

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BULLITT UTILITIES, INC. FOR)	CASE NO.
A CERTIFICATE OF CONVENIENCE AND)	2014-00255
NECESSITY AND SURCHARGE FOR SAME)	

ORDER

On May 15, 2015, the Commission issued an Order that, in part, scheduled a hearing for June 9, 2015, in this case and required that each party, no later than June 2, 2015, provide a list of the names and titles of witnesses; a list of documents that it intends to offer as exhibits; and ten copies of any document that the party intends to present as an exhibit that has not previously been filed with the Commission.

On May 22, 2015, the Commission issued an Order that required the parties, no later than June 2, 2015, to file pre-filed testimony of any witness to be presented during the June 9, 2015 hearing.

On May 28, 2015, the Commission issued an Order that required Bullitt Utilities, Inc. ("Bullitt Utilities") to file certain documents no later than June 1, 2015.

On June 2, 2015, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"), timely filed a pre-hearing statement indicating that he would not present any witnesses and that he did not intend to present any documents as an exhibit that had not already been filed with the Commission.

On June 4, 2015, Bullitt Utilities untimely filed its witness list naming three witnesses but failed to indicate the titles of its witnesses and did not file any information regarding its exhibits.

On June 4, 2015, Bullitt Utilities also filed supplemental responses to requests for information filed by the AG and Commission Staff. The June 4, 2015 responses were not answered under oath; therefore, the filing did not comply with 807 KAR 5:001, Section 4(12)(d)(2)(b).

On June 4, 2015, the AG filed a motion to cancel the June 9, 2015 hearing and submit the case for a decision on the record and allow the parties to submit briefs. The AG requested that only the evidentiary portion of the hearing be cancelled. The public would still have the opportunity to comment regarding Bullitt Utilities' proposed monthly surcharge of \$32.19 for seven years. In the alternative, the AG requests that Bullitt Utilities not be permitted to present any direct testimony at the hearing, and that it be barred from presenting any documentary evidence. To support his motion to submit the case for a decision on the record, the AG referred to Bullitt Utilities' failure to timely comply with the Commission's May 15 and 22, 2015 Orders.

Bullitt Utilities filed a response on June 5, 2015, opposing the AG's motion to cancel the hearing and submit the case for a decision on the record. Bullitt Utilities contends that although it filed documents late, it has now complied with the Commission's Orders and has also filed a motion for extension of time¹ through June 5, 2015, to comply with the Commission's May 15, 22, and 28, 2015 Orders. Bullitt Utilities further states that most of the exhibits to be presented during the hearing are already in the record. According to Bullitt Utilities, documents not already in the record

¹ Bullitt Utilities' motion for an extension of time to comply with orders is discussed infra herein.

primarily consist of correspondence and updated bills from entities providing services to Bullitt Utilities. Bullitt Utilities also states that notice of the June 9, 2015 hearing was published on May 28, 2015.² In a footnote in its response to the AG's motion, Bullitt Utilities advises that one of the witnesses (Lawrence W. Smither) listed on its June 4, 2015 witness list will not be available to testify at the June 9, 2015 hearing.

On June 5, 2015, Bullitt Utilities filed two motions. One motion requests to incorporate or allow reference to testimony and exhibits filed in Case No. 2014-00163.³ The other motion requests an extension of time through Friday, June 5, 2015, to file information Bullitt Utilities was required to file on June 1, 2015, pursuant to the May 28, 2015 Order and information Bullitt Utilities was required to file on June 2, 2015, pursuant to the May 15 and 22, 2015 Orders.

In support of its motion to incorporate Case No. 2014-00163, Bullitt Utilities states that Bullitt Utilities and the AG are also parties in Case No. 2014-00163;⁴ that witnesses who testified at the March 31, 2015 hearing in Case No. 2014-00163 have been identified as witnesses in the current case; that documents filed in Case No 2014-00163 are relevant to this case; and that both cases involve the failure of Bullitt Utilities' wastewater treatment plant that served the Hunters Hollow subdivision.

In support of Bullitt Utilities' motion for an extension of time to file the documents it was required to file pursuant to the May 15, 22, and 28, 2015 Orders, Robert C.

² In its response to the AG's motion, Bullitt Utilities states that a copy of the notice will be filed with the Commission on June 5, 2015. A copy of the notice was not filed with the Commission on June 5, 2015.

³ Case No. 2014-00163, *An Investigation of Existing and Future Service of Bullitt Utilities, Inc.* (Initiated May 24, 2014).

⁴ The cities of Hillview and Hunters Hollow are also parties in Case No. 2014-00163. They are not parties in Case No. 2014-00255.

Moore, counsel for Bullitt Utilities, acknowledges receipt of the May 22 and 28, 2015 Orders via electronic mail, but states that due to his inadvertence, the Orders were not discovered until June 4, 2015. Mr. Moore implies that the Commission should have served the Orders via U.S. Mail in addition to sending the Orders via electronic mail.

KRS 278.380 authorizes the Commission to deliver its Orders by means of electronic transmission rather than by mail. In Case No. 2014-00163, Mr. Moore, as counsel for Bullitt Utilities, made a similar claim that he had not been served with a Commission Order.⁵ The Commission found that the Order in question, in that case, had been properly served on Mr. Moore pursuant to KRS 278.380 via electronic mail.⁶ The Commission further notes that Mr. Moore does not claim he inadvertently overlooked the electronically served May 15, 2015 Order, and Bullitt Utilities also failed to timely comply with that Order.

On June 5, 2015, Bullitt Utilities filed pre-filed testimony of Chris Crumpton and Christopher Cogan.

On June 5, 2015, Bullitt Utilities also filed its exhibit list and its third supplemental responses to Commission Staff's request for information. The responses were not signed under oath; therefore, the filing did not comply with 807 KAR 5:001, Section 4(12)(d)(2)(b).

Bullitt Utilities also filed responses to Commission Staff's request for information on March 30, 2015, but the responses were not signed under oath. The March 30, 2015 filing did not comply with 807 KAR 5:001, Section 4(12)(d)(2)(b).

⁵ Case No. 2014-00163, *Bullitt Utilities, Inc.*, Motion to Reschedule Hearing, (filed Jan. 20, 2015).

⁶ Case No. 2014-00163, *Bullitt Utilities, Inc.*, Order (Ky. PSC Jan. 23, 2015) at 2.

On December 10, 2014, Bullitt Utilities filed an Amended Application. Paragraph 34 of the Amended Application included a copy of the notice of the proposed rate surcharge to be published once a week for three consecutive weeks in a newspaper. Bullitt Utilities further states in paragraph 34 that “[c]opies of the notices with dates of publication will be provided to the Public Service Commission after the third publication.” The case record does not reflect that Bullitt Utilities has filed copies of the notices with the dates of publication.

By an Order entered on May 28, 2015, Bullitt Utilities was ordered to file, among other things and no later than June 1, 2015, information indicating if the same 696 [Bullitt Utilities] customers pay their bills each month, the amounts owed by the approximately 15 non-paying customers, a copy of the billing contract between Louisville Water Company and Bullitt Utilities, and an indication as to whether the Louisville Water Company is willing to disconnect water service for customers who fail to pay Bullitt Utilities for sewer service.⁷ Bullitt Utilities has yet to fully comply with the Commission’s May 28, 2015 Order.

Having reviewed the various motions and being otherwise sufficiently advised, the Commission finds that:

1. Based on Bullitt Utilities’ statement that notice of the June 9, 2015 hearing was timely published on May 28, 2015, and that Bullitt Utilities complied (although late) with the May 15 and 22, 2015 Orders, the AG’s motion to cancel the June 9, 2015 hearing and to submit the matter on the record should be denied.

⁷ Order (Ky. PSC May 28, 2015) at 2.

2. Bullitt Utilities' motion for an extension of time to file the documents required to be filed pursuant to the May 15, 22, and 28, 2015 Orders should be granted.

3. Bullitt Utilities' motion to incorporate, by reference, Case No. 2014-00163 should be granted.

4. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities should provide the necessary documents to indicate that its March 30, 2015 responses to Commission Staff's requests for information; its June 4, 2015 supplemental responses to the AG's and Commission Staff's requests for information; and its June 5, 2015 supplemental responses to Commission Staff's requests for information are signed under oath.

5. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities should file proof of publication of the notice of proposed rate surcharge that was filed with Bullitt Utilities' Amended Application on December 10, 2014.

6. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities should provide information indicating if the same 696 customers pay their bills each month.

7. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities should provide information regarding the amounts owed by the approximately 15 non-paying customers.

8. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities should provide a copy of the billing contract between the Louisville Water Company and Bullitt Utilities.

9. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities should indicate if the Louisville Water Company is willing to disconnect water service for customers who fail to pay Bullitt Utilities for sewer service.

IT IS THEREFORE ORDERED that:

1. Nothing herein changes the Orders issued on May 15, 2015, May 22, 2015, and May 28, 2015, and these Orders remain in effect.

2. No opening or closing statements shall be presented by any party.

3. No summarization of direct testimony shall be presented during the June 9, 2015 hearing.

4. The AG's motion to cancel the June 9, 2015 hearing and to submit the matter on the record is denied.

5. Bullitt Utilities' motion for an extension of time to file the documents required to be filed pursuant to the May 15, 22, and 28, 2015 Orders is granted.

6. Bullitt Utilities' motion to incorporate, by reference, Case No. 2014-00163 is granted.

7. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities shall provide the necessary documents to indicate that its March 30, 2015 responses to Commission Staff's requests for information; its June 4, 2015 supplemental responses to the AG's and Commission Staff's requests for information; and its June 5, 2015 supplemental responses to Commission Staff's requests for information are signed under oath.

8. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities shall file proof of publication of the notice that was filed with Bullitt Utilities' Amended Application on December 10, 2014.

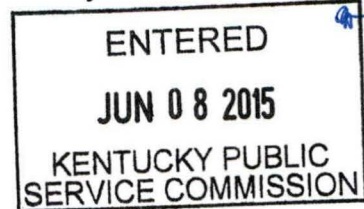
9. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities shall provide information indicating if the same 696 customers pay their bills each month.

10. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities shall provide information regarding the amounts owed by the approximately 15 non-paying customers.

11. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities shall provide a copy of the billing contract between the Louisville Water Company and Bullitt Utilities.

12. No later than the commencement of the hearing on June 9, 2015, Bullitt Utilities shall indicate if the Louisville Water Company is willing to disconnect water service for customers who fail to pay Bullitt Utilities for sewer service.

By the Commission



ATTEST:



Executive Director

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