. It is, therefore, a utility subject to Commission jurisdiction.¹

¹ KRS 278.010(3)(f).

KRS 278.990(1) states that any utility which willfully violates any provision of KRS Chapter 278 or any Commission regulation shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.00.

According to Commission records, Marshall County Environmental filed its annual reports for the 2013, 2014, and 2015 calendar years late on March 27, 2017, and filed its gross operating reports for the 2014 and 2015 calendar years late on January 30, 2017. The late filing of the annual reports and of the gross operating reports is *prima facie* evidence that Marshall County Environmental willfully failed to comply with KRS 278.230(3).

On February 7, 2017, the Commission ordered Marshall County Environmental to appear before the Commission on March 28, 2017, to show cause why it should not be subject to penalties for failing to timely file its annual reports and gross operating reports. The Commission, by an Order dated April 5, 2017, continued the hearing on the motion of Marshall County Environmental in which it stated that its witness, who is the individual responsible for the filing of annual reports with the Commission, suffered from a medical condition that would make it impossible for her to travel. The Commission also required Marshall County Environmental to inform the Commission in writing by May 1, 2017, as to the condition and availability of Marshall County Environmental's witness.

On May 1, 2017, Marshall County Environmental, by counsel, filed with the Commission a response to the Commission's Order stating that the witness continued to have medical problems that prevented her from attending a hearing in Frankfort. Marshall County Environmental attached a note from the witness's physician dated April 26, 2017,

advising that due to the witness's illness, anything other than local travel was not recommended.

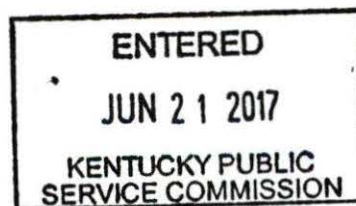
The Commission finds that the hearing originally scheduled for March 28, 2017, should be rescheduled. The Commission further finds that, pursuant to KRS 278.340 and Civil Rule 30.01, the Commission should depose Marshall County Environmental's witness, who is the person Marshall County Environmental identified as responsible for filing annual reports with the Commission.

IT IS THEREFORE ORDERED that:

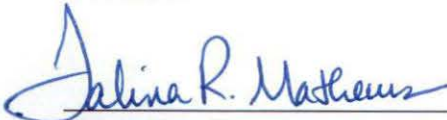
1. Prior to July 31, 2017, Commission Staff shall take the deposition of Marshall County Environmental's witness. Commission Staff shall coordinate with counsel for Marshall County Environmental to designate the time, date, and place of the deposition.

2. Marshall County Environmental shall appear on August 23, 2017, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of showing cause why it should not be subjected to the penalties of KRS 278.990 for its failure to comply with KRS 278.140 and 278.230(3).

By the Commission



ATTEST:


Executive Director

*Honorable John N Hughes
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