



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

John W. Clay
Commissioner

June 17, 2009

PARTIES OF RECORD

Re: Case No. 2009-00037

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact M. Todd Osterloh at 502/564-3940, Extension 439.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director

TO/ew

Attachment

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File
FROM: Todd Osterloh, Staff Attorney
DATE: June 17, 2009
RE: Case No. 2009-00037
Teleconference of June 15, 2009

On June 15, 2009, the Commission held a telephonic informal conference for the purpose of discussing the processing of this case. The following individuals participated in the conference:

Michael Hirn	Villas at Woodson Bend Condominium Ass'n
Vicki Cooper	Villas at Woodson Bend Condominium Ass'n
Richard Meyer	South Fork Development, Inc.
Todd Osterloh	PSC Staff
Sam Reid	PSC Staff
James Rice	PSC Staff

Beginning the conference, Commission Staff stated that it would prepare minutes of the conference for the case record, that a copy of these minutes would be provided to all parties, and that all parties would be given an opportunity to submit written comments upon those minutes. Staff also noted that its statements and opinions are not necessarily binding on the Commission.

Commission Staff stated that a question has been raised as to whether the Commission has jurisdiction over this case. The Commission has original jurisdiction over complaints as to rates or service of any utility under KRS 278.260. It would have jurisdiction over South Fork Development's sewer facility if South Fork was providing the sewer service "to the public, for compensation" as per KRS 278.010(f). South Fork has previously stated that it does not provide sewer service to the public for compensation.

The parties discussed the letters of January 7, 2009, sent from an attorney who previously represented South Fork to the Villas of Woodson Bend Condominium Association. The letters indicate that the Villas owed more than \$33,000 for sewer usage. Mr. Hirn stated that these letters (along with other material) evidenced South Fork's intent to charge for the service. Mr. Meyer stated that it was his understanding that South Fork intended to charge for service in the future, but that it had not yet

received any amounts. Mr. Meyer stated that he would withdraw the demands in the January 7, 2009 letters.

Mr. Meyer stated that South Fork may seek to file a rate schedule with the Commission at a later date which would reflect consent to Commission jurisdiction. Commission Staff noted that the entity may also need to file for a certificate of public convenience and necessity under KRS 278.020 prior to commencing utility service to the public.

Commission Staff questioned the status of litigation in Pulaski Circuit Court between the two parties. Mr. Hirn stated that litigation was continuing and that there is a possibility of settlement that could include the transfer of the sewer facility to the condominium association. Mr. Hirn also stated, and Commission Staff agreed, that the association may need to obtain Commission approval prior to the transfer under KRS 278.020(5) and (6) if the facilities fall within the definition of a utility.

In light of the potential settlement in litigation, the parties and Commission Staff agreed to hold this proceeding in abeyance for 30 days. The individuals agreed to hold another teleconference at 10 a.m. on July 20, 2009.

The conference then adjourned.