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PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF FARMDALE DEVELOPMENT )  
CORPORATION FOR AN ADJUSTMENT OF RATES )  
PURSUANT TO THE ALTERNATIVE RATE FILING )  
PROCEDURE FOR SMALL UTILITIES )

CASE NO. 2006-00028

**COMMENTS OF FARMDALE DEVELOPMENT CORPORATION  
TO COMMISSION STAFF REPORT**

Comes Farmdale Development Corporation (“Farmdale”), by counsel, and for its  
Comments to the Commissions Staff’s Report (“Report”) states as follows:

1. The Report was attached to the Commission’s Order of February 26, 2007.  
Farmdale’s application for rate adjustment was submitted to the Commission on January 12,  
2006, pursuant to 807 KAR 5:076, the regulation providing an alternative rate adjustment  
procedure for small utilities. This regulation “is intended to minimize the need for formal  
hearings, to reduce filing requirements, and in many cases to shorten the time period between  
application and commission order.” 807 KAR 5:076, NECESSITY, FUNCTION, AND  
CONFORMITY. Farmdale’s application for rate adjustment included a request for surcharge  
in connection with several items requiring repair, including the replacement of a remote lift  
station to the WWTP.

2. On May 22, 2006, Farmdale filed its Petition for Certificate of Convenience and  
Necessity for the replacement of the remote lift station, pursuant to the direction of  
Commission Staff made during the April 20, 2006 Informal Conference in the above styled  
matter. On June 14, 2006, Farmdale filed its amended application for rate adjustment to  
exclude the remote lift station, and also filed its motion requesting the Commission to

consolidate the application for rate adjustment with the case concerning the Petition for Certificate of Convenience and Necessity. The Commission denied the Motion to Consolidate by its Order of July 26, 2006.

3. Farmdale's Application for Rate Adjustment was originally filed on January 12, 2006, and its amended application submitted at the recommendation of Commission Staff was filed on June 14, 2006. This case was filed under the alternative rate adjustment procedure for small utilities, yet Commission Staff has taken more than one year to review the original application and over seven (7) months to review the Amended Application. Indeed, the field visit to the WWTP was not completed until August 21, 2006. Commission Staff has taken an excessive amount of time to complete its review of Farmdale's Application for Rate Adjustment, causing Farmdale to incur losses due to the insufficient rate paid by its customers. The Report fails to state the reason why the review was not completed in a timely manner.

4. With respect to the recommendation contained in the Report concerning the requested surcharge, Farmdale notes that the Commission approved the request for surcharge filed on behalf of Airview Estates, Inc., in Case No. 2003-00494. Prior to Farmdale's filing its Application for Rate Adjustment, which contained a surcharge request, Farmdale carefully reviewed the request for surcharge submitted by Airview Estates, Inc., to ensure that it had followed the proper procedure in including the request for surcharge in its Application for Rate Adjustment. Only after confirming that it was following the same procedure as that used by Airview Estates, Inc., in obtaining approval of its request for surcharge within approximately six (6) months of applying for same, did Farmdale file its Application for Rate Adjustment that included a request for surcharge. Despite following the same procedure as that used by Airview Estates, Inc., the Report does not recommend approval of Farmdale's surcharge

request, but instead states that Farmdale should provide “a more detailed description of the nature and scope of the proposed repairs and an explanation as to the significant variance in the cost estimates for this work.” (Report at page 3). Farmdale objects to the failure to approve the surcharge request.

5. The first page of the Report states that Farmdale proposed a surcharge “to fund system repairs and replacements of \$247,300.” The Amended Application for Rate Adjustment listed repairs and replacements of \$225,215, which when added to the surcharge request of \$30,425 in Case No. 2006-00209, totals \$255,640 not \$247,300 as stated in the Report.

6. The Report recommends a revenue increase of \$24,121 using a rate of \$27.23. Farmdale requested a revenue increase of \$47,811 using a rate of \$34.49 in its Amended Application for Rate Adjustment. Farmdale objects to the use of the \$27.23 rate and requests the Commission to approve the \$34.49 rate.

7. Included in the surcharge request was the amount of \$112,560 to pay for the cost of needed extensive repairs to the WWTP’s collection system. Farmdale provided three (3) quotes establishing that extensive work was needed to repair the collection system. However, the Report states that the information provided to support the system repairs was “problematic” and did not enable Commission Staff “to determine the exact nature of the work that needs to be done, to what extent it is necessary, and the reasonableness of its cost.” (Report at p. 2).

8. Farmdale previously provided the Commission with a detailed description of the proposed repairs, and an explanation for the variance in the cost estimates for the repairs to the Farmdale collection system in its Answers to the Commission Staff’s First Information

Request. Farmdale's Answers stated that the collection system has a "number of water infiltration problems due to roots growing into the system and misaligned piping." The initial quote provided to the Commission was a quote received from Murphy's Excavating in the amount of \$112,560. Murphy Excavating's quote was based on its video of the collection system, and stated that it was to repair and replace piping in the locations identified in the detailed six page quote, repair failing manholes, replace bad P.S.C.'s, backfill, repave, reconcrete and restore the collection system. The Murphy's Excavating specifically identified each problem detected in the collection system.

9. At the request of the Commission, two additional quotes were obtained to address the problems with the collection system. Martin's Pipeline Inspection and Pipe Eyes, LLC were requested to provide additional quotes and were provided with the videotape of the system made by Murphy Excavating. However, Martin's Pipeline Inspection and Pipe Eyes, LLC indicated that the video tape prepared by Murphy Excavating was not clear enough for them to rely upon in making a quote. Therefore, the quotes provided by Martin's Pipeline Inspection and Pipe Eyes, LLC both included the cost to videotape the collection system, to clean and cut the roots in the system and to provide a root treatment. Martin's Pipeline Inspection submitted a 2.00 per foot quote to perform this work on the 13,201 lineal feet of the collection system, for a total quote of \$26,402. Pipe Eyes, LLC submitted a \$2.47 per foot quote to perform this work on the 13,201 lineal feet of the collection system for a total quote of \$32,606.47. The quotes provided by Martin's Pipeline Inspection and Pipe Eyes, LLC did not include any repair of piping or manholes. The difference in the work to be performed was clearly set forth in the quotes that were submitted to the Commission attached to the Answers to the Commission Staff's First Information Request to Farmdale. Farmdale would prefer to

complete the more comprehensive repair work quoted by Murphy's Excavating, but will accept the decision of the Commission if it determines the work proposed by Martin's Pipeline Inspection and Pipe Eyes, LLC is sufficient. The work proposed by these two companies would significantly improve the infiltration and inflow problems in the collection system and also identify additional needed repair work that could be done at a later time.

10. The Report states the staff approves of the three (3) projects included in the surcharge request that have already been completed due to the lengthy delay in reviewing the Application for Rate Adjustment, and the cost of the projects. However, the Report states that the cost of the three already completed projects of \$13,091 should be included in pro forma revenue requirements.

11. With respect to the replacement of the chlorine tank and the standby blower motor assembly, the quotes submitted to replace same should be satisfactory. One quote for the replacement of the chlorine tank, without installation, was in the amount of \$19,920. Another quote for the tank, including installation, was \$17,225. Therefore, Staff should recommend approval of the \$17,225 quote. For the standby blower motor assembly, the Report reflects one quote, including installation, in the amount of \$9,320 and a second quote in the amount of \$6,815 using the installation cost of Smither Consulting Company. Accordingly, Staff should recommend approval of the \$6,815 quote.

12. With respect to the replacement of the remote lift station, one quote was in the amount of \$30,425, installed. This quote included a cost of \$15,301 for the remote lift station, leaving an installation charge of \$15,124. This installation cost could be added to the other two quotes in the amount of \$14,540 and \$14,890, establishing that all three of these quotes are comparable and reasonable.

13. With respect to the three (3) items for which competitive quotes could not be obtained, Lagoon pump clean, small plant maintenance and supervision, Farmdale asserts that this work is needed and the quotes are reasonable, and should be included in the rate.

14. The Report states that installation costs for the remote lift station were provided by Larry Smither and he is involved within a number of business entities “with Farmdale’s principal shareholders” and is an affiliated entity. This is incorrect, as Farmdale’s sole shareholder is Farmdale Utilities, Inc. The sole shareholder of Farmdale Utilities, Inc., is Carroll Cogan. Mr. Cogan is not a partner in any business entities with Mr. Smither. Mr. Cogan has in the past hired Mr. Smither or one of his companies to perform work for him, and will do so in the future. However, Mr. Smither and Mr. Cogan are not affiliated, nor are they joint shareholders or partners in any business. Therefore, the statement that Mr. Smither is an affiliate of Mr. Cogan is incorrect.

15. Due to the substantial cost of the items requiring repair at the WWTP, Farmdale has requested that it be allowed to recover these costs in a surcharge over a three (3) year period. Commission Staff states that “[R]ecovery through general rates in the form of depreciation expense is the most fair and equitable means of recovering the project costs”. (Report at p. 4) This statement is incorrect, because in making this statement, Staff ignores the fact that Farmdale does not have the financial wherewithal to pay for the substantial repairs needed at the WWTP. The applicable statutes do not authorize Farmdale to collect funds from rate payers that will then be placed into a capital expenditure fund or a sinking fund so that there will be funds available when repairs are necessary. Therefore, Farmdale will need to borrow the necessary funds to pay for the substantial repairs that need to be made to the WWTP.

16. As indicated in the letter to Ms. O'Donnell from Thomas Elliot, a Senior Vice President at Old National Bank located in Louisville, Kentucky, the primary consideration of a lending institution in deciding whether to loan monies to any entity is whether the borrowing entity has sufficient revenue to pay its debts. The industry standard is a 1.3 debt service ratio. In other words, if the borrower is required to make a payment of \$1,000 per month, it will need to provide documentation establishing revenue of \$1,300 to service the debt, after expenses have been paid in order to qualify for a loan. If the borrower cannot meet the required 1.3 debt service ratio, the lending institution will not enter into the loan transaction with the applicant.

17. Mr. Elliot further states in his letter, that a lending institution will also consider the collateral available to secure the requested loan. Lending institutions do not consider WWTP's to be satisfactory collateral to secure a loan because of the difficulty in selling a WWTP that has been foreclosed upon and the environmental considerations connected with wastewater treatment plants. Therefore, lending institutions do not accept a WWTP as the sole collateral to secure a loan. The lending institution will require a qualified guarantor to guarantee the loan.

18. Mr. Elliot also states in his letter, that a lending institution will consider the condition of the WWTP and its estimated life in determining whether to enter into a loan transaction. The lending institution will not enter into a long term loan with a WWTP because it may become obsolete or may be taken over by a governmental entity.

19. Finally, Mr. Elliot states in his letter that any loan to a WWTP will not be for a term in excess of five (5) years. The loan may be amortized over a longer period of time to determine the monthly payments due during the five (5) year term of the loan, but a balloon

payment will be required to pay the loan in full at the end of the five (5) year term.

20. Mr. Cogan stated in his Pre-filed testimony filed in Case No. 2006-00209 that “I personally have over 30 years of experience in attempting to secure financing from banks and mortgage banking institutions for work to be performed at privately owned WWTPs. A large portion of the 35 WWTP’s that I owned were acquired from banks and mortgage bank institutions who had taken over failed developments in lieu of foreclosure and in many cases this included taking over the WWTP. In each case where a treatment system was involved, the bank or mortgage company could not get rid of the WWTP soon enough, even at a very low sale price compared to a ‘so-called’ plant value. Banks and mortgage companies are reluctant to loan money to privately owned WWTPs, since they do not want to take the WWTP as collateral. There are a number of negative factors involved in owning a WWTP or foreclosing on a WWTP, including the potential liabilities arising out of the operation of same and numerous governmental regulations that have to be complied with when owning and operation and WWTP. Furthermore, there is no uniform way for a bank or mortgage company to perform a satisfactory appraisal of a WWTP. In my experience, the only way a bank or mortgage company will provide financing to a privately owned WWTP is if the financing is guaranteed by an individual associated with the WWTP.” Mr. Cogan’s testimony confirms the accuracy of the information provided in Mr. Elliot’s letter to Ms. O’Donnell.

21. The factors set forth in paragraphs 15 through 19 above establish that it is unreasonable to require Farmdale to recover the cost of the repairs over a twenty-five (25) year period when it will have to pay for the entire cost of the repairs within a five (5) year period.

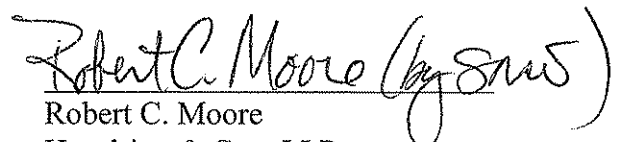
22. The Report recommended reducing the owner/management fee from \$9,600 to \$3,600. Here, the owner/manager is required to insure the proper operation of the WWTP,



review and pay its bills, apply for and obtain needed loans, oversee the identification and completion of repairs, sewer back-ups and overflows, homeowner damage and liability with the Department of Water on any and all overflows, apply and participate in rates cases, such as this, and subject itself to substantial liability. Farmdale objects to the reduction of this owner/management fee. It is particularly unreasonable for Staff to recommend the substantial reduction of the owner/manager fee in light of the substantial repairs that will need to be overseen and implemented at the WWTP, and where Staff recommends removing the fees of \$825 paid to Martin & Associates for review and preparation of the Monthly Discharge Monitoring Reports submitted to the Kentucky Division of Water.

23. The Report proposes to reduce by \$1,000 the amount of CPA and legal fees proposed by Farmdale for amortization over three years. The Staff sets forth no basis for the reduction of these fees. Indeed, the actions taken by Staff in being delinquent in reviewing Farmdale's Application for Rate Adjustment and Petition for Certificate of Convenience and Necessity have caused Farmdale to incur substantial additional legal and accounting fees. Furthermore, Staff's complication of what should be a simple procedure has also caused Farmdale to incur substantial additional legal and accounting fees. Accordingly, if anything, the amount of legal and accounting fees to be amortized should be increased by \$1,000 rather than reduced by \$1,000.

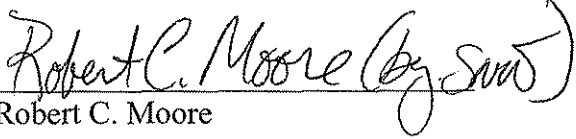
Respectfully Submitted,

A handwritten signature in black ink that reads "Robert C. Moore" followed by a large, stylized flourish that appears to be "(by SWS)".

Robert C. Moore  
Hazelrigg & Cox, LLP  
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class mail, postage prepaid, on David Edward Spenard, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Ky., 40601-8204, Beverly J. Hunt, 304 Peachtree Road, Frankfort, Kentucky 40601-8141, Kenny and Marilyn Glass, 223 Briarwood Drive, Frankfort, Kentucky 40601 and Mary Pennington, 210 Cherry Lane, Frankfort, Kentucky 40601, on this the 9 day of March, 2007.

  
Robert C. Moore