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COMMONWEALTH OF KENTUCKY

AUG 25 2008

BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In the Matter of:

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

**FARMDALE DEVELOPMENT CORPORATION’S REPLY TO ATTORNEY
GENERAL’S RESPONSE TO MOTION FOR RECONSIDERATION**

Comes the Applicant, Farmdale Development Corporation (“Farmdale”), by counsel, and for its Reply to the Attorney General’s Response to the Motion for Reconsideration, states as follows:

Farmdale and the Attorney General agree that Farmdale has the right pursuant to KRS 278.400 to request reconsideration of this matter. Based on the information set forth herein, as well as in Farmdale’s Motion for Reconsideration, the Commission should grant Farmdale’s Motion and amend its July 30, 2008 Order as requested by Farmdale.

A careful review of the Attorney General’s Response reflects that it completely fails to address, and overlooks the evidence introduced by Farmdale establishing that it engaged in substantial and reasonable efforts to locate a more cost effective billing and collection agency than the Farmdale Water District (hereinafter “FWD”). These efforts are set forth in detail in Farmdale’s original brief filed in this matter, as well as in its Motion for Reconsideration. This evidence was apparently also overlooked by the Commission, as it stated that Farmdale made little effort to investigate alternatives to its present billing and collection arrangements.

Farmdale requests the Commission to consider this evidence, which is specific to

Farmdale, and determine that the FWD billing and collection fee is reasonable. Farmdale's evidence is the only evidence in the record specific to the reasonableness of the billing and collection fee and the Commission should rely upon same. As is pointed out in Farmdale's Motion for Reconsideration, Commission Staff failed to introduce any evidence reflecting that its analysis of agency collection fees is an "apples to apples comparison", and it should not be relied upon to determine whether the FWD fee is reasonable.

This is particularly true where the Commission has authorized an unpopular surcharge in Rate Case No. 2006-00028, which could result in customers failing to pay their sewer bill. Therefore, it is critical that Farmdale be allowed to use a proven efficient and effective billing and collection agency. Even Jack Kaninberg, a member of Commission Staff, agreed the FWD would be an effective billing and collection agency in stating that it would be more likely for a customer to pay his sewer bill if it arrived on the same bill as a water bill. (T, pp. 184 & 185). Of course, the timely payment of the sewer bill enables the utility to avoid having to pay collection fees that are then passed on to the rate payers.

The Attorney General wants to rewrite the record from past cases in arguing that there is no precedent whereby the Commission previously approved the FWD 15% billing and collection. A review of the Commission's decision in Farmdale's Case No. 97-456 and the sworn testimony of Mr. Kaninberg in the subject case establishes that the Attorney General is wrong. Mr. Kaninberg testified that in 1997 the Commission approved a billing and collection fee of 15% for a WWTP being served by the FWD (T, p. 181). The Attorney General is also wrong when he states that the Commission did not approve a 10% billing and collection fee in Farmdale's Case No. 2006-00028. The \$8,097 Agency Collection Fee set forth in the Application in Case No. 2006-00028 is, without dispute, approximately ten

percent (10%) of the approved revenue requirement of \$82,629. (See Application and Final Order of April 11, 2007 in Case No. 2006-00028). The Attorney General has once again ignored the facts in the record and the past decisions in making his argument. The Attorney General apparently wants to economically hamstring Farmdale in favor of its customers, ignoring the fact that Farmdale must be economically viable in order to provide sewer service to its customers.¹ Accordingly, the Commission should either approve the FWD 15% billing and collection fee, or allow Farmdale to apply the 15% billing and collection fee up until thirty (30) days from the date of its decision on the Motion for Reconsideration. Otherwise, Farmdale will be placed in a precarious financial posture due to its reliance upon the Commission's past decisions.

In the event that the Commission decides not to rely upon past precedent and does not approve the payment to the FWD of its billing and collection fee, it should apply the three percent (3%) inflation rate to the \$7,949.00 Agency Collection Fee approved in Case No. 97-456 to arrive at an Agency Collection Fee of \$10,682.79. The Attorney General argues that the Commission did not use this inflation factor to set rates in Case No. 2007-00134, but cannot, and does not, argue that it is not the accurate inflation rate. This three percent (3%) inflation rate should be used in approving an Agency Collection Fee of \$10,682.79 if the FWD 15% fee is rejected.

The Attorney General also asks the Commission to reject Farmdale's request to amortize the legal fees incurred in this proceeding over three (3) years instead of the five (5) years proposed in its Application. Of course, in rushing to its argument, the Attorney

¹ The Attorney General is being overzealous in attempting to minimize the increase in Farmdale's rate at the cost of the well-being of the WWTP. His actions may result in damaging the economic viability of the WWTP, which is not in its customers' best interest.

General fails to take into account the fact that legal fees in the amount of \$14,046.66 were incurred in this case up to the date of the hearing, and the Application only included estimated legal fees of \$3,000.00. As indicated in the Motion for Reconsideration, the amortization of this amount over a five (5) year period will result in Farmdale having to take out additional loans, with the accompanying interest expense. Again, the Commission should rule as it has in other rate cases and authorize the amortization of the attorneys fees over a three (3) year period.

Finally, the Attorney General argues that the Commission should deny Farmdale's request to recover the \$3,847 in Fuel/Power expense that it incurred in the 2006 test year. This amount is the difference between the 2005 Fuel/Power cost and the 2006 Fuel/Power cost, and no one has disputed the legitimacy of this expense. A review of 807 KAR 5:076 reflects that it does not contain any provisions prohibiting the recovery of this extraordinary expense in an alternative rate adjustment procedure. Therefore, the Commission should allow Farmdale to recover this \$3,847 as a non-recurring expense.

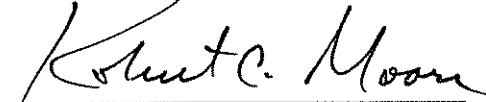
CONCLUSION

The Attorney General asks the Commission to deny Farmdale's Motion for Reconsideration and ignore actual costs incurred by Farmdale to keep Farmdale's sewer rate artificially low. Agreeing with the Attorney General will merely result in economically hamstringing Farmdale so that it cannot provide proper service to its customers as required by 807 KAR 5:071, Section 5(1). As stated so well by Charles Dickens:

Everybody knows the story of another experimental philosopher who had a great theory about a horse being able to live without eating, and who demonstrated it so well, that he got his own horse down to a straw a day, and would unquestionably have rendered him a very spirited and rampacious animal on nothing at all, if he had not died, four-and-twenty hours before he was to have had his first comfortable bait of air.

Charles Dickens, Oliver Twist, pg. 5 (1838). Farmdale, like the horse that could not exist on air, cannot exist without a satisfactory rate, no matter what the Attorney General wishes. Simply put, the Commission should grant Farmdale's Motion for Reconsideration so that it will have sufficient funds to enable it to provide proper service to its customers.

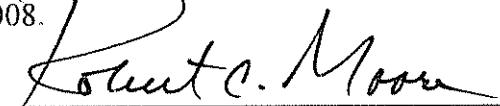
Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon Stephanie Stumbo, Executive Director, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, Kentucky 40602, David Edward Spenard, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204, Kenny and Marilyn Glass, 223, Briarwood Drive, Frankfort, Kentucky 40602, and ~~Tiffany Bowman~~, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, Kentucky 40602 by placing same in the U.S. Mail, postage pre-paid, this the 25th day of August, 2008.



Robert C. Moore