

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION FOR THE TRANSFER OF)
OWNERSHIP OF A & B SANITATION COMPANY,)
INC., AND FOR A RATE ADJUSTMENT PURSUANT) CASE NO. 10391
TO THE ALTERNATIVE RATE FILING PROCEDURE)
FOR SMALL UTILITIES)

O R D E R

IT IS ORDERED that A & B Sanitation Company, Inc. ("A & B Sanitation") shall file the original and 12 copies of the following information with the Commission with a copy to all parties of record no later than 14 days from the date of this Order. If the information cannot be provided by this date, A & B Sanitation should submit a motion for an extension of time stating the reason a delay is necessary and include a date by which it will be furnished. Such motion will be considered by the Commission. A & B Sanitation shall furnish with each response the name of the witness who will be available at the public hearing for responding to questions concerning each item of information requested.

1. In its response to Item 4 of the Commission's Order of November 8, 1989, A & B Sanitation failed to state a specific date when it expects to rent office space. Does it have such a date? If yes, what is that date?

2. Refer to A & B Sanitation's response to Item 9 of the Commission's Order of November 8, 1989. In his affidavit, Mr. Westenhoefer states that U. S. Bankruptcy Court approved the sale

of A & B Sanitation stock to Mr. Darby on June 29, 1988. According to the terms of the sales agreement (Attachment 1), the sale occurred on December 1, 1987. Court records (Attachment 2) show that the sale was approved on February 24, 1988. Explain this discrepancy.

Done at Frankfort, Kentucky this 8th day of December, 1989.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:

Executive Director

AGREEMENT OF SALE OF STOCK

THIS AGREEMENT ("Agreement") dated as of the 11th day of November, 1987, among Darrel W. Angle, sole shareholder of A & B Sanitation Company, Inc., D/B/A "A & B Sanitation" ("Seller"), with its principal place of business in Madison Village Subdivision and office located on Gibson Lane, Richmond, Kentucky, and Willie L. Darby, 109 Daisy, Berea, Kentucky, 40403, ("Purchaser"),

WHEREAS, WITNESSETH: the parties hereto desire that all of the corporate stock of Seller be sold to Purchaser pursuant to this Agreement on the date and at the time provided herein ("Closing Date"); and

WHEREAS, the parties are desirous of setting forth certain representations, warranties and covenants made by each other as an inducement to the consummation of the sale and certain additional agreements related to the sale;

NOW, THEREFORE, in consideration of the premises and mutual promises and covenants contained herein, the above parties hereby agree as follows:

ARTICLE I

Sale

1.1 Sale and Closing Date

Subject to the terms and conditions herein, on or before December 1, 1987, at 9:00 a.m. at the law office of James E. Westenhoefer, 212 South Third Street, Richmond, Kentucky, the following sale shall take place:

1.2 Sale of Stock

The Seller shall sell all outstanding capital stock of A & B Sanitation Company, Inc. for a total price to be paid to Seller of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged.

1.3 Closing Documents

At the closing, the Seller shall deliver to Purchaser all outstanding stock certificates of the corporation properly negotiated over to Purchaser.

1.4 Pending Bankruptcy Action

Seller has represented to Purchaser that Seller is currently in bankruptcy proceedings in Federal District Court, Lexington, Kentucky, (Lexington Division, Case No. 86-01045) and that any sale of stock would be subject to review and prior approval of the court. Both parties herein specifically agree that this Agreement and Sale of Stock is subject to approval of the Bankruptcy Court.

1.5 Risk of Loss Damage to Corporate Property

The risk of loss, destruction of, or damage to the corporation's real and personal property, after the closing shall be borne by the Purchaser. At the time of closing, corporate assets shall be in the same condition as of the close of business on November 11th, 1987, except for ordinary use and wear and damage or loss from causes beyond the reasonable power and control of the Seller.

ARTICLE II

Representations of Seller

The Seller herein represents and warrants to the Purchaser as of the date hereof that the execution, delivery and performance of this Agreement by Seller has been authorized in accord with Chapter 271 (a) and is in good standing and said Agreement constituted a valid and binding obligation upon the Seller.

ARTICLE III

Representations of Purchaser

The Purchaser herein represents and warrants to the Seller as of the date hereof, that the execution, delivery and performance of this Agreement by Purchaser has been duly authorized and said Agreement constitutes a valid and binding obligation upon the Purchaser.

ARTICLE IV

Warranties of Seller

The Purchaser has been given full opportunity to inspect and examine the underlying corporate assets to be sold with the stock under this Agreement and no warranties whatever are made by the Seller as to said property.

ARTICLE V

Existing Receivables and Liabilities

Seller shall provide Purchaser a listing of customer accounts receivable and trade accounts payable as of the closing date. Purchaser is entitled to all receivables as of that date and is liable for all payables that exist at

closing.

ARTICLE VI

General

6.1 Additional Instruments

The parties hereto shall deliver or cause to be delivered any and all such additional documents and instruments as either party may reasonably request for the purpose of carrying out this Agreement.

6.2 Expenses of Sale

The Purchaser and Seller agree that each shall be responsible for its own expenses and attorney's fees.

6.3 Notices

Any notice, report or demand required or allowable by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if it is sent by certified mail, postage and other charge prepaid to the following address:

(a) If to the Seller, to Darrel W. Angle, P. O. Box 522, Richmond, Kentucky, 40475, or to any other address or addresses as may be designated from time to time by the Seller.

(b) If to the Purchaser, to Willie L. Darby, 109 Daisy, Berea, Kentucky, 40403, or to any other address or addresses as may be designated from time to time by the Purchaser.

6.4 Non-assignability, Binding Effect

Neither this Agreement nor any interest therein shall be assignable by the Purchaser without the prior written consent of the Seller. Subject to the preceding sentence, this

Agreement shall inure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and assigns.

6.5 Other Agreements, Warranties or Understandings

All terms, covenants and conditions of this transaction are set forth in this Agreement, and there are no warranties, agreements or understandings, express or implied, except as are expressly set forth herein.

6.6 Applicable Law

This Agreement is to be governed by and construed under the laws of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 11th day of November, 1987.

A & B Sanitation Company, Inc.

By: Darrel W. Angle
Darrel W. Angle
Sole Shareholder ("Seller")

Willie L. Darby
Willie L. Darby ("Purchaser")

FILED

FEB 24 1988

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISIONAT LEXINGTON
BETTY L. JENNETTE, CLERK
U.S. BANKRUPTCY COURTIN RE:
A & B SANITATION COMPANY, INC.

CASE NO. 86-01045

DEBTOR

CHAPTER 7

ORDER

This matter having come before the Court for hearing on objections filed by the debtor and the Kentucky Cabinet for Natural Resources and Environmental Protection to the Trustee's abandonment of assets of the estate, the Court having noted the oral withdrawal of the debtor's objection by its counsel and having considered the points and authorities submitted by the Trustee and the Cabinet and having heard argument of counsel in open court on June 24, 1987 and being sufficiently advised,

IT IS HEREBY ORDERED that said objections are OVERRULED. The Trustee's notice of abandonment dated May 19, 1987 of property of the estate consisting of two acres of real estate, office supplies and equipment and pump station equipment is deemed effective as of May 19, 1987. The interest of the estate in such property is abandoned.

A further matter having come before the Court pursuant to the motion of the Trustee to enjoin enforcement of certain regulatory enforcement actions of the Commonwealth of Kentucky by and through the Madison County Board of Health, the Court having heard argument of counsel in open court on February 1, 1988 and being sufficiently advised,

IT IS FURTHER ORDERED that said motion is GRANTED. The Commonwealth of Kentucky and the Madison County Board of Health is hereby prohibited from initiating any proceedings or enforcing any sanctions against the Trustee in any capacity arising from the operation of the sewage treatment plant

constituting property of the estate. A certain Notice to Abate a Nuisance issued on or about December 15, 1987 is therefore null and void.

A final matter having come before the Court pursuant to notice and hearing on February 1, 1988 concerning the motion of the debtor for approval of private sale, the Court having been informed of the terms of such sale, having noted the agreement of the Trustee to such sale and having noted no objections,

IT IS FINALLY ORDERED that the motion of the debtor is GRANTED.

Dated: FEB 24 1988


HON. JOE LEE, JUDGE
UNITED STATES BANKRUPTCY COURT

COPIES TO:

James R. Westenhoefer
Robert J. Brown
James Berry