

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BULLOCK PEN WATER)
DISTRICT FOR APPROVAL OF AGREEMENT) CASE NO.
AND DEVIATION FROM 807 KAR 5:006,) 2010-00343
SECTION 14)

O R D E R

Bullock Pen Water District ("Bullock Pen") filed an application with the Commission for a deviation from 807 KAR 5:006, Section 14(1), to allow it to disconnect water service to certain customers for their failure to pay third-party sewer service charges.

On July 22, 2010, Bullock Pen and Charles Hungler, President of Ridgelea Investments, Inc. ("Ridgelea"), entered into a "Water Shut Off Agreement" ("Agreement") whereby Bullock Pen agreed to terminate water service for delinquent accounts of Ridgelea in Grantland Estates Subdivision in Dry Ridge, Kentucky. Pursuant to the agreement, Mr. Hungler will notify Bullock Pen of any delinquent customer after all statutory and regulatory requirements have been met for the collection of the customer's account. On such notification, Bullock Pen will disconnect that customer's water service. Mr. Hungler agreed to certify to Bullock Pen that all statutory and regulatory prerequisites were met for the disconnection and to indemnify Bullock Pen from any claims of wrongful disconnection.

To implement the Agreement, Bullock Pen seeks a deviation from 807 KAR 5:006, Section 14(1), which controls refusal or termination of utility service at the utility's point of service. The regulation also contains certain notice requirements which specific utilities must follow in order to insure that their customers have sufficient notice of a possible termination of utility service. The provisions of 807 KAR 5:006, Section 14, provide for the refusal or termination of a specific utility service but do not authorize termination for another utility's unpaid service. Nevertheless, 807 KAR 5:006, Section 27, enables the Commission to permit deviations from 807 KAR 5:006 in special cases for good cause shown.

In Administrative Case No. 347,¹ this issue was addressed by the Commission. In that case, the Commission recognized that sewer service presents a problem when it comes to disconnection for non-payment of the sewer bill.

Sewer service, however, cannot be easily disconnected. There is no switch to pull or valve to turn to disconnect 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.²

The Commission found that, due to the "tepid" response of utilities at that time, the issue did not require the Commission to mandate, by regulation, the discontinuance of water service at a sewer utility's request. The Commission determined, however, that

¹ Administrative Case No. 347, *An Investigation Into the Collection and Billing Practices of Privately Owned Sewer Utilities* (Ky. PSC Jan. 9, 1995).

² *Id.* at 1-2.

those sewer and water utilities that enter into an agreement for discontinuance of water service for delinquent sewer service bills may petition the Commission for a deviation from 807 KAR 5:006, Section 14.

Bullock Pen has submitted an unsigned tariff sheet with its application which provides for the refusal or discontinuance of water service with proper notice for non-payment of sewer bills. Ridgelea's tariff states that bills for Grantland Estates Subdivision shall be issued by the end of the month and shall be due and payable within 15 days. It also provides that customers may have sewer service disconnected for non-payment only after a five-day written notice period, which is the same requirement for disconnection of water service that is found in 807 KAR 5:006, Section 14.

After considering the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The Commission may grant a deviation from 807 KAR 5:006 pursuant to 807 KAR 5:006, Section 27.
2. Bullock Pen and Mr. Hungler have entered into an agreement for the discontinuance of water service for delinquent sewer service bills, which is good cause to grant a deviation to Bullock Pen from 807 KAR 5:006, Section 14(1).
3. Bullock Pen must comply with 807 KAR 5:006, Section 13(5), as to giving notice of termination.³

IT IS THEREFORE ORDERED that:

1. Bullock Pen is granted a deviation from 807 KAR 5:006, Section 14(1).

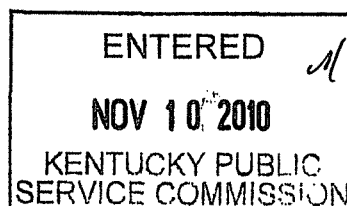
³ Although Bullock Pen may delegate the duty of notifying customers of potential disconnection for non-payment to Ridgelea, Bullock Pen will be ultimately responsible if the regulatory requirements are not met for disconnection of water service.

2. Bullock Pen is authorized to refuse or disconnect water service to an applicant or customer of Ridgelea's sewer service in the Grantland Estates Subdivision of Dry Ridge, Kentucky.

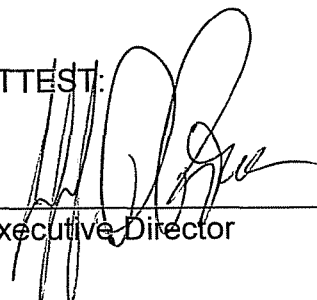
3. Bullock Pen shall, if it contracts to discontinue water service for delinquent sewer service bills for any other sewer service, seek a deviation from 807 KAR 5:006, Section 14, by separate application for each.

4. Within 20 days of the date of this Order, Bullock Pen shall file a signed copy of a tariff sheet that provides for the refusal or discontinuance of water service with proper notice for non-payment of sewer bills.

By the Commission



ATTEST:



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