

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF FOREST HILLS DEVELOPERS )  
SEWAGE TREATMENT PLANT FOR AN )  
ADJUSTMENT OF RATES PURSUANT TO THE ) CASE NO. 94-264  
ALTERNATIVE RATE FILING PROCEDURE FOR )  
SMALL UTILITIES )

O R D E R

Forest Hills Developers, Inc. ("Forest Hills") has moved to preclude Southwoods Apartments and Brett Butler ("Intervenors") from calling witnesses at the scheduled hearing or, in the alternative, to continue the scheduled hearing. As grounds for its motion, Forest Hills contends that the Intervenors' failure to disclose their expected witnesses effectively deprives the utility of its right to conduct cross-examination and to defend its application.

Having considered the motion and being otherwise sufficiently advised, the Commission finds that the motion should be denied. Forest Hills previously agreed to the timing for disclosure of witnesses and witness testimony. Intervenors made their disclosures within the agreed time. Moreover, until the eve of the hearing, Forest Hills made no request for additional discovery. Having waited until the last moment to object, the Commission finds that Forest Hills has waived any right to a continuance or preclusion of opposing party witnesses.

Wishing to ensure that all parties are afforded due process, the Commission will allow Forest Hills and any other party that wishes to introduce rebuttal testimony (including additional cross-examination of opposing party witnesses) to request an additional day of hearing on the application. Such requests should be made within 5 days of the adjournment of the scheduled hearing and should identify the witnesses to be called, the purpose of the witness' testimony, and the reasons for the party's failure to call the witness at the scheduled hearing. The Commission will then determine whether additional hearings should be held.

IT IS THEREFORE ORDERED that:

1. Forest Hills' motion is denied.
2. Any party wishing to introduce rebuttal testimony (including additional cross-examination of opposing party witnesses) shall make such request in writing within 5 days of the adjournment of the scheduled hearing and shall identify the witnesses to be called, the purpose of the witness' testimony, and the reasons for the party's failure to call the witness at the scheduled hearing.

Done at Frankfort, Kentucky, this 4th day of January, 1995.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director