

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF MALLARD)
POINT DISPOSAL SYSTEMS, INC. FOR)
A RATE ADJUSTMENT PURSUANT TO) CASE NO. 2003-00284
THE ALTERNATIVE RATE FILING)
PROCEDURE FOR SMALL UTILITIES)

O R D E R

On July 7, 2003, Mallard Point Disposal Systems, Inc. ("Mallard Point") filed, as Case No. 2003-00283, an application for a Certificate of Public Convenience and Necessity ("Certificate") and for approval of financing. Mallard Point also filed, as Case No. 2003-00284, an application for a general rate increase pursuant to 807 KAR 5:076. On October 6, 2003, we issued an Order consolidating the cases into Case No. 2003-00284 and revising the procedural schedule.

On November 21, 2003, Commission Staff filed a Staff Report with regard to which all parties were given time in which to submit written comments, if any, or to request a formal hearing. On December 8, 2003, Mallard Point accepted the Staff Report, but did not request a formal hearing. The Attorney General filed comments to the report on December 5, 2003, but did not request a formal hearing. On December 8, 2003, Intervenors¹ filed a motion to dismiss and requested that if the Commission denied that motion, they requested that a formal hearing be scheduled. In its November 21, 2003 Order, the Commission ordered that, "Any party filing a request for

¹ Winston Faircloth, Robert Warhus, Robert Marlowe, Judith Marlowe, and Jeroen vander Gagg.

a formal hearing is to include in said request its comments as to the particular findings of the Staff Report to which it objects and a brief summary of testimony it would present at a formal hearing.” Intervenors failed to identify any particular finding in the Staff Report to which they object; nor did they file a brief summary of any testimony that will be presented at the formal hearing.

The Commission established the procedural schedule so that evidence could be filed to establish a record in this case and to refine the issues upon which the Commission can arrive at a decision. The Commission determines that a hearing should be held and that the following issues are to be addressed within the parameters of that hearing: (1) the granting of a Certificate to rehabilitate the 50,000 GPD treatment facility; (2) the approval of the \$72,175 loan to finance the construction if a Certificate is granted; and (3) the establishment of rates that are fair, just, and reasonable to both the stockholder and the ratepayers. We therefore determine that the issues to be discussed in the formal hearing as to the Certificate, financing, and rates shall be confined to those findings and recommendations contained in the Commission Staff Report that was attached to our Order of November 21, 2003.

The Commission has dealt with procedural matters in this case in our Order of October 16, 2003 wherein we emphasized to the parties that the purpose of this proceeding is to determine if the rates proposed by Mallard Point are fair, just, and reasonable. However, the parties call upon us to “strike” certain filings and to dismiss the case. While we overrule the motions, we give notice we will consider only those filings made within and pursuant to the procedural schedule as evidence.

We also note that recent filings contain much material regarding the organization and operation of the Mallard Point Home Owners' Association. Discussion of these matters is beyond the jurisdiction of the Commission and is irrelevant to the issues before us.

The Commission, having been sufficiently advised, HEREBY ORDERS that:

1. The motion of the Attorney General to strike Applicants' written comments is denied.
2. The Intervenors' motion to dismiss is denied.
3. A formal hearing shall be held on February 4, 2004 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of exploring the issues defined herein.
4. Mallard Point shall publish public notice of the hearing pursuant to KRS 424.300 and 807 KAR 5:001, Section 4(2), at least 7 days prior to the hearing date. At the time publication is requested, Mallard point shall forward a duplicate of the notice and request to the Commission.

Done at Frankfort, Kentucky, this 9th day of January, 2004.

By the Commission

ATTEST:


Executive Director