

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

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

CASE NO. 2014-00255

**REPLY OF THE BANKRUPTCY TRUSTEE TO RESPONSE OF THE KENTUCKY
ATTORNEY GENERAL TO TRUSTEE'S MOTION TO INTERVENE**

Comes Robert W. Keats, as the Bankruptcy Trustee of Bullitt Utilities, Inc. ("Bullitt Utilities"), and for his reply to the response of the Kentucky Attorney General and Bullitt County Sanitation District's objection to the intervention of the Trustee in this matter, states as follows:

The Trustee made his motion to intervene in the Bullitt Utilities case currently pending before the Public Service Commission ("PSC") since the decisions of the PSC will affect the interests of the Bullitt Utilities company, a Debtor in Bankruptcy. Although the Kentucky Attorney General and the Bullitt County Sanitation District believe that the Trustee's motion is untimely, and, fails to comply with statutory and regulatory requirements for intervention, such positions are contrary to bankruptcy law and rules allowing intervention.

Intervention is permitted when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicants ability/y to protect that interest, unless that interest is adequately represented by existing parties.¹

¹ See CR 24.01

1. On December 18, 2015, a Chapter 7 Involuntary Bankruptcy Petition was filed in the United States Bankruptcy Court for the Western District of Kentucky in Case No. 15-34000(1) against Bullitt Utilities, by its two largest creditors, Veolia Water Technologies ("Veolia") and Perdue Environmental Contracting Company, Inc. (PECCO). Upon the commencement of bankruptcy case, a petition filed, even in an involuntary bankruptcy case, operates as a stay applicable to all entities.²

2. Upon the commencement of the bankruptcy case on December 18th, there was created an estate in bankruptcy. Such "estate" is comprised of all legal or equitable interests of the debtor in property as of the commencement of the case,³ and, even any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of filing of the bankruptcy petition.⁴

3. Mr. Keats was appointed by the United States Bankruptcy Court on December 29, 2015 pursuant to 11 U.S.C. § 303(g) to "have full authority and control over the surcharge claim pending before the Public Service Commission and any related claims" in the possession of Bullitt Utilities, Inc. in the Chapter 7 Involuntary Bankruptcy case.

In the instant case pending before the Public Service Commission Bullitt Utilities tendered its Petition for Certificate of Convenience and for Surcharge. The evidence in the record, which was analyzed in detail in Bullitt Utilities' Post-Hearing Brief, establishes that approximately 90% of the amount of the Surcharge requested by Bullitt Utilities was to pay the extraordinary expenses incurred in responding to the WWTP's failure.

The requested Surcharge clearly constitutes a significant potential asset of Bullitt Utilities that is property of the debtor estate, and thus, falls under the protections of the Bankruptcy Code.

² 11 U.S.C. § 362(a)

³ 11 U.S.C. § 541(a).

⁴ 11 U.S.C. § 541(a)

The disposition of this action without the presence of the Trustee may as a practical matter impair or impede the ability of the Trustee to perform his duties under the bankruptcy law to protect the interests of the debtor estate. The Trustee is clearly a party in interest that should be allowed to intervene in this case as a matter of right.

Respectfully submitted,



Robert W. Keats, Trustee
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 12th day of January, 2016 upon:

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Robert W. Keats