

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BULLITT COUNTY SANITATION)	
DISTRICT AS RECEIVER FOR THE ASSETS OF)	CASE NO.
BULLITT UTILITIES, INC. FOR A CERTIFICATE OF)	2014-00255
CONVENIENCE AND NECESSITY AND SURCHARGE)	
FOR SAME)	

ORDER

The Attorney General of the Commonwealth of Kentucky (“Attorney General”), an intervenor in this case, and the Bullitt County Sanitation District, as Receiver for the assets of Bullitt Utilities, Inc. (“BCSD, as Receiver,”) have filed a Joint Motion to Dismiss Application for a Surcharge (“Joint Motion”).¹ The Attorney General and BCSD, as Receiver, state that dismissal without prejudice is warranted due to a substantial change in circumstances since the application for a surcharge was tendered almost 17 months ago. The Joint Motion contains, as an attachment, a copy of a Resolution of the Bullitt County Sanitation District adopted on November 10, 2015, which requests that the pending application for a surcharge be withdrawn and the matter closed. Through this Order, we grant the Joint Motion.

DISCUSSION

On July 17, 2014, Bullitt Utilities, Inc. (“Bullitt Utilities”) tendered for filing a Petition for Certificate of Convenience and Necessity (“CPCN”) and for Surcharge. The

¹ The Attorney General and BCSD, as Receiver, are the only parties to this case. BCSD, as Receiver, was substituted as the applicant in this proceeding and Bullitt Utilities was dismissed from this case on October 16, 2015. Order (Ky. PSC Oct. 16, 2015) at 6.

case resulted from a catastrophic failure of the steel aeration tank at Bullitt Utilities' Hunters Hollow wastewater treatment plant ("WWTP") on March 29, 2014.² On December 23, 2014, the Commission entered an Order which granted Bullitt Utilities a CPCN to construct a lift station, install a line connecting the Hunters Hollow collection system to BCSD's wastewater treatment system, and the installation of two flow meters.³

Through the application for a surcharge, Bullitt Utilities proposed to recover costs incurred as the result of the failure, and also costs to build new facilities.⁴ After the grant of the CPCN, and while the surcharge portion of the request was pending, Bullitt Utilities filed a request to abandon its property. On August 24, 2015, the Commission opened an investigation into Bullitt Utilities' request to abandon.⁵ By an Order entered August 31, 2015, in Case No. 2015-00290, we found that Bullitt Utilities had carried its burden and met the requirements of KRS 278.021(2)(a) and (b), and the Commission made a finding of abandonment.⁶

On September 1, 2015, the Commission, pursuant to KRS 278.021, filed a Complaint in the Franklin Circuit Court seeking an order attaching the assets of Bullitt Utilities and placing those assets under the sole control and responsibility of BCSD, as

² Order (Ky. PSC July 21, 2015), Appendix, Exhibit 4, Energy and Environment Cabinet, Department for Environmental Protection, Division of Water, Wastewater Inspection Report, dated Apr. 2, 2014.

³ Order (Ky. PSC Dec. 23, 2014) at 8.

⁴ *Id.* at 1.

⁵ Case No. 2015-00290, *Bullitt Utilities, Inc.'s Notice of Surrender and Abandonment of Utility Property* (Ky. PSC Aug. 24, 2015).

⁶ *Id.*, Order (Ky. PSC Aug. 31, 2015) at 5.

Receiver.⁷ On September 23, 2015, the Franklin Circuit Court entered an order attaching the assets of Bullitt Utilities and appointing BCSD the receiver for the assets of Bullitt Utilities and placing those assets under the sole control and responsibility of BCSD. The Franklin Circuit Court authorized BCSD to take charge, preserve, operate, control manage, maintain, and care for the Bullitt Utilities sewage collection and treatment facilities. BCSD is also authorized to, among other things, collect all receivables and profits, and to exercise generally the powers conferred by the Franklin Circuit Court and such other powers as are usual and incidental to the management of a public utility providing sewage collection and treatment service to the public.

The Joint Motion states that BCSD, as Receiver, has been providing “continuing service to all Hunter’s Hollow customers, and is pursuing solutions to integrate the Hunter’s Hollow service territory into the existing BCSD system, without any present need for additional revenue.”⁸ It further states that “a final plan has not been put into action, but none of the solutions being evaluated by BCSD include a rebuild of the waste water treatment plan at the site of the Hunter’s Hollow’s Plant, or the purchase or construction of a lift station or new/additional lines at this time.”⁹ The Joint Motion states, “BCSD has restored and is maintaining, at a minimum, a reasonable level of service, and BSCD believes it has enhanced and improved service.”¹⁰ Additionally, the Joint Motion states that dismissal of the surcharge application without prejudice will

⁷ *Public Service Commission of Kentucky v. Bullitt Utilities, Inc.; Commonwealth of Kentucky, Acting through and by the Energy and Environment Cabinet; and Bullitt County Sanitation District*, Franklin Circuit Court, Civil Action No. 15-CI-946 (filed Sept. 1, 2015).

⁸ Joint Motion at 2.

⁹ *Id.*

¹⁰ *Id.* at 3.

allow BCSD time “to appropriately address and review any alternatives it may find without having to rush to find the right solutions by the statutory deadline that is pending in this surcharge action.”¹¹


Based on the Joint Motion and being otherwise sufficiently advised, the Commission finds that BCSD, as Receiver, has been vested by the Franklin Circuit Court with the power to manage the assets of Bullitt Utilities used in providing sewage collection and treatment service to the public. BCSD, as Receiver, does not currently plan to pursue the construction of facilities for which a CPCN was granted on December 23, 2014. Since that time, Bullitt Utilities has abandoned the assets of its Hunters Hollow system, has been dismissed as a party to this proceeding, and has no interest in this proceeding. As a result, BCSD, as Receiver, is the real party in interest. Together, these findings constitute good cause for the pending application for a surcharge to be dismissed without prejudice.

IT IS THEREFORE ORDERED that:

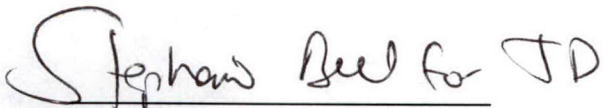
1. The Joint Motion of the Attorney General and BCSD, as Receiver, to dismiss, without prejudice, the pending surcharge application is granted.
2. This case is dismissed without prejudice and is removed from the Commission's docket.

¹¹ *Id.*

By the Commission

ENTERED 
DEC 15 2015
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00255

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