

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAY 28 2008

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF THE R. A. WILLIAMS)
DEVELOPMENT CO., INC. D/B/A)
CEDARBROOK TREATMENT PLANT FOR THE) CASE NO. 2008-00042
APPROVAL OF THE PROPOSED INCREASE IN)
RATES FOR WATER SERVICE)

**MOTION OF INTERVENOR, CEDARBROOK UTILITIES, LLC,
TO SUPPLEMENT APPLICATION FOR RATE ADJUSTMENT**

Comes Cedarbrook Utilities, LLC, (“Cedarbrook”), by counsel, and hereby requests the Public Service Commission to supplement the Application for Rate Adjustment filed by R.A. Williams Construction, Inc., (“R.A. Williams”) for the Cedarbrook Wastewater Treatment Plant (“WWTP”) as follows:

1) On February 4, 2008, R.A. Williams submitted its Application for Rate Adjustment to the Commission initiating the above-styled rate case. Commission Staff assisted R.A. Williams in the preparation of this Application for Rate Adjustment, which application requested an increase in the monthly rate to \$62.00 per month, based upon the expenses incurred in the 2006 test period.

2) R.A. Williams is a construction company and it does not have experience and technical expertise to operate a WWTP. Accordingly, included in the expenses for the test period was a \$1,000 per month management fee paid by R.A. Williams to Covered Bridge Utilities to manage the Cedarbrook WWTP. On February 1, 2008, R.A. Williams and Cedarbrook submitted to the Commission a Joint Application for the Transfer of the Cedarbrook Wastewater Treatment Plant and collection system serving the Cedarbrook Subdivision in Cynthiana, Harrison County, Kentucky, to Cedarbrook.

3) R.A. Williams has been working for approximately twelve (12) years to locate a technically qualified entity that would agree to take over the Cedarbrook WWTP. By Agreed Order

entered into by R.A. Williams and the Kentucky Environmental and Public Protection Cabinet, R.A. Williams is to convey the Cedarbrook WWTP to a third party approved by the Commission. This Agreed Order expressly recognized the Joint Application filed on February 1, 2008, to convey the subject WWTP to Cedarbrook. The Agreed Order further states that if the Joint Application to Approve the Transfer of the subject WWTP to Cedarbrook is denied, R.A. Williams is required to file another application to transfer the facility within 120 days of the Commission's denial. (See Record in Case No. 2008-00040).

4) Commission Staff subsequently issued its report on the Application for Rate Adjustment filed in the above-styled action and by Order dated April 1, 2008, all parties were to submit written comments concerning this Staff Report. The Staff Report now recommended a flat residential rate of \$46.40 per month, rather than the flat monthly rate of \$62.00 per month set forth in the Application for Rate Adjustment prepared with the assistance of Commission Staff. The Staff Report stated "Given the proposed transfer of ownership of Cedarbrook's assets, Staff is revising the original findings and recommendations of its field review. Staff's revised proforma operations and explanations of its revisions are attached hereto as Appendix B." (See Staff Report, page 2). The management fee of \$1,000 per month paid by R.A. Williams was deleted from costs in Appendix B to the Staff Report. Accordingly, based solely on the filing of the Application for Transfer of Cedarbrook WWTP in Case No. 2008-00040, Commission Staff deleted the management fee of \$1,000 per month, apparently assuming that the Cedarbrook WWTP would be transferred to Cedarbrook Utilities.

5) Due to the fact that Commission Staff apparently considered that the subject WWTP would be transferred to Cedarbrook in removing the management fee of \$1,000 per month, Commission Staff should also, in setting the rate for the Cedarbrook WWTP, consider expenses to be incurred by Cedarbrook should the Joint Application for Transfer be approved. Therefore, Cedarbrook requests that Commission Staff take the following expenses into consideration in determining the rate

for the subject WWTP:

a) R.A. Williams currently bills the customers of the Cedarbrook WWTP on a quarterly basis. In the event the Joint Application for Transfer is approved, Cedarbrook will be filing a new tariff providing for the monthly billing of the customers of the Cedarbrook WWTP in order to normalize revenues. The current cost of billing, including postage, as set forth in the Amendment to the Application for Rate Adjustment (“Amendment to Application”) filed on behalf of R.A. Williams is \$249.00 per quarter, or \$996.00 per year. Since Cedarbrook will be billing on a monthly basis, the amount included in the rate for billing costs, including postage, should be \$249.00 per month, or \$3,108.00 per year.

b) R.A. Williams allocated the amount of \$524.00 per year for rent in its Amendment to Application. As stated above, R.A. Williams is a construction company and any rent expense attributable to the subject WWTP operation is merely incidental to its construction company operation and costs. In fact, as reflected by the losses incurred by R.A. Williams in its test year, the construction company operations have subsidized the operation of the Cedarbrook WWTP. Accordingly, a more realistic rent figure should be included in the Application for Rate Adjustment. Cedarbrook requests that a rent figure of \$100.00 per month be included in the rate, for an annual cost of \$1,200.00. This amount is necessary to cover the cost of the office space, furniture, utilities, computers and other office equipment, as well as the receptionist/operator to answer telephone calls.

c) R.A. Williams allocated the amount of \$129.00 per year for telephone expense in its Amendment to Application. Again, R.A. Williams is a construction company and any telephone expense attributable to the subject WWTP is merely incidental to its construction company operations and costs. Cedarbrook requests that the amount of \$40.00 per month for telephone expense be included in the rate, for an annual telephone expense of \$480.

d) R.A. Williams allocated the amount of \$1,200 per year to accounting costs in its

Amendment to Application, which accounting is performed on a quarterly basis in accordance with its quarterly billing practice. Again, R.A. Williams is a construction company and accounting costs attributable to the subject WWTP are merely incidental to its construction company operation and costs. If the Joint Application is approved, Cedarbrook will amend the tariff to bill on a monthly basis, and requests including an accounting figure of \$300 per month for a total of \$3,600 per year for accounting services, which includes monthly bookkeeping services, for use in setting the rate.

e) R.A. Williams allocated the amount of \$726 per year for a total of \$8,712 per year, to pay Camden Environmental for the cost of operating the subject WWTP. Cedarbrook obtained quotes to operate the subject WWTP from Elliot Turner in the amount of \$1,175 per month and from Terry A. Coker in the amount of \$1,000.00 per month. (See Attachment A). Cedarbrook requests that the amount of \$950.00 per month be included in the rate, for an annual operators expense of \$11,400.00.

f) As stated above, R.A. Williams' Application for Rate Adjustment requested a management fee of \$1,000 per month, for a total of \$12,000 per year. The Staff Report recommended eliminating this fee and instead provided for an owner/manager fee of \$3,600. Due to the expertise and experience of the members of Cedarbrook, Cedarbrook requests an owner/manager fee of at least \$6,000, and proposes an owner/manager fee of \$9,600.

i) The Public Service Commission has historically authorized a WWTP owner/manager to be paid a salary equivalent to the salary authorized for a single water district commissioner, on the theory that the duties of a water district commissioner and WWTP owner/manager are similar. In making its recommendation to pay R.A. Williams an owner/manager salary of \$3,600.00, Staff failed to consider that a water district commissioner shares his/her duties with at least two (2) other commissioners, while a WWTP only has a single owner/manager. Using Staff's logic, a WWTP owner/manager should be compensated at the total amount paid all three (3) water district

commissioners because the WWTP owner/manager is doing the job of all of the water district commissioners, which does not include the salaries of the employees of the water district. Cedarbrook does not have any employees.

As reflected in Attachment B, the amount paid to the officers of the Farmdale Water District per year totals \$10,800. The amount paid to the officers and managers of the South Elkhorn Water District per year totals \$30,000, and the amount paid to the officers and managers of the Northeast County Water District per year totals \$18,000. The amount paid to the officers and manager of the South Woodford Water District per year totals \$10,800. Accordingly, the Public Service Commission should authorize the payment of an owner/manager fee of \$9,600, which is less than the amount paid to the water district commissioners of the above listed water districts for their services.

ii) It is important to note that the substantial training and experience of Martin G. Cogan and Lawrence W. Smither, the members of Cedarbrook, justifies an owner/manager fee of no less than the \$9,600 requested. Mr. Cogan has participated in the operation of a number of wastewater treatment plants located in the Commonwealth of Kentucky over the last twenty (20) years. Mr. Cogan has a Master's Degree in Environmental Engineering from the University of Louisville's Speed Scientific School. Mr. Smither, who is licensed by the Commonwealth of Kentucky as a wastewater treatment plant operator, has extensive experience in wastewater treatment plant operation and design, and has operated package wastewater treatment plants in Kentucky for over thirty (30) years. A copy of Mr. Smither's current Kentucky wastewater treatment operator's license is provided as Attachment C. The expertise and experience of Mr. Cogan and Mr. Smither, as set forth in the Joint Application for Approval of Transfer of the Cedarbrook WWTP (Case No. 2008-00040), supports the

payment of this owner/management fee of \$9,600.00. Indeed, KRS 74.020(6) provides for annual compensation of \$6,000 for a water district commissioner who, among other things, meets certain enhanced training requirements. Staff should at least recommend an owner/manager fee of \$6,000 in this case based upon Mr. Cogan's and Mr. Smither's 50-plus years of experience owning and operating jurisdictional sewer utilities. Of course, if all three commissioners of a water district had the training and experience sufficient to satisfy KRS 74.020(6), they would generally receive total compensation of at least \$18,000. Accordingly, the Public Service Commission should authorize the payment of the reasonable owner/management fee in this case of \$9,600.

iii) The payment of the owner/management fee of \$9,600 is more that justified when considering the duties and responsibilities of an WWTP owner/manager, as compared to the duties and responsibilities of the multiple officers and managers of the above-referenced water districts. Mr. Cogan and Mr. Smither will be responsible for:

- the operation and management of the Cedarbrook WWTP, which will require substantial time and work due to its deteriorating condition.
- insuring proper maintenance, repairs and improvements to the WWTP.
- preparing and submitting the required reports, applications for rate adjustment and tax returns to the Public Service Commission and the Revenue Department.
- preparing and submitting the required reports to the Kentucky Division of Water, including monthly discharge monitoring reports.
- compliance by the Cedarbrook WWTP with the regulations of both the Public Service Commission and the Kentucky Division of Water.
- hiring and supervising the professionals retained by Cedarbrook, including accountants and attorneys.
- personally guaranteeing any loans obtained by Cedarbrook, as lending institutions will not loan monies to a privately owned sewer utility without an adequate guarantee. (See Attachment C).

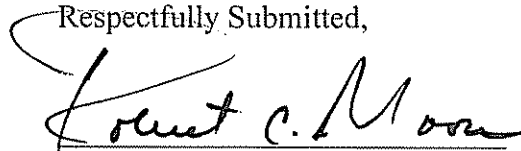
- monitoring the billing and collection of Cedarbrook's total revenue from its 51 customers and payment of Farmdale's total expenses.

- Cedarbrook will not employ a superintendent or treasurer as is authorized for water districts. (KRS 74.040 and KRS 74.050).

The above information confirms that the owner/management fee of \$9,600 proposed in the above-styled application is more than reasonable and should be approved by the Commission.

g) If the Joint Application for Transfer of the Cedarbrook WWTP is approved by the Commission, Cedarbrook will undertake to implement a systematic long term reconstruction of the defective parts of the collection system. The estimates of the cost to perform this construction received by R.A. Williams in 2006 and 2007 ranged from \$126,342 to \$175,166. (See Answers to Data Requests in Case No. 2008-00040, Attachment H). Cedarbrook intends to make the necessary repairs to the collection system on a "worst-first" basis. In order to fund the first phase of the repairs, Cedarbrook intends to enter into a loan in the amount of \$10,000.00, with a maturity of one year. The borrowed funds are to be spent in the year following the transfer. Accordingly, Cedarbrook requests the Commission to include the amount of the loan, \$10,000.00, plus interest, in the rate case. Based on current interest rates, it is anticipated that a financial institution would charge interest at the rate of between 6.5 and 7.00 per annum.

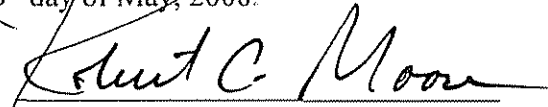
Respectfully Submitted,



Robert C. Moore
Hazelrigg & Cox, LLP
415 West Main Street
P.O. Box 676
Frankfort, Kentucky 40602-0676

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed by hand delivery on Stephanie Stumbo, Executive Director, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602, and Todd Osterloh, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602, and by first class mail on David Edward Spenard, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Ky., 40601-8204 on this the 28th day of May, 2008.


Robert C. Moore

ATTACHMENT A

Elliott Turner
502 Three Forks Road
Richmond, Kentucky 40475

May 21, 2008

Cedarbrook Utilities, LLC
1706 Bardstown Road
Louisville, KY 40205

Re: Cedarbrook Wastewater Treatment Plant

I am pleased to present our quote of \$1,175.00 per month for the operation of the referenced treatment plant and the system remote lift stations.

We will make 3 visits to inspect all equipment, perform in-plant test, make process control adjustments, clean up and perform preventative maintenance.

Thanks for the opportunity to quote you on this work.

If you have questions, please let me know.

Sincerely,


Elliott Turner

**Clearwater Services
106 Shannon Court
Georgetown, Kentucky 40324**

May 21, 2008

Cedarbrook Utilities LLC
1706 Bardstown Road
Louisville, KY 40205

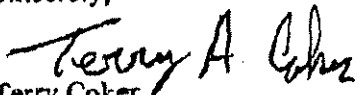
Re: Cedarbrook WWTP

I am please to present my quote of \$1000.00 per month for the operations of the referenced treatment plant.

For this amount I will make visits to the plant 3 times per week.

Thanks for the opportunity to quote.

Sincerely,


Terry Coker

ATTACHMENT B

21700 Farmdale Water District

Contacts (Ref Pg. 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	Chairperson	Robinson	Berl	230 River Valley Road Frankfort, KY 40601		
Person who prepared this report	CPA	Bass	Robert C.	PO Box 3280 Frankfort KY 40603		
Officers and Managers						
	Chairperson	Robinson	Berl		\$3,600.00	05/14/2007
	Treasurer	Toles	Clifford		\$3,600.00	05/14/2007
	Secretary	Hall	Yvonne		\$3,600.00	05/14/2007

Utility Financial Reports 4/1/2006 (most recent)

24300 Jessamine-South Elkhorn Water District

Contacts (Ref Pg. 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	Office Manager	Clark	Diana	P O Box 731, Nicholasville, KY 40340		
Person who prepared this report	Auditor	Besten	Michael	106 W Vine St, #700, Lexington, KY 40507		
Officers and Managers						
	Chairman	Strong	Nick		\$6,000.00	02/19/2008
	Secretary	Robinson	George Dale		\$6,000.00	12/21/2008
	Treasurer	Blackford	John		\$6,000.00	11/05/2007
	Vice Chairman	Hall	James		\$6,000.00	03/28/2010
	Commissioner	Haws	Jerry		\$6,000.00	10/26/2009
	Commissioner - Resigned	Noland	Kenneth		\$300.00	02/01/2006

27300 Northeast Woodford County Water District

Contacts (Ref Pg. 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	Chairman	Davis	John	225-A South Main Street, Versailles, KY 40383		
Person who prepared this report	Auditor	Ray, Foley, Hensley & Co.		230 Lexington Green Circle, Suite 600, Lexington, KY 40503		
Officers and Managers						
	Chairman	Davis	John		\$6,000.00	05/27/2010
	Treasurer	Moore	Larry		\$6,000.00	05/27/2007
	Secretary	Shipp	Hubert		\$6,000.00	03/27/2008

27900 Peaks Mill Water District

Contacts (Ref Pg. 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	Chairperson	Quarles	Church	408 Indian Gap Road, Frankfort KY 40601		
Person who prepared this report	CPA	Charles T.	Mitchell Co. LLP	201 W. Main St., Frankfort KY 40601		
Officers and Managers						
	Treasurer	Perkins	Wilbert	256 Perkins Road 40601	\$3,600.00	12/31/2007
	Secretary	Clark	Lowell	2445 Indian Gap Road 40601	\$3,600.00	12/31/2007

30400 South Woodford Water District

Contacts (Ref Pg. 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	Chairman	Dotson	Bob	467-D Wilson Avenue, Versailles, KY 40383		
Person who prepared this report	Auditor	Ray, Foley, Hensley & Co.		230 Lexington Green Circle, Suite 600, Lexington, KY 40503-3326		
Officers and Managers						
	Chairman	Dotson	Bob	467-D Wilson Avenue, Versailles, KY 40383	\$3,600.00	08/19/2010
	Treasurer	Tufts	Ira	467-D Wilson Avenue, Versailles, KY 40383	\$3,600.00	08/19/2007
	Secretary	Drury	Bill	467-D Wilson Avenue, Versailles, KY 40383	\$3,600.00	08/19/2009

31500 U. S. 60 Water District of Shelby, Spencer and Franklin Counties

Contacts (Ref Pg. 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	CHAIRMAN	EGGEN	WILLIAM	7457 FRANKFORT ROAD, SHELBYVILLE, KY 40065		
Person who prepared this report	CPAS	RAISOR, ZAPP & WOODS, PSC		513 HIGHLAND AVENUE, CARROLLTON, KY 41008		
Officers and Managers						
	CHAIRPERSON	EGGEN	WILLIAM	7457 FRANKFORT ROAD, SHELBYVILLE, KY 40065	\$3,150.00	01/31/2009
	SECRETARY	ROBERTS	JOHN	850 BRONS LANE, FRANKFORT, KY 40601	\$1,600.00	05/07/2007
	TREASURER	BREWER	DAVID	PO BOX 54, WADDY, KY 40076	\$1,750.00	01/31/2008
	COMMISSIONER	MASTERS	WALLACE	120 PEYTONA BEACH ROAD, WADDY, KY 40076	\$375.00	03/13/2006
	COMMISSIONER	HEARN	HOBART	300 BROWN'S LANE, FRANKFORT, KY 40601	\$1,350.00	09/22/2009
	COMMISSIONER	MILLER	STEVE	P.O. BOX 97, BAGDAD, KY 40003	\$1,100.00	03/15/2010

32300 West Shelby Water District

Contacts (Ref Pg. 6)

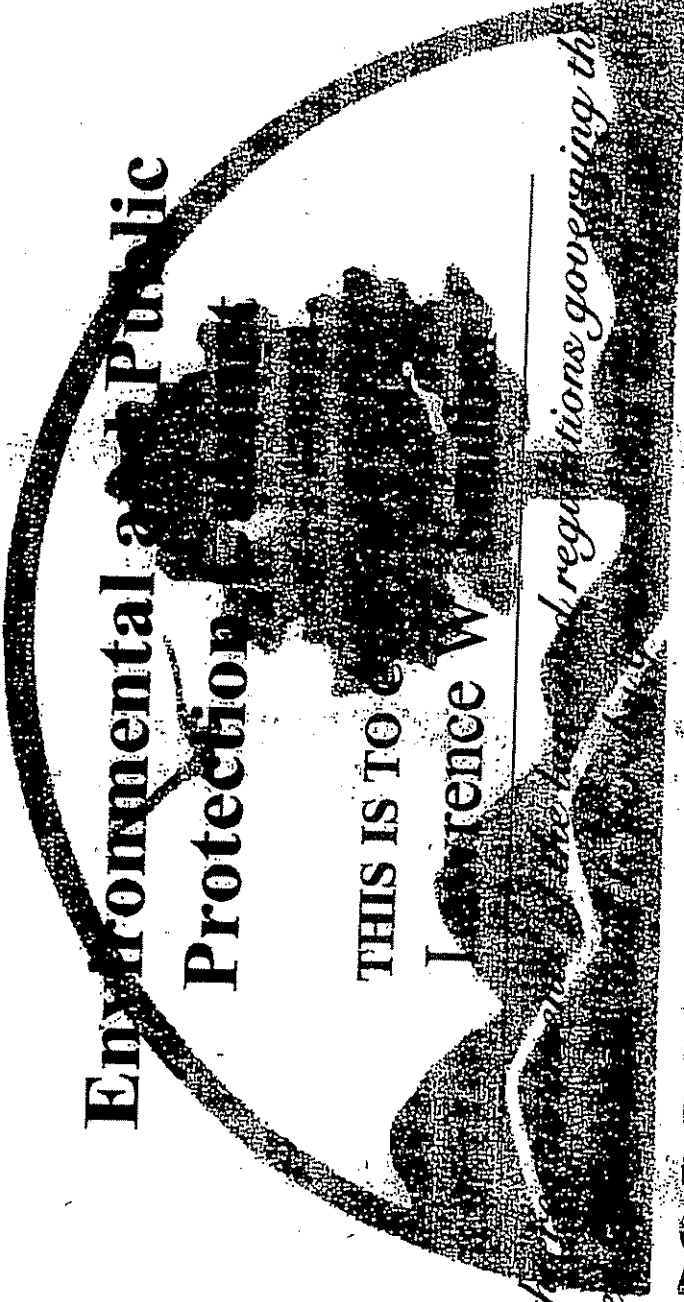
	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	Co-Manager	Land	Wanda	7101 Shelbyville Road Simpsonville, KY 40067		
Person who prepared this report	J Sutherland PSC			1020 Washington Street Shelbyville, KY 40065		
Officers and Managers						
	Chairperson	Larmee	Ray	2460 Conners Station Road Simpsonville, KY 40067	\$6,000.00	03/09/2007
	Treasurer	McDowell	Robert	205 Fairview Drive Simpsonville, KY 40067	\$6,000.00	03/10/2008
	Secretary	Quinn	Ben	223 Hunters Point Place Simpsonville, KY 40067	\$5,000.00	04/01/2010
	Co-Manager	Land	Wanda	P.O. Box 39 Simpsonville, KY 40067	\$40,060.00	
	Co-Manager	Eden	Steve	P.O. Box 39 Simpsonville, KY 40067	\$33,876.00	

ATTACHMENT C

6322

Administrative

Environmental and Public Protection



has fulfilled the requirements of the Kentucky Wastewater Regulations governing the Certification of Wastewater Treatment Plant Operators.

Wastewater Treatment Plant Operator

Class II Certification No. 13390

Given under our hands this 26th day of April, 20

at Frankfort, Kentucky

John W. Rouse
 DIRECTOR, DIVISION OF WATER

William S. Wilcher
 SECRETARY, ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Frank P. Lee
 COMMISSIONER, DEPARTMENT FOR ENVIRONMENTAL PROTECTION

