

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF DOWNSTREAM, INC.)	
AND FOX RUN UTILITIES, LLC FOR)	CASE NO.
APPROVAL OF THE TRANSFER OF)	2008-00024
WASTEWATER TREATMENT PLANT TO FOX)	
RUN UTILITIES, INC.)	

O R D E R

On January 15, 2008, Downstream, Inc. (“Downstream”) and Fox Run Utilities, LLC (“Fox Run”) applied for Commission approval of Fox Run’s purchase of Downstream’s wastewater treatment and collection system. The Attorney General was granted intervention by Order dated March 14, 2008. There are no other intervenors.

A hearing in this matter was neither requested nor conducted, and the Commission makes its decision on the written record.

KRS 278.020(4) provides that no person may acquire or transfer control or ownership of a utility without prior approval by the Commission. The Commission will approve such a transfer if it determines that the acquirer has the financial, technical, and managerial abilities to provide reasonable service. The Commission must also determine that the acquisition is made in accordance with the law, for a proper purpose, and is consistent with the public interest.¹ The Commission may grant an application upon terms and conditions it deems necessary to protect the public interest.

¹ KRS 278.020(5).

In demonstration of its financial ability to operate a wastewater treatment and collection system, Fox Run has provided an irrevocable letter of credit issued by Old National Bank in the amount of \$20,000. The annual cash operating expenses of Downstream reported in its 2006 annual report are \$24,814. The letter of credit will ensure continued operation of the facilities.

Fox Run has demonstrated the technical and managerial ability to operate the system. Fox Run is operated by its two members, Martin Cogan and Lawrence Smither. Mr. Cogan has a Master's Degree in Environmental Engineering from the University of Louisville's Speed Scientific School and has participated in the operation of a number of wastewater treatment facilities over the last 20 years. Mr. Smither is a wastewater treatment plant operator licensed by the Commonwealth of Kentucky.

Currently, through entities separate from Fox Run, Mr. Cogan and Mr. Smither jointly own and operate Airview Estates Wastewater Treatment Plant and Brocklyn Subdivision Wastewater Treatment Plant. Also, Mr. Smither currently operates the Cedarbrook Wastewater Treatment Plant.

Previously, Mr. Cogan and Mr. Smither jointly owned and operated Covered Bridge Utilities Wastewater Treatment Plant and Glenview Wastewater Treatment Plant. Also, Mr. Cogan and Mr. Smither managed and operated the wastewater treatment and collection facilities of Countryside, Willow Creek, Orchard Grass, Hunter's Hollow, Bullitt Hills, Brentwood, and Farmdale.

The purchase price of the assets is \$1 with the condition that Downstream provide \$7,500 in plant improvements that include three new 2-horsepower grinder pumps and one electrical control panel. The Uniform System of Accounts requires the

recording of an acquisition adjustment for the difference between the purchase price and the assets net book value, including contributions in aid of construction, at the time of purchase.

To record the purchase of Downstream's assets, Fox Run should update the account balance information provided in Table I, attached herein as Appendix A, for activity subsequent to 2006 that is not included in Table I. The account information in Table I was obtained from the record of this case, the record from Case No. 2006-00195,² and Downstream's 2006 annual report filed with the Commission.

The journal entry filed to record the purchase should be prepared in accordance with Utility Plant Instruction Number 4 of the Uniform System of Accounts for Sewer Utilities. Since any acquisition adjustment recorded relates to the utility plant investment, it should be amortized over the remaining life of the assets. The amortization may be recorded in Account 406, Amortization of Utility Plant Acquisition Adjustments. However, the Commission finds that the amortization of the acquisition adjustment should be approved in this proceeding for accounting purposes only, with the decision on rate-making treatment deferred to any future rate proceeding.

After carefully reviewing the record established in this proceeding, the Commission concludes that Fox Run has the financial, technical, and managerial ability to provide reasonable service to Kentucky customers and that the proposed acquisition is consistent with the public interest.

² Case No. 2006-00195, Application of Downstream, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities.

The Commission, having reviewed the record and having been sufficiently advised, HEREBY ORDERS that:

1. The proposed transfer of ownership and control of the wastewater collection and treatment facilities of Downstream to Fox Run is approved.

2. Within 30 days from the date of the transfer, Fox Run shall file a copy of the journal entry recording the transfer.

3. Within 10 days of the date of the transfer, Fox Run shall file an adoption notice conforming to the requirements of Administrative Regulation 807 KAR 5:011, Section 15(6).

4. Within 10 days of the filing of its adoption notice, Fox Run shall issue and file with the Commission in its own name Downstream'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, Sections 2 through 5, with proper identifying designation.

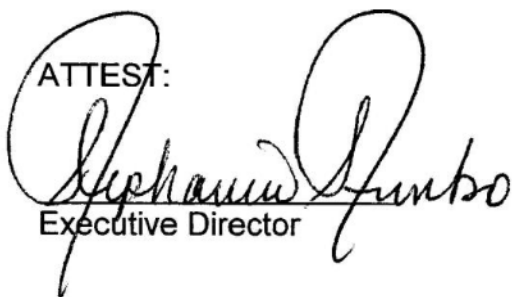
5. Downstream shall be responsible for submitting to the Commission a financial and statistical report, as described in Administrative Regulation 807 KAR 5:006, Section 3, for the period in calendar year 2008 that it owned and operated the transferred assets.

6. The rate-making treatment of the plant acquisition adjustment and any associated costs (i.e., amortization) shall be deferred until Fox Run's next rate proceeding.

Done at Frankfort, Kentucky, this 11th day of April, 2008.

By the Commission

ATTEST:

Handwritten signature of Stephanie Gumbo in cursive script.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2008-00024 DATED APRIL 11, 2008

Table I

Year in Service	Asset	Cost Included in Plant Balance	Accumulated Depreciation	Contribution in Aid of Construction	Accumulated Amortization of Contribution in Aid of Construction
1980	Package Plant	\$ 70,821	\$70,821	\$70,821	\$70,821
2001	Chlorinator Box	665	366		
2001	Grinder Pump	2,088	2,088		
2002	Grinder Pump	1,920	1,728		
2003	Holding Tank Painting	27,117	10,847		
2003	Grinder Pump	2,317	1,324		
2004	Grinder Pump	3,195	1,369		
2005	New Lines	2,288	490		
Subtotal, Traces to 2006 Annual Report		110,410	89,033	70,821	70,821
Plant Donated by Downstream Pursuant to Asset Purchase Agreement		7,500		7,500	
Total		\$117,910	\$89,033	\$78,321	\$70,821