

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DELAPLAIN DISPOSAL COMPANY'S )  
REQUEST FOR APPROVAL OF ITS ) CASE NO. 97-432  
INDUSTRIAL/COMMERCIAL USER PROGRAM )

O R D E R

IT IS ORDERED that Delaplain Disposal Company ("Delaplain") shall file the original and 8 copies of the following information with the Commission within 14 days of the date of this Order, with a copy to all parties of record. Each copy of the information requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure its legibility. Where requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this Order.

1. Provide all correspondence between Delaplain and the Division of Water, Department for Environment Protection, Natural Resources and Environmental Protection Cabinet ("DOW") in which the proposed Industrial/Commercial User Program or the need for such program is discussed.

2. Provide Delaplain's Kentucky Pollutant Discharge Elimination System ("KPDES") permit.

3. a. Is Delaplain currently involved in any administrative proceeding before the Natural Resources and Environmental Protection Cabinet regarding the operation of its sewage treatment facilities?

b. If yes, for each proceeding,

(1) State its assigned case number.

(2) Describe the issues involved.

(3) Provide the notice of violation or administrative complaint that initiated the proceeding.

(4) State its current status.

4. a. Is Delaplain currently a party to any judicial proceeding in which the Natural Resources and Environmental Protection Cabinet is also a party and whose subject matter involves the operation of its sewage treatment facilities?

b. If yes, for each proceeding,

(1) Identify the court in which the action is pending and the action's assigned case number.

(2) Describe the issues involved.

(3) Provide the complaint that initiated the judicial proceeding.

(4) State its current status.

5. a. Provide Delaplain's original Industrial/Commercial User Program.

b. When, if ever, did this program become effective?

6. a. Who prepared Delaplain's revised Industrial/Commercial User Program?

b. For each person listed in the response to Question 6(a),

(1) Describe his or her role in the development of Delaplain's Industrial/Commercial User Program.

(2) Provide his or her curriculum vitae.

7. Does Delaplain intend to apply the rules and regulations set forth in the proposed Industrial/Commercial User Program to all customers?

8. List all of Delaplain's industrial and commercial customers and the level of waste which each placed into Delaplain's wastewater treatment system in calendar year 1997.

9. a. What notice, if any, of the proposed Industrial/Commercial User Program has Delaplain given to its customers?

b. If Delaplain provided written or published notice of its proposed Industrial/Commercial User Program to its customers, provide this notice.

10. a. What discussions, if any, has Delaplain had with its current customers regarding the proposed Industrial/Commercial User Program?

b. Provide all correspondence between Delaplain and its customers in which the proposed Industrial/Commercial User Program is discussed.

11. a. Why has Delaplain chosen to establish a permitting system to comply with the requirements of its KPDES permit?

b. What consideration, if any, did Delaplain give to promulgating in its filed rate schedules regulations that would establish testing and reporting requirements for its industrial and commercial customers and quality standards for their wastewater?

12. a. Will the conditions of each permit (e.g., frequency of reporting, types of report, discharge parameters) be the same for all industrial and commercial customers?

b. If no,

(1) Explain why conditions would vary among industrial customers.

(2) What criteria will be used to establish differing conditions?

13. Under what conditions would an industrial customer be required to submit monitoring reports more frequently than each quarter?

14. a. Does Delaplain currently require any of its customers to execute an operating agreement as a condition to receiving wastewater service?

b. If yes,

(1) What classes of customers are required to execute such agreement?

(2) When did Delaplain first impose this condition of service?

(3) Provide the standard form operating agreement.

15. Why is the life of a permit limited to two years?

16. Assuming the proposed Industrial/Commercial User Program Policy becomes effective, when must a current customer apply for a permit from Delaplain?

17. Define the term "objectionable material" that is found at page 1-3 of the proposed Industrial/Commercial User Program.

18. Define "commercial user."

19. a. What notice of utility inspections, if any, does Delaplain intend to provide to its industrial and commercial customers?

b. Will an industrial or commercial customer have the right to have its representative present at such inspections?

20. Refer to Industrial/Commercial User Program Policy 5.2. What form (e.g., telephone, personal visit, written) of notification must the customer provide?

21. Refer to Industrial/Commercial User Program Policy 7.3.

a. Define "approved laboratory."

b. Who determines if a testing laboratory is an "approved laboratory"?

c. What criteria is used to certify an "approved laboratory"?

22. Explain why the industrial or commercial customer rather than Delaplain should be required to maintain all testing records for a minimum of three years.

23. Explain why, under the proposed Industrial/Commercial User Program Policy, Delaplain does not require the customer to submit the testing results directly to it.

24. a. Under what authority may Delaplain assess a civil penalty against an industrial or commercial customer for knowingly making any false statement or tampering with a monitoring device?

b. Under what authority could any governmental body assess a civil penalty against an industrial or commercial customer for knowingly making any false statement to Delaplain or tampering with a monitoring device which is required by Delaplain's Industrial/Commercial User Policy?

25. Refer to Industrial/Commercial User Program Policy 11.1. Under what legal authority does Delaplain have to assess a penalty for non-compliance with its policy?

26. How did Delaplain determine the penalty amounts set forth in Industrial/Commercial User Program Section 4?

27. If a customer violates the Industrial/Commercial User Program,

a. Who determines the penalty amount?

b. What criteria is used to determine the penalty amount?

28. What, if any, restrictions will be placed on Delaplain's use of any penalties assessed for a violation of the proposed Industrial/Commercial User Policy?

29. Why should Delaplain's assessment of any penalties assessed for a violation of the proposed Industrial/Commercial User Policy not be considered as an unjust windfall for the utility?

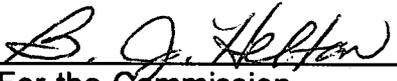
30. Refer to Industrial/Commercial User Program, Section 4. Among the "Enforcement Responses" listed in this section is "criminal investigation."

a. Explain how a customer's failure to comply with the proposed Industrial/Commercial User Policy may result in a criminal investigation against that customer.

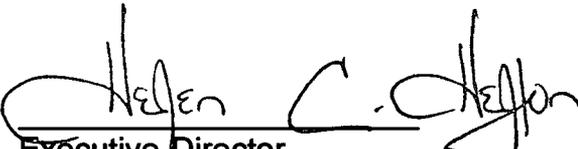
b. Who initiates the "criminal investigation"?

Done at Frankfort, Kentucky, this 10th day of February, 1998.

PUBLIC SERVICE COMMISSION

  
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For the Commission

ATTEST:

  
\_\_\_\_\_  
Executive Director