

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF GILBERT CONSTRUCTION )  
d/b/a WRIGHT ACRES FOR A RATE ADJUSTMENT ) CASE NO.  
PURSUANT TO THE ALTERNATIVE RATE FILING ) 99-314  
PROCEDURE FOR SMALL UTILITIES )

ORDER

On September 23, 1999, Gilbert Construction Services, Inc. d/b/a Wright Acres ("Wright Acres") filed its application for Commission approval of proposed sewer rates. Commission Staff, having performed a limited financial review of Wright Acres' operations, prepared a Staff Report that was issued by Commission Order dated January 21, 2000. A teleconference was held on March 7, 2000, to discuss the application and the Staff Report. During the conference matters arose that had not been previously brought to Staff's attention. As a result of the conference and after review of the information filed subsequent thereto, Staff has prepared the attached Amended Staff Report. All parties should review the report carefully and provide any written comments or requests for a hearing or informal conference no later than 10 days from the date of this Order.

IT IS THEREFORE ORDERED that all parties shall have no more than 10 days from the date of this Order to provide written comments regarding the attached Staff Report or requests for hearing or informal conference. If no request for a hearing or informal conference is received, this case will be submitted to the Commission for a decision.

Done at Frankfort, Kentucky, this 28<sup>th</sup> day of April, 2000.

By the Commission

ATTEST:

  
Executive Director

AMENDED STAFF REPORT  
ON  
GILBERT CONSTRUCTION d/b/a WRIGHT ACRES  
CASE NO. 99-314

On September 23, 1999, Gilbert Construction d/b/a Wright Acres (“Wright Acres”) filed its application seeking to increase its sewer rates pursuant to 807 KAR 5:076, the Alternative Rate Adjustment Procedure for Small Utilities. Staff expressed its recommendations with regard to Wright Acres’ application in a Staff Report issued on January 21, 2000. To discuss the application and the Staff Report a teleconference was held on March 7, 2000. During the conference Wright Acres presented arguments against various aspects of the Staff Report. It was agreed that Wright Acres would submit additional information pursuant to the conference.

After considering the arguments made at the conference and the information filed subsequent thereto, Staff hereby amends its original report and recommends that the rate approved in this case be a monthly flat rate of \$13.74 per customer. Attachment A of this report details the additional adjustments to Staff’s recommended pro forma operating income statement. Attachment B details the calculation of Staff’s amended revenue requirement and recommended rate.

Signatures

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Prepared by: Jack Scott Lawless, CPA  
Financial Analyst, Water and Sewer  
Revenue Requirements Branch  
Division of Financial Analysis

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Prepared by: Sam Reid  
Rate Analyst, Communications, Water,  
and Sewer Rate Design Branch  
Division of Financial Analysis

ATTACHMENT A  
 AMENDED STAFF REPORT CASE NO. 99-314  
 STAFF'S RECOMMENDED OPERATIONS

	Pro forma Present Rate Operations per Staff Report of Jan. 21, 2000	Adjustment	Ref.	Pro forma Present Rate Operations Amended Staff Report
Operating Revenues	19,260			19,260
Operating Expenses				
Contract labor - C.G. Williams, Inc.	225	615	A	840
Operating contract	3,544			3,544
Peay Electric	518			518
Staeffer Pump and Supply	1,230			1,230
Purchased power	3,863			3,863
Baird plumbing and heating	1,713			1,713
Owner manager fee	3,600			3,600
Legal and professional expenses		10	B	10
KPDES permit fee	200			200
Total Operating Expenses	14,893	625		15,518
Net Operating Income	4,367	(625)		3,742

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A) Contract Labor - C.G. Williams, Inc. During the informal conference, Wright Acres expressed concern that services provided by C.G. Williams had drastically increased since the test year. Services provided by C.G. Williams include sludge pumping and hauling and cleaning of the clarifier, chlorine contact chamber, and lift station.

It is common for maintenance costs of small sewer utilities such as Wright Acres to fluctuate from year to year. This is primarily due to the amount of time it takes for undigested sludge to accumulate to the point that pumping and hauling is required. To normalize these expenses in past cases the Commission has set the pro forma amount equal to the average annual expense of recent years. Staff recommends utilizing this methodology in this case.

Wright Acres has provided invoices from C.G. Williams for the years 1997, 1998, and 1999 that total \$225, \$990, and \$1,305, respectively. The three-year average is \$840. Staff proposes to increase the C.G. Williams account by \$615 to reflect the average annual payment.

B) Legal and Professional Fees. Just prior to the teleconference Gilbert Construction submitted detailed legal invoices for 1998 that totaled \$2,991. They proposed to include a portion of the legal fees in the pro forma operations of Wright Acres. The table below summarizes the amount and nature of the fees.

Division of Water	1,361
Transfer	1,029
Rate Case	519
Line Break	50
Personal	32

ATTACHMENT A  
AMENDED STAFF REPORT CASE NO. 99-314  
STAFF'S RECOMMENDED OPERATIONS

During 1998 Gilbert Construction was billed \$1,361 for legal services rendered during settlement with the Division of Water ("DOW") in case numbers 23670-098 and 23671-098. As a part of those cases Gilbert agreed to file a rate application with this Commission and transfer ownership of Wright Acres' assets to either the Regional Water Resources Agency or The Summit Country Club, Inc. During 1998 Gilbert incurred legal fees of \$1,029 and \$519 for the asset transfer and the rate case filing, respectively.

The Commission should not allow recovery of penalties, interest, or costs related to judgements or settlements with the Division of Water resulting from utility noncompliance with state statutes or regulations. All costs should be borne by the stockholders of the utility.

It is Staff's opinion that legal fees for the transfer of assets should not be passed through to the customers of Wright Acres. Robert E. Gilbert, Sr. was ordered by the DOW to transfer the assets of Wright Acres for \$1. Mr. Gilbert is personally responsible for the transfer of assets, not Wright Acres' customers. Normally, when a transfer occurs the only related costs recoverable through rates is an acquisition adjustment which is recorded by the purchaser after the transfer is made. An acquisition adjustment is recoverable only if it is proven that the customers benefited from the transfer and a value can be reasonably assigned to that benefit. As of the date of this report Wright Acres has neither transferred its assets nor filed an application with this Commission to do so.

ATTACHMENT A  
AMENDED STAFF REPORT CASE NO. 99-314  
STAFF'S RECOMMENDED OPERATIONS

Legal fees for the rate case filing were unnecessary. Commission Staff routinely assists utilities with the preparation and filing of rate applications pursuant to 807 KAR 5:076. In fact, Staff assisted Wright Acres with this filing. Wright Acres will not require legal representation in this proceeding unless it makes a formal appearance before the Commission. Mr. Gilbert is compensated to address administrative duties such as rate filings through the owner manager fee.

Staff recommends that all legal fees resulting from the DOW settlement, including the transfer and rate case expenses, be denied.

Gilbert incurred \$50 in legal fees resulting from a main break of Wright Acres. This fee is nonrecurring but recoverable. Therefore, Staff has amortized this amount over 5 years by increasing test year expenses by \$10. On occasion a three year amortization period is used for such costs but in this case Staff is of the opinion that the life of the rates recommended herein will exceed three years. Therefore, a five year period was used. Staff is of the opinion that an amortization period of more than five years would be unreasonably long for such an expense.

Of the 1998 legal fees \$32 was for personal consultation to Mr. Gilbert. Staff recommends that this amount be denied.



ATTACHMENT B  
AMENDED STAFF REPORT CASE NO. 99-314  
CALCULATION OF REVENUE REQUIREMENT AND RECOMMENDED RATE

Operating Expenses	15,518
Divide by: 88 percent	<u>88%</u>
Required Revenue	17,634
Divide by: Number of Customers	107
12 Months	<u>12</u>
Amended rate recommended by Staff	<u><u>13.74</u></u>