

2002-
396

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: Main Case File No. 2002-00396
FROM: Dale Wright, Staff Attorney
DATE: April 22, 2003
SUBJECT: Appalachian Waste Control, Inc.
East Kentucky Waste Control

RECEIVED
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PUBLIC SERVICE
COMMISSION

On March 28, 2003, an informal conference was conducted at the Commission's offices. The names of those persons in attendance and whom they represented are attached.

Keith Fairchild is a certified waste treatment facility operator who owned and operated Appalachian Waste Control, Inc. ("AWC"). It was undisputed that Mr. Fairchild transferred ownership and control of AWC to Lance Bowling without the approval of the Commission. KRS 278.020(4). Mr. Bowling, likewise, accepted ownership and control of AWC without the approval of the Commission. KRS 278.020(5). Mr. Bowling is also a certified waste treatment facility operator. Mr. Bowling has been operating AWC under and by the assumed name of East Kentucky Waste Control ("EKWC"). Mr. Bowling d/b/a EKWC operates five wastewater treatment facilities in Johnson County, Kentucky.

The following is the name of each facility, the number of customers served and number of deficiencies observed during Commission Staff's inspection in September 2002:

Preston Estates	22 customers	8 deficiencies
Paradise Valley Estates	16 customers	5 deficiencies
Neil Price East Estates	6 customers	3 deficiencies
Richmond Hills	18 customers	6 deficiencies
Berkshire	(not noted)	2 deficiencies

During discussions of these facilities and deficiencies, it became apparent that most of the deficiencies were similar and could be resolved by regular and routine maintenance. The deficiencies are undisputed and unchallenged by Mr. Fairchild and Mr. Bowling.

Since the unapproved transfer of these facilities, Mr. Fairchild was and is aware that the Commission could declare the transfer of all of these facilities void. This would make Mr. Fairchild liable and responsible for all matters described in the Commission's show cause Order related to these facilities. It is undisputed that Berkshire facility does not have a tariff filed with the Commission. This is one of the issues that can be resolved

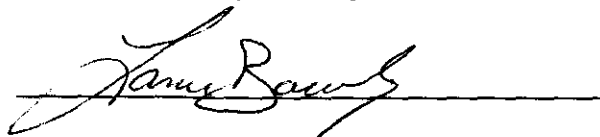
now without any further delay. Mr. Bowling should call Commission Staff member, Brent Kirtley, manager of the Tariff Branch, to immediately resolve the tariff issue.

Resolutions for the balance of the issues and deficiencies were discussed. In principle it was agreed that Mr. Fairchild would immediately begin to assist Mr. Bowling in daily routine maintenance in order to train him in such matters. With this contingency, Commission Staff recommends to the Commission the following:

- 1) That a fine in the range of \$1,000 be levied against Mr. Fairchild for his failure to get Commission approval for the transfer to Mr. Bowling, and that Mr. Bowling be levied a civil penalty of \$1,000 for accepting the transfer without Commission approval. But, Commission Staff recommends to the Commission that the fines be suspended if Mr. Fairchild would assist Mr. Bowling on a daily basis, if necessary, to establish a routine method of proper maintenance and operation of all of the facilities. This would take Mr. Bowling's full cooperation and effort. This period should begin from the date of the informal conference and continue for a period of not less than 6 months from and after any final Order rendered in this case;
- 2) That Mr. Bowling should immediately proceed to file an acceptable tariff for the Berkshire facility;
- 3) That there would be a follow-up inspection 6 months from and after the final Order issued herein;
- 4) That if the facilities involved herein do not substantially comply with the regulations and pass the follow-up inspection, Mr. Fairchild and Mr. Bowling, jointly and severally, shall pay a civil penalty to the Commission in the amount of \$2,500 without further proceedings or Orders from this Commission;
- 5) That Mr. Fairchild shall pay, upon final Order, any and all outstanding assessments and penalties owing to the Commission (it appears that the only assessment due is \$50); and
- 6) That Mr. Bowling shall immediately go to the County Court Clerk's Office of Johnson County, Kentucky and request and complete any and all proper forms for doing business under an assumed name, which will include filing such documents with the Kentucky Secretary of State.

I have read both pages of this document and I hereby agree to all the statements contained herein, including the terms and conditions proposed by Commission Staff for settlement of this case.

Dated 5-3-05



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Dated 1-30-03

