

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF LEWIS SANITATION)	CASE NO.
COMPANY, INC. D/B/A GARDEN HEIGHTS)	2017-00045
SEWER DIVISION TO FILE REQUIRED REPORT)	

ORDER

On February 7, 2017, the Commission ordered Lewis Sanitation Company, Inc. d/b/a Garden Heights Sewer Division (“Garden Heights”) to show cause why it should not be penalized for failing to comply with KRS 278.140 and 278.230(3). A hearing in this matter was held on March 28, 2017. No representative appeared on behalf of Garden Heights.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Garden Heights is a Kentucky corporation that 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

2. 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.

¹ KRS 278.010(3)(f).

3. 807 KAR 5:006, Section 4(2), requires every utility to electronically 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.

4. On January 13, 2016, the Commission provided to Garden Heights an electronic link to the standard forms for the annual financial and statistical report.

5. As of April 1, 2016, Garden Heights had neither filed its annual financial and statistical report for the 2015 calendar year operations nor requested an extension of time in which to make such filing.

6. On or about January 23, 2017, Garden Heights filed its annual financial and statistical report for the 2015 calendar year.

7. Where the act which a utility is required to do is merely clerical in nature, willfulness or deliberate intent can be inferred from the fact of noncompliance.²

8. Garden Heights has willfully failed to submit its report by March 31, as required by 807 KAR 5:006, Section 4(2).

9. Garden Heights has willfully failed to comply with KRS 278.230(3).

10. KRS 278.990(1) provides that any utility that willfully violates any Commission order, provision of KRS Chapter 278, any regulation promulgated pursuant to KRS Chapter 278, or fails to perform any duty imposed upon it under those sections, shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.00.

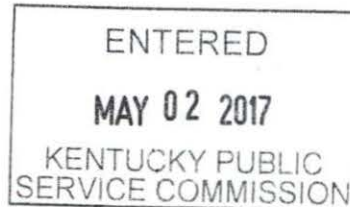
11. Garden Heights should be assessed a penalty of \$2500.00 for its willful failure to comply with KRS 278.230(3)

² See *Re Dyke Water Company*, 55 PUR3d 342 (Cal. P.U.C. 1964).

IT IS THEREFORE ORDERED that:

1. Garden Heights is assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.230 and 807 KAR 5:006, Section 4(2).
2. Garden Heights shall pay the assessed penalty of \$2,500.00 within 14 days of the date of this Order. Payment shall be by certified check or money order made payable to "Treasurer, Commonwealth of Kentucky" and shall be sent by certified mail or delivered to Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602-0615.

By the Commission



ATTEST:


Executive Director

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Lewis Sanitation Company, Inc. d/b/a Garden
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Owensboro, KY 42301

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