

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
BLUEGRASS WATER UTILITY OPERATING)	
COMPANY, LLC AND THE ELECTRIC PLANT)	
BOARD OF MAYFIELD, KENTUCKY FOR)	CASE NO.
APPROVAL OF ACQUISITION AND TRANSFER)	2022-00218
OF OWNERSHIP AND CONTROL OF)	
WASTEWATER FACILITIES SERVING)	
RANDVIEW ESTATES SUBDIVISION IN GRAVES)	
COUNTY, KENTUCKY)	

ORDER

On February 15, 2023, a joint application to transfer the ownership and control of the Randview wastewater system (Randview System) from current owner Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) to the Electric Plant Board of Mayfield d/b/a Mayfield Electric and Water Systems (Mayfield) (jointly, Joint Applicants) was deemed filed.¹

There are no intervenors in this proceeding. Mayfield responded to one round of data requests. No data requests were issued to Bluegrass Water. On April 13, 2023, Joint Applicants filed a request that this case be submitted for a decision on the written record. This matter now stands submitted for a decision based upon the written record.

¹ Joint Applicants tendered an application on February 14, 2023, which was rejected for filing due to filing deficiencies. Joint Applicants subsequently cured the filing deficiencies, and the application was deemed filed on February 15, 2023.

LEGAL STANDARD

The application was filed pursuant to KRS 278.020(6), KRS 278.020(7), and KRS 278.020(10).

KRS 278.020(6) requires Commission approval prior to the acquisition of a utility subject to the Commission's jurisdiction. KRS 278.020(6) provides that the Commission shall approve an acquisition if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

KRS 278.020(7) requires Commission approval prior to an acquirer obtaining direct or indirect control of a utility subject to the Commission's jurisdiction. KRS 278.020(7) provides that the Commission shall approve the acquisition if the transaction is made in accordance with law, for a proper purpose, and is consistent with the public interest. KRS 278.020(7) also provides that the Commission must adjudicate an application for approval of an acquisition within 60 days of the date that the application was filed. KRS 278.020(7) further provides that the Commission can continue its review of the application for longer than 60 days upon a showing of good cause.

KRS 278.020(10) provides that the acquisition of a wastewater system cannot be approved unless, in addition to the findings in KRS 278.020(6) and KRS 278.020(7), the Commission finds that the entity acquiring the jurisdictional utility provided evidence of financial integrity to ensure the continuity of sewage service if the acquirer cannot continue to provide service.

PARTIES

Bluegrass Water, a limited liability company, is a utility subject to the Commission's jurisdiction. Bluegrass Water provides water and wastewater service to approximately

3,573 customers located in Bullitt, Franklin, Garrard, Graves, Hardin, Jessamine, Campbell, Madison, Marshall, McCracken, Oldham, Scott, and Shelby counties, Kentucky, as well as a water utility in Calloway County. The Randview System is located in Graves County, Kentucky. Because it was designed to serve a residential neighborhood, all of its customers are residential customers.² Bluegrass Water acquired the Randview System from Randview Septic Corporation in 2020.³ Bluegrass Water's parent entity shareholder approved the acquisition proposed in this proceeding on January 19, 2023.⁴

Mayfield is a municipal electric, water, and wastewater system that serves customers in Graves County, Kentucky. Relevant here, Mayfield has provided wastewater collection and treatment service since 1953. Currently, Mayfield serves approximately 4,600 wastewater system customers and owns three package treatment plants and collection systems, and one independent system that serves a limited area.⁵ Mayfield's wastewater system is located adjacent to the Randview System. Aside from the authority over this transaction under KRS 278.020(6), (7), and (10), the Commission's jurisdiction over Mayfield is limited to the regulation of rates and service arising out of a

² Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (filed Feb. 27, 2023), Application, Exhibit 11 (Direct Testimony of Timothy L. Lyons), Exhibit 4,

³ Case No. 2020-00028, *Electronic Proposed Acquisition by Bluegrass Water Utility Operating Company, LLC of Wastewater System Facilities and Subsequent Tariffed Service to Users Presently Served by Those Facilities* (Ky. PSC June 19, 2020), Order at 22.

⁴ Application, Exhibit D, Consent Action of the Shareholder of Bluegrass Water Utility Holding Company, LLC.

⁵ Application, Exhibit F, 2021 Financial Audit (2021 Audit) at 4 of 52.

contract, franchise, or agreement between a jurisdictional utility and a city.⁶ Mayfield's board approved the proposed transaction on November 23, 2022.⁷ Six of Mayfield's 44 employees operate and maintain Mayfield's wastewater system.

TRANSACTION OVERVIEW

As background, Mayfield maintained that Randview System customers approached Mayfield requesting that Mayfield purchase the Randview System from Bluegrass Water.⁸

Joint Applicants proposed to sell all assets and control of the Randview System to Mayfield for \$100,000.⁹ The Randview System is a lagoon system with two lift stations and was designed to serve a residential neighborhood.¹⁰ Currently, the Randview System does not interconnect with any other Bluegrass Water system or with Mayfield.¹¹ Mayfield stated that it will integrate Randview System customers into the Mayfield wastewater system and close the lagoon system. Mayfield explained that the lagoon system would be closed once Mayfield raised the capital to integrate Randview System customers into

⁶ Pursuant to KRS 278.200, the Commission has authority over rates and service fixed by contract, franchise, or agreement between a jurisdictional utility and any city. Because Mayfield is a municipal wastewater system, if approved, the Commission will not have authority to regulate Mayfield wastewater rates once the transaction closes.

⁷ Application, Exhibit E, Resolution N1232022A, Resolution of the Mayfield Electric Plant Board, City of Mayfield, Kentucky Authorizing the Purchase of the Randview Subdivision Sewer System from Bluegrass Water Utility Operating Company, LLC (Mayfield Resolution).

⁸ Mayfield's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Mar. 28, 2023), Item 2.

⁹ Mayfield Resolution at 1 of 2.

¹⁰ Application, Exhibit C, Randview Map. Lagoon wastewater systems are lined ponds or basins that receive, hold, and treat wastewater.

¹¹ Application at 13.

Mayfield's system.¹² Mayfield asserted that, until the lagoon system is closed, Randview System customers will continue to receive wastewater service from the current facilities.

Joint Applicants asserted that Mayfield would provide wastewater service at a lower rate than Randview System customers are paying under Bluegrass Water. Bluegrass Water provides wastewater service to Randview System customers at a flat rate of \$85.97 per month per connection. Mayfield stated that it would provide wastewater service for a flat rate of \$55 per month per connection.¹³ Mayfield further stated that \$20 of the \$55 flat monthly rate would be placed into a separate account to be used for construction of improvements to the Randview System. Mayfield explained that it contracted with a consultant to conduct a rate study to determine if a rate increase was necessary for all sewer customers, emphasizing that, if found to be necessary, a rate increase would not be the direct result of the acquisition of the Randview System.¹⁴ Mayfield maintained that, because of its staffing level, Mayfield will not need to hire additional employees to operate the Randview System as a result of the proposed transaction.¹⁵ Joint Applicants asserted that there would not be any changes to customers' bills other than the name of the service provider.¹⁶

Mayfield explained that the Graves County Fiscal Court provided Mayfield with \$75,000 to conduct a thorough test of the Randview System, map the Randview System,

¹² Mayfield's Response to Staff's First Request, Item 2.

¹³ Mayfield's Response to Staff's First Request, Item 2.

¹⁴ Mayfield's Response to Staff's First Request, Item 2.

¹⁵ Mayfield's Response to Staff's First Request, Item 3.

¹⁶ Application at 11.

and, if any repairs were necessary, to make repairs to the Randview System.¹⁷ The \$75,000 is in addition to the \$20 portion of the flat monthly rate that is earmarked for infrastructure improvement.¹⁸ Mayfield explained that it will install a supervisory control and data acquisition (SCADA) system to monitor the Randview System lift station and lagoon 24 hours per day, seven days per week.¹⁹ Mayfield further explained that the SCADA system protects wastewater system pumps and prevents sewer backups.²⁰ Mayfield stated that a SCADA system is in place at all its pump stations.²¹ Mayfield asserted that the Randview System is not subject to any regulatory agency corrective action plan or agreed order.²²

Approval of the proposed transaction by the Commission and Kentucky Pollutant Discharge Elimination System (KPDES) is one of the conditions precedent for closing the transaction.²³ Mayfield explained that, because the Randview System is a non-discharging system, it is not regulated by the Kentucky Division of Water (DOW).²⁴

Joint Applicants argued that Mayfield has the financial, technical, and managerial ability to provide reasonable service if the transaction is approved. Joint Applicants submitted Mayfield's most recent financial audit (2021 Audit) as evidence of Mayfield's

¹⁷ Mayfield's Response to Staff's First Request, Item 2.

¹⁸ Mayfield's Response to Staff's First Request, Item 2.

¹⁹ Mayfield's Response to Staff's First Request, Item 3.

²⁰ Mayfield's Response to Staff's First Request, Item 3.

²¹ Mayfield's Response to Staff's First Request, Item 3.

²² Mayfield's Response to Staff's First Request, Item 2.

²³ Application, Exhibit A at 3 of 17.

²⁴ Mayfield Response to Staff's First Request, Item 2.

financial ability to provide reasonable service. Mayfield had \$2,290,481 total operating revenue and \$2,299,302 in operating expenses for the year ended June 30, 2021, reflecting a net loss of (\$16,624).²⁵ This compares to a net loss of (\$113,505) for the year ended June 30, 2020.²⁶ As the auditor noted, the COVID pandemic could have had an adverse impact on Mayfield's financial position.²⁷ Mayfield's total net position for the sewer system was \$4,741,040 for the year ended June 30, 2021.²⁸ Mayfield maintained that recent capital improvement projects allow more waste to be treated at one facility, which is expected to increase Mayfield's revenue.²⁹ Mayfield has \$7,981,453 net plant in service and \$7,500,000 net accumulated depreciation.³⁰ Mayfield's only long-term debt is a 20-year loan from Kentucky Infrastructure Authority that, as of June 30, 2021, had a balance of \$212,480, with an interest rate of 0.25 percent, due semi-annually.³¹

Regarding Mayfield's technical ability to provide reasonable service, Joint Applicants pointed to Mayfield's experience owning and operating three package treatment plant and collection systems, and one independent system that serves a limited area.³² Mayfield noted that six employees operate the system, which serves approximately 4,600 wastewater system customers. Mayfield explained that it has a

²⁵ Application, Exhibit F, 2021 Audit at 6 of 52.

²⁶ Application, Exhibit F, 2021 Audit at 6 of 52.

²⁷ Application, Exhibit F, 2021 Audit at 33 of 52.

²⁸ Application, Exhibit F, 2021 Audit at 12 of 52.

²⁹ Application, Exhibit F, 2021 Audit at 6 of 52.

³⁰ Application, Exhibit F, 2021 Audit at 13 of 52.

³¹ Application, Exhibit F, 2021 Audit at 21 of 52.

³² Application, Exhibit F, 2021 Audit at 6 of 52.

corrective action plan with DOW, but that the issues arose as a result of damage to the system resulting primarily from a tornado in December 2021.³³ Mayfield explained that the majority of the violations addressed in the corrective action plan have been resolved.³⁴ As noted above, Mayfield recently completed capital improvement projects that included installation of new aeration.³⁵

Regarding Mayfield's managerial ability to provide reasonable service, Joint Applicants pointed to Mayfield's 70 years of providing wastewater service. In addition to the reasons set forth above to support Mayfield's technical ability, Joint Applicants asserted that Mayfield's workforce is qualified to provide wastewater service.

Joint Applicants further argued that the proposed transaction is in accordance with law, for a proper purpose, and consistent with the public interest. Joint Applicants asserted that the transaction is in accordance with law because the transaction will not occur without prior approval from the Commission and the proposed transaction has been approved by Bluegrass Water's sole member and Mayfield's governing board.³⁶ Joint Applicants maintained that the transaction is for a proper purpose because Mayfield can provide reasonable, effective and efficient wastewater service to existing and future customers at lower operational costs, as supported by the rate decrease that would occur as a result of the transaction.³⁷ Joint Applicants contended that the transaction is in the public interest because Randview System customers will receive the same or improved

³³ Mayfield's Response to Staff's First Request, Item 4.

³⁴ Mayfield's Response to Staff's First Request, Item 4.

³⁵ Application, Exhibit F, 2021 Audit at 6 of 52.

³⁶ Application at 33–34. See also Application, Exhibits D and E.

³⁷ Application at 36–37.

service by an entity with 70 years of experience owning and operating a wastewater system, and that the service would be provided at a lower cost to customers.³⁸ Further, Randview System customers requested that Mayfield acquire the Randview System.

Finally, Joint Applicants argued that, pursuant to KRS 278.020(10), Mayfield has the financial integrity to ensure continuity of wastewater service for the reasons set forth above.

DISCUSSION AND FINDINGS

Based upon the case record and being otherwise sufficiently advised, the Commission finds that, for reasons set forth below, Joint Applicants provided evidence that Mayfield has the financial, technical, and managerial ability to provide reasonable service; that the proposed transaction is in accordance with law, for a proper purpose, and in the public interest; and Mayfield has the financial integrity to ensure continuity of wastewater service to Randview System customer. Based upon the determination that the standards set forth in KRS 278.020(6), (7), and (10) are met, the Commission finds that the acquisition of the Randview System by Mayfield from Bluegrass Water should be approved.

A finding of financial ability to provide reasonable service rests on evidence of financial strength, which can be demonstrated in by several measures. Here, Joint Applicants provided sufficient evidence that Mayfield has the financial ability to provide reasonable service. Although Mayfield operated at a net loss according to its most recent audit, there was a significant decrease from the net loss that occurred in the calendar year ended June 30, 2020, which reflects an improved financial position. Further, as the

³⁸ Application at 36–38.

auditor noted, there was an adverse financial impact that resulted from the COVID pandemic. Mayfield's financial position is such that rates will decrease for Randview System customers and the acquisition will not directly result in higher rates for existing Mayfield customers. Graves County Fiscal Court provided \$75,000 for the express purpose of reviewing and, if necessary, repairing the Randview System. Additionally, Mayfield is planning for and funding future infrastructure improvements by earmarking \$20 of the \$55 flat monthly rate.

Joint Applicants also provided evidence of Mayfield's technical ability to provide reasonable service. Mayfield has provided wastewater service for 70 years and owns and operates wastewater treatment and collection systems. Those systems are operated and maintained by six employees directly responsible for the wastewater system. While the agreed order with DOW is concerning, that concern is balanced by the fact that the violations arose of a tornado that caused extensive damage to utilities throughout Western Kentucky, and by the fact that the majority of the violations have been resolved.

Joint Applicants provided evidence of Mayfield's managerial ability to provide reasonable service. Not only has Mayfield owned and operated a wastewater system for 70 years, but Mayfield's wastewater system is also significantly larger and more complex. Mayfield serves a larger number of customers than the Randview System, which serves a residential neighborhood. Joint Applicants provided evidence that customers will benefit from the proposed transaction with lower rates and infrastructure improvements.

Joint Applicants provided evidence that the proposed transaction is in accordance with law because both parties have executed the required approvals from Bluegrass Water's sole member and Mayfield's governing board, and the proposed transaction is

contractually conditioned upon Commission approval. Joint Applicants also provided evidence that the proposed transaction is for a proper purpose of providing adequate, efficient and reasonable, consistent with KRS 278.030, and customers will ultimately be provided improved service considering the proposed improvements, such as the SCADA installation, at lower rates. For similar reasons, Joint Applicants provided evidence that the proposed transaction is in the public interest given the customer benefit of lower rates and improved service, especially once the lagoon system is closed. The transaction also furthers the Commonwealth's public policy that "it is necessary to encourage regionalization, consolidation, and partnerships among governmental agencies, and private parties when appropriate, with the goal of making potable water and wastewater treatment available to all Kentuckians through the maximization of financial resources and the conservation of natural resources of the Commonwealth."³⁹

Finally, Joint Applicants provided sufficient evidence that Mayfield has financial integrity to ensure the continuity of sewer service if it cannot continue to provide service, for the reasons set forth above.

IT IS THEREFORE ORDERED that:

1. Joint Applicants' request for approval of the transfer as set forth in the joint application is granted.
2. Within ten days of the completion of the approved transfer, Joint Applicants shall file written notice setting forth the date that the acquisition was completed.
3. Any document filed pursuant to ordering paragraph 2 shall reference this case number and shall be filed in the post-case correspondence file.

³⁹ KRS 224A.300(1).

4. This case is closed and removed from the Commission's docket.

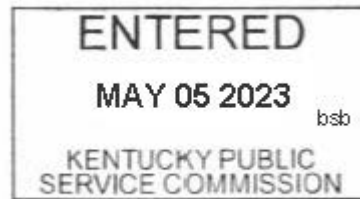
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