

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

PUBLIC SERVICE
COMMISSION

APPLICATION OF BULLITT COUNTY SANITATION)
DISTRICT AS RECEIVER FOR THE ASSETS OF)
BULLITT UTILITIES, INC. FOR A CERTIFICATE OF) 2014-00255
CONVENIENCE AND PUBLIC NECESSITY AND)
SURCHARGE FOR THE SAME)

JOINT MOTION TO DISMISS APPLICATION FOR A SURCHARGE

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“AG”), and Bullitt County Sanitation District, by and through the Bullitt County Attorney, and hereby moves the Commission to Dismiss the Application, without prejudice, due a substantial change in circumstances of the Applicant, on which the original application for surcharge was based.

All parties are quite familiar with the facts surrounding the Hunter’s Hollow Waste Water Treatment Plant’s failure of the storage tank on March 29, 2014.¹ The original surcharge was filed by Bullitt Utilities to pay for emergency costs of clean up, and construction of a new wastewater treatment plant.² Bullitt Utilities then amended their application and abandoned plans to replace the WWTP, instead opting to construct a lift station and new line connecting Hunters Hollow to the BCSD system.³ As this case was pending before the Commission, Bullitt Utilities continued to incur costs at an astonishing rate for the temporary waste water treatment solution that had been put into place on the Hunter Hollow site by Veolia and PECCO, with

¹ *Application of Bullitt Utilities, Inc., for a CPCN and Surcharge for the same*, July 14, 2014, Application at p. 2, (KY PSC 2014-00255).

² *Id.* at 1.

³ *Application of Bullitt Utilities, Inc., for a CPCN and Surcharge for the same*, December 10, 2014, Amended Application at p. 3, (KY PSC 2014-00255).

additional costs to Covered Bridge.⁴ On August 21, 2015, Bullitt Utilities filed with this Commission, a Notice of Surrender and Abandonment of Utility property, having failed to even clean up the site due to a lack of funds, and no resolution on the surcharge.⁵ The Commission granted the abandonment by Order on August 31, 2015, and a subsequent receivership case was initiated in the Franklin Circuit Court, of which Bullitt County Sanitation District was the eventual receiver of the assets of Bullitt Utilities, Inc.⁶ By Order of the Commission dated October 16, 2015, BCSD, as receiver, was substituted as the applicant in this case, and Bullitt Utilities, Inc. was dismissed from the present matter.

Since the time of the appointment, BCSD has taken steps to clean up the site, which had been sitting in disuse and disrepair since the date of the catastrophe, provide 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. At this point in time, 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 plant at the site of the Hunter Hollow's Plant, or the purchase or construction of a lift station or new/additional lines at this time. The current system can treat those living in the Hunter's Hollow service territory until such time as a permanent solution is reached, but there are no plans to follow the original request for funding to purchase or build a new waste water treatment plant at the site of the disaster.

As receiver, pursuant to KRS 278.021(5), BCSD "shall operate the utility to preserve its assets, to restore or maintain a reasonable level of service, and to serve the best interests of its

⁴ *Application of Bullitt Utilities, Inc., for a CPCN and Surcharge for the same*, July 21, 2015, Bullitt Utilities Post Hearing Brief (KY PSC 2015-00255).

⁵ Bullitt Utilities, Inc.'s Notice of Surrender and Abandonment of Utility Property, August 21, 2015, Notice (KY PSC 2015-00290).

⁶ Bullitt Utilities Inc.'s Notice of Surrender and Abandonment of Utility Property, October 16, 2015, Order (KY PSC 2015-00290).

customers.” BCSD has restored and is maintaining, at a minimum, a reasonable level of service, and BCSD believes it has enhanced and improved service. It would not serve the best interests of the customers to pursue any surcharge at this time due to the uncertainty as to a permanent solution and what that may entail as to future rates and services. Further, incurring additional debt for the purchase and/or construction of new facilities and infrastructure would further encumber and expose the assets of the utility, would run counter to BCSD’s duty to preserve assets, and would not be in the best interests of the customers.

Due to the substantial passage of time from the incident, the substantial change in circumstances to both the parties, and the intended use of the surcharge funds as applied, BCSD, as receiver for Bullitt Utilities, is asking that the Application for Surcharge be dismissed without prejudice. BCSD is asking the Application be dismissed to allow BCSD time to seek solutions that better suit its needs as receiver, which will not include the building of a new plant, but still provide safe and reliable service to the homes located in the Hunter’s Hollow service territory.

The Attorney General has been working with BCSD to find a solution, and is in agreement with the dismissal of the surcharge case. Dismissal of the Surcharge action without prejudice allows 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.

WHEREFORE, the parties jointly and respectfully request this Commission to Dismiss the Application for a CPCN and Surcharge for the same, without prejudice, consistent with their positions stated herein.

Respectfully submitted,
JACK CONWAY
ATTORNEY GENERAL



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BULLITT CO. SANITATION DISTRICT



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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 County Attorney's Office
Robert P. Flaherty
300 S Buckman St
PO Box 1446
Shepherdsville, KY 40165-1446

this 9 day of December, 2015



Assistant Attorney General

BULLITT COUNTY SANITATION DISTRICT
CORPORATE RESOLUTION

TO WHOM IT MAY CONCERN:

The undersigned certifies that CHUCK CALLAHAN and LYNN SPENCER are duly appointed Board Members of the Bullitt County Sanitation District, a Kentucky District, and that a Regular Meeting of the Sanitation District Board of Directors was duly called and was held on the 10th day of November, 2015, at which time all of the Directors of the District were in attendance, and the following Resolution was adopted:

WHEREAS, the Bullitt County Sanitation District (the "BCSD") was duly appointed as Receiver for Bullitt Utilities, Inc., by Order of the Franklin Circuit Court, Case No. 15-CI-946, and as Receiver, the BCSD has been substituted as the Applicant in place of Bullitt Utilities by Order of the Kentucky Public Service Commission dated October 16, 2015, in KY PSC Case No. 2014-00255; and

WHEREAS, the BCSD has determined that in the best interests of the public and the customers of the Hunters Hollow collection system, the basis and grounds for the Application for a Certificate of Convenience and Necessity, and Surcharge for same (KY PSC Case No. 2014-00255), are no longer applicable or necessary for the BCSD, as Receiver, to provide wastewater service pursuant to its responsibility as Receiver; and

WHEREAS, it is in the best interests of the public and the customers of the Hunters Hollow collection system to withdraw the Application for a Certificate of Convenience and Necessity, and Surcharge for same, in KY PSC Case No. 2014-00255.


NOW, THEREFORE, BE IT RESOLVED, and voted upon passing unanimously, that the Bullitt County Sanitation District, as the duly appointed Receiver for Bullitt Utilities, Inc., by Order of the Franklin Circuit Court, Case No. 15-CI-946, hereby requests that the Application of Bullitt Utilities, Inc., for a Certificate of Convenience and Necessity, and Surcharge for same, KY PSC Case No. 2014-00255, be withdrawn and the matter be closed.

This Resolution to be adopted and effective as of the 10th day of November, 2015, and to continue in full force and effect until revoked by further action or resolution by the Board of Directors of this District.

The undersigned further certifies the foregoing is a true and correct copy of the Resolution so adopted, that such Resolution remains in full force and effect and unrevoked as of this date, and that such Resolution is not in conflict with any charter or by-law of this District.



CHUCK CALLAHAN, Director



LYNN SPENCER, Director