

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
MAY 13 2010
PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF BROCKLYN UTILITIES, LLC)
FOR TARIFF REVISIONS AND TO INCREASE) CASE NO. 2010-00063
CERTAIN NONRECURRING CHARGES)

**ANSWERS OF BROCKLYN UTILITIES, LLC
TO DATA REQUESTS OF COMMISSION STAFF**

Comes Brocklyn Utilities, LLC (“Brocklyn”), by counsel, and for its Response to the Commission Staff’s Data Request states as follows:

Data Request No. 1: Refer to Exhibit A. On the cost justification form for the bad check fee, clerical and office labor is listed as 1/2 hour at \$10 per hour; however, the amount is listed as \$10.

a. Should the amount for labor be changed to \$5, thus changing the proposed bad check fee to \$15?

Answer: The \$10.00 charge is correct. The cost for labor is \$15.00 an hour and the amount of time involved is estimated to be two-thirds of an hour taking into consideration the following steps in dealing with a bad check: reviewing the bad check charge, accounting for the bad check charge, communicating with the bank, determining the account associated with the bad check charge, preparing and re-sending the invoice to the delinquent account, answering the customer’s questions concerning the bad check and posting the payment to the proper account.

b. The bank pricing schedule provided in the application states a \$10-per-item charge for a domestic returned deposited item. However, the next page of the photocopied pricing schedule contains a line which states a charge of \$9 for a returned deposited item. Explain the difference.

Answer: The \$10.00 charge is the amount assessed by National City Bank (now PNC), Louisville, Kentucky. The \$9.00 charge is the amount assessed by Old National Bank, Louisville, Kentucky. The utility chose to use the smaller amount.

Data Request No. 2: Refer to Exhibit A. On the cost justification form for the reconnection and disconnection fees, clerical and office labor is listed at a rate of \$20 per hour. Explain why there is a difference between the rates for clerical and office labor on the cost justification forms for the bad check fee and the reconnection and disconnection fees.

Answer: The difference in the amount charged is because two people work on the disconnection and reconnection of delinquent accounts. The office administrator is paid the amount of \$15.00 an hour and one of the owners of the utility, earning in excess of \$20.00 an hour, will also be involved in the disconnection and reconnection of delinquent accounts. Therefore, the rate of \$20.00 an hour was used. However, to avoid any issues arising from the use of this combined rate of \$20.00, the final rate used is \$15.00 an hour.

Data Request No.3: Explain in detail the steps required to reconnect a customer's service connection as shown in the quote by Murphy's Excavating.

a. Has this type of reconnection been performed by the utility in the past?

(1) If yes, provide invoices for this work.

(2) If no, how has the utility handled nonpayment in the past?

Answer: With respect to the utility's administrative personnel, they will be required to respond to telephone calls from the customer, review correspondence from the customer, receive and deposit payment from the customer (includes delinquent amount, cost of disconnection and cost to reconnect), verify status of check, apply payment to delinquent account, contact contractor

to schedule reconnection, notify customer of date of reconnection work, verify that reconnection is completed, add the customer back to billing list, ensure that correct date for billing is included in records and provide any necessary reports to utility and Commission.

The contractor will receive a call from utility staff advising that the customer has paid, contractor will then schedule reconnection, contact the customer to schedule reconnection date, mobilize equipment and personnel to job site, excavate and make reconnection, test of new connection, back fill line, return site to original condition and seed and straw.

a. The utility has not previously disconnected delinquent accounts. Accordingly, there has been no need to reconnect a customer's service.

(1) See above.

(2) The utility has notified the customer that he/she is delinquent and requested that payment be made. If the customer has still not paid the delinquent account, the utility has had an attorney forward a collection letter to the delinquent customer. A collection agency has also been retained to attempt to recover amounts owed from delinquent customers. The utility has not filed claims against the delinquent customers in small claims court or district court due to the cost of filing small claims cases.

b. Provide at least two more quotes from separate contractors for reconnection, preferably located in the surrounding area of the treatment facility.

Answer: The utility is seeking to obtain the requested quotes and will submit them to the Commission upon receipt.

c. Explain in detail the work involved for clerical and office expense to reconnect a customer.

Answer: Respond to telephone calls from the customer, review correspondence from the

customer, receive and deposit payment from the customer (includes delinquent amount, cost of disconnection and cost to reconnect), verify status of check, apply payment to delinquent account, contact contractor to schedule reconnection, notify the customer of date of reconnection work, verify that reconnection completed, add the customer back to billing list, ensure that correct date for billing is included in records and provide any necessary reports to utility and Commission.

d. Provide the name of the office person responsible for the clerical and office work.

Answer: Linda Wood.

e. Provide the hourly rate for this individual and include any benefits.

Answer: \$15.00 per hour. Paid vacation and payment of health care supplement.

Data Request No.4: Explain in detail the steps required to disconnect a customer's service connection as shown in the quote by Murphy's Excavating.

Answer: Contractor receives notice to disconnect, contractor will mobilize equipment and personnel to site, locate and excavate sewer line and property service connection, disconnect house line from property service connection, place cap over property service connection, and backfill excavation to grade.

a. Explain the physical elements the contractor would encounter that would justify the difference between actual cost and \$650.

Answer: Objection. The utility objects to this request on the basis that it is ambiguous and calls for speculation as to its meaning. The utility further objects on the basis that this request seeks information that is irrelevant to this proceeding and is unlikely to lead to the discovery of relevant evidence. Furthermore, the utility will only charge the lesser of \$665.00 or the amount charged it by the contractor, plus the \$15.00 clerical and office expense.

b. Has this type of disconnection been performed by the utility in the past?

(1) If yes, provide invoices.

(2) If no, how has the utility handled nonpayment in the past?

Answer: No.

(1) The utility has not previously disconnected customers.

(2) See Answer to Data Request 3(a)(2).

c. Provide at least two more quotes from separate contractors for disconnection, preferably located in the surrounding area of the treatment facility.

Answer: The utility is seeking to obtain the requested quotes and will submit them to the Commission upon receipt.

d. Explain in detail the work involved for clerical and office expense to disconnect a customer.

Answer: Review records to determine that customer is delinquent, determine amount owed, notice to customer of delinquent account, confirm that payment has not been made, conference to determine that customer is to be disconnected, contact contractor and request disconnection, schedule disconnection, provide notice of disconnection to customer, confirm that disconnection completed, advise customer of reconnection procedure, review invoice from contractor, and payment made to contractor.

Data Request No. 5: The proposed charge for reconnection and disconnection of service is listed as an amount not to exceed \$670.

a. If the cost to reconnect or disconnect a customer is less than \$670, is it the intention of the utility to charge the lesser amount? If so, explain.

Answer: The utility will charge the customer the lesser amount as set forth in the answer

to Data Request No. 4(a).

b. Would the utility be willing to revise the proposed policy to charge a fee for reconnection and disconnection of actual cost not to exceed \$670? If not, explain why this would not be more appropriate.

Answer: The proposed tariff provided for this method of payment. However, the utility has clarified the relevant language to indicate that it will charge the lesser of the cost incurred or \$665.00.

c. Explain the physical elements the contractor would encounter that would create the difference between actual cost and \$650.

Answer: Objection. The utility objects to this request on the basis that it calls for speculation and it is irrelevant as it will charge the lesser of the cost incurred or \$665.00. The utility cannot predict all of the conditions that could be encountered by a contractor, including but not limited to the following: difficulty in locating lines, difficulty due to the presence of rock, difficulty caused by weather, difficulty caused by the customer's placement of items over the line, and difference in depth of lines.

Data Request No. 6: Provide all tariff revisions proposed in the application in the proper format in accordance with 807 KAR 5:011, with the appropriate officer's signature on each sheet.

Answer: See Attachment A.

Data Request No. 7: Refer to the section titled "Maintenance" in Exhibit B. The language in the proposed tariff places the responsibility for maintenance of the line on the party that installed the line. 807 KAR 5:071, Section 8, states, "The sewage utility shall install and maintain that portion of the service pipe from the main to the boundary line of the easement,

public road, or street, under which such main may be located.” Provide revised tariff sheets in accordance with 807 KAR 5:011 that comply with 807 KAR 5:071, Section 8.

Answer: Answer: The utility believes that the tariff complied with the requirements of the relevant regulation, as the Commission has previously accepted tariff revisions in this form on a number of occasions. However, the tariff was revised to reflect the language of 807 KAR 5:071, Section 8.

Data Request No. 8: Refer to the deposit sections in Exhibit B.

a. Provide tariff sheets in accordance with 807 KAR 5:011 with the language containing the criteria for determining whether a deposit will be required or waived.

Answer: The utility believes that the tariff complied with the requirements of the relevant regulation, as the Commission has previously accepted tariff provisions in this form on a number of occasions. However, the tariff was revised to include criteria to be used in determining whether a deposit will be required or waived.

b. What is the manner in which interest on deposits will be refunded or credited to customers’ bills?

Answer: When the utility requires payment of a deposit, the interest will be refunded to the customer on the first anniversary of the deposit date and annually thereafter.

c. Does Brocklyn intend to charge a calculated deposit in accordance with 807 KAR 5:006, Section 7(1)(a), or an equal deposit in accordance with 807 KAR 5:006, Section 7(1)(b)? If Brocklyn intends to establish an equal deposit amount, provide the amount.

Answer: When the utility requires payment of a deposit, the amount of the deposit will be 2/12 of the annual bill. The amount paid each month is the same for all customers as required by the tariff. Therefore, it appears that this would qualify as a calculated deposit.

d. Explain why the proposed tariff contains two sections on deposits.

Answer: The two sections on deposits were inadvertently included. The tariff was revised to delete the second section concerning deposits.

e. Provide tariff sheets in accordance with 807 KAR 5:011 that comply with all of the requirements of 807 KAR 5:006, Section 7(7).

Answer: See Attachment A.

Data Request No. 9: Refer to the section on discontinuance of service by utility in Exhibit B.

a. The proposed tariff indicates that a customer who provides a medical certificate to avoid discontinuance will not be disconnected “until the affected resident can make other living arrangements or until not less than ten (10) days elapse from the date of the utility’s notification.” 807 KAR 5:006, Section 14(2)(c), requires that service “not be terminated for thirty (30) days beyond the termination date. . .” if a medical certificate is presented. Provide revised tariff sheets in accordance with 807 KAR 5:011 that comply with 807 KAR 5:006, Section 14(2)(c).

Answer: The requested revision has been made. See Attachment A.

b. Has Brocklyn requested or received any deviation from the Commission for this rule?

Answer: No.

c. The last sentence in this section states, “when a dangerous condition is found to exist on the customer’s or applicant’s premises, the service shall be cut off without notice or refused.” 807 KAR 5:006, Section 14(1)(b), requires the utility to notify the customer immediately, in writing or orally, of the reasons for termination or refusal. Provide revised tariff sheets in accordance with 807 KAR 5:011 that comply with 807 KAR 5:006, Section 14(1)(b).

Answer: The utility believes that the tariff complied with the requirements of the relevant

regulation as paragraph no. 1 of the Discontinuance of Service By Utility section stated that the utility adopted all applicable Commission regulations for all instances not covered by the regulations of the Company. Additionally, the Commission has previously accepted tariff provisions in this form on a number of occasions. Furthermore, the utility has revised the tariff to include the requested language. See Attachment A.

Data Request No. 10: In Airview’s filing of proposed tariff numbered paragraph 4 for “Termination of service charge and reconnection of service charge” and its charge cost justification calculation, Brocklyn proposes to physically disconnect any sewer customer who has not paid his sewer bill. In Administrative Case No. 347, the Commission addressed the issue of disconnection for nonpayment of the sewer bill. The Commission found that plugging a sewer line is costly and imposes a disproportionate hardship on the customer, rendering his residence uninhabitable as a result. In Case No. 2007-00436 the Commission said the water district could apply for a deviation when there is an agreement to terminate water service for unpaid sewer bills.

a. Which water utility serves the Brocklyn Subdivision?

Answer: Richmond Utilities.

b. Does any utility bill for or collect payment for Airview? If so, does Brocklyn have a written agreement/contract with that utility for billing and collection services? If so, attach a copy of that agreement/contract.

Answer: No.

c. Has Brocklyn contacted the water utility serving Brocklyn Subdivision about obtaining a deviation from 807 KAR 5:006, Section 14, to terminate water service as a method of sewer bill collection? If so, was any agreement reached?

Answer: Richmond Utilities will not terminate water service due to failure to pay the sewer bills.

d. Has there been any correspondence or other communication between Brooklyn and the water utility concerning obtaining a deviation to enable the water utility to terminate water service as a method of sewer bill collection? If so, attach copies of all agreements, correspondence, or notes of communications.

Answer: No. However, Richmond Utilities has previously indicated that it will not terminate water service if the sewer service bill is not paid.

Data Request No. 11: Explain how the utility bills multi-unit complexes. If the utility bills each individual unit, how will the utility disconnect service if only one tenant doesn't pay?

Answer: The owners of the majority of the multi-unit buildings are billed by the utility. Where the individual tenants are billed by the utility, sewer service will not be disconnected due to a delinquent tenant.

Lawrence W. Smither

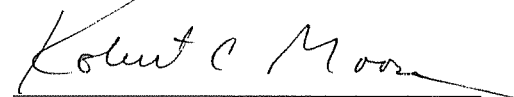
STATE OF KENTUCKY)
)
COUNTY OF FRANKLIN)

Subscribed, sworn to before me this ____ day of May, 2010, by Lawrence W. Smither, a member of Brooklyn Utilities, LLC.

My commission expires:

NOTARY PUBLIC

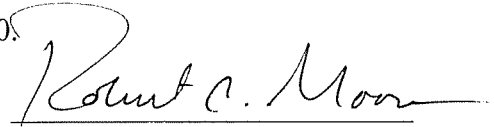
Respectfully Submitted,



Robert C. Moore

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by facsimile and U.S. Mail, postage pre-paid upon Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, Kentucky 40602, and Gregory Stumbo, Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204, by U.S. Mail, postage pre-paid, this the 12th day of May, 2010.


Robert C. Moore

FOR Brocklyn Subdivision

PSC KY NO. _____

_____ SHEET NO. _____

Brocklyn Utilities, LLC
(NAME OF UTILITY)

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

A. GENERAL

This schedule of Rules and Regulations governs the furnishing of sewage service by Brocklyn Utilities, LLC hereinafter referred to as the Utility and applies to all service received from the Utility. No employee or individual director of the Utility is permitted to make an exception to Rates, Rules or Regulations. All Rules and Regulations are to be in effect so long as they are not in conflict with Public Service Commission Rules and Regulations. The Utility is further subject to all Rules and Regulations of the Commission even though not contained herein.

B. REVISIONS

These Rules and Regulations may be revised, amended, supplemented or otherwise changed from time to time subject to approval of the Public Service Commission, and shall have the same force as the present Rules and Regulations.

C. SERVICE AREA

The Utility furnishes sewage service to the Brocklyn Subdivision and adjoining area located in Hardin County, Kentucky.

D. AVAILABILITY

Sewer service is available to any domestic, commercial or industrial consumer within the Utility's area.

E. SUBSTANCES NOT TO BE DISCHARGED INTO SEWERS

No substances shall be placed or discharged into the sanitary sewer system which will create a combustible, gaseous, explosive or inflammable condition in such sewer system nor shall any substances or objects be placed or discharged into the sewer system which will not dissolve and which will thus cause an obstruction and clogging within the system. No petroleum products shall be placed or discharged into the sewer system.

DATE OF ISSUE 2-12-10
MONTH / DATE / YEAR

DATE EFFECTIVE _____
MONTH / DATE / YEAR

ISSUED BY Lawrence W. Smither
SIGNATURE OF OFFICER

TITLE Member

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____

ATTACHMENT A

FOR Brocklyn Subdivision

PSC KY NO. _____

_____ SHEET NO. _____

Brocklyn Utilities, LLC
(NAME OF UTILITY)

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

No storm water or surface water drain shall be connected with the sanitary sewer system nor shall any storm or surface water be otherwise introduced into the sewer system.

F. SEWER FAILURE

The Utility is responsible for sewer failure only when in control of the Utility's employees. No consumer is paid damages for equipment unless such damages are specifically found to be caused by an act of negligence on the part of the Utility or its employees.

G. PROTECTION BY CONSUMER

Consumer shall protect the equipment of the Utility on his premises and shall not interfere with Utility's property or permit interference except by duly authorized representatives of the Utility.

H. NOTICE OF TROUBLE

Consumer shall give immediate notice to the Utility of any irregularities or unsatisfactory service and of any defects known to consumer.

I. MAINTENANCE

The Utility may at any time deemed necessary, suspend sewer service to any consumer or consumers for the purpose of making repairs, changes or improvements upon any part of its system. The Utility shall give reasonable notice of such suspension of service to the consumer.

The Utility shall be responsible for the maintenance of that portion of the service line from the main to the boundary line of the easement, public road or street under which such main may be located and the customer shall be responsible for the maintenance of that portion of the service line from the end of the Utility's portion into the premises served. Households sharing lateral lines with other homes shall be responsible for maintaining these laterals. No sewer easement will be infringed upon by outbuildings or any structures that will hinder access to the Utility's sewer lines.

DATE OF ISSUE 2-12-10
MONTH / DATE / YEAR

DATE EFFECTIVE _____
MONTH / DATE / YEAR

ISSUED BY Lawrence W. Smither
SIGNATURE OF OFFICER

TITLE Member

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____

FOR Brocklyn Subdivision

PSC KY NO. _____

_____ SHEET NO. _____

Brocklyn Utilities, LLC
(NAME OF UTILITY)

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

J. CONNECTION CHARGES

1. Normal Connection:

Normal connections to existing sewer lines shall be made without charges for a prospective consumer who shall apply for and contract to use service for one (1) year or more and provides a guarantee for such service. Any such connection made at the property line of a prospective customer shall be classified as a normal connection.

2. Other Connections:

The charges for connections made for the purpose of land development or for any party that will not be committed to the payment of a monthly rate in accordance with the established rate schedule as approved by the Public Service Commission are subject to negotiations between the Utility and the party requesting the connection. Any such connection that will affect the rate paid by any consumer of this Utility shall be subject to the approval of the Public Service Commission.

K. LINE RELOCATIONS

When necessary to move or relocate facilities, the cost will be paid by party or parties requesting such relocation.

L. BILLING, COLLECTION, PENALTIES

Billing for sewage service furnished by the sewer system shall be made by Brocklyn Utilities on a monthly basis, and each such bill shall be subject to the schedule for payment imposed by Brocklyn Utilities according to its applicable Rules.

M. DEPOSITS

DATE OF ISSUE 2-12-10
MONTH / DATE / YEAR

DATE EFFECTIVE _____
MONTH / DATE / YEAR

ISSUED BY Lawrence W. Smither
SIGNATURE OF OFFICER

TITLE Member

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____

FOR Brocklyn Subdivision

PSC KY NO. _____

_____ SHEET NO. _____

Brocklyn Utilities, LLC
(NAME OF UTILITY)

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

1. The Utility requires from any customer or applicant for service a cash deposit or other guaranty to secure payment of bills not to exceed two-twelfths (2/12) of the estimated annual bill of such customer. Interest at the rate of prescribed by law will be paid on deposits so required, accruing from the date of deposit.
2. Service will be refused or discontinued if payment of deposit is required and not made.
3. Deposits may be waived for a customer based upon consideration of the following criteria being considered: (a) Previous history with the Utility. If the customer has no previous history with the Utility, statements from other utilities, banks, etc., may be presented by the customer as evidence of good credit; (b) Whether the customer has an established income or line of credit; (c) Length of time the customer has resided or been located in the area; (d) Whether the customer owns the property to be served; (e) Whether another customer with a good payment history is willing to sign as a guarantor for an amount equal to the required deposit.
4. Interest will accrue on all deposits at a rate prescribed by law beginning on the date of the deposit. Interest accrued will be refunded to the customer on the first anniversary of the deposit date and annually thereafter.
5. Deposits will be refunded to customers upon termination of service.

N. DISCONTINUANCE OF SERVICE BY UTILITY

The Utility may refuse or discontinue service to an applicant or customer, after proper notice, for failure to comply with its rules and regulations or state and municipal rules and regulations, when a customer or applicant refuses or neglects to provide reasonable access to the premises, for fraudulent or illegal use of service, or for nonpayment of bills. If discontinuance is for nonpayment of bills, the customer shall be given a minimum of five (5) days written notice, separate from the original bill, and cut-off shall be effected not less than twenty (20) days after

DATE OF ISSUE 2-12-10
MONTH / DATE / YEAR

DATE EFFECTIVE _____
MONTH / DATE / YEAR

ISSUED BY Lawrence W. Smither
SIGNATURE OF OFFICER

TITLE Member

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____

FOR Brocklyn Subdivision

PSC KY NO. _____

_____ SHEET NO. _____

Brocklyn Utilities, LLC
(NAME OF UTILITY)

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

the mailing date of the original bill unless, prior to discontinuance, a residential customer presents to the Utility a written certificate, signed by a physician, registered nurse, or public health officer, that such discontinuance will aggravate an existing illness or infirmity on the affected premises, in which case discontinuance may not be effected until the affected resident can make other living arrangements or until not less than thirty (30) days elapse from the date of the Utility's notification. When a dangerous condition is found to exist on the customer's or applicant's premises, the service shall be cut off without notice or refused, and the Utility shall notify the Utility immediately in writing and, if possible, orally of the reasons for the termination or refusal.

1. Brocklyn Utilities adopts all applicable Commission regulations for all instances not covered by the regulations of the company.
2. Late payment charge: A late payment or delinquent charge of 10% of the monthly bill shall be made when the bill is not paid within twenty days from the original mailing date of the bill. The Utility shall charge a bad check fee of \$20.00 for all returned checks.
3. Termination of service charge and reconnection of service charge: The Utility shall charge the customer a service charge when the Utility terminates service by disconnecting the customer from the sewer service. The disconnection service charge shall be the lesser of the cost incurred by the Utility or the amount of \$765.00. The Utility shall charge the customer a service charge when the Utility reconnects the customer to the sewer service. The reconnection service charge shall be the lesser of the cost incurred by the Utility or the amount of \$765.00. The customer shall also pay in full all amounts owed the Utility by the customer prior to reconnection.

DATE OF ISSUE 2-12-10
MONTH / DATE / YEAR

DATE EFFECTIVE _____
MONTH / DATE / YEAR

ISSUED BY Lawrence W. Smither
SIGNATURE OF OFFICER

TITLE Member

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____