

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF BECKLEY STATION)	
DISPOSAL SYSTEMS, INC. AND LAKE FOREST)	
DISPOSAL SYSTEMS, LLC FOR AN ORDER)	CASE NO. 2001-387
APPROVING A TRANSFER AND ACQUISITION OF)	
CONTROL)	

ORDER

Beckley Station Disposal Systems, Inc. ("Beckley Station") and Lake Forest Disposal Systems, LLC ("Lake Forest") have jointly applied for Commission approval of a proposed transfer of all of Beckley Station's assets to Lake Forest.¹

Having considered the application and evidence of record, the Commission finds that:

1. Beckley Station, a Kentucky corporation, owns and operates a subdivision sewage treatment facility in Jefferson County, Kentucky that serves approximately 1,595 customers in the Beckley Woods and Lake Forest Subdivisions of Jefferson County, Kentucky.
2. Beckley Station is not subject to the regulation of any metropolitan sewer district.

¹ The only party in this proceeding, besides the Applicants, is the Attorney General. On December 14, 2001, he advised the Commission that he had no plans to conduct discovery. He has not stated a position on the requested relief.

3. Beckley Station's sewage treatment facilities include a sewage treatment plant with a maximum daily wastewater treatment capacity of 470,000 gallons, 6 lift stations, and 107,570 linear feet of sewer mains of various diameters.²

4. As of December 31, 2000, Beckley Station had net utility plant of \$447,106.³

5. As of December 31, 2000, Beckley Station had total assets of \$447,106 and total current and accrued liabilities of \$1,807,533.⁴

6. NTS Development Company, a Kentucky corporation, owns all outstanding shares of Beckley Station's common stock.

7. NTS Corporation, a Kentucky corporation, owns all outstanding shares of NTS Development Company's stock.

8. J.D. Nichols and members of his immediate family own 75 percent of NTS Corporation's outstanding shares. Brian F. Lavin owns the remaining interest in NTS Corporation.

9. Lake Forest is a Kentucky Limited Liability Company that was organized on November 2, 2001.

10. J.D. Nichols has a 75 percent ownership interest in Lake Forest.

11. Brian F. Lavin has a 25 percent ownership interest in Lake Forest.

² Annual Report of Beckley Station Disposal Systems, Inc. to the Public Service Commission for the Year Ended December 31, 2000 at 11-12.

³ Id. at 2.

⁴ Id. at 2-3.

12. On November 6, 2001, Beckley Station executed an Asset Purchase Agreement to convey all assets, except its minute books, corporate seals and stock transfer records, to Lake Forest for the sum of \$100 and the assumption of all of its liabilities.

13. Upon completion of the proposed acquisition, Lake Forest will have the same assets and liabilities and the same financial condition that Beckley Station presently has.

14. Upon the acquisition of Beckley Station's assets, Lake Forest will retain the persons currently responsible for the operation of the Beckley Station sewage treatment facilities.

15. Lake Forest will adopt Beckley Station's present rates for sewer service and currently has no plans to revise these rates.

16. Lake Forest and Beckley Station state that the proposed transaction is designed to permit the sewage treatment facilities to operate as a cash-basis taxpayer.

Based upon these findings, the Commission makes the following conclusions of law:

1. Beckley Station is a utility that is subject to Commission jurisdiction. KRS 278.010(3)(f).

2. Lake Forest has the financial, managerial, and technical abilities to provide reasonable utility service.

3. The transfer of the assets of Beckley Station to Lake Forest requires Commission approval. KRS 278.020(4).

4. Beckley Station and Lake Forest are under the common control of J.D. Nichols and Brian F. Lavin

5. As the proposed transaction will result in the acquisition of control of a utility by an acquirer who is under common control with the utility, KRS 278.020(5) is not applicable to the proposed transaction. KRS 278.020(6).

IT IS THEREFORE ORDERED that:

1. Within 10 days of completion of the proposed transfer of assets, Beckley Station and Lake Forest shall notify the Commission in writing of the completion of the transfer of assets.

2. Within 10 days of completion of the transfer, Lake Forest shall file with the Commission the journal entries used to record the purchase and identify the detailed plant accounts to which the assets are recorded.

3. Within 10 days of completion of the transfer, Lake Forest shall file with the Commission an adoption notice, conforming to the requirements of Administrative Regulation 807 KAR 5:011, Section 15(6). In this notice, Lake Forest shall adopt and ratify as its own all of Beckley Station's rates, rules and classifications on file with the Commission and effective at the time of the transfer.

4. Within 10 days after the filing of its adoption notice with the Commission, Lake Forest shall issue and file in its own name Beckley Station's tariff or such other tariff as it proposes to put into effect in lieu thereof, in the form prescribed in Administrative Regulation 807 KAR 5:011.

5. Beckley Station shall be responsible for submitting to the Commission a financial and statistical report, as described in Administrative Regulation 807 KAR

5:006, Section 3, for the period in calendar year 2001 it owned and operated the transferred assets.

6. Lake Forest shall be responsible for submitting to the Commission a financial and statistical report, as described in Administrative Regulation 807 KAR 5:006, Section 3, for the period in calendar year 2000 in which it owns and operates the transferred assets.

Done at Frankfort, Kentucky, this 21st day of December, 2001.

By the Commission

ATTEST:


Executive Director