

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

|                                      |   |            |
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| APPLICATION OF RIDGELEA INVESTMENTS, | ) |            |
| INC. FOR APPROVAL OF TRANSFER OF     | ) | CASE NO.   |
| FRANKLIN COUNTY WASTEWATER           | ) | 2017-00153 |
| TREATMENT FACILITIES TO FARMDALE     | ) |            |
| SANITATION DISTRICT                  | ) |            |

O R D E R

On March 28, 2017, pursuant to KRS 278.020(6), Ridgelea Investments, Inc. ("Ridgelea") tendered an application for approval of the transfer of certain facilities for the collection and treatment of sewage serving the Meadowbrook, Edgewood, and Farmgate subdivisions (the "Franklin County System") in Franklin County, Kentucky, to Farmdale Sanitation District ("Farmdale Sanitation").<sup>1</sup> The Commission issued a filing deficiency letter to Ridgelea on April 3, 2017. Ridgelea filed supplemental documentation with the Commission curing the deficiencies on April 5, 2017, at which date the application was accepted as filed.

In support of this request, Ridgelea has submitted a written agreement ("Agreement") between Ridgelea and Farmdale Sanitation containing the terms of the transfer. Ridgelea has responded to a discovery request regarding the proposed transfer. No person has sought to intervene in this proceeding. Having reviewed the application and being otherwise sufficiently advised, the Commission finds that:

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<sup>1</sup> Application at 1.

1. Ridgelea, the Seller under the Agreement, is a Kentucky Corporation that owns facilities used for the collection, transmission, or treatment of sewage for the public for compensation and is subject to the Commission's jurisdiction pursuant to KRS 278.010(3)(f) and KRS 278.040.

2. Ridgelea serves approximately 191 customers in the Meadowbrook, Edgewood, and Farmgate subdivisions in Franklin County, Kentucky.<sup>2</sup>

3. Pursuant to the Agreement, for \$1.00 Ridgelea agrees to sell its Franklin County System to Farmdale Sanitation, including but not limited to certain real property in Franklin County, Kentucky, with all appurtenances and improvements thereon, bank accounts, business records, the wastewater treatment plants ("WWTPs"), any personal property used to operate the WWTPs, and governmental approvals.<sup>3</sup>

4. Farmdale Sanitation is a sanitation district created on February 6, 2004, pursuant to KRS Chapter 67 and by the Franklin County Fiscal Court by Ordinance No. 4, 2004 Series.<sup>4</sup>

5. Farmdale Sanitation owns eight acres purchased with funds from a U.S. Environmental Protection Agency ("EPA") grant for the location of a new sewage treatment facility.<sup>5</sup>

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<sup>2</sup> Ridgelea's Response to Commission's Request for Information as contained in the Appendix of the June 1, 2017 Order ("Response to Request for Information") (filed July 14, 2017), Item 10.

<sup>3</sup> Ridgelea's Second Supplemental Response to Commission's Request for Information as contained in the June 1, 2017 Order ("Second Supplemental Response to Request for Information") (filed July 24, 2017), Exhibit 1.

<sup>4</sup> Ridgelea's Third Supplemental Response to Commission's Request for Information as contained in the June 1, 2017 Order ("Third Supplemental Response to Request for Information") (filed July 27, 2017), Exhibit 1.

<sup>5</sup> Response to Request for Information, Item 5.a.

6. Farmdale Sanitation holds approximately \$873,000 in funds from the EPA which may be used for both the construction and design of a new sewage treatment facility, and had approximately \$84,000 in an operating account on January 31, 2017.<sup>6</sup> Additionally, Farmdale Sanitation is to receive a grant in the amount of \$300,000 from the Kentucky Infrastructure Authority for the repair of the WWTPs.<sup>7</sup>

7. Farmdale Sanitation entered into an Operation and Maintenance Agreement (“O&M Agreement”) with Professional Wastewater Services, LLC (“Professional Wastewater”). The O&M Agreement sets forth the full range of services that Professional Wastewater will provide, including but not limited to routine operations, preventive maintenance services, emergency callout services, regulatory compliance, and preparation of necessary records and reports.<sup>8</sup>

8. Ridgelea further asserted that the owner and managing member of Professional Wastewater, Kenneth D. Hogsten, Jr., has all of the necessary licenses required by the Commonwealth of Kentucky and is certified as a Wastewater Treatment Plant Operator Class IV, which is a higher classification than that required for the operation of the Franklin County System.<sup>9</sup>

9. Additionally, Farmdale Sanitation has entered into contracts with Haworth-Meyer-Boleyn Professional Engineers, Inc. to provide engineering services, Pace

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<sup>6</sup> *Id.*

<sup>7</sup> Second Supplemental Response to Request for Information, Item 5.b.

<sup>8</sup> *Id.* at Exhibit 5.a.

<sup>9</sup> Third Supplemental Response to Request for Information at 1 and Exhibit 2.

Analytical to perform laboratory services, and with Farmdale Water District to perform billing services.<sup>10</sup>

10. Ridgelea will continue to operate the WWTP through the date of the closing of the Agreement, which will take place after the Commission grants approval to Ridgelea to transfer its Franklin County System to Farmdale Sanitation.<sup>11</sup>

11. Ridgelea currently charges a flat monthly rate of \$34.50 per customer to the Meadowbrook, Edgewood, and Farmgate subdivisions, and Farmdale Sanitation will continue to charge the flat monthly rate of \$34.50 per customer upon completion of the transfer.<sup>12</sup>

12. Ridgelea does not hold any customer deposits.<sup>13</sup>

Based upon these findings, the Commission makes the following conclusions of law:

1. Ridgelea is a utility subject to Commission jurisdiction.
2. Ridgelea is a "corporation" and a "person" for purposes of KRS Chapter 278.<sup>14</sup>

3. KRS 278.020(6) provides that "[n]o person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission . . . without prior approval by the commission. The commission shall grant

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<sup>10</sup> Second Supplemental Response to Request for Information, Item 5.a.

<sup>11</sup> *Id.*, Item 8.

<sup>12</sup> Response to Request for Information, Item 7.

<sup>13</sup> *Id.*, Item 6.

<sup>14</sup> KRS 278.010.

its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.”

4. KRS 278.020(7) provides that “[n]o individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an ‘acquirer’), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state without having first obtained the approval of the commission.” KRS 278.020(7) further provides that the “commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest.”

5. The transfer of the ownership of the Franklin County System from Ridgelea to Farmdale Sanitation is a transaction subject to the jurisdiction of the Public Service Commission and requires Commission approval.

6. Farmdale Sanitation has the legal authority to provide wastewater service in the territory currently served by Ridgelea’s Franklin County System.

7. In view of its financial assets and its status as a sanitation district, Farmdale Sanitation has sufficient financial integrity to ensure the continuity of service.

8. Farmdale Sanitation has the financial, technical, and managerial abilities to provide reasonable service to those persons located in the Meadowbrook, Edgewood, and Farmgate subdivisions.

9. KRS 224A.300(1) provides that the regionalization and consolidation of water and wastewater systems should be encouraged, and the transfer of ownership and

control of Ridgelea's Franklin County System to Farmdale Sanitation is consistent with regionalization.

10. The transfer of Ridgelea's Franklin County System to Farmdale Sanitation is in accordance with the law, for a proper purpose, and is consistent with the public interest.

11. As a sanitation district, Farmdale Sanitation is not subject to the Commission's jurisdiction over rates or service.<sup>15</sup>

12. Upon Farmdale Sanitation's acquisition of the Franklin County System serving the Meadowbrook, Edgewood, and Farmgate subdivisions, the Franklin County System and its customers will no longer be subject to the Commission's jurisdiction.

IT IS THEREFORE ORDERED that:

1. The proposed transfer of ownership and control of the Franklin County System from Ridgelea to Farmdale Sanitation, pursuant to the terms of their Agreement, is approved, subject to the conditions set forth in ordering paragraphs 2 through 9, as of the date of this Order.

2. Ridgelea shall notify the Commission in writing of the closing of the transaction within ten days of the closing.

3. If the transaction does not close within 90 days of the date of this Order, Ridgelea shall file with the Commission a report on the status of the efforts to complete the transfer.

4. Any material revision to the proposed transaction shall require approval by the Commission in order for the amendment to be effective.

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<sup>15</sup> See *Boone County Water & Sewer Dist. v. Public Service Comm'n*, 949 S.W.2d 588 (Ky. 1997).

5. Ridgelea shall continue to operate the WWTPs serving the Franklin County System until the closing of the transaction, at which time Farmdale Sanitation will begin operating the WWTPs.

6. No later than August 31, 2017, Ridgelea shall submit its Gross Report for the period January 1, 2017, through the date of the transfer.

7. Ridgelea shall submit the journal entries associated with the transfer of the Franklin County System within 30 days of the date of the closing.

8. Any documents filed pursuant to ordering paragraphs 2, 3, 6, and 7 shall reference this case number and shall be retained in Ridgelea's general correspondence file.

9. The Executive Director is delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon a showing of good cause for such extension.

10. A copy of this Order shall be served on the Kentucky Division of Water, the Franklin County Judge/Executive, and the Farmdale Sanitation District.

11. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:

A handwritten signature in blue ink, appearing to read "John D. Berger". Below the signature is a horizontal line, and under that line, the text "Acting Executive Director" is printed.

Case No. 2017-00153

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