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PUBLIC SERVICE
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January 14, 2010

Mr. Jeff DeRouen
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

**RE: *Application of Big Bear Wastewater, Inc. for an
Adjustment of Rates
Case No. 2009-00171***

Dear Mr. DeRouen:

Please find enclosed an original and ten copies of Big Bear Wastewater, Inc.'s Response to Commission Staff's Information Request.

Please acknowledge receipt of this filing by placing your file-stamp on the extra copy and returning to me via our runner.

Very truly yours,

STOLL KEENON OGDEN PLLC

Deborah T. Eversole

Enclosure

cc: Parties of Record

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JAN 14 2010

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG BEAR WASTEWATER,) CASE NO.
INC. FOR AN ADJUSTMENT OF RATES) 2009-00171

**RESPONSE OF BIG BEAR WASTEWATER, INC.
TO THE COMMISSION STAFF INFORMATION REQUEST**

Big Bear Wastewater, Inc. (“Big Bear”), for its Response to the Commission Staff Information Request attached as Appendix A to the Commission’s January 8, 2010 Order in this case, provides the following responses and further states that Richard O. Meier is responsible for responding to questions on the information provided herein, and that Jack Kaninberg, Kentucky Small Utility Consulting, LLC, is also available on behalf of Big Bear to respond to questions related to the rates and revenue requirement requested in the application.

1. Refer to Attachment A of the Application, Adjustment B, Owner/Manager Fee. Big Bear states that, in the test period, Richard O. Meier, Big Bear’s President, was paid an owner/manager fee of \$3,600 and that Big Bear is proposing to increase the annual owner/manager fee to \$6,000.

a. Provide a detailed list of the management duties being performed by Meier.

RESPONSE: As the owner/manager of the Big Bear system, Mr. Meier has the following duties and responsibilities:

-He bears legal liability for all environmental and service issues.

- He has borne the financial liability of continuously subsidizing the plant's operations**
- He maintains a certified plant operator's license.**
- He hires and manages the employees who work at the plant**
- He oversees the daily operation of the plant by supervising Big Bear Resort employees who operate and maintain the plant with Big Bear Resort vehicles and equipment.**
- He plans all maintenance, upgrades, and improvements to the sewer system.**
- He oversees major repairs and replacements.**
- He troubleshoots any problems requiring his attention.**
- He prepares and signs quarterly Discharge Monitoring Reports.**
- He meets as needed with the McCoy and McCoy lab sampling personnel.**
- He meets as needed with PSC inspectors.**
- He meets as needed with inspectors from the Division of Water.**
- He is on-call on an emergency basis 24 hours a day, 7 days a week.**
- He is certified in First Aid and CPR for the plant per PSC requirements.**

b. Does Mr. Meier track the amount of hours he spends performing the management of Big Bear?

RESPONSE: No, as managing Big Bear is not an hourly job, but a full-time responsibility. Mr. Meier lives on-site and is directly involved, on a daily basis, with plant operation, and must be (and is) prepared to drop whatever else he may be doing in order, among other things, to coordinate with customers who report problems, to ensure that errands such as obtaining motor repairs and purchasing supplies are completed, to meet with regulatory personnel, etc.

(1) If yes, provide documentation to support the number of hours Mr. Meier devotes to the management of Big Bear.

RESPONSE: N/A

(2) If no, given that this is a less-than-arm's-length transaction, provide documentation to show that Mr. Meier's proposed annual salary of \$6,000 is reasonable.

RESPONSE: Mr. Meier resides at Big Bear Resort, is deeply involved in the operation and maintenance of the plant as described in detail above, is a certified plant operator, and has years of experience with the ownership and management of this sewer system. Since it is in his own backyard and affects the property values of the resort he also owns, he maintains the plant to the highest operational standards to prevent any environmental or aesthetic problems from occurring. In addition, Big Bear's proximity to Kentucky Lake, a federal waterway, requires it to comply with environmental standards stricter than those of normal sewer plants serving residential neighborhoods.

Under the circumstances, a proposed annual salary of \$6,000 is absolutely reasonable. Numerous water district commissioners are paid \$6,000 per year under the applicable statute (although each water district has several commissioners). Moreover, \$6,000 is the same amount the Commission recently awarded to the owner/manager of Farmdale Development Corporation, a small, privately-owned sewer utility, in 2008. In its decision in PSC Case No. 2007-00436 (the "Farmdale Order"),¹ the Commission allowed the owner of Farmdale Development an owner/manager fee of \$6,000 for rate-making purposes, although the Commission explicitly noted in the Farmdale Order, at 4, that "Farmdale's owner-manager fee is not the result of an arm's-length transaction," and "[t]he record is devoid of any evidence as to the actual time" the owner/manager had spent "performing duties on behalf of the sewer utility." In addition, Farmdale's owner

¹ *In the Matter of: Application of Farmdale Development Corporation for an Adjustment in Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Final Order dated July 30, 2008).

contracted for numerous outside services: the Commission in its Farmdale Order, at 7, expressly noted “the limited demands placed upon [Farmdale’s] owner as a result of his significant use of contractors.” There is no fair, just, reasonable and nondiscriminatory basis to award Mr. Meier – a hands-on owner/manager with experience similar to that of Farmdale’s owner -- 67% less in salary. Mr. Meier is a resident owner who is personally involved in the day-to-day operation of the plant, directly hiring, overseeing, and working with the employees who maintain and operate the plant.

2. Refer to Attachment A of the Application, Adjustment I, Administrative and General Salaries. Big Bear states that, in the test period, Janet Caldemeyer, Big Bear’s Vice-President, was paid an annual salary of \$2,750 and that Big Bear is proposing to increase the annual salary to \$3,600.

a. Provide a detailed list of the administrative duties being performed by Ms. Caldemeyer.

RESPONSE: As Vice President of Big Bear, Ms. Caldemeyer is responsible for the following duties:

- Management of the Big Bear office.
- Customer coordination and contact functions.
- Budgeting.
- Bookkeeping, including billing, accounts receivable and accounts payable.
- Overseeing tax preparation
- Contracting vendors, CPAs, lawyers and other consultants as needed.
- Acting as the point-of-contact for government agencies including the Public Service Commission and the Division of Water.
- Preparing and filing KPDES permits.
- Troubleshooting plant and personnel issues as needed in the Owner/Manager’s absence.
- Overseeing Public Service Commission filings, including Annual and Gross Operating Reports.

- Overseeing responses to Public Service Commission inquiries, including inspection reports and data requests (e.g. Storm damages).**
- Assisting in the oversight of this rate case.**

b. Does Ms. Caldemeyer track the amount of hours she spends performing administrative duties for Big Bear?

RESPONSE: No. Ms. Caldemeyer's responsibilities are full-time and are not amenable to hourly quantification.

(1) If yes, provide documentation to support the number of hours Ms. Caldemeyer devotes to the administrative duties of Big Bear.

RESPONSE: N/A

(2) If no, given that this is a less-than-arm's-length transaction, provide documentation to show that Ms. Caldemeyer's proposed annual salary of \$3,600 is reasonable.

RESPONSE: Ms. Caldemeyer's duties as bookkeeper and officer manager would in themselves warrant a salary of \$3,600. However, as Vice President, Ms. Caldemeyer's duties and responsibilities exceed those of a bookkeeper or an office manager. She assists in management and oversight of operations, deals directly with regulatory agencies, and shares the liability of ownership, performing such tasks as signing Discharge Monitoring Reports in her capacity as Vice President if Mr. Meier is absent. As a water district commissioner receives at least \$3,600, the similarities between Ms. Caldemeyer's management duties and those of a water district commissioner, coupled with her duties as bookkeeper and office manager, justify this modest salary.

As further clarification to these responses, Big Bear notes that the President and Vice President compensation discussed above is not related to, and will not alleviate the need for, recovery of the expenses of operating and maintaining the plant as requested in the application. Because Big Bear Wastewater has not had a rate increase in over ten

years, inadequate revenues have resulted in Big Bear Resort's having subsidized utility operations by using its equipment and vehicles and its in-house workforce to do routine operations and maintenance. Big Bear Resort has also used its line of credit, at 5% interest, to finance repairs and upgrades for Big Bear Wastewater. As a result, the utility's annual reports do not come close to reflecting the actual costs to operate and maintain the plant.

Big Bear is aware of the Commission's concerns when it reviews the reasonableness of cost in less-than-arm's length transactions. Accordingly, in order to provide the Commission with a reasonable and objective basis for operation and maintenance cost, Big Bear during the processing of this case provided bids from three outside vendors to document the cost to hire an outside party to do routine O&M. Big Bear also included in its application a survey of other sewer utilities to arrive at a reasonable cost to provide that service. This survey indicated that other Kentucky sewer utilities pay much more in routine maintenance fees to outside vendors – an average of \$13,200 - than the minimal amount that has previously been reported by Big Bear in its PSC Annual reports. Awarding Big Bear the objectively measurable amount such a vendor would charge for operation and maintenance is fair, just, and reasonable, and ensures that Big Bear pays – and receives for rate making purposes - no more for operation and maintenance than if it entered into an arm's-length transaction with a separate entity to perform these services.

3. Refer to Attachment A of the Application, Adjustment E, Utility Service – Water Cost. The application states that Big Bear has not been recording water costs and that it should begin paying the minimum payment for a two-inch water line.

a. From whom does Big Bear receive its water service?

RESPONSE: North Marshall Water District.

- b. Provide a copy of a monthly water bill for Big Bear.

RESPONSE: There is no separate monthly water bill for Big Bear, so no such bill can be provided. Big Bear Resort is billed for itself and for Big Bear Wastewater without differentiation and, in paying that bill in full, has simply been paying all of Big Bear Wastewater's water costs. As the Commission is aware, no such subsidy of a reasonable and necessary utility expense is, or can be, required. Despite the lack of a separate water bill for the utility, Big Bear has provided to the Commission an objective measurement of the water expense incurred by Big Bear Wastewater: Big Bear proposes in this case that its water cost for rate making purposes be \$39.99 per month, the *minimum* bill it would pay each month for its two-inch water line if a meter were installed and Big Bear Wastewater were billed separately. See North Marshall Water District Tariff, First Revised Sheet No. 5. The annualized adjustment is \$479.88. Awarding the utility this amount will ensure that the utility, rather than Big Bear Resort, pays at least part of its own water expense that must, under utility ratemaking principles, be allocated to it. It also ensures that Big Bear's customers will pay the lowest possible amount they could possibly be charged if their sewer utility were billed directly by the water district.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I hereby certify that, on this 14th day of January, 2010, a full and complete copy of the foregoing was sent by United States Mail, postage prepaid, to the persons listed below:

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