

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

APPLICATION OF BULLITT UTILITIES, INC.,)
FOR A CERTIFICATE OF CONVENIENCE AND)
NECESSITY, AND SURCHARGE FOR SAME)

CASE NO.
2014-00255

MAR 25 2015

PUBLIC SERVICE
COMMISSION

ATTORNEY GENERAL'S RESPONSE TO MOTION OF VEOLIA WATER
TECHNOLOGIES, INC. FOR LEAVE TO INTERVENE

Comes now the Attorney General of the Commonwealth of Kentucky ("AG"), by and through his Office of Rate Intervention, and in response to the motion for leave to intervene filed in the instant matter by Veolia Water Technologies, Inc. ("Veolia" or "the Movants") states as follows:

(1) The Attorney General is the only party entitled by statute to intervene in matters before the Commission "to represent and be heard on behalf of consumers' interests; and to be made a real party in interest ... whenever deemed necessary and advisable in the consumers' interest by the Attorney General."¹

(2) In this proceeding, the Attorney General has sought and been granted intervention by Order of the Commission entered March 6, 2015.

(3) Intervention by all others is permissive and is within the sound discretion of the Commission, and must be filed timely.²

(4) A person seeking permissive intervention by the Commission "must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the [Commission]."³

¹ KRS 367.150(8).

² *In the Matter of: Application of Atmos Energy Corporation For An Adjustment in Rates and Tariff Modifications*, Case No. 2013-00148, Order (September 3, 2013) at 4; *see also* 807 KAR 5:001 Section 4(11)(b).

(5) Moreover, the Commission’s regulations require a person seeking discretionary intervention to demonstrate either “a special interest in the case that is not otherwise adequately represented,” or “that his intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”⁴

(6) Veolia’s Motion should be denied as untimely, as the Procedural Schedule entered by the Commission established a deadline for Requests for Intervention as of March 13, 2015, and Veolia’s Motion was clearly filed after that deadline, having been filed on March 18, 2015.⁵

(7) Veolia has not established any good cause for the delay in filing, nor has the Movant requested any extension or alteration of the procedural schedule, and therefore the Commission should deny its request for Full Intervention into this action.

(8) Veolia’s Motion argues that the “primary reason for Bullitt’s Application for a Surcharge is to pay Veolia for a temporary wastewater treatment plant system it has supplied to and related services it has performed,” and further states that it is the most “qualified entity to explain the services it has performed for Bullitt and the costs of those services.”⁶

(9) The reasons for intervention stated by the Movant do not address the issues raised within Bullitt County’s Amended Application, whether recovery should be allowed through a surcharge, but rather that that the costs the Company in relation to the monies the Company has expended to its contractor.⁷

³ *EnviroPower, LLC v. Public Service Com’n of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. Ct. App. 2007), *unpublished opinion*, citing KRS 278.040(2).

⁴ 807 KAR 5:001 Section 4(11)(b).

⁵ Case No. 2014-00255, *Application of Bullitt Utilities, Inc., for a CPCN and Surcharge*, Motion of Veolia for Full Intervention page 4, March 18, 2015.

⁶ Case No. 2014-00255, *Application of Bullitt Utilities, Inc., for a CPCN and Surcharge*, Motion of Veolia for Full Intervention page 1, March 18, 2015.

⁷ *Id.*

(10) Movant's position asserted is that of a creditor of the utility it is a unique position to present evidence about its contract with Bullitt Utilities, but the Attorney general argues that this information is known and readily accessible to the Company, and that the facts it wishes to present are not relevant to the Application for surcharge currently under review.

(11) Movant, as a creditor, is not a customer, and therefore does not have a direct interest in the rates or services, but is only interested in payment by the Company. Thus Veolia does not have a statutory avenue for permissive intervention, and its Motion should be denied.⁸

(12) By statute the factors to consider in the application are found at KRS 278.183(2)(a) and are the Commission has found that the review is limited to whether the plan and rate surcharge are reasonable and cost-effective for compliance with the applicable environmental regulations, not whether the surcharge should be approved so that the creditors for the Company can be repaid.⁹

WHEREFORE, the Attorney General respectfully requests that the Commission consider the factual and legal arguments as well as the statements of the Attorney General provided herein, and deny Veolia's Motion for Full Intervention.

Respectfully submitted,

JACK CONWAY
ATTORNEY GENERAL


per GTD

JENNIFER BLACK HANS
GREGORY T. DUTTON
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE, SUITE 200
FRANKFORT KY 40601-8204
(502) 696-5453
Gregory.Dutton@ky.gov

⁸ Case No. 2009-00198, *In the Matter of: Application of Kentucky Utilities Company for a CPCN and Approval of its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Order page 5, October 30, 2009.

⁹ *Id.* at 5-6.

Certificate of Service and Filing

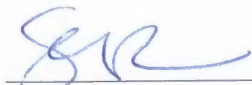
Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Bullitt Utilities, Inc. dba Hunters Hollow Sewer
1706 Bardstown Road
Louisville, KY 40205

Honorable Robert C Moore
Hazelrigg & Cox, LLP
415 West Main Street
P.O. Box 676
Frankfort, KENTUCKY 40602

Bingham Greenebaum Doll LLP
3500 National City Tower
101 South Fifth Street
Louisville, KY 40202

this 5 day of March, 2015



Assistant Attorney General