

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE EMERGENCY
APPLICATION OF CARROLL TOWNSHIP
TREATMENT SERVICES, LLC FOR AN
INCREASE IN ITS RATES AND CHARGES
FOR SEWAGE DISPOSAL SYSTEM
SERVICE.

CASE No. 20-1322-ST-AEM

FINDING AND ORDER

Entered in the Journal on November 4, 2020

I. SUMMARY

{¶ 1} The Commission orders that the emergency rate relief request be held in abeyance as Carroll Township Treatment Services, LLC has provided insufficient information to justify emergency rate relief at this time.

II. DISCUSSION

A. Facts and Procedural History

{¶ 2} Carroll Township Treatment Services, LLC (CTTS or Applicant) is a sewage disposal system company as defined by R.C. 4905.03(M) and a public utility as defined by R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} On April 8, 2020, the Commission issued an Opinion and Order in Case No. 18-889-ST-AIR, granting CTTS's application to increase rates and charges allowing a return of 9.05 percent for sewage disposal system services rendered in Carroll Township. *In re Carroll Township Treatment Services, LLC*, Case No. 18-889-ST-AIR (*Rate Case*), Opinion and Order (Apr. 8, 2020). As part of the Commission's April 8, 2020 Opinion and Order in the *Rate Case*, CTTS was required to refund \$20,691 to customers over an 18-month period to correct for past overcharges and also to rerate Wild Wings Inc.'s bills based on the Carroll Water and Sewer District water meter. On April 22, 2020, in the *Rate Case* docket, CTTS filed compliance tariffs with the new rate effective on bills rendered after April 30, 2020.

{¶ 4} R.C. 4909.16 provides that, when the Commission deems it necessary to prevent injury to the business or interests of the public or of any public utility of this state in case of any emergency to be judged by the Commission, it may temporarily alter, amend, or, with the consent of the public utility concerned, suspend any existing rates, schedules, or order relating to or affecting any public utility or part of any public utility in this state.

{¶ 5} In reviewing past emergency rate applications, the Commission has set out several standards by which it is guided in exercising the discretion conferred by R.C. 4909.16. First, emergency rate relief is extraordinary. Second, the existence of an emergency is a condition precedent to any grant of temporary rate relief. Third, the evidence presented by an applicant will be reviewed with the strictest scrutiny and that evidence must clearly and convincingly demonstrate the presence of extraordinary circumstances that constitute a genuine emergency. Fourth, emergency rate relief will not be granted if the request was filed merely to circumvent, and as a substitute for, permanent rate relief. Finally, temporary rate relief will be granted only at the minimum level necessary to avert or relieve an emergency. See *In re Cobra Pipeline Co.*, Case No 18-1549-PL-AEM, et al., Opinion and Order at 64 (Sept. 11, 2019) citing *In re Toledo Edison Co.*, Case No. 76-439-EL-AEM, Opinion and Order (Sept. 8, 1976); *In re Ohio Edison Co.*, Case No 79-44-EL-AEM, Opinion and Order (May 2, 1979).

{¶ 6} On July 29, 2020, CTTS filed the emergency application in this case. CTTS seeks approval, pursuant to R.C. 4909.16, to increase its rates for sewage disposal service. In its application CTTS asserts that its current rates as approved in the *Rate Case* do not provide sufficient income for its utility service to continue to operate. CTTS asserts that for the 12 months ended June 30, 2020, CTTS collected annual gross revenues of \$71,725.96 while expenses for the same 12-month period were \$191,907.54. CTTS avers that it has survived in part due to short term loans totaling \$157,095 made to it by Wild Wings, Inc. The Applicant also notes that further expenses are required to repair aging facilities and equipment, as well as to refund overcharges to customers as ordered in the *Rate Case*. As

part of its application, CTTS attached a number of exhibits that it feels support its request, including its proposed rates and charges (Exhibit 1), a copy of its current rates (Exhibit 2), the Applicant's most recent annual report filed with the Commission (Exhibit 3), and the Applicant's most recent federal income tax return (Exhibit 4). CTTS initially requested that it be permitted to (i) increase rates from \$1.3019 per hundred gallons to \$2.31728 per hundred gallons, and (ii) suspend the refunding of overcharges required in the *Rate Case* for a reasonable period of time to allow CTTS to return to solvency.

{¶ 7} On October 9, 2020, Staff filed its review and recommendation.

B. Summary of the Staff Report

{¶ 8} In its review and recommendation of the application, Staff focused on investigating CTTS's assertion that current rates do not provide sufficient income for the utility to continue to operate. To verify the Applicant's claims concerning its financial condition, Staff requested and reviewed updated usage data, revenues, expenses, financial notes, and service contracts. This information was evaluated and compared with information Staff obtained during its investigation in the *Rate Case*. Staff also states that during its investigation and subsequent communications with the company, CTTS amended its requested emergency rate to \$1.9879 per hundred gallons.

{¶ 9} Staff confirmed CTTS's statement that it has borrowed \$157,095 from Wild Wings, Inc. between January 2019 and March 2020. Staff further notes that since the rates approved in the *Rate Case* have been implemented, the company has refinanced this short-term debt. Staff also confirmed imminent repair expenditures for CTTS equipment, specifically blower and motor units that need to be replaced relatively soon at an estimated cost of \$26,600.

{¶ 10} Staff acknowledges that the company's revenues are lower than the allowable \$134,891 established the *Rate Case*, but also notes that CTTS is still able to provide safe and reliable service under current operating conditions. Staff also confirmed that, as alleged in

the application, CTTS's expenses have increased. Staff calculated that customers' reported usage during the 12-month period ended June 30, 2020, would generate \$116,659 in gross revenues at the current rates. In reviewing that figure and the expenses of the company during the same 12-month period, Staff is unable to confirm that CTTS's current rates do not provide sufficient income for the utility to continue to operate.

{¶ 11} In further examining CTTS's expenses, Staff notes that the company's \$191,548 in expenses for the 12-month period ended June 30, 2020 is 66 percent higher than adjusted expenses in the *Rate Case*. Staff also highlights that in the *Rate Case*, CTTS test year expenses were 42 percent higher than the adjusted expenses identified by Staff and accepted by CTTS in that proceeding. Staff explains that in the *Rate Case* Staff supplied CTTS with a copy of the National Association of Regulatory Utility Commissioners (NARUC) Sewer Uniform System of Accounts. Staff states that it also provided CTTS with information on proper regulatory accounting for sewer companies in Ohio and worked with the company to review and properly categorize all expenses in the *Rate Case*. In reviewing the information provided in this emergency application, Staff concludes that it does not appear that CTTS is conforming with NARUC's Sewer Uniform System of Accounts nor mirroring the expense categories that Staff applied, and CTTS accepted, in the *Rate Case*. Staff acknowledges that some of the company's expenses could be classified as one-time or infrequent expenses, but Staff believes that several of the expenses appear to be new or different from those filed in the *Rate Case*. Staff identified other costs that CTTS categorized as operations and maintenance that should have been capitalized as plant investments, as well as costs that appear to be regular but infrequently occurring large expenses that should have been included in the *Rate Case* test year.

{¶ 12} Staff ultimately concludes that it currently lacks sufficient information from CTTS to develop a full recommendation on the request for an emergency rate increase. Staff states that it is unable to confirm that CTTS's current rates do not provide sufficient income for the company to continue to operate until new permanent rates can be set. As Staff

understands emergency rates are to be used only as an extraordinary stopgap measure until new permanent rates can be established, Staff believes that further investigation into CTTS's books and records is appropriate in the context of a permanent rate case investigation. Staff therefore recommends that this case be held in abeyance and that the Commission direct CTTS to file, within 30 days of the filing of this Finding and Order, an application to increase base rates pursuant to R.C. 4909.18.¹ Staff further states that should further investigation reveal that emergency rate relief is appropriate, Staff will file a recommendation for such relief at that time.

C. Commission Conclusion

{¶ 13} Upon consideration of the application and Staff's review and recommendation, the Commission finds that CTTS's emergency application for an increase in rates cannot be approved at this time and that this proceeding shall be held in abeyance until further notice. Considering the issues raised in Staff's report, we agree that Staff's continued investigation into CTTS's financial condition is most appropriate in the context of a permanent rate case investigation, which will be conducted in response to CTTS's application filed in Case No. 20-1585-ST-AIR. The Commission also notes that should further investigation from Staff reveal that emergency rate increases are warranted prior to the setting of new permanent rates, Staff is still permitted to file such a recommendation in this docket for consideration by the Commission.

III. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That this proceeding be held in abeyance until otherwise ordered by the Commission. It is, further,

¹ On October 13, 2020, in Case No. 20-1585-ST-AIR, CTTS filed the application for increase in rates and charges recommended by Staff.

{¶ 16} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 17} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

DMH/kck

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Case No(s). 20-1322-ST-AEM

Summary: Finding & Order ordering that the emergency rate relief request be held in abeyance as Carroll Township Treatment Services, LLC has provided insufficient information to justify emergency rate relief at this time. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio