

Commonwealth of Kentucky  
Before the Public Service Commission

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COMMISSION

In the Matter of:

FARMDALE DEVELOPMENT CORPORATION        )  
APPLICATION FOR AN ADJUSTMENT IN        ) Case No. 2007-00436  
RATES PURSUANT TO THE ALTERNATIVE        )  
RATE FILING PROCEDURE FOR SMALL UTILITIES)

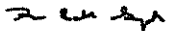
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REPLY BRIEF OF THE ATTORNEY GENERAL

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Respectfully submitted,

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14 July 2008

## Agency Collection Fee

To the extent that Farmdale's Brief implies that the 15% billing and collection fee enjoys Commission approval, reliance is misplaced. In reviewing this expense, the Commission consistently focuses upon the reasonableness of the expense amount rather than the 15% fee arrangement.

In the 1997 rate adjustment proceeding, Farmdale's test period amount for its Agency Collection Expense was \$7,780.<sup>1</sup> Commission Staff did not recommend adjusting this expense amount; consequently, the Staff Report does not discuss the 15% billing and collection fee arrangement. Because the arrangement produced a reasonable test year result under that set of facts, there was no further inquiry or comment.

In the 2006 rate adjustment proceeding, Farmdale's test period amount for its Agency Collection Expense was \$8,097.<sup>2</sup> Once again, Commission Staff did not recommend adjusting this expense amount. Commission Staff did, however, note its concerns about the underlying fee arrangement. In no event did the 2006 proceeding approve the 15% billing and collection fee.

Based upon a review of all aspects of the Stipulation and Agreement, an examination of the record, and being otherwise sufficiently advised, the Commission finds that the Stipulation and Agreement is in the public interest and should be approved. The Commission's approval of this settlement is based solely on its reasonableness in toto and does not constitute the approval of any particular ratemaking adjustment or revenue allocation.<sup>3</sup>

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<sup>1</sup> Case No. 1997-00456, 24 June 1998 Staff Report, Attachment B.

<sup>2</sup> Case No. 2006-00028, 26 February 2007 Staff Report, Attachment A, pages 2 and 3.

<sup>3</sup> Case No. 2006-00028, Order, 11 April 2007, page 5.

## Owner/Manager Fee

Mr. Cogan is not an expert on water districts. He did not conduct an in depth study of the specific water districts that he discusses. Farmdale's evidence is simply lay witness testimony that water districts do not seem complex. The testimony does not compel the conclusion that Farmdale seeks.

Per the record in Case No. 1997-00456:

Farmdale argued in its August 10 filing that the \$3,600 owner-manager fee and the projected profit combined are not adequate compensation for the duties involved in operating a sewer utility or for the inherent liabilities of owning a sewer system. The utility stated that comparison of an owner-manager to a water district commissioner is not appropriate since there are usually three water commissioners, they have no hands-on day-to-day duties, and are not liable for any losses due to operational problems. Farmdale contends that the background of its owner as a registered professional engineer with 45 years experience justifies a higher fee.<sup>4</sup>

The Commission's conclusion:

Regarding the matter of the owner-manager fee, the Commission notes that Farmdale is a relatively small utility that should require minimal attention from the owner-manager since routine maintenance, repairs, sludge hauling, billing and collection, and bookkeeping are all contracted services. Although Farmdale argues that the owner-manager fee should not be standardized since the work performed by treatment plant owners varies, there is no way to know how much time any owner-manager, including Farmdale's, devotes to a utility since time records are typically not maintained. None of the information filed in this case compels a change in the limitation of the owner-manager fee to \$3,600.<sup>5</sup>

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<sup>4</sup> Case No. 1997-00456, Order, 9 October 1998, page 2.

<sup>5</sup> Case No. 1997-00456, Order, 9 October 1998, page 3.

The Commission Staff recommends that Farmdale's rates be set using \$6,000 for an owner/manager fee. The basis for the recommendation is Commission precedent and an upward adjustment to reflect and reward a specific attribute of Farmdale's owner, namely his experience.

Farmdale has the burden of proof and the risk of non-persuasion. Its evidence on this point does not compel the result it seeks. The Commission should accept the Commission Staff's recommendation of an owner/manager fee in the amount of \$6,000.

WHEREFORE, the Attorney General submits his Reply Brief and asks that the Commission adopt the positions of Commission Staff as further adjusted by the recommendations of his Brief and this Reply Brief. The Commission should permit a recommended revenue increase of \$9,865,<sup>6</sup> and establish a per month per customer base rate of \$31.41.<sup>7</sup>

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<sup>6</sup> Total Operating Expense of \$74,411 / .88 = \$84,558. \$84,588 plus Recommended Interest Expense of \$6,283 = \$90,841 in Revenue Requirement. \$90,841 minus Normalized Revenue of \$80,976 yields a Recommended Revenue Increase of \$9,865.

<sup>7</sup> \$90,841 / 12 = \$7,571. \$7,571 / 241 = \$31.41

*Certificate of Service and Filing*

Counsel certifies the filing of the original and ten photocopies of this Reply Brief by hand-delivery to Stephanie L. Stumbo, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601. Further, counsel certifies the mailing of a true and correct of the same, first class postage prepaid, to: Wilma Adkins, 271 Cherry Lane, Frankfort, KY 40601; Deborah Deimel, 276 Cherry Lane, Frankfort, KY 40601; Gabe & Brook Jenkins, 127 Strawberry Lane, Frankfort, KY 40601; Bobby Anderson, 136 Strawberry Lane, Frankfort, KY 40601; Elizabeth Baker, 264 Cherry Lane, Frankfort, KY 40601; Robert Berme, 109 Stable Lane, Frankfort, KY; 40601; Ursula Burchett, 123 Strawberry Lane, Frankfort, KY 40601; Archie Chaney, 266 Cherry Lane, Frankfort, KY 40601; Carroll F. Cogan, President, Farmdale Development Corporation, 1706 Bardstown Road, Louisville, KY 40205; Angela Drane, 128 Strawberry Lane, Frankfort, KY 40601; Linda E. Ethington, 5698 Louisville Road, Frankfort, KY 40601; Peggie S. Gardner, 185 Briarwood Drive, Frankfort, KY 40601; Kenny & Marilyn Glass, 223 Briarwood Drive, Frankfort, KY 40601; Stephane Haerel, 259 Cherry Lane, Frankfort, KY 40601; Michelle Hartman, 958 Green Wilson Road, Frankfort, KY 40601; Robert L. King, 254 Cherry Lane, Frankfort, KY 40601; Chris Lee, 288 Cherry Lane, Frankfort, KY 40601; Albert Loman, 102 Stable Lane, Frankfort, KY 40601; Garry Lucas, 344 Farmers Lane, Frankfort, KY 40601; Randall Mills, 114 Briar Wood, Apt. 2, Frankfort, KY 40601; Robert C. Moore, Hazelrigg & Cox, LLP, P.O. Box 676, Frankfort, KY 40602;

Kenard Corele, 270 Cherry Lane, Frankfort, KY 40601; Leslie Hyatt, Cherry Lane, Frankfort, KY 40601; Barbara J. Pulliam, 284 Cherry Lane, Frankfort, KY 40601; Dixie Rash, 103 Stable Lane, Frankfort, KY 40601; Cindy Thomas, 275 Cherry Lane, Frankfort, KY 40601; Joe Ray, 113 Stable Lane, Frankfort, KY 40601; Joseph Tyson, 281 Cherry Lane, Frankfort, KY 40601; Carolyn Rayborn, 132 Strawberry Lane, Frankfort, KY 40601; Samuel A. Wiley, 114 Strawberry Lane, Frankfort, KY 40601; Amber Skirvin, 260 Cherry Lane, Frankfort, KY 40601; Carey Wilson, 105 Stable Lane, Frankfort, KY 40601; Mr. Elva Slone, 974 Green Wilson Rd. , Frankfort, KY 40601; Mark Wilson, 287 Cherry Lane, Frankfort, KY 40601; Tom Wise, 107 Stable Lane, Frankfort, KY 40601; Jacqueline Taylor, 115 Stable Lane, Frankfort, KY 40601; and Robin Taylor, 263 Cherry Lane, Frankfort, KY 40601. These actions took place this 14<sup>th</sup> day of July 2008.

  
Assistant Attorney General