

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE BANKRUPTCY OF ROCKDALE DEVELOPMENT)
COMPANY, INC.) CASE NO. 9264

O R D E R

On January 31, 1985, the Commission initiated this proceeding to invoke the third party beneficiary agreement of Rockdale Development Company, Inc. ("Rockdale"), a private corporation which then owned a small sewage treatment plant in the Blueberry Hills Subdivision of Carter County, Kentucky. Rockdale had petitioned the federal courts for protection from its creditors under Chapter 11 of the Bankruptcy Code. Its legal counsel had advised the Commission of its principal owner's intention to abandon the plant. The Commission was also advised that the electric utility supplying electricity to the plant would soon terminate service to the plant because of Rockdale's lack of payment.

To ensure the continued operation of the plant, the Commission invoked an alleged third party beneficiary agreement between First Bank and Trust Company of Ashland, Kentucky, and Rockdale. This agreement, which Rockdale was required to negotiate and file with the Commission as a condition for receiving a Certificate of Public Convenience and Necessity to construct the plant, provided that First Bank and Trust Company

would operate the plant upon Rockdale's default or abandonment. By its Order of January 31, 1985, the Commission ordered First Bank and Trust Company to immediately assume responsibility for the operation and maintenance of the sewage treatment plant.

Contending the third party beneficiary agreement was a forgery, First Bank and Trust Company moved that the Commission's Order be vacated and an evidentiary hearing held. A hearing was held on March 14, 1985. Based upon the evidence presented therein, the Commission concluded that the agreement was a forgery and rescinded its earlier Order.

Although the controversy surrounding the third party beneficiary agreement was resolved by the Commission's Order of March 27, 1985, the Commission allowed this case to remain on its docket. It was used as a vehicle to monitor the condition of the Blueberry Hill Subdivision Sewage Treatment Plant and two other plants owned by Rockdale.

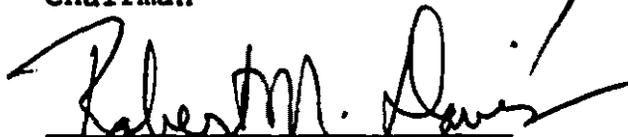
After carefully reviewing the record of this case, the Commission finds that this case's continued presence on its docket no longer serves a useful purpose. The stated purpose of this case -- the invocation of the third party beneficiary agreement -- no longer exists. Furthermore, monitoring the condition and status of Rockdale's sewage treatment plants can better be performed informally rather than through this formal proceeding.

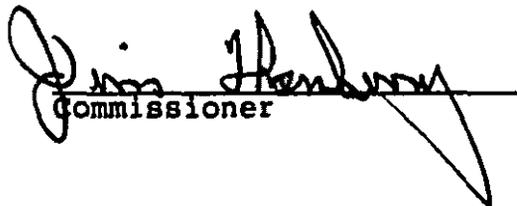
IT IS THEREFORE ORDERED that this case is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 11th day of April, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director