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2009-00171

Complimentary Self-Serve Fax Cover Sheet

Executive Director

To: Kentucky PSC

From: Charles R. Wilson

Fax #: 502-564-3460

Phone #: 270-769-9800

Date: 10/01/09

Reply Fax #: _____

Number of Pages (Including Cover): 8

Urgent Confidential Confirm Receipt

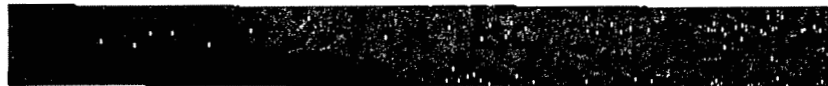
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October 1, 2009

Executive Director
Public Service Commission
211 Sower Boulevard
Post Office Box 615
Frankfort, KY 40602

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OCT 02 2009

PUBLIC SERVICE
COMMISSION

Re: PSC Case No: 2009-00171 (Big Bear Wastewater, Inc.)

Dear Sir or Madam:

There are 2 condominium associations at Big Bear Resort in Benton, Kentucky, The Dens and The Treetops. My wife and I own unit #4B in the Treetops Condominiums and are part-time residents. Since my wife still works, we are only able to use our condo approximately 40 to 50 days a year. There are 24 units in the Treetops and 27 units in the Dens. Of these 51 units, only 7 of them are used as full time residences.

Big Bear Wastewater has applied to you for a rate increase of 77.5% which we feel is NOT reasonable or fair. The condominium owners are currently generating approximately 60% of Big Bear Wastewater's revenue even though their utilization of the subject treatment plant likely accounts for less than 60% of the plant's annual volume. We believe the requested rate increase will exacerbate the unfair discrepancy between the amount paid by the condominium owners and the amount paid by the Big Bear Resort.

Furthermore, we question whether the actual expenses of the treatment plant justify any rate increase at all. It is our understanding that at least a portion of the proposed rate increase may be utilized to retire debt that is not directly related to expenses associated with the treatment plant. During a meeting held on July 5, 2008 between representatives of Big Bear Wastewater and the Treetops condominium owners, there was some discussion of said indebtedness. Although I admittedly did not attend the meeting, it is my understanding that in response to a question regarding the indebtedness, the condominium owners were told that the indebtedness was not an obligation incurred by Big Bear Wastewater but rather an obligation incurred by Big Bear Resort in connection with some kind of property swap. Obviously, if the aforementioned indebtedness is not an obligation of Big Bear Wastewater, or is not directly related to the operation of the treatment plant, it should in no way be considered as justification for a rate increase. Since we do not have direct access to the financial information of Big Bear Wastewater, we are unable to determine whether the above-mentioned indebtedness is directly related to the treatment plant or not. Accordingly, we respectfully request that the Public Service Commission further explore this issue with the owner of the subject treatment plant to determine whether the proposed rate increase is any way linked to such indebtedness and, if so, whether the indebtedness constitutes a proper justification for a rate increase.

It was also suggested at the July 5, 2008, meeting that the owners of the condo units in the Treetops and Dens, along with Big Bear Wastewater, could unanimously agree to a rate increase to circumvent the PSC review and approval procedure. The statement was made that Big Bear Wastewater had not had a rate increase in 17 years. However, after a review of PSC CASE 97-245 and CASE 99-114, that was determined not to be true. Additionally, the owners were asked to think about the possibility of purchasing Big Bear Wastewater. There were no votes or commitments made.

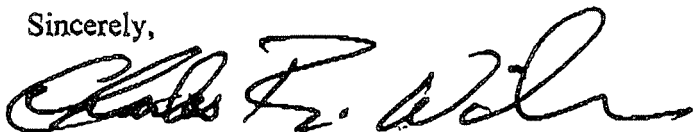
Big Bear Wastewater asked for a rate increase in 1999, CASE 99-114. There are several items that should be noted when comparing that case to the current case. In 1999, the PSC report on page 18 stated "Staff has determined that the cost of the plant was or should have been recovered by Big Bear Resort's developer, Bear Development, Inc., through the sale of condominiums and special assessments." There have been 16 to 20 condominium units built and sold by Big Bear since that ruling. On page 5 of the current application the question "How much of the plant cost was recovered through the sale of lots and other contributions?" Richard Meier answered: "Unknown- Records were not maintained so as to keep this information."

Three of the five employees listed for Big Bear Wastewater on page 116 in 1999 are no longer there. Only Janet Caldemeyer and Richard Meier remain. When the current rate request was filed, I asked for an application that was honored, and asked who the licensed plant operator was and requested a copy of the license with the issue date being shown. I did not receive any of the licensing information. My request was made by email and a copy is attached.

At the meeting on July 5, 2008, Richard Meier stated that someone had to run the water plant every day. To our knowledge, Janet Caldemeyer and Richard Meier (who by the way are husband and wife) are the only two employees of Big Bear Wastewater licensed to operate the treatment plant. Thus, we assume that Ms. Caldemeyer and Mr. Meier are in charge of the plant's daily operation. However, the vehicle that Janet Caldemeyer drives is registered in Florida and their boat also has a Florida registration. Indeed, we believe they may claim Florida residency. If that is the case, we wonder how they could meet Florida residency requirements while at the same time properly operating the subject treatment plant in Marshall County, Kentucky. This is yet another issue that we respectfully request the Public Service Commission to explore in connection with the proposed rate increase.

Documentation from Richard Meier to the Dens owners in 1992 indicates that 100% of the expense of the water plant was recovered. This document is attached. We understand expenses and cash flow very well and have no problem making adjustments when they are justified. However, we do not think that we owe this increase and feel that it is way past time for Big Bear Resort to pay its fair share.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles R. Wilson". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles R. Wilson
1000 Dogwood Drive
Elizabethtown, KY 42701

Attachments: 4

ATTACHMENT A
 AMENDED STAFF REPORT CASE NO. 99-114
 STAFF'S RECOMMENDED OPERATIONS

365 days per year and must be serviced routinely. The salary levels recommended by Staff in its original report fall well within the reasonableness range when compared to other similarly situated sewer treatment plant operations.

The Dens further argued that test year salaries and wages were overstated as evidenced by a payroll detail report that was submitted to the Commission by Big Bear on August 9, 1999. Staff concedes that the payroll report does reflect an over payment equal to one months salary for each employee; however, no adjustment is warranted as the overpayment is not reflected in test year or pro forma salaries and wages as shown in the original Staff Report. The amount included as test year salaries and wages in the original Staff Report and the amount reported in the payroll detail report were reconciled as follows:

| | |
|---|-------------------|
| Payroll Detail Report Total Gross Salary | \$9,927.67 |
| Less: One Month of Pro Forma Gross Salary | (798.00) |
| Test Year Gross Salary in Staff Report | <u>\$9,129.67</u> |

C) In the original Staff Report depreciation expense was included as a revenue requirement but only to the extent of the plant capacity reserved for existing customers. Upon reviewing Attachment A of Big Bear's filing of November 16, 1999, Staff has determined that the cost of the plant was or should have been recovered by Big Bear Resort's developer, Bear Development, Inc., through the sale of condominiums and special assessments. Therefore, Staff has eliminated depreciation expense included in the June 3, 1999, Staff Report. Bear Development's cost recovery is considered a contribution in aid of construction and should be recorded on the books of the entity currently operating the plant in account 271 – contributions in aid of construction.

ATTACHMENT A
STAFF REPORT CASE NO. 99-114
BIG BEAR'S REQUESTED AND STAFF'S RECOMMENDED OPERATIONS

A) Sewer Service Revenues. Big Bear reported test year operating revenues of \$22,629. Staff increased test year revenue to \$24,308 so that pro forma operations at present rates would reflect the number of customers hooked onto the system at the end of the test year. The amount was calculated as follows:

| | |
|---|--------------------|
| Revenue from full year customers (60 customers x 12 months x \$29.50 current rate) | \$21,240.00 |
| Revenue from seasonal customers (13 customers x 8 months x \$29.50 current rate) | <u>3,068.00</u> |
| Total | <u>\$24,308.00</u> |

B) Salaries and Wages. Test year salaries expense of \$9,130 was increased by \$446 to reflect the following current pay levels:

| | |
|-----------------------------------|-------------------|
| Dick Eastham (Plant Operator) | \$2,676.00 |
| Robert Eastham (Plant Operator) | 1,500.00 |
| Rhonda Brandon (Office) | 600.00 |
| Janet Caldemier (Bookkeeping) | 1,200.00 |
| Richard Meier (Owner/Manager Fee) | <u>3,600.00</u> |
| Total | <u>\$9,576.00</u> |

The salary levels listed above were approved by this Commission in Big Bear's previous rate case (Case No. 97-245) except for that of Robert Eastham. Robert and Dick Eastham are both certified wastewater plant operators and their combined annual salary was \$4,176. Based on Staff's prior experience with similarly situated small wastewater utilities, Staff is of the opinion that the salary levels included in pro forma operations are reasonable including that of Robert Eastham and recommends that they be accepted in this case.

C) Sludge Hauling. Test year sludge hauling was reported at \$2,060. This amount was excessive relative to the three prior years of operation. Sludge hauling for the years 1997, 1996, and 1995 was reported at \$800, \$0, and \$500, respectively. To normalize

From: jam4ducks@aol.com
Date: Wed, 29 Apr 2009 00:59:34 -0400
To: <janet@bigbearkentuckylake.com>
Subject: Big Bear Wastewater Notice

Janet & Rick,

Yesterday (4/27/2009), I received your cover letter and a copy of the notice where Big Bear Wastewater has filed an application with the Public Service Commission for a sewer rate increase. As stated in the notice, copies of the application may be obtained at no charge from the utility office at 3499 Big Bear Highway, Benton, KY 42025. Would you please send me a copy? If this is not convenient, please let me know when I can come by and pick one up.

Your cover letter stated that Big Bear Wastewater had hired a consultant to compile data necessary to justify a rate increase and who has worked with the Public Service Commission for over 20 years. Would you please provide me with this persons name, address and phone number if it is not included on or with the application for the rate increase?

Additionally, who is the licensed operator for Big Bear Wastewater, Inc? Please send me a copy of the license with the issue date being shown.

I am sending a copy of this email to our attorney, Mr. Wetzel. I will be sending him the information I have requested from you as well as your cover letter and the notice for the rate increase for his review.

Thank you,
Charley Wilson
1000 Dogwood Drive
Elizabethtown, KY 42701

M. JANET CALDWELL

1-502-354-9092

11/1999 12:23:29 PM P.3

BDI
BEAR DEVELOPMENT INC.

Dear

KT 4 BOX 142, HENTON, KY 40225
(800) 922-BEAR (2327)

As the developer of the Den's Condominium project, this is a letter which I had hoped I would never have to write. However, due to circumstances beyond my control, I have found it necessary to levy a one-time special assessment against the owners.

Now that the news is out in the open, let us try to explain how this situation came about. Bear Development Inc. has planned from day 1 to pay for the new sewage wastewater treatment plant from funds budgeted from the sales of the Den's Condominiums. This is exactly the time at which we planned to install the plant and we are installing the plant for which we had originally budgeted. Everything as planned!

The filing for this plant, with the Kentucky Division of Water, was initiated over 6 months ago. However, less than 2 months ago, the State of Kentucky implemented a new law requiring stiffer regulations for all treatment plants flowing into waterways in Kentucky. In this new law are provisions that will allow no new plants to be installed in the State of Kentucky which would flow into any waterway! Fortunately the plant at Big Bear was grandfathered BUT had to meet stiffer standards.

The portion of these standards that will affect you is the result of the above law implementation. In order for the Big Bear Resort treatment plant to adhere to new state regulations, a filter system had to be added to the new plant that we are installing. That, in itself, does not sound too bad. However, the price of this unit now stands to add more than 50% to the cost of the new plant.

The assessment that was determined by the amount of money required for the new equipment only. Big Bear Resort and The Den's Condominium unit owners are being assessed based on the number of plumbing fixtures per each entity. That number is then being divided into the total amount of above budget expenditure. The percentages for Big Bear and the Den's are 86% & 14% respectively. After applying these figures, the assessment for the Den's comes to \$18,672.22 or \$1190.87 per unit owner. This is on a total project cost of \$118,872.26 and only represents 44% of the additional cost mandated by the state. I am currently looking for a March 1, 1992, date for the assessments from each unit to be paid.

Let me reiterate that this was a cost that the development company had no control over. I've been through this before with our unit in Florida and I know that this is never a pleasant situation. I fought the battle against the State and lost but no one can say that it wasn't a good fight! I will be more than happy to discuss in detail any aspect of this decision and will be prepared to take the heat for it.

Thank you for your cooperation.

Richard O. Meyer