

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF WILLABROOK)
SANITATION, INC. FOR AN)
ADJUSTMENT OF RATES PURSUANT) CASE NO. 96-568
TO THE ALTERNATIVE RATE FILING)
PROCEDURE FOR SMALL UTILITIES)

O R D E R

On November 26, 1996, Willabrook Sanitation, Inc. ("Willabrook") filed its application for Commission approval of proposed sewer rates. Brooks Motel Associates, Inc. was granted full intervention on January 3, 1997; The Cracker Barrel Old Country Store, Arby's, Inc., and Budgetel Motel were granted full intervention on January 9, 1997 (collectively "Intervenors"). On May 6, 1997, a report was issued that had been prepared by Commission Staff ("Staff") following its limited financial review of Willabrook's operations. The report contained Staff's findings and recommendations regarding the proposed rates.¹

¹ The scope of Staff's review was limited to obtaining information to determine whether Willabrook's 1995 operating revenues and expenses were representative of normal operations. Staff adjusted Willabrook's operating revenues to reflect the current number of customers served and their usage. Staff accepted Willabrook's proposed owner/manager fee, its proposed sludge hauling expense, its proposed electric expense, its proposed testing/analysis expense, its proposed routine maintenance expense, its proposed maintenance - treatment & disposal expense, its outside services expense, and its proposed elimination of depreciation expense. The report also recommended that a proposed surcharge in the amount of \$0.35 per 1,000 gallons of wastewater be levied on a discharger for each 100 mg/l BOD in excess of 300 mg/l BOD to be applied until quarterly tests reveal a BOD reduction at or below 300 mg/l be denied at that time, but recommended the approval of a proposed monthly surcharge to monitor special tests.

The parties were given 15 days to provide written comments to the Staff Report or to request a hearing or informal conference. Due to an error in Appendix A of the Staff Report, the Commission issued a nunc pro tunc Order on May 14, 1997, to correct the error. On May 23, 1997, the Intervenors were given an additional 14 days to respond to the Staff Report. On May 29, 1997, the Attorney General requested full intervention, which was granted on June 3, 1997. On June 2, 1997, the Intervenors moved for an informal conference and a full hearing. On June 3, 1997, Willabrook filed additional information to support its proposed BOD surcharge which the Staff Report had recommended be denied. On June 5, 1997, the Intervenors filed written comments questioning or objecting to the proposed owner/manager fee, the proposed testing/analysis/engineering fees, the proposed routine maintenance expenses, and the proposed increased costs in sludge hauling, testing/analysis, routine maintenance, and outside services. The Intervenors also took the position that previous revenues collected by Willabrook in the form of "tap on" fees should be considered in setting new rates. An informal conference was held July 29, 1997, at which all parties were represented. A full hearing, attended by all parties, was held August 21, 1997.

DISCUSSION

The Intervenors' primary objection to the rates recommended in the Staff Report is that tap-on fees received by Willabrook were not considered by Staff in its rate analysis. Most of the testimony presented at the hearing in fact pertained to this objection. Clearly Willabrook has received funds in the form of contributions in aid of construction ("CIAC"), either directly from its customers or through the development

companies to whose land Willabrook provides sewer service. Tap-on fees are recognized as CIAC, which are a form of cost free capital to the utility. As such, the receipt of CIAC is not treated as revenue for rate-making purposes. Furthermore, rates must be based on factors that are known and measurable. Since CIAC is in essence a nonrecurring charge, it is not possible to determine how much a utility will receive in CIAC in any given year.

It is clear from the documents filed by Willabrook on August 28, 1997 that Willabrook has not received CIAC in excess of the value of its utility plant in service. From its conception until 1996, Willabrook has received tap-on fees or CIAC of \$218,863 from its customers and has a reported balance in Utility Plant in Service ("UPIS") of \$654,113. Willabrook, Inc. ("Willabrook Development"), the development corporation, paid for the construction of the original treatment plant, collection system, and lift stations, and through December 31, 1994, has in fact contributed a total of \$545,749.

The combined contributions total \$764,612, which exceeds reported UPIS by \$110,499. This excess in CIAC over UPIS investment was used by Willabrook to cover its annual operating losses or is in the bank. Between 1993 and 1996, Willabrook reported a total cash operating loss of \$63,611. Therefore, it is evident that the customers have received a historical benefit from the tap-on fees and the contributions of Willabrook Development, and will continue to benefit through the disallowance of depreciation associated with UPIS funded by the contributions.

Willabrook's customers have contributed to the cost of the plant through direct contributions and the purchase of lots and, in turn, depreciation expense has been

eliminated from the test-period operating expenses. If depreciation expense on utility plant funded by CIAC was included for rate-making purposes, it would result in a double recovery of the plant investment from the contributors, Willabrook's ratepayers.

The Intervenors challenged the recovery of depreciation on the UPIS Willabrook constructed for which it failed to receive a Certificate of Public Convenience and Necessity from the Commission. However, once the plant is proven to have been required, as in Willabrook's case, the Commission typically allows recovery of cost through depreciation on a going-forward basis. Nevertheless, for the reasons stated above, Staff recommended that Willabrook not be allowed to recover depreciation.

Regarding Willabrook's request to apply a \$.35 surcharge per 1,000 gallons for each 100 mg/l BOD in excess of 300 mg/l BOD discharged based on quarterly tests, the Staff Report recommended that it be denied due to the fact that Willabrook could not give an estimate as to the revenue impact the surcharge would have on the system. Testimony offered at the hearing by Willabrook in support of this proposed surcharge still failed to provide the necessary information. If the surcharge was to be approved, the proceeds received therefrom would have to be included as revenue for rate-making purposes. Willabrook has provided two sets of quarterly test results that show the BOD level in effluent from two of its customers is in excess of 300 mg/l per day. However, the BOD level fluctuated significantly from one test to the next. Due to this, despite the additional support for the proposed BOD surcharge which was provided, there is still not enough information available to provide a reasonable estimate as to the revenue impact the proposed surcharge would have on Willabrook.

The Commission, after consideration of the record and being otherwise sufficiently advised, finds that:

1. The recommendations and findings contained in the Staff Report are supported by the evidence of record, are reasonable, and are hereby adopted as the findings of the Commission in this proceeding and are incorporated by reference as if fully set out herein.

2. The rates in Appendix A, which is attached hereto and incorporated herein, are the fair, just, and reasonable rates for Willabrook and will produce gross annual sewer revenues of \$36,815. These rates will allow Willabrook sufficient revenues to meet its operating expenses.

IT IS THEREFORE ORDERED that:

1. The rates in Appendix A are approved for service rendered by Willabrook on and after the date of this Order.

2. Within 30 days of the date of this Order, Willabrook shall file with the Commission its revised tariff setting out the rates approved herein in conformance with 807 KAR 5:011.

Done at Frankfort, Kentucky, this 22nd day of September, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

[Signature]
Vice Chairman

B. J. Hecton
Commissioner

ATTEST:

Don Mills
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. 96-568 DATED SEPTEMBER 22, 1997

The following rates and charges are approved for the customers in the area served by Willabrook Sanitation, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Rates: Monthly

Customer Charge	\$70.57
All Usage	3.42 per 1,000 gallons
Monthly Surcharge to Cracker Barrel and Waffle House	\$45.00