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James W. Gardner
Vice Chairman

February 10, 2012

Mr. Edward A. Baylous II
Aqualine, LLC
3520 New Hartford Road
Suite 303
Owensboro, Kentucky 42303

Re: Billing Agreements

PSC OPINION NO. 2012-006

Dear Mr. Baylous:

Commission Staff acknowledges receipt of your letter of November 21, 2011 in which you request an opinion on a water utility's authority to bill for non-utility services. I apologize for the delay in responding.

In your letter, you present the following facts:

Aqualine, LLC is a limited liability company that is organized pursuant to KRS Chapter 275. It also operates under the name "Aqualine Protection." In return for a monthly service charge, Aqualine provides repair services for customer-owned water lines. Customers execute an agreement with Aqualine for the service, but may discontinue the service without penalty.

Aqualine has approached several water utilities regarding billing for this service. It requests that the water utility bill any subscribing customer for the repair service on the customer's monthly utility bill. In return, Aqualine would compensate the water utility for all costs associated with the billing. The water utility would remit to Aqualine only those amounts that are collected. At least one water utility has questioned whether the proposed billing arrangement violates existing law.

Your letter presents the following issue: Does KRS Chapter 278 or the Commission's regulations prohibit a water utility from providing billing services for repair services?

Commission Staff is not aware of any provision in KRS Chapter 278 or the Commission's regulations that prohibits a water utility from performing bill and collection services for private non-utility entities. The Commission has previously authorized a water utility to perform billing services on behalf of private entities.¹

While neither KRS Chapter 278 nor the Commission's regulations prohibit a water utility from performing billing and collection services for a private entity, 807 KAR 5:006, Section 14, limits a utility's ability to discontinue service to "a point of delivery for nonpayment of charges incurred for utility service at that point of delivery." Therefore, a water utility may not terminate water service for a customer's failure to pay a non-utility related fee or charge, such as the monthly service fee that Aqualine proposes to assess.

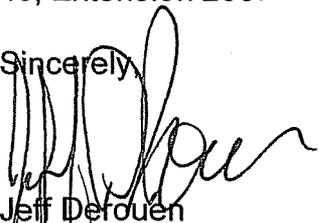
Generally accepted ratemaking practices, moreover, require any water utility that is performing billing and collection services for a private entity to properly allocate the cost of those services to that entity. In any ratemaking proceeding, the Commission will examine this allocation and, if it determines that the utility has failed to make a reasonable cost allocation, impute additional costs to the private entity to ensure that the water utility's ratepayers do not bear any of the costs associated with the private entity's billing.

Finally, when determining a utility's revenue requirement and the rates necessary to produce that requirement, the Commission may consider any revenues that a water utility derives from performing billing and collection services for a private entity as additional income to reduce the utility's revenue requirement.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution.

Questions concerning this opinion should be directed to Gerald Wuetcher, Executive Advisor/Attorney, at (502) 564-3940, Extension 259.

Sincerely,



Jeff Derouen
Executive Director

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¹ See, e.g., *Laurel County Water District No. 2*, Case No. 2000-440 (Ky.PSC Dec. 13, 2000). See also *An Investigation Into the Collection and Billing Practices of Privately-Owned Sewer Utilities*, Administrative Case No. 349 (Ky. PSC Jan. 9, 1995).