

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BRONSTON WATER	)	
ASSOCIATION, INC. FOR APPROVAL OF	)	CASE NO. 2011-00417
AGREEMENT AND DEVIATION FROM 807 KAR	)	
5:006, SECTION 14	)	

ORDER

Bronston Water Association (“Bronston”) has applied for a deviation from 807 KAR 5:006, Section 14, to permit the discontinuance of water service to any customer who fails to pay his bill for sewer service owed to a private sewer utility. By this Order, we grant the application.

Bronston, a nonprofit corporation organized pursuant to KRS Chapter 273,<sup>1</sup> owns and operates facilities that distribute water to approximately 1,761 customers in Pulaski and Wayne counties, Kentucky.<sup>2</sup> Among the areas that Bronston serves is a condominium development in Pulaski County known as “The Villas of Woodson Bend.” Bronston is a utility subject to Commission jurisdiction.<sup>3</sup>

Citizens Bancshares, Inc., a Kentucky corporation organized pursuant to KRS Chapter 271B,<sup>4</sup> is a nationally chartered bank that is headquartered in Pulaski County, Kentucky and that operates as Citizens National Bank of Somerset, Kentucky (“Citizens

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<sup>1</sup> See <https://app.sos.ky.gov/ftshow/%28S%280esbu3r3fq5dty555ijo1y45%29%29/default.aspx?path=ftsearch&id=0005891&ct=09&cs=99999> (last visited June 30, 2012).

<sup>2</sup> *Annual Report of Bronston Water Association to the Public Service Commission for the Calendar Year Ended December 31, 2011* at 5, 27.

<sup>3</sup> KRS 278.010(3)(d); KRS 278.012; KRS 278.040.

<sup>4</sup> See <https://app.sos.ky.gov/ftshow/%28S%28v1rvcmvfuzaj45zp0wxffr%29%29/default.aspx?path=ftsearch&id=0083393&ct=09&cs=99999> (last visited June 30, 2012).

National Bank”). It owns facilities in Pulaski County, Kentucky that collect and treat sewage for approximately 62 customers residing in “The Villas of Woodson Bend.”<sup>5</sup>

On October 14 2011, Bronston and Citizens National Bank executed an agreement in which Bronston agreed to terminate water service to any customer who receives sewer service from Citizens National Bank and fails to pay his bill for sewer service. Under the terms of this agreement, Citizens National Bank will notify Bronston of any customer that fails to pay his or her bill for sewer service. Upon receiving such notification, Bronston will terminate water service to that customer. Citizens National Bank has agreed to indemnify and hold harmless Bronston from any liability resulting from the wrongful termination of a customer’s water service where Citizens National Bank has requested the termination and has further agreed to reimburse the water association for all legal fees, costs or other expenses incurred in the defense of any legal action initiated for wrongful termination of service.

On October 17, 2011, Bronston filed an application with the Commission in which it requested a deviation from 807 KAR 5:006, Section 14, to permit it to perform the terms of its agreement with Citizens National Bank. It further filed a revision to its Rules and Regulations that permits the termination of service to any customer within The Villas of Woodson Bend who fails to pay his or her sewer service bill to Citizens National Bank.

Commission regulations currently prohibit public water utilities from discontinuing a customer’s water service for delinquent sewer service bills. Commission Regulation 807 KAR 5:006, Section 14(1), states:

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<sup>5</sup> Case No. 2012-00040, Alternative Rate Adjustment Filing of the Villas of Woodson Bend (Ky. PSC June 14, 2012) at 2, 4. See also Case No. 2011-00302, *Application of Citizens National Bank of Somerset, Kentucky for an Order Approving a Transfer of Ownership and Control*, (Ky. PSC Jan. 20, 2012).

A utility may refuse or terminate service to a customer **only** under the following conditions . . . .

(f) For nonpayment of bills. A utility may terminate service **at a point of delivery for nonpayment of charges incurred for utility service at that point of delivery**; however, no utility shall terminate service to any customer for nonpayment of bills for any tariffed charge without first having mailed or otherwise delivered an advance termination notice which complies with the requirements of Section 13(5) of this administrative regulation. [Emphasis added.]

A utility may discontinue service only for nonpayment of charges for services which it provides. As they do not provide sewer service, water utilities may not discontinue service for nonpayment of sewer service charges.<sup>6</sup>

In Administrative Case No. 347,<sup>7</sup> the Commission examined the question of amending Section 14 to permit water utilities to discontinue water service for a customer's failure to pay bills for sewer service provided by another utility. We found that, while sewer utilities have significant problems enforcing collection of bills for service,<sup>8</sup> insufficient support existed to amend that regulation to permit the discontinuance of water service for nonpayment of sewer bills. In lieu of revising the regulation, we stated that the Commission would favorably view requests for deviation

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<sup>6</sup> Combined water and sewer districts are an exception to this rule. Since they provide both services, the Commission has permitted such districts to discontinue a customer's water service for failure to pay sewer service charges. See, e.g., Case No. 91-428, *Proposed Tariff Filing of Boone County Water and Sewer District For Sewer Inspection Fee* (Ky. PSC Apr. 6, 1992). The General Assembly recently enacted this exception into law. See 2012 Ky. Acts Ch. 30.

<sup>7</sup> Administrative Case No. 347, *An Investigation Into the Collection and Billing Practices of Privately-Owned Sewer Utilities* (Jan. 9, 1995).

<sup>8</sup> Discontinuance of utility service has long been recognized as the most effective means of bill collection. Sewer service, however, cannot be easily disconnected. There is no switch to pull or valve to turn to discontinue service. The delinquent customer's sewer line must be plugged or his water service must be discontinued. Plugging a sewer line is costly and not usually environmentally sound. It imposes a disproportionate hardship on the customer. Once the sewer line is dug up and plugged, his residence is rendered unfit for habitation.

from Section 14 to implement agreements between water suppliers and sewer utilities to permit the discontinuance of water service for nonpayment of sewer bills.

Having reviewed the agreement and the proposed revision to Bronston's proposed rule, the Commission finds that good cause exists to permit Bronston to deviate from 807 KAR 5:006, Section 14, and to terminate water service for a customer's failure to pay a bill for sewer service that Citizens National Bank provides to the same location. Allowing disconnection of water service for a customer's failure to pay for sewer service provides an effective and economical means of obtaining payment for sewer service and thus ensuring the continued economic viability of the sewer utility. By creating the conditions that enable the sewer utility to continue to function, the public health is protected and promoted.

The Commission further finds that, as a precaution against improper or erroneous termination of water service, Bronston shall give notice to its customer in the manner that 807 KAR 5:006, Section 13(5) prescribes prior to terminating water service.

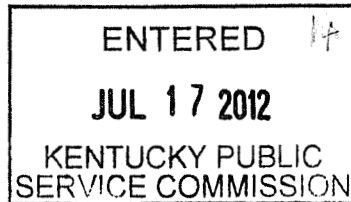
IT IS THEREFORE ORDERED that:

1. Bronston's application for a deviation from 807 KAR 5:006, Section 14, is granted.
2. Bronston's proposed rule regarding the termination of water service to customers who fail to pay for sewer service that Citizens National Bank is approved.
3. Within 20 days of the date of this Order, Bronston shall file with the Commission a tariff sheet containing its proposed rule regarding the termination of water service to customers who fail to pay for sewer service that Citizens National Bank provides. The tariff sheet shall be signed by an officer authorized to issue tariffs and shall state the effective date as the date of this Order.


4. Bronston is authorized to terminate water service for a customer's failure to pay a bill for sewer service that Citizens National Bank provides to the same location.

5. Bronston is authorized to charge a reconnection fee to those customers to whom it terminates water service for failing to comply with the proposed rule.

By the Commission



ATTEST:

  
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