

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF FARMDALE)
DEVELOPMENT CORPORATION)
FOR AN ADJUSTMENT OF RATES)
PURSUANT TO THE ALTERNATIVE)
RATE FILING PROCEDURE FOR)
SMALL UTILITIES)

CASE NO. 2006-00028

O R D E R

On January 12, 2006, Farmdale Development Corporation (“Farmdale”) filed an application for a rate adjustment to include a 3-year surcharge pursuant to the alternative rate adjustment procedure for small utilities (“ARF”).¹ On March 14, 2006, Farmdale filed a motion requesting an informal conference and also requesting expedited approval of \$30,425 of the proposed surcharge to replace a remote lift station now in disrepair. At the informal conference held on April 20, 2006, Commission Staff advised that issues relating to new construction and significant repairs should be filed as an application for a Certificate of Public Convenience and Necessity (“CPCN”).² On May 22, 2006, Farmdale applied for a CPCN for only a limited portion of the amount

¹ 807 KAR 5:076.

² KRS 278.020.

requested in this case.³ Essentially, in the CPCN filing, Farmdale requested expedited approval of the cost for replacing the remote lift station.⁴

On June 14, 2006, Farmdale filed a new application in this case wherein it modified certain of its requests and calculations contained in the prior application. These modifications resulted in a change in both the requested flat monthly rate and the requested monthly surcharge. Also on June 14, 2006, by separate motion, Farmdale requested that the Commission consolidate this case with its separate CPCN case, Case No. 2006-00209. This Order addresses Farmdale's June 14, 2006 motions.

DISCUSSION

The Commission anticipates that each utility will use the utmost due diligence in the preparation of all materials submitted to the Commission. The Commission further expects that utilities will not submit substantive changes or modifications unless necessary for the proper adjudication of a case. Notwithstanding, the Commission acknowledges and appreciates an action by a utility that either corrects errors or recognizes changed circumstances.

In its first June 14, 2006 motion, Farmdale submitted a new application in the instant case. Given the circumstances, the Commission accepts Farmdale's new

³ Case No. 2006-00209, Application of Farmdale Development Corporation For a Certificate of Public Convenience and Necessity, Authority to Make Repairs and Surcharge for Same.

⁴ See Memorandum for April 20, 2006 Informal Conference, wherein David Spenard, on behalf of the intervening Office of Attorney General, expressed concern "that Farmdale had allowed so much time to pass and permitted the system to fall into such disrepair and now wanted expedited treatment."

application. To the extent that Farmdale has filed a new application, the prior application is superseded and of no effect.

The Commission reminds Farmdale of the discussion at the informal conference concerning justifying the requests included in its application through a request for a CPCN. The Commission acknowledges that Farmdale has filed for a limited CPCN. However, Farmdale's application lists an additional amount of \$225,215 for needed repairs and expenses even after reducing the prior application by the amount requested in the CPCN filing. Farmdale requests that its 246 customers absorb this substantial amount through a sizeable increase in rates. Noting that applicants before an administrative agency have the burden of proof,⁵ the Commission advises that it has concerns as to whether repairs and expenses of \$225,215 represent conduct "in the usual course of business."⁶

In its other June 14, 2006 motion, Farmdale requested that the Commission merge this case with its CPCN case, which is denoted as Case No. 2006-00209. The Commission finds that combining this ARF case with Case No. 2006-00209 will likely complicate procedures and detract from judicial economy. The Commission further finds that the new filing should be accepted as of June 14, 2006 and that Farmdale should consider more fully utilizing the CPCN procedure.

⁵ Energy Regulatory Comm'n v. Kentucky Power Co., 605 S.W.2d 46, 50 (Ky. App. 1980).

⁶ See KRS 278.020(1).

IT IS THEREFORE ORDERED that:

1. Farmdale's amended application is accepted as filed as of June 14, 2006 in lieu of the original application. The Commission will perform its review and apply such relevant processes as required, including all applicable time periods, based on the second application.

2. Farmdale's request to consolidate Case No. 2006-00209 with Case No. 2006-00028 is denied.

3. All parties shall provide copies of any materials submitted to the Commission to all other parties of record.

Done at Frankfort, Kentucky, this 26th day of July, 2006.

By the Commission

ATTEST:



Executive Director