

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

The parties in this proceeding have reached an agreement on a revised rate for service and presented that stipulated rate for Commission approval. By this Order, the Commission accepts the stipulated rate and authorizes its assessment as of the date of this Order.

Big Bear Wastewater, Inc. ("Big Bear"), a private corporation organized pursuant to KRS Chapter 271B, owns and operates facilities in Marshall County, Kentucky that collect and treat sewage for the public for compensation. These facilities include an extended aeration treatment plant that has a maximum daily treatment capacity of 35,000 gallons. Big Bear serves three customers: Big Bear Resorts, Inc. ("Big Bear Resorts"), The Dens Condominium Association ("The Dens"), and The Treetops Condominium Association ("The Treetops"). Big Bear Resorts owns all of Big Bear's voting stock.

Big Bear currently charges a flat monthly rate of \$30.37 per unit. Each of its three customers is assessed a monthly bill based upon the number of units connected to Big Bear's system. Big Bear bills its customers for the following number of units:

Customer	Number of Billed Units
The Dens	27
The Treetops	24
Big Bear Resorts	45

The number of units billed to The Dens and The Treetops is currently based upon the number of condominium units. The number of bills to Big Bear Resorts is based upon a number of facilities connected to the wastewater collection system, including a recreational vehicle park, several rental properties, a marina, and office. During four months of the year, Big Bear bills Big Bear Resorts for only 16 units. This lower number of units is based on lower occupancy of Big Bear Resorts' facilities during winter months.

On April 28, 2009, Big Bear filed its application for a rate adjustment with the Commission pursuant to the Alternative Rate Filing procedure.¹ It proposed to increase its current monthly rate of \$30.37 per unit to \$53.90 over a two-year period. The monthly rate would increase to \$45.95 immediately, to \$49.93 the following year, and to \$53.90 on the second anniversary of the initial rate adjustment. The final rate would generate annual revenue of \$55,194, which is an increase of \$24,095, or 77.5 percent, in Big Bear's pro forma operating revenues of \$31,099. Big Bear's rates were last adjusted in 1999.²

Upon receipt of Big Bear's application, the Commission suspended the operation of the proposed rates for five months, until October 30, 2009.³ The Commission subsequently granted the motions of The Dens and the Attorney General ("AG") for leave to intervene in this proceeding. After conducting a field review of Big Bear's

¹ See 807 KAR 5:076.

² Case No. 1999-00114, *The Alternative Rate Filing of Big Bear Wastewater, Inc.* (Ky. PSC Feb. 10, 2000).

³ On October 31, 2009, Big Bear placed the first phase of its proposed rate adjustment into effect.

records, Commission Staff issued a report of its findings and recommendations on January 22, 2010. Commission Staff recommended a monthly rate of \$50.74 per unit that would be phased in over two years. Big Bear accepted Commission Staff's findings and recommendations. The Dens filed objections and requested a hearing, which the Commission scheduled for February 9, 2010.

Prior to the hearing in this case, Commission Staff, after reviewing the parties' objections and discovering errors in its report, amended its report to recommend a monthly rate of \$48.24 per unit.⁴ Commission Staff based its amended rate upon the utility's assessing the proposed rate to 1,036 units annually and an annual revenue requirement of \$49,977.

At the scheduled hearing, Big Bear, The Dens and the AG stipulated⁵ that the fair and reasonable rate for Big Bear was \$48.24 per month per unit; that the stipulated rate should be placed into effect immediately; and that the rate should be based upon service provided to 1,116 units annually, or 93 units monthly.⁶ The parties expressly declined to base the stipulated rate on any rate methodology or accept the findings and recommendations of Commission Staff regarding the reasonableness of specific expenses or proposed adjustments to test period expenses.⁷

⁴ See Attachment to Letter from Jeff Derouen, Executive Director, Kentucky Public Service Commission, to Counsel of Record (Feb. 17, 2010).

⁵ Video Transcript at 3:38 – 8:56.

⁶ Id. at 8:38 – 8:56.

⁷ Id. at 3:54 – 4:10; 5:32 – 6:04.

Based upon our review of the evidence of record, we find that the stipulated rate should be accepted and authorized for service rendered on and after the date of this Order. The record contains sufficient evidence to demonstrate that the stipulated rate, while producing an annual level of revenue that exceeds that which Commission Staff recommended, is within the zone of reasonableness.⁸ Moreover, it was the product of extensive negotiations between the utility and its customers, each of whom was represented by legal counsel with significant experience before this agency.⁹ Our acceptance of the stipulated rate should not be considered as acceptance or rejection of any specific rate-making methodology or adjustment.

We note that Big Bear, in accordance with its revised tariff sheets and KRS 278.190(2), began assessing the rate of \$45.95 per unit on October 31, 2009. As the stipulated rate exceeds this amount, we find that no refunds are required.¹⁰

IT IS THEREFORE ORDERED that:

1. Big Bear's proposed rates are denied.
2. The monthly rate of \$48.24 per unit is approved for service that Big Bear renders on and after the date of this Order.

⁸ See *supra* note 4. Based upon the stipulated number of billing units, the stipulated rate of \$48.24 per unit will produce annual revenues of \$53,836. (\$48.24 per unit x 1,116 annual units billed = \$53,836.).

⁹ The Dens retained private legal counsel. Given that Big Bear Resorts owns all of Big Bear's voting stock, Big Bear's counsel effectively represented Big Bear Resorts' interests. The AG represented the interests of all consumers served. KRS 367.150(8).

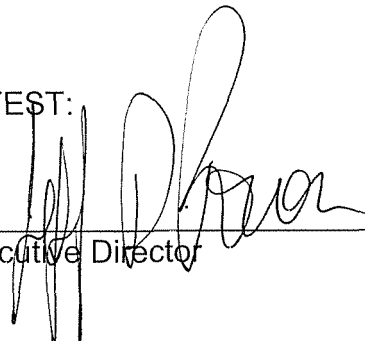
¹⁰ Video Transcript at 11:20 – 11:43.

3. Within 20 days of the date of this Order, Big Bear shall file with this Commission a revised tariff sheet setting out the approved rate and showing its effective date and that it was issued by authority of this Order.

By the Commission

ENTERED *M*
FEB 26 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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