

From: Melnykovich, Andrew (PSC)
To: [REDACTED]
Subject: RE: Comments / PSC Case No. 2010-00426
Date: Wednesday, May 25, 2011 9:29:00 AM

Mr. Snyder-

Your second comment letter has been received and will be placed into the case file for the Commission's consideration.

Andrew Melnykovich
Director of Communications
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601
502-564-3940 x 208
502 330-5981 (cell)

From: PSC - Public Information Officer
Sent: Tuesday, May 24, 2011 3:28 PM
To: Melnykovich, Andrew (PSC)
Subject: FW: Comments / PSC Case No. 2010-00426

From: Donald Snyder [REDACTED]
Sent: Tuesday, May 24, 2011 3:28:09 PM
To: PSC - Public Information Officer
Subject: Comments / PSC Case No. 2010-00426
Auto forwarded by a Rule

From: Donald Snyder [REDACTED]
Sent: Tuesday, May 24, 2011 12:47 PM
To: 'psc.info@ky.gov.'
Subject: FW: Comments / PSC Case No. 2010-00426

From: Donald Snyder [REDACTED]
Sent: Tuesday, May 17, 2011 3:30 PM
To: PSC.Consumer.Inquiry@ky.gov
Cc: [REDACTED]

Subject: Comments / PSC Case No. 2010-00426

Attn: Mr. Andrew Meinykovch,

Attached is a letter stating our objection to the above referenced case before the Public Services Commission regarding the Hillridge Waste Treatment Plant rate increase application.

If you have any further questions, please feel free to contact us.

Cathy and Don Snyder



May 17, 2011

PSC Commissioners
PO Box 615
Frankfort KY 40602-0615
RE: Hillridge Facility Rate Case 2010-00426

Dear Commissioners Armstrong, Gardner & Borders,

Kentucky Division of Water notified Hillridge Facilities (HF) that they were "**permit noncompliant**" and in violation of KRS 224. Per DOW's certified letter dated February 15, 2008, signed by Brad Trivette, Environmental Inspector III & Charles Roth, Environmental Control Supervisor, the description of that noncompliance was "**...a regional sewer system is now available. The owner of the sewer system has failed to connect to the regional sewer system**". Listed as the remedial action needed to correct the violation "**Comply with all of the terms of the KDPEs permit and connect to the regional municipal sewer**" (see addendum A)

The Commonwealth of Kentucky's various agencies, in the name of being good stewards of the environment and enforcers of state regulations should stand united; bringing an end to violations against the Commonwealth. As such, granting an increase of revenue of any kind to HF is simply giving them additional resources to continue their long history of unabated violations as a WWTP. These violations endanger the health of unknowing children, residents, and wildlife downstream. They also strip nearby residents of the enjoyment of their property due to the horrid stench the community is constantly subjected to. We must either stay indoors or go elsewhere if we wish to enjoy the outdoors.

The possibility that PSC will grant HF these additional resources rather than reject the request is to say the least curious as DOW has instructed HF to connect to MSD's line. Lack of increased revenue could be the last straw that forces HF once and for all to comply with terms of their past permits as well as 401 KAR 5:055 & 401 KAR 5:002.; that is, to connect into the municipal sewer system which is literally feet away from their plant.

It's understood that PSC must fairly entertain rate case requests from utilities operating with a valid permit within KAR. It's not understood why PSC must entertain a rate case from a company that holds no such permit and is working outside KAR

The Facts:

→Per DOW; HF has been operating in violation since their permit expired in December of 2007. DOW has advised HF that to become compliant they must connect to the adjacent municipal sewer line.

→Per DOW; HF's permit will NOT be renewed.

→Per HF's Legal Counsel Robert Moore, DOW advised HF not to seek a rate increase due to the fact the permit will not be renewed and it is inevitable that HF will connect to the existing municipal sewer line.

→HF continues to operate by their own rules, going as far as to tell DOW what "is" and "is not" sufficient practices. When notifying HF in dry weather in early March, that their tanks were no longer swirling as they always have, we were informed by HF that the "linkage" is being replaced. Two months later, enlisting DOW's help to remedy the problem, the email response from their inspector was "**I just came from the plant. Both plants are now operational including the air. Due to the excessive rains they are only operating the air for 15 min/ day. This is to keep the sewer solids from being carried out of the plant to the stream. As soon as the wet weather stops the plants will be returned to a normal aeration cycle. This should eliminate the excessive odor. No. 15 min. is not enough for adequate air in the plant. They believe that is what they have to do during the wet weather to keep the solids from being flushed out into the stream.**" How does a private package plant dictate to DOW and the Commonwealth of Kentucky that operating 15 minutes a day is acceptable?

→November 2010 HF filed a rate request to increase monthly fees from \$24.08 to \$32.50 (an increase of \$8.42 monthly for operating cost). In addition, a monthly surcharge of \$11.19 for systems repairs was requested. Per April 28th's PSC meeting it was stated by MSD's counsel, Larry Zielke that through prior discussions between HF & MSD, HF understood that a *"piecemeal approach"* of repairs is in no one's best interest. Consequently HF rescinded the surcharge request. Mr. Moore in the April 28th meeting stated HF originally calculated \$37.55 as the actual monthly operating cost; separate from the surcharge. However in consideration of the economy's affect on customer's pocket books they asked for only \$32.50. Why would a utility company request less than the monthly required income when they were not certain that the surcharge would be granted? There is concern with allowing HF to receive \$36.52 a month vs. \$32.50 as originally requested. This is technically \$4.02 (\$2,894 monthly, system wide) of what were previously special assessment surcharges that would have been earmarked for specific repairs. Wrapped back in as monthly operation revenue; it now falls into the same operational income that the owners have failed to reinvest in the past for repairs.

→PSC's Legal Counsel, Mr. Wuetcher said in closing remarks at the April 28th meeting that it is fair to grant HF revenue required to stay operational until it connects into municipal sewer system. Yet earlier in the meeting he stated *"as a practical matter I don't think anyone on commission staff doubts MSD's ability to provide the service"*. If PSC is acknowledging MSD is ready to take over, then HF has no reason to stay operational. Not staying operational means there is no justification for an increase

→PSC's Mr. Wuetcher during the April 28th meeting issued his own apology in regards to an issue the State Attorneys General Office had raised. He said that the Commission in talks with HF had inadvertently *"deviated from PSC's Staff normal practices of simply noting revenue requirement that could be justified by rates."* Rather he said *"the PSC staff advised HF that they may want to amend their request to reflect the amount."* Noting HF's decades of numerous violations (obtained through FOIA) with no consequences or accountability, it becomes increasingly difficult to understand how these matters keep working in HF's favor.

The Hillridge customers are being asked to finance HF's continued pollution of Fern Creek regardless of the health issues of children and residents downstream in dry weather. Those downstream get no notification of overflows. Easter weekend a few years ago a main line collapsed and shot raw untreated sewage several feet high up from the manhole in our back yard running directly into the creek. For almost 24 hours, tissue, fecal matter etc, poured into the creek; again, with no notification by HF to residents downstream.

It's time to enforce Kentucky's regulations; deny the increase so that rather than continue to lose money HF will be forced to hook up to the municipal sewer system that sits mere feet from their plant.

Sincerely,
Cathy & Don Snyder
502-797-3981

Cc via hardcopy: EPA Region 4 Associate Regional Counsel William Bush
Kentucky Division of Water, Director Ms. Sandy Gruzesky
Kentucky State Attorney General, Jack Conway
Louisville Metro Mayor, Greg Fischer
Jefferson County District #20 Councilman, Stuart Benson
Metropolitan Sewer District, Director Bud Schardein
Honorable, Congressman John Yarmuth
Honorable Senator Mitch McConnell
Honorable Governor Steve Beshear
Investigative Reporting / Courier Journal, WLKY, WHAS, WAVE, WDRB, 60 Minutes, Dateline, 20/20

Addendum A

http://www.psc.state.ky.us/PSCSCF/2010%20cases/2010-00426/20110304_Hillridge_Supplemental%20Responses.pdf

www.psc.state.ky.us/PSC...
www.psc.state.ky.us/PSCSCF/2010%20cases/2010-00426/20110304_Hillridge_Supplemental%20Responses.pdf
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The permittee shall comply with all conditions of the permit. Any permit non-compliance shall constitute a violation of KRS 224, among which shall be the following remedies: Enforcement action, permit revocation, revocation and reinstatement, or modification, or denial of permit renewal application. [401 KAR 5:055 Section 11(1)(3)]

Description of Non Compliance:
The facility has failed to comply with the terms of the permit. A regional sewer system is now available. The owner of the sewer system has failed to connect to the regional sewer system.

The remedial measure(s), and date(s) to be completed by are as follows:
Stop all non-permitted discharges of wastewater from entering the waters of the Commonwealth of Kentucky. Comply with all of the terms of the KPDES permit and connect to the regional municipal sewer. You will be required to attend an administrative enforcement meeting to be scheduled by the Division of Enforcement. Additional remedial measures will be determined at that time.
[401 KAR 5:055 Section 1]

Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance with remedial measures and their deadlines does not provide an exemption from liability for violations during the period of remediation, nor prevent additional remedial measures from being required.

If you have questions or need further information, write or call the undersigned:

Division of Water
Louisville Regional Office
9115 Leegate Rd
Louisville, KY 40222-5084
502-419-7122/8:00 AM - 4:30 PM)
Mr. Brad Trivette, Environmental Inspector III

Brad Trivette
Issued By: _____
Mr. Brad Trivette, Environmental Inspector III
Date: February 15, 2008

Charles A. Redh
Issued By: _____
Mr. Charles Redh, Environmental Control Supervisor
Date: February 15, 2008

How Delivered: Certified Certified Registered # 7005 0399 0003 0864 0186

9:07 AM 2/17/2011