



S T O L L · K E E N O N · O G D E N
P L L C

2000 PNC Plaza
500 West Jefferson
Louisville, KY 40202
(502) 333-6000
Fax: (502) 333-6099
www.skofirm.com

DEBORAH T. EVERSOLE
502-568-5770
deborah.eversole@skofirm.com

January 20, 2010

VIA FEDERAL EXPRESS

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

RECEIVED

JAN 21 2010

PUBLIC SERVICE
COMMISSION

**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 Motion to Supplement Procedural Schedule.

Please acknowledge receipt of this filing by placing your file-stamp on the extra copy and returning to me via the enclosed, self-addressed, stamped envelope.

Very truly yours,

STOLL KEENON OGDEN PLLC

Deborah T. Eversole

Enclosure

cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 21 2010

PUBLIC SERVICE
COMMISSION

In the Matter of:

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

**MOTION OF BIG BEAR WASTEWATER, INC.
TO SUPPLEMENT PROCEDURAL SCHEDULE**

Big Bear Wastewater, Inc. (“Big Bear”), by counsel, hereby moves the Commission to supplement its procedural schedule entered in this case, in which an evidentiary hearing has been set, to include [1] a date upon which the Commission will identify the staff witness or witnesses it intends to present for cross-examination on the staff report at hearing, and [2] a date upon which the intervenors in this case shall file a list of the witnesses, if any, they will present at hearing, together with a list of the specific objections to Big Bear’s application to which each of those witnesses shall testify and a summary of the evidence, including any exhibits, that each witness will offer in support of those objections.

If such information is not made available *at least* one week prior to the February 9, 2010 hearing date, Big Bear will be deprived of any meaningful opportunity to prepare cross-examination or a response to evidence to be adduced against it – particularly as the Commission’s statutory time to complete this case and issue a final order will expire very shortly after the hearing, severely limiting opportunities for meaningful supplementation of the evidentiary record after February 9.

The essence of due process is “the fundamental requirement that an individual be given the opportunity to be heard in a meaningful manner.” *Howard v. Grinage*, 82 F.3d 1343, 1349 (6th Cir. 1996) (internal quotation marks and citation omitted). “Inherent in the most narrow view of due process is the right to know of adverse evidence and the opportunity to rebut its truth and relevance.” *United States v. Cabbage*, 430 F.2d 1037, 1040 (6th Cir. 1970) (internal quotation marks and citation omitted). *See also Kentucky American Water Co. v. Kentucky Public Service Comm’n*, 847 S.W.2d 737, 741 (Ky. 1993) (parties to a Commission case are “entitled to know what evidence is being considered and are entitled to an opportunity to test, explain, and/or refute that evidence”). In order for Big Bear to have an opportunity to test, explain, or refute the evidence to be offered against it, at a minimum, a summary of that evidence and the witnesses who will testify to it must be placed in the record at least one week prior to the hearing date.

For the foregoing reasons, Big Bear respectfully requests that the Commission enter its Order supplementing the procedural schedule in this case as requested herein.

Respectfully submitted,



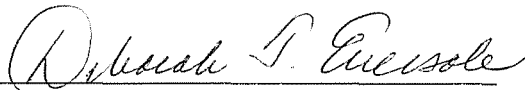
Deborah T. Eversole, Esq.
STOLL KEENON OGDEN PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Ph: (502) 568-5770
Fax: (502) 333-6099
deborah.eversole@skofirm.com

CERTIFICATE OF SERVICE

I hereby certify that, on this 20th 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:

Robert C. Moore, Esq.
Hazelrigg & Cox, LLP
415 West Main Street, 1st Floor
P.O. Box 676
Frankfort, KY 40602-0606

David Edward Spenard
Assistant Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204


Counsel for Big Bear Wastewater, Inc.