

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:)

ELECTRONIC APPLICATION OF BULLITT)
UTILITIES, INC. FOR A SURCHARGE)

CASE NO. 2016-00401

**RESPONSE OF BU TO THE DEFICIENCIES
IDENTIFIED IN THE COMMISSION'S DECEMBER 29, 2016 ORDER**

Bullitt Utilities, Inc. ("BU"), by Robert W. Keats, Chapter 7 Trustee for BU (the "Trustee"), responds to the deficiencies with BU's Surcharge Application identified in the Commission's December 29, 2016 Order. The Trustee will separately address each deficiency. The deficiencies will be addressed in the order discussed or listed by the Commission. The Commission's December 29, 2016 Order directed BU to cure these deficiencies in 10 days or by January 9, 2017. BU requested an extension of time until January 13, 2017.

1. 807 KAR 5:071, Section 3(2)(b)

807 KAR 5:071, Section 3(2)(b), requires:

A comparative income statement (PSC Form) showing the test period; per books, revenues and expenses, pro forma adjustments to those figures, and explanation for each adjusted entry.

Response: BU submits a Comparative Income Statement and Detailed Analysis of any Expenses for 2016 and in the future period based on information from the BCSD, which just became available, to provide the Commission the most recent financial picture of BU. **Exhibit A**. The Comparative Income Statement and Detailed Analysis of any Expenses follows the format used by BU in its previous Surcharge Case. BU includes as part of **Exhibit A** the Profit & Loss, Deposit Detail and Profit & Loss Detail Reports for 2016 produced for BU by the BCSD which form the basis for the Comparative Income Statement and Detailed Analysis of any Expenses.

2. **807 KAR 5:071, Section 3(2)(c)**

807 KAR 5:071, Section 3(2)(c), requires:

A detailed analysis of any expenses contained in the comparative income statement which represent an allocation or proration of the total expense.

Response: Please see BU's Response to Deficiency No. 1.

3. **807 KAR 5:071, Section 3(2)(e)**

807 KAR 5:071, Section 3(2)(e), requires:

Copies of all service contracts entered into by the utility for outside services, such as but not limited to: operation and maintenance, sludge hauling, billing, collection, repairs, etc., in order to justify current contract services and charges or proposed changes in said contracts.

Response: BU has no contracts for outside services other than its contract with the BCSD. For this response, the Trustee relies on the Schedules of Assets and Liabilities and Statement of Financial Affairs, (together, the "Schedules and SOFA") filed on March 1, 2016 in the Bankruptcy Case and communications with the BCSD and the former management of BU.

4. **807 KAR 5:071, Section 3(2)(j)**

807 KAR 5:071, Section 3(2)(j), requires:

A full and complete explanation of corporate or business relationships between the applicant and a parent or brother sister corporation, subsidiary(ies), a development corporation(s), or any other party or business, to afford the commission a full and complete understanding of the situation.

Response: BU has no business relationships it needs to disclose. For this response, the Trustee relies on BU's Schedules and SOFA in the Bankruptcy Case and communications with the BCSD and the former management of BU.

5. **807 KAR 5:071, Section 3(2)(d)**

807 KAR 5:071, Section 3(2)(d), requires:

A detailed depreciation schedule of all treatment plant properties and facilities, listing all major components of "package" treatment plants separately.

Response: BU directs the Commission to BU's 2014 Annual Report which is the most recent and detailed depreciation schedule of all BU's treatment plant properties and facilities. Please see BU's 2014 Federal and State Tax Returns, which include depreciation schedules, produced in BU's Response to Deficiency No. 7.

6. **807 KAR 5:071, Section 3(2)(f)**

807 KAR 5:071, Section 3(2)(f), requires:

A description of the applicant's property and facilities, including a statement of the net original cost (estimate if not known), the cost thereof to the applicant, and a current breakdown of contributed and non-contributed property and facilities owned by the applicant ("contributed property" means property paid for by others).

Response: BU's Schedules and SOFA, attached as **Exhibit B**, contain a description of BU's property and facilities with the cost to BU of those facilities. Bankruptcy Case, Schedules and SOFA, March 1, 2016, p. 24. BU has no contributed property.

7. **807 KAR 5:071, Section 3(2)(i)**

807 KAR 5:071, Section 3(2)(i), requires:

A copy of the latest tax returns (federal and state, if applicable) filed by the Applicant.

Response: BU provides a copy of its 2014 Federal and State Tax Returns. **Exhibit C**. BU's 2015 Tax Returns are being prepared but have not yet been filed.

8. **807 KAR 5:001, Section 16(4)(a)**

807 KAR 5:001, Section 16(4)(a), requires:

A complete description and quantified explanation for all proposed adjustments with proper support for proposed changes in price or activity levels, if applicable, and other factors that may affect the adjustment.

Response: Please see BU's Response to Deficiency No. 1. Also, BU provided as **Exhibit M** to its Surcharge Application a list of each vendor/creditor for which it seeks reimbursement from this surcharge. As part of **Exhibit M**, BU filed each Proof of Claim submitted by those vendors/creditors. BU's Surcharge Application explained that it was not

seeking reimbursement for over \$700,000 in costs it incurred to respond to the Wastewater Treatment Plant failure. BU assumes it will have about 700 customers over the life of the surcharge which is about the number of current customers.

9. **807 KAR 5:001, Section 16(4)(c)**

807 KAR 5:001, Section 16(4)(c), requires:

If the utility has gross annual revenues less than \$5,000,000 the written testimony of each witness the utility proposes to use to support its application or a statement that the utility does not plan to submit written testimony.

Response: BU plans to present testimony from:

Chris Cogan
Chris Crumpton
Darrin Casper
Scottie Perdue
Jerry Kennedy

BU provides the following summary of the testimony it intends to present at any Hearing. BU requests the Commission accept this summary of Testimony instead of Pre-filed Testimony because all of the individuals to be presented by BU submitted Pre-filed Testimony, Testimony or written or oral Public Comments at one or more of the three prior Hearings regarding the tank failure. The Testimony summarized here is already known to the Commission. BU will provide Pre-filed Testimony as required by any Procedural Schedule set by the Commission. BU does not intend for these summaries of Testimony to limit its ability to include additional topics in any Testimony and BU reserves the right to address additional issues or call additional witnesses if the conduct of the case requires it.

Chris Cogan holds a Power of Attorney for his father, Carroll Cogan, the sole shareholder for BU. Mr. Cogan will testify regarding BU's immediate response to the March 29, 2014 failure of the Wastewater Treatment Plant ("WWTP"), including BU's retention of PECCO. Mr. Cogan will explain the efforts of BU to: (i) provide service to its customers; (ii) comply with its

KPDES permit: and (iii) protect the environment and the health and safety of its customers after the tank failure. Mr. Cogan will outline BU's discussions with the BCSD and the agreements between the parties. Mr. Cogan will testify regarding BU's retention of Veolia and the alternatives considered by BU, which are outlined in some detail at pages 9 and 10 of BU's Surcharge Application. Mr. Cogan will explain that BU's decisions were commercially reasonable under the circumstances. Mr. Cogan will tell the Commission about BU's decision to file the Abandonment Case (Case No. 2015-00290) and his belief that the Abandonment Case would not impact a decision on the merits of the original Surcharge Case (Case No. 2014-00255). Mr. Cogan's Testimony will be substantially similar to his previous Testimony in the Investigation Case (Case No. 2014-00163), the Surcharge Case and the Abandonment Case.

Chris Crumpton is a Civil Engineer, licensed as a Professional Engineer in Kentucky and other jurisdictions. Mr. Crumpton is the sole member of Bluestone Engineers, PLLC. Mr. Crumpton will testify regarding his investigation of the Hunters Hollow WWTP after it failed on March 29, 2014. Mr. Crumpton will explain that his inspection of the concrete foundation of the WWTP revealed there was no reinforcing steel in the outer foundation area. Mr. Crumpton will provide his conclusion the WWTP failure appears to result from a design flaw. Mr. Crumpton will add that lack of maintenance was not a cause or contributing factor in the WWTP failure. Mr. Crumpton will submit the Report prepared by Bluestone Engineers outlining his conclusions. Mr. Crumpton's Testimony will be substantially similar to his previous Testimony in the Investigation Case and his prior Pre-filed Testimony in the Surcharge Case.

Darrin Casper is the Chief Financial Officer, Industrial Solutions, for Veolia Water Technologies. Mr. Casper will testify regarding the Mobile Water Service Agreement between Veolia and BU. Mr. Casper will testify regarding the reason BU needed the services provided by Veolia. Mr. Casper will explain that the price for Veolia's services was commercially reasonable

under the circumstances. Mr. Casper will tell the Commission that BU's response to the WWTP failure through its contracts with PECCO and Veolia was the most technologically efficient and cost-effective solution to provide service to BU's customers and to protect the health, safety and welfare of BU's customers in an emergency response situation. Mr. Casper will discuss the reason these conclusions are especially true given the inability or unwillingness of the BCSD to accept the flow of wastewater from BU until May 27, 2015. Mr. Casper's Testimony will be substantially similar to his written and oral Public Comments in the Surcharge Case.

Scottie Perdue is a director with PECCO. Mr. Perdue will testify about the agreement between PECCO and BU. Mr. Perdue will testify regarding the reason BU needed the services provided by PECCO. Mr. Perdue will explain that the price for PECCO's services was commercially reasonable under the circumstances. Mr. Perdue will tell the Commission that BU's response to the WWTP failure through its contracts with PECCO and Veolia was the most technologically efficient and cost-effective solution to provide service to BU's customers and to protect the health, safety and welfare of BU's customers in an emergency response situation. Mr. Perdue will discuss the reason these conclusions are especially true given the inability or unwillingness of the BCSD to accept the flow of wastewater from BU until May 27, 2015. Mr. Perdue's Testimony will be substantially similar to his oral Public Comments in the Surcharge Case.

Jerry Kennedy is the District Manager for the BCSD. Mr. Kennedy will testify on the current physical and financial condition of the Hunters Hollow System and the BCSD's experience as BU's Receiver. Mr. Kennedy's Testimony will be substantially similar to his Testimony in the Investigation, Surcharge and Abandonment Cases.

10. 807 KAR 5:001, Section 16(4)(k)

807 KAR 5:001, Section 16(4)(k), requires:

The independent auditor's annual opinion report, with written communications from the independent auditor to the utility, if applicable, which indicates the existence of a material weakness in the utility's internal controls.

Response: BU submits the June 30, 2015 Independent Auditors' Report for the BCSD prepared by Strothman+Co because the BCSD is managing the cash and operations of BU.

Exhibit D. The Report does not indicate the existence of a material weakness in the BCSD's internal controls. Strothman+Co is in the process of auditing the BCSD but no more recent Report is available.

11. 807 KAR 5:001, Section 16(4)(n)

807 KAR 5:001, Section 16(4)(n), requires:

A summary of the utility's latest depreciation study with schedules by major plant accounts If the required information has been filed in another commission case, a reference to that case number shall be sufficient.

Response: Please see BU's Response to Deficiency No. 5.

12. 807 KAR 5:001, Section 16(4)(r)

807 KAR 5:001, Section 16(4)(r), requires:

The monthly managerial reports providing financial results of operations for the twelve months in the test period.

Response: BU has no Monthly Managerial Reports. Please see BU's Response to Deficiency No. 1 which provides the financial results for the 12 months in 2016 and includes monthly income information. BU provides the Vendor Balance Detail Report for each month in 2016 which shows the monthly payments made by BU. **Exhibit E.**

13. 807 KAR 5:001, Section 16(4)(t)

807 KAR 5:001, Section 16(4)(t), requires:

If the utility had amounts charged or allocated to it by an affiliate or general or home office or paid monies to an affiliate or general or home office during the test period or during the previous three (3) calendar years the utility shall file: [three enumerated items].

Response: BU had no amounts charged to it by an affiliate, as defined in 807 KAR 5:001, Section 1(1), or by a general or home office.

14. 807 KAR 5:001, Section 16(5)(a)

807 KAR 5:001, Section 16(5)(a), requires:

A detailed income statement and balance sheet reflecting the impact of all proposed adjustments.

Response: Please see BU's Responses to Deficiency Nos. 1, 7 and 12. BU's Responses to Deficiency Nos. 1 and 12 include a detailed Income Statement reflecting the impact of all proposed adjustments. The Tax Returns produced in BU's Response to Deficiency No. 7 include a Balance Sheet.

15. 807 KAR 5:001, Section 16(5)(b)

807 KAR 5:001, Section 16(5)(b), requires:

The most recent capital construction budget containing at least the period of time as proposed for any pro forma adjustment for plant additions.

Response: BU has no capital construction budget and has no proposed plant additions to disclose.

16. 807 KAR 5:001, Section 16(5)(c)

807 KAR 5:001, Section 16(5)(c), requires:

For each proposed pro forma adjustment reflecting plant additions, the following information: [eight enumerated items].

Response: BU has no plant additions to disclose.

17. 807 KAR 5:001, Section 16(5)(d)

807 KAR 5:001, Section 16(5)(d), requires:

The operating budget for each month of the period encompassing the pro forma adjustments.

Response: Please see BU's Responses to Deficiency Nos. 1 and 12.

18. 807 KAR 5:001, Section 16(5)(e)

807 KAR 5:001, Section 16(5)(e), requires:

The number of customers to be added to the test period end level of customers and the related revenue requirements impact for all pro forma adjustments with complete details and supporting work papers.

Response: BU's Surcharge Application assumes the number of customers will remain the same during the life of the surcharge. BU anticipates no impact on its revenue requirement because of the costs incurred for the tank failure. Any impact on BU's revenue requirement from a change in its customer base, or for any other reason, will not influence the surcharge sought by BU although it might lead to a General Rate Case. As a practical matter, any General Rate Case will likely only occur after the ownership of BU has been transferred to the BCSD or some other utility and BU is no longer subject to the jurisdiction of the Commission.

Respectfully submitted,

/s/ Holland N. McTyeire V

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CERTIFICATE OF SERVICE

I certify that on January 13, 2016 an electronic version of the Response Of BU To The Deficiencies Identified In The Commission's December 29, 2016 Order was uploaded to the Commission's E-Filing System. A copy of the Electronic Filing Center Notification is included with the filing of this Response with the Commission. The electronic version of the paper filing is a true and accurate copy of each paper filed in paper medium. No party has been excused from the Commission's electronic filing procedures.

/s/ Holland N. McTyeire V

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