

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES L. PATTON)	
)	
)	COMPLAINANT
)	
V.)	
)	CASE NO. 92-564
)	
STAFFORDSVILLE SANITARY SYSTEMS, INC.)	
)	
)	DEFENDANT

O R D E R

On December 29, 1992, Charles L. Patton filed a complaint against Staffordsville Sanitary Systems, Inc. ("Staffordsville") alleging that Staffordsville was not providing acceptable service to customers and had abandoned the care and operation of its sewer system. The Commission by Order of January 22, 1993 directed Staffordsville to either satisfy the matters complained of in the complaint or file an answer. Staffordsville filed its answer on March 5, 1993 denying the allegations of the complaint. A hearing on the complaint was held before the Commission on May 27, 1993. Both parties appeared at the hearing, but only Staffordsville was represented by counsel.

FINDINGS OF FACT

Staffordsville is a corporation that owns facilities used in the collection and treatment of sewage for the public. The sewer facilities serve 41 customers all of whom reside in the Cross Creek Subdivision in the Johnson County community of Staffordsville.

Patton is a resident of Cross Creek Subdivision and a customer of Staffordsville.

Staffordsville is a subsidiary of Franklin CSS, Inc., a corporation and the developer of the Cross Creek Subdivision. James T. Franklin is the president of both corporations and apparently the sole shareholder of Franklin CSS, Inc. Although the two corporations are related, they are operated as separate entities. The sewer system owned by Staffordsville has been in operation since 1982. The facilities of the system consist of a sewer plant, sewer mains which run beneath the streets in the subdivision, and lateral lines from the mains to each lot in the subdivision. Customers of Staffordsville are charged a monthly rate of \$19.73 and are responsible for installing and maintaining the sewer line from their homes to the point where it meets and connects with a lateral line from the sewer main.

Staffordsville has contracted with Keith Fairchild, a certified operator who owns several other sewer plants in Johnson County. Fairchild later formed Appalachian Waste Control, Inc. ("Appalachian Waste"), and the new company took over the maintenance. Staffordsville paid Appalachian Waste \$30 a week to perform the normal maintenance operations at the plant. In addition, Appalachian Waste charged an hourly rate plus the cost of materials for repairs to the plant that are not considered normal maintenance and for the installation of new equipment.

In his complaint, Patton alleges that the sewer plant is not being adequately maintained, that it has been abandoned by

Staffordsville, and that Staffordsville is unwilling to make needed repairs to its sewer lines. The complaint requests that the Commission investigate Staffordsville for abandoning the sewer system, that the Commission enforce penalties for violations of its "laws and regulations," and that it prohibit Staffordsville from acting as a utility or otherwise exercising the authority allowed "a public utility in good standing."

To support his allegation that the sewer plant operated by Staffordsville is not being adequately maintained, Patton relies upon inspection reports filed by inspectors for this Commission, as well as inspectors for the Division of Water of the Natural Resources and Environmental Protection Cabinet. According to the Commission inspector's reports relied upon by Patton, the plant was inspected on five separate occasions between August 16, 1988 and July 22, 1992. The report of the July 22, 1992 inspection lists seven conditions which are cited as violations of Commission regulations. These same conditions were also cited in earlier reports. A follow-up inspection was conducted on March 23, 1993. That inspection revealed the continued existence of six of the seven violations cited on July 22, 1992 and the existence of two new conditions that violated the regulations. The inspector cited these violations in his report issued April 6, 1993. (Attached hereto as Appendix A).

The inspections by the Division of Water relied upon by Patton were conducted on June 18, 1990 and August 29, 1991. As a result of these inspections, Staffordsville was cited for violation

of the Divisions of Water's regulations and directed by the Division of Water to correct the violations by specified dates. There is no evidence whether the corrective measures were taken to the satisfaction of the Division of Water or whether the conditions cited continue unabated.

Concerning the allegation that Staffordsville has refused or failed to repair damaged sewer lines, that allegation relates to four laterals that collapsed while serving customers in the subdivision. According to the testimony of Franklin, two of the laterals were repaired by Staffordsville. Staffordsville, however, refused to repair one of the laterals because it was intended to serve a different lot from the one owned by the customer to whose line it was connected. The collapse of the fourth lateral was never reported to Staffordsville and the company was unaware of the problem until after it was repaired.

CONCLUSIONS OF LAW

Staffordsville, by reason of its ownership of the sewage treatment facility serving the Cross Creek Subdivision, is a utility subject to the jurisdiction of this Commission.

807 KAR 5:071, Section 7, requires that sewage treatment facilities be "operated in accordance with good engineering practices." All of the conditions cited in the April 6, 1993 investigative report of the Commission inspector violated this requirement. Staffordsville failed to present any evidence to refute these violations. Mr. Franklin testified at the hearing that the Citizens National Bank of Paintsville was paying certain

bills for the plant, including the bill for maintenance. However, Staffordsville remains owner of the system, as Mr. Franklin admitted in his testimony. As owner of the plant, Staffordsville is still responsible for maintaining the plant.

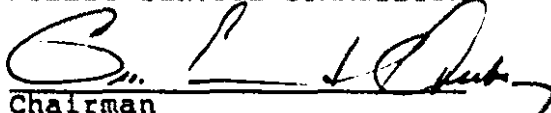
This Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. Mr. Franklin, in his capacity as owner of the sewage treatment plant referred to herein as Staffordsville, shall cause to be corrected, within 30 days from the date of this order, any unabated deficiency cited in the Commission inspector's April 6, 1993 investigative report and shall notify the Commission in writing once all deficiencies are corrected.

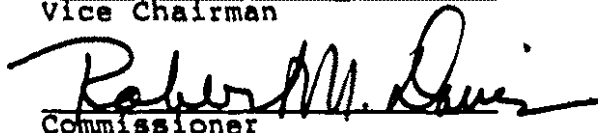
2. Failure to comply with the provisions of this Order will result in the Commission requiring Mr. Franklin to appear before this Commission and show cause why he should not be penalized pursuant to KRS 278.990 for failing to comply with the applicable statutes and regulations.

Done at Frankfort, Kentucky, this 18th day of August, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

Commonwealth of Kentucky
Public Service Commission

UTILITY REINSPECTION REPORT

Staffordsville Sanitary Systems, Inc.
Staffordsville, Kentucky

On March 23, 1993, a reinspection of Staffordsville Sanitary Systems, Inc. was conducted. The purpose of the reinspection was to see what progress, if any, had been made to date on the improvements or corrections recommended in the Public Service Commission's staff inspection report dated July 22, 1992. The current status of each item is as follows:

Cross Creek Subdivision Plant

1. The diffusers need to be cleaned, repaired or replaced. (807 KAR 5:071 Sec.7(1))

Current Status

The diffusers still need to be cleaned or repaired.

2. The plant needs to be covered by locked down grating or a 6-foot high chain link fence needs to be placed around the plant area for safety. (807 KAR 5:071, Sec.7(4))

Current Status

Is still needed.

3. Some of the existing grating needs to be replaced for safety reasons. (807 KAR 5:071 Sec.7(4))

Current Status

Is still needed.

4. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Sec.7(1))

Current Status

Still needs to be cleaned of sludge.

5. A greasy scummy layer of dark brown foam covered about 80% of the aeration basin. Such a condition usually indicates that the sludge is too old and additional wasting is needed. (807 KAR 5:071, Sec.7(1))

Current Status

The scummy layer of dark foam has been alleviated.

6. The clarifier was dark grey indicating that it needs to be cleaned out. (807 KAR 5:071, Sec.7(1))

Current Status

The clarifier still needs to be cleaned out.

7. The lift station for the plant needs a backup pump or immediate access to one in case of an emergency. (807 KAR 5:071, Sec.7(1)).

Current Status

A backup pump is still needed.

8. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Sec. 7,1)

Current Status

Same as stated above.

Additional deficiencies found on the inspection dated March 23, 1993 are as follows:

- 1-A The effluent is not being chlorinated. (807 KAR 5:071, Sec.7(1)).

Report - Staffordsville Sanitary
Systems, Inc.
Page 3

2-A The aeration tank is grey in color. (807 KAR
5:071, Sec.7(1))

Submitted,
April 6, 1993

Larry N. Updike 251
Larry Updike

CGR:LNU:aem