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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

JUL 21 2015

PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF BULLITT UTILITIES, INC., )  
FOR A CERTIFICATE OF CONVENIENCE ) Case No. 2014-00255  
AND NECESSITY, AND SURCHARGE FOR SAME )

**POST-HEARING BRIEF OF BULLITT UTILITIES, INC., IN SUPPORT OF  
APPLICATION FOR SURCHARGE**

Comes Bullitt Utilities, Inc., (hereinafter "Bullitt Utilities"), by counsel, and hereby files its Brief in Support of its Application for Surcharge. References in the Brief are to the record before the Public Service Commission ("Commission") in the above styled action, as well as PSC Case No. 2014-00163.

Bullitt Utilities is a Kentucky for-profit corporation formed on January 29, 1976, and is currently in good standing. It is the owner of the former Hunters Hollow Wastewater Treatment Plant ("WWTP") and collection system (referred to as the Hunters Hollow WWTP and collection system), located near Blue Lick Road in Bullitt County, Kentucky.<sup>1</sup> The Hunters Hollow WWTP was most recently issued a KPDES permit on or about October 24, 2008, and this permit expired on November 30, 2013. Bullitt Utilities timely submitted its application to renew its KPDES permit and is currently operating in accordance with the applicable administrative regulations.<sup>2</sup>

The Hunters Hollow WWTP was a 250,000 gallon per day ("gpd") WWTP and had been in operation since at least 1976. Wastewater treatment was provided by an extended aeration plant,

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<sup>1</sup>See PSC Case No. 2014-00255, Amended Application of Bullitt Utilities, Inc., for Surcharge ("Amended Application"), Para. 1 & 2.

<sup>2</sup>See PSC Case No. 2014-00255, Amended Application, Para. 3. Additionally, 401 KAR 5:060, Section 2(4) provides that the conditions of an expired KPDES permit shall continue in force until the effective date of a new permit if a timely and complete application has been submitted and a new permit has not been issued.

with chlorine disinfection, dechlorination, and post aeration. The average daily flow of the Hunters Hollow WWTP (dry weather) is between 160,000 and 200,000 gpd. The WWTP discharges to an unnamed tributary to Brooks Run stream.<sup>3</sup>

The KPDES permit issued to Bullitt Utilities for the Hunters Hollow WWTP required it to comply with the discharge limitations and monitoring requirements set forth in the permit. The permit states that “Any permit non-compliance shall constitute a violation of KRS 224, among which shall be the following remedies: enforcement action, permit revocation, revocation and re-issuance, or modification; or denial of a permit renewal application.”<sup>4</sup>

**A. THE EVIDENCE IN THE RECORD REFLECTS THAT THE HUNTERS HOLLOW WWTP WAS PROPERLY MAINTAINED.**

Covered Bridge Utilities (“Covered Bridge”) has operated and maintained the Hunters Hollow WWTP for over 20 years. (PSC Case No. 2014-00163, L. Smither testimony, 13:19:00) Lawrence W. Smither is the owner of Covered Bridge and he is a certified Class II WWTP operator, with many years of experience. (PSC Case No. 2014-00163, L. Smither testimony, 13:19:00) He has certified operators that work for Covered Bridge that are at the Hunters Hollow WWTP every day, and he or his personnel would have inspected the WWTP every day. (PSC Case No. 2014-00163, L. Smither testimony, 13:20:10) Mr. Smither and his operators never detected any sign of failure (PSC Case No. 2014-00163, L. Smither testimony, 13:20:05) Bullitt Utilities’ logbooks confirm that multiple inspections of the Hunters Hollow WWTP were performed each week.<sup>5</sup> Additionally, the relevant pages from Bullitt Utilities’ annual reports from 2005 through 2013 reflect

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<sup>3</sup>See PSC Case No. 2014-00255, Amended Application, Para. 4.

<sup>4</sup>See PSC Case No. 2014-00255, Amended Application, Para. 5.

<sup>5</sup>See logbooks from 2008 - 2012 (2013 logbook lost in disaster); See Answers to Attorney General’s (“AG”) First Information Requests, Request No. 11.

the payments made to Covered Bridge to operate and maintain the Hunters Hollow WWTP.<sup>6</sup>

In addition to the daily inspection of the Hunters Hollow WWTP by Covered Bridge's certified operators, personnel from the Kentucky Division of Water ("DOW") and the Commission also inspected the WWTP. The DOW personnel generally inspected the WWTP one time each month. (PSC Case No. 2014-00163, L. Smither testimony, 13:20:10). Mr. Smither has been present when Commission personnel inspected the WWTP and testified that the inspection is comprehensive. The Commission inspector used a check-list and his inspection included making sure all of the equipment was operable, that the plant was intact, and checking the equipment, alarms and logbooks. (PSC Case No. 2014-00163, L. Smither testimony, 14:09:50)

**B. BULLITT UTILITIES IMMEDIATE RESPONSE TO THE FAILURE OF THE HUNTERS HOLLOW WWTP.**

On or about March 29, 2014, without warning, the WWTP suffered a catastrophic failure. Bullitt Utilities was notified by the local Fire Department on Saturday March 29, 2014, that the Hunters Hollow WWTP had suffered a total failure and breach of the primary treatment tanks, resulting in a discharge of wastewater. This total failure was unprecedented, and Mr. Smither, who has a lot of experience in the business has never seen anything like this. (PSC Case No. 2014-00163, L. Smither testimony, 14:00:15) Jerry Kennedy, the Manger of Bullitt County Sanitation District ("BCSD"), had never seen a facility like this fail. (PSC Case No. 2014-00163, J. Kennedy testimony, 17:34:00). Immediately upon receiving this information, the appropriate regulatory agencies were notified of the WWTP's failure, and the certified plant operator responded on the scene to assess the situation. Bullitt Utilities began to assess the options that were available to it to deal with

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<sup>6</sup> See Answers to AG's First Information Requests, Request No. 10.

catastrophic failure of the WWTP.<sup>7</sup>

On March 30, 2014, the morning after the failure of the Hunters Hollow WWTP, Mr. Smither was present at the site, along with personnel from the DOW, Charles Roth and Kevin Strohmeier.<sup>8</sup> (PSC Case No. 2014-00255, L. Smither testimony, 13:37:00). They discussed the need to stop the discharge of untreated wastewater from the Hunters Hollow collection system, and Mr. Roth and/or Mr. Strohmeier informed Bullitt Utilities that Pecco, Inc. (“PECCO”), may be able to provide a temporary WWTP to treat the wastewater discharging from the Hunters Hollow collection system. Mr. Roth is the Supervisor of the Louisville Regional Office of the DOW. Mr. Strohmeier is a member of the DOW’s Emergency Response Team. Bullitt Utilities immediately contacted PECCO to determine whether it could provide assistance in responding to the failed WWTP. (PSC Case No. 2014-00163, L. Smither testimony, 13:37:50)<sup>9</sup>

On March 31, 2014, Kevin Stanfield, MPH, the Special Projects Manager for PECCO, provided a quote for the installation, set-up and operation of the PECCO mobile WWTP.

The advantages to the installation of the PECCO WWTP were that it was available, could be transported to the Hunters Hollow site within a very short period of time, could be installed and be operational within several days, could treat most if not all of the dry weather flow from the Hunters Hollow collection system, PECCO would provide the personnel to operate the WWTP on a daily basis, excluding the certified operator, and the DOW personnel were aware of Pecco and its

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<sup>7</sup>PSC Case No. 2014-00255, See Answers to Commission Staff’s First Information Requests, Request No. 1.

<sup>8</sup>PSC Case No. 2014-00255, Answers to Commission Staff’s First Information Requests, Request No. 1.

<sup>9</sup> PSC Case No. 2014-00225, Answers to Commission Staff’s Supplemental Request for Information No. 1.

capabilities and agreed with the decision to implement this option.<sup>10</sup>

Bullitt Utilities had also considered the option of installing a used WWTP at the site of the failed WWTP. (PSC Case No. 2014-00163, L. Smither testimony, 13:38:20) This option was ruled out as it would take approximately six (6) months to locate and install a used WWTP capable of treating the flow from the Hunters Hollow collection system.<sup>11</sup> Additionally, Mr. Smither, who has bought and sold a number of used WWTPs over the years, could not find a good used WWTP. (PSC Case No. 2014-00163, L. Smither testimony, 13:38:45) The option of constructing a new WWTP was also considered. (PSC Case No. 2014-00163, L. Smither testimony, 13:40:30)

Bullitt Utilities also considered connecting the Hunters Hollow collection system to the sanitary sewer system owned and operated by the Bullitt County Sanitation District (“BCSD”). This option was ruled out due to the amount of time it would take to connect the Hunters Hollow collection system to BCSD’s collection system, and at that time BCSD said it could only accept approximately 60,000 gpd of wastewater flow.<sup>12</sup>

The Pecco temporary WWTP was originally designed to treat approximately 160,000 gpd of wastewater. However, the design was later modified on-site so that the Pecco temporary WWTP could treat approximately 200,000 gpd. (PSC Case No. 2014-00163, L. Smither testimony, 14:02:30) It took a couple of days to get the Pecco plant up and running, and it began operations on or about April 2, 2014. (PSC Case No. 2014-00163, L. Smither testimony, 14:08:45)

The DOW conducted a number of inspections of the Hunters Hollow WWTP site after the

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<sup>10</sup> PSC Case No. 2014-00225, Answers to Commission Staff Supplemental Request for Information No. 10.

<sup>11</sup> See PSC Case No. 2014-00255, Answers to Commission Staff’s First Information Request, Request No. 1.

<sup>12</sup> See PSC Case No. 2014-00255, Answers to Commission Staff’s First Information Requests, Request No. 1.

installation of the Pecco WWTP. The Wastewater Inspection Reports issued by the DOW generally reflect that the Pecco WWTP treated approximately 200,000 gpd of wastewater, and that it was *incapable* of treating all of the flow from the Hunters Hollow collection system during wet weather conditions and meeting all permit requirements. For example, the DOW Wastewater Inspection Report (“Report”) issued for the May 8, 2014, inspection performed by the DOW alleged a violation of 401 KAR 5:5005, Section 11, as the Pecco WWTP provides for chlorination and dechlorination, but the E.coli sample results showed values above the limits set forth in Bullitt Utilities’ permit, and the Report also alleged a violation of 401 KAR 10:031, Section 2, as the receiving stream waters were allegedly aesthetically degraded.<sup>13</sup>

In addressing the catastrophic failure of the Hunters Hollow WWTP, Bullitt Utilities also entered into discussions with Bullitt County Sanitation District (“BCSD”) and BCSD agreed that it would accept approximately 60,000 gallons per day (“GPD”) of wastewater from Bullitt Utilities. (PSC Case No. 2014-00163, L. Smither, 14:20:48) Bullitt Utilities reached agreement with DOW that the treatment of the 200,000 GPD by the Pecco WWTP and piping the 60,000 GPD to BCSD would adequately address the discharge from the Hunters Hollow WWTP. DOW knew that there would be bypasses during severe wet weather events, but that would be acceptable under these emergency circumstances. (PSC Case No. 2014-00163, Cogan testimony, 14:42:24) In accordance with the agreement reached with BCSD, a connection was made to BCSD’s sanitary sewer system in the spring of 2014 so that it would accept 60,000 GPD of wastewater for treatment. The line was installed, the pump was installed, everything was ready to go, the payment had been made, and then Chris Cogan was informed by Jerry Kennedy with BCSD that it would not accept the flow. (PSC

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<sup>13</sup> Answers to Commission Staff’s Supplemental Request for Information, Request No. 2.

Case No. 2014-00163, J. Kennedy testimony, 17:15:45, Cogan testimony, 14:43:20 & 15:44:45)  
There was no written agreement, but BCSD had designed the connection and Bullitt Utilities had actually paid BCSD the amount of \$14,603.90 for BCSD's work on the connection. (PSC Case No. 2014-00163, J. Kennedy testimony, 17:34:30, Cogan testimony, 15:47:55)

After Mr. Cogan was notified that BCSD was renegeing on its agreement and would not accept the 60,000 gallon per day flow, there were several rain events that resulted in bypasses to the receiving stream. Due to these rain events, the Pecco WWTP's inability to treat the wet weather flow, and the DOW's responses to the bypasses after these rain events, Mr. Cogan determined that it was necessary to bring in the Veolia Actiflo WWTP ("Veolia WWTP") because of its greater treatment capacity. (PSC Case No. 2014-00163, Cogan testimony, 15:45:56)

On June 1, 2014, Bullitt Utilities entered into a contract with Veolia Water Solutions and Technologies, North America, Inc., for the installation and operation of the Veolia WWTP. The advantages of installing the Veolia WWTP were that it could be installed and begin operation within a short time frame. Additionally, the Veolia WWTP was reported to be capable of treating in excess of 2,000,000 gpd of wastewater in compliance with the limits of Bullitt Utilities' KPDES permit. Upon the installation of the Veolia WWTP, Bullitt Utilities would then be able to treat the dry weather and wet weather flow from the Hunters Hollow WWTP.<sup>14</sup> Other alternatives considered by Bullitt Utilities included:

- 1) The installation of a used 300,000 gpd WWTP. However, no 300,000 gpd used WWTP could be found on the market, and it would take between 6 to 12 months to install a used WWTP if one could be found;
- 2) The installation of a new 300,000 gpd WWTP. However, a new 300,000 gpd WWTP would

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<sup>14</sup> See PSC Case No. 2014-00255, Answers to Commission Staff's First Information Requests, Request No. 3.

cost in excess of \$800,000, and this cost does not include engineering and site work, and it would take between 6 to 12 months to install;

3) Enter into an agreement with the Louisville and Jefferson County Metropolitan Sewer District ("MSD") to see if it could help to provide a short term solution. MSD was unable to provide assistance on a short term basis due to the distance of its sewer lines from Bullitt Utilities' lines, and Bullitt Utilities' service area is out of MSD's service area of Jefferson County, Kentucky; and,

4) Continue the operation of the Pecco WWTP and divert excess flow to the WWTP owned by the City of Hillview. The City of Hillview advised that its WWTP had no excess capacity available for use by Bullitt Utilities and was unwilling to accept wastewater from Bullitt Utilities. Additionally, it would take a significant period of time to engineer and construct a line connecting the Bullitt Utilities system to this WWTP.<sup>15</sup>

When the Veolia WWTP was installed, a portion of the Pecco WWTP was kept on site. The Pecco equipment that needed to be used in the operation of the Veolia WWTP was a 4" trash pump, two 2" trash pumps, 190' of 2" hose, 2 light plants, 5 frac tanks, 2 open-top frac tanks, a roll-off box, 3 connex boxes and a cat telehandle. This equipment was needed because the Veolia WWTP works most efficiently at full capacity loads. The normal flow generated by the Hunters Hollow collection system is insufficient for the Veolia WWTP to operate efficiently. Therefore, the flow is accumulated in the Pecco equipment and treated in batches to enable the Veolia WWTP to operate at capacity or near capacity. Additionally, the Pecco equipment acts as a primary treatment stage by eliminating and/or greatly reducing the solids in the wastewater. This also improves the treatment efficiency of the Veolia WWTP.<sup>16</sup> The disadvantage of the Veolia WWTP was that it was only a temporary solution, and it was costly to install and operate.

The Pecco WWTP was installed with the approval of the DOW. (PSC Case No. 2014-00163, Cogan testimony, 14:43:51) The DOW also approved the installation of the Veolia WWTP.

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<sup>15</sup>See Answers to Commission Staff's First Information Requests, Request No. 3.

<sup>16</sup>See Answers to Commission Staff's First Information Requests, Request No. 4.



(PSC Case No. 2014-00163, Cogan testimony, 14:47:23) In fact for every week from the date of the disaster until July or August of 2014, Bullitt Utilities had a weekly meeting in Frankfort or by telephone conference with DOW personnel. (PSC Case No. 2014-00163, Cogan testimony, 14:44:51) The DOW personnel instructed Bullitt Utilities every step of the way. Bullitt Utilities would put out a scenario and asked for guidance and help, and the DOW would indicate the path that it wanted Bullitt Utilities to take. (PSC Case No. 2014-00163, Cogan testimony, 14:15:10)

Bullitt Utilities is not aware of any warranty that is applicable to the Hunters Hollow WWTP. The Hunters Hollow WWTP was built in approximately 1975, prior to Bullitt Utilities' ownership of the WWTP and it does not have any information concerning warranties that may have applied to the WWTP at the time of its construction.<sup>17</sup> Additionally, the components or appurtenances of the Hunters Hollow WWTP were not insured against catastrophic failure, as such insurance is not routinely available for WWTPs and, if available, only at an exorbitant premium.<sup>18</sup>

**C. EXPENSES INCURRED BY BULLITT UTILITIES TO PROVIDE TREATMENT FOR THE HUNTERS HOLLOW WASTEWATER.**

Bullitt Utilities has incurred the following expenses in order to continue to provide treatment for the wastewater generated by the Hunters Hollow collection system due to the catastrophic failure of the Hunters Hollow WWTP: <sup>19</sup>

- a) Payments to BCSD for assistance in responding to the failure - \$139,603.90
- b) Payments to Headden Septic Service and Environmental Services, Inc., \$34,914.58,

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<sup>17</sup>See Answers to AG's First Information Requests, Request No. 4.

<sup>18</sup>See Answers to AG's First Information Requests, Request No. 5.

<sup>19</sup> These expenses have been documented in PSC Case No. 2014-00255, Answers to Commissions Staff's First Information Requests, Request No. 6b, the Supplements to this Answer and the Answers to Post Hearing Data Requests, Request No. 1 .

Bullitt Septic Service \$26,097.74, and Okolona Septic Tank Service, Inc., \$950.00 for a total cost to clean the receiving stream of \$61,962.32.

- c) Payments to Pecco, Inc., to install and operate the temporary WWTP, including the equipment needed to operate the Veolia temporary WWTP - \$779,397.45
- d) Payments to Veolia to install the Veolia temporary WWTP - \$2,205,898.30 (not including late fees of \$17,440.39).
- e) Payments to Arrow Electric to install the electrical connections needed to operate the Veolia temporary WWTP - \$16,902.58.
- f) Payments to Covered Bridge Utilities for work in responding to the catastrophic failure and assisting the installation and operation of the temporary WWTP plants - \$60,027.74.
- g) Payments to Blue Stone Engineers - \$36,655.00.
- h) Payments to River City Controls, Inc. - \$2,720.90.
- i) Payments to Plumbers Supply Co. - \$869.04
- j) Payments to Ryan Herco Flow Solutions - \$5,519.42
- k) Payments to Masters Supply, Inc.- \$8,360.30.
- l) Payments to Grainger - \$605.05
- m) Payments to Lawrence W. Smither - \$7,371.15.
- n) Payments to Hazelrigg & Cox, LLP and Reginald R. Van Stockum, Jr., in the amount of \$91,414.71
- o) Payments to DXP Enterprises, Inc. for submersible pump - \$10,975.31
- p) Payment to Strothman & Co for accounting services provided in connection with

surcharge request - \$5,847.00.

- q) Payments to Nu-Way Rental & Sales, Inc. - \$1,715.00.
- r) Payment to Salt River Electric in the amount of \$15,764.03.
- s) Payment to Quality Electric (\$1,872.00), Affiliated Steam (\$3,781.26) and M. L. Johnson Co. (\$5,266.82) for a total of \$10,920.07.

**D. ACTIONS TAKEN BY BULLITT UTILITIES TO DETERMINE A PERMANENT SOLUTION TO THE FAILURE OF THE HUNTERS HOLLOW WWTP.**

Since the failure of the Hunters Hollow WWTP on March 29, 2014, Bullitt Utilities has worked diligently to determine a permanent resolution to the failure of the subject WWTP by taking the following actions: a) investigating the purchase and installation of a used replacement WWTP, b) investigating the purchase and installation of a new replacement WWTP, c) entering into negotiations with BCSD concerning BCSD's treatment of some or all of the flow of wastewater from the Hunters Hollow collection system, d) investigating the transfer of the Hunters Hollow collection system to the BCSD, e) entering into negotiations with MSD concerning the treatment of the wastewater from the Hunters Hollow collection system, and the construction of a pipeline from the Hunters Hollow WWTP site to MSD's sanitary sewer pipeline located in southern Jefferson County, Kentucky, and g) contacting the City of Hillview, Bullitt County, Kentucky, to determine if the WWTP owned by Hillview was capable of accepting and treating wastewater generated by the Hunters Hollow collection system.

Based upon the results of the investigation of the various options set forth above, the feasibility of these options and the ability to implement the options in a timely manner, while continuing to provide treatment for the sanitary sewage generated by the Hunters Hollow Collection

System, Bullitt Utilities entered into an Agreement with BCSD whereby it will provide treatment for the wastewater generated by the Hunters Hollow collection system through December 31, 2016. This requires the construction of a lift station and wet well, and the installation of a line connecting the Hunters Hollow system to BCSD's system and the installation of two flow meters on this line. Bullitt Utilities will continue to operate and maintain the Hunters Hollow collection system up to the newly installed flow meters. Pursuant to the Agreement between Bullitt Utilities and BCSD, Bullitt Utilities paid the amount of \$125,000 to BCSD as a contribution in aid of construction.<sup>20</sup>

The November 10, 2014, Agreement between Bullitt Utilities and BCSD required BCSD "to make any and all reasonable efforts to accept the wastewater flow from the [Hunters Hollow] Collection System within sixty (60) days of the execution of the Agreement."<sup>21</sup> Despite the fact that Bullitt Utilities had made the \$125,000 payment to enable Bullitt Utilities to make modifications to its system to accept the wastewater from Hunters Hollow, BCSD did not complete the work needed to make the connection within sixty (60) days of November 10, 2014.

Because the work to connect the two systems had not been completed, on February 2, 2015, Bullitt Utilities requested BCSD to complete a temporary connection of the systems. At that time, BCSD indicated that it would not allow a temporary connection to be made unless Bullitt Utilities paid the amount to construct the pump station and wet well into an escrow account. Bullitt Utilities requested BCSD to accept a \$50,000 good faith deposit, but BCSD refused to accept this amount.

On or about February 13, 2015, BCSD entered into an Agreed Order with the Energy and Environment Cabinet requiring it to pay a civil penalty of \$100,000. However, this \$100,000 civil

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<sup>20</sup> PSC Case No. 2014-00163, Exhibits 11 and 12.

<sup>21</sup> PSC Case No. 2014-00163, Exhibit 11.

penalty would be waived if BCSD connected its facilities to the Hunters Hollow collection system within sixty (60) days of February 13, 2015.

On March 31, 2015, Mr. Kennedy testified that all three (3) force mains that BCSD needed to use to accept the Hunters Hollow flow were completed. However, Bullitt Utilities was not allowed to connect to the BCSD system because BCSD demanded that Bullitt Utilities escrow the cost to build a new pump station and wet well, provide a bond for the cost to construct the pump station and wet well, or complete the construction of same. Mr. Kennedy agreed that the November 10, 2014, Agreement did not require Bullitt Utilities to satisfy these new requirements or to even build a new pump station and wet well. Not until May 27, 2015, was Bullitt Utilities able to complete the temporary connection to the BCSD system.

On August 27, 2014, the Kentucky Energy and Environment Cabinet (“Cabinet”) filed an Administrative Complaint initiating formal enforcement action against Bullitt Utilities (Exhibit T, File No. DOW 34022). Prior to and after the filing of the Administrative Complaint, the Cabinet and Bullitt Utilities engaged in numerous discussions/negotiations concerning the failure of the WWTP, the steps to be taken by Bullitt Utilities to provide treatment of the wastewater from Hunters Hollow while a permanent solution was under investigation, the remediation of the impacts of the failure of the WWTP, and the negotiation of the agreement with BCSD. These discussions/negotiations resulted in the attached Agreed Order entered into by the Cabinet and Bullitt Utilities.<sup>22</sup>

The Agreed Order requires Bullitt Utilities to take a number of steps, including the following:

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<sup>22</sup>PSC Case No. 2014-00255, Amended Application, Exhibit P.

- 1) Report to the Cabinet all spills, bypass discharges, upset condition discharges, and other releases of substances which would result in or contribute to the pollution of the waters of the Commonwealth, including emergency and accidental releases in accordance with the applicable statutes;
- 2) Immediately perform any necessary remedial actions;
- 3) Provide for the regular operation and maintenance of the Hunters Hollow collection system, including any structures added to prevent solids and floatables from entering into the unnamed tributary to Brooks Run;
- 4) Operate and maintain the Veolia temporary WWTP while it is on site and prior to the connection of the Hunters Hollow collection system to BCSD's sewer system;
- 5) Immediately begin implementing steps to correct inflow and infiltration into the Hunters Hollow collection system, and beginning January 1, 2015, spend no less than \$30,000 annually to address I & I until the collection system is conveyed;
- 6) Pay civil penalties in the amount of \$30,000 which penalty will be abated upon Bullitt Utilities' development and implementation of a corrective action plan to eliminate sources of I & I within the customers' portions of the sewer lines that connect to the Hunters Hollow collection system;
- 7) Pay civil penalties in the amount of \$125,000, which penalty will be abated upon Bullitt Utilities' connection of its collection system to BCSD's sanitary sewer system and compliance with the Agreement negotiated between Bullitt Utilities and BCSD, which includes a payment of \$125,000 to BCSD; and,
- 8) Pay to the Cabinet the amount of \$13,606.15 in oversight and response costs related to the environmental emergency following the failure of the Hunters Hollow WWTP.

In order to convey the wastewater from the Hunters Hollow collection system to BCSD, a new pump station and wet well needs to be constructed. Due to its familiarity with the Hunters Hollow WWTP and collection system and its ability to provide these services in a timely manner, Bullitt Utilities retained Bluestone Engineers, PLLC to perform the engineering services needed to construct the connection between the two systems. The total cost to prepare the detailed survey and site design (\$2,800), pump station design for triplex pump (\$17,500), pump remodeling and system head design (\$2,500), structural engineering for wet well, slabs, vaults (\$7,000), project

Bullitt Utilities retained Bluestone Engineers, PLLC to perform the engineering services needed to construct the connection between the two systems. The total cost to prepare the detailed survey and site design (\$2,800), pump station design for triplex pump (\$17,500), pump remodeling and system head design (\$2,500), structural engineering for wet well, slabs, vaults (\$7,000), project administration and management (\$2,500), and bidding/construction inspections (\$3,350) is \$35,650. The plans and specifications for the new pump station and wet well have been approved by the DOW.<sup>23</sup> Larry Clark Construction, Inc., as the low bidder, was awarded the contract to construct the wet well and pump station for the amount of \$216,600.<sup>24</sup> The cost of the Duplex Control Panel being provided by DXP Enterprises, Inc., is \$58,329.000 and the cost of the two (2) ESSCO submersible pumps is \$52,045.00.<sup>25</sup> This equipment is needed in order to operate the new pump station and wet well.

Bullitt Utilities does not have sufficient funds on hand with which to pay for the extraordinary cost of responding to the catastrophic failure of the Hunters Hollow WWTP, including the cost of the installation and operation of the Pecco temporary WWTP and/or the Veolia temporary WWTP installed at the Hunters Hollow site. Accordingly, Bullitt Utilities has been required to obtain loans to pay for these extraordinary emergency costs and will be required to borrow additional funds to pay for these extraordinary emergency costs, which are ongoing.

As set forth above, since the catastrophic failure of the Hunters Hollows WWTP, Bullitt Utilities has incurred extraordinary emergency costs to treat the wastewater generated by the

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<sup>23</sup>See Exhibit B to Answers to Post-Hearing Data Requests.

<sup>24</sup>See Exhibits 4 & 9, PSC Case No. 2014-00163.

<sup>25</sup>See Exhibit 8, PSC Case No. 2014-00163.

Hunters Hollow collection system. These costs, totaling \$3,825,152.00, include the cost to construct the new pump station and wet well needed to convey the wastewater to BCSD's sewer system. It is undisputed that Bullitt Utilities does not have sufficient funds to pay these extraordinary emergency costs. Accordingly, Bullitt Utilities requests the Public Service Commission to authorize a surcharge in favor of Bullitt Utilities in the amount of \$32.19 per month per customer for the time period needed to recover these extraordinary emergency costs.

The Louisville Water Company performed an audit of the Hunters Hollow collection system and determined that there are currently 698 customers that are being billed for sewer services. The Louisville Water Company also determined that there are eleven (11) addresses on Jennymac Drive that are receiving water service, but which are not being billed for sewer service.<sup>26</sup> Based on this information, Bullitt Utilities provides sewer service to 709 customers on the Hunters Hollow collection system. Bullitt Utilities requests that the surcharge be allocated over these 709 customers.

As set forth in the Kentucky Supreme Court's decision in *Public Service Commission v. Commonwealth of Kentucky*, 324 SW3d 373 (Ky., 2010), the Public Service Commission has the authority to allow a utility such as Bullitt Utilities to adjust its rates by imposing a surcharge.<sup>27</sup>

## CONCLUSION

In conclusion, the Commission should enter an Order approving the requested surcharge in this case for the following reasons:

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<sup>26</sup>See Answers to Post-Hearing Data Requests, Request No. 3, and Exhibits C and E to said Answers.

<sup>27</sup>A copy of the notice of the filing of the Amended Application required by 807 KAR 5:011, Section 8, was attached to the Amended Application as Exhibit R. The notice was published in the Pioneer News on December 10, 17, and 24, 2014. The notice of the Formal Hearing held in this matter was published in the Pioneer News on May 27, 2015, 2015. See June 8, 2015, Notice of Filing of Legal Advertisement of Notice of Formal Hearing.



The evidence in the record reflects that the Hunters Hollow WWTP was being properly maintained and operated prior to the date of the disaster. The WWTP was inspected on a daily basis by the certified operators, on a monthly basis by DOW personnel and also by the Commission's personnel. There was no indication of a possible failure prior to March 29, 2014.

The catastrophic failure of the Hunters Hollow WWTP was unprecedented and without warning.

Bullitt Utilities took immediate and appropriate steps to respond to the failure of the Hunters Hollow WWTP. DOW personnel instructed Bullitt Utilities every step of the way. The evidence reflects DOW's guidance was sought in regard to the disaster, and DOW personnel approved the installation of the Pecco WWTP and the Veolia WWTP. These actions were necessary in order to treat the waste generated by the Hunters Hollow collection system and provide sewer service to Bullitt Utilities' customers.

Bullitt Utilities entered into discussions with BCSD and negotiated the November 10, 2014 agreement between Bullitt Utilities and BCSD. Pursuant to this agreement, BCSD is to accept for treatment the flow from the Hunters Hollow collection system through at least December 31, 2016.

Bullitt Utilities is required to construct a pump station and wet well to convey the wastewater from the Hunters Hollow collection system to BCSD's sanitary sewer system. The construction of the wet well and pump station is underway.

On May 27, 2015 Bullitt Utilities was able to make an interim temporary connection to BCSD's sewer system while the construction of the new pump station

and wet well is under way. The Veolia WWTP and the PECCO equipment used in the operation of the Veolia WWTP has been removed.

Due to prompt and appropriate actions of Bullitt Utilities, an environmental emergency of gigantic proportions was avoided and wastewater treatment has been provided for the customers of the Hunters Hollow collection system.

Should the surcharge request be denied, Bullitt Utilities will be unable to pay the substantial amount due Veolia and Pecco for providing equipment and services in this emergency situation. Such a default would discourage any such suppliers from providing emergency services in such a situation, which would be to the detriment of the customers of the utility involved, as well as to the citizens of Kentucky and the environment.

Respectfully Submitted,



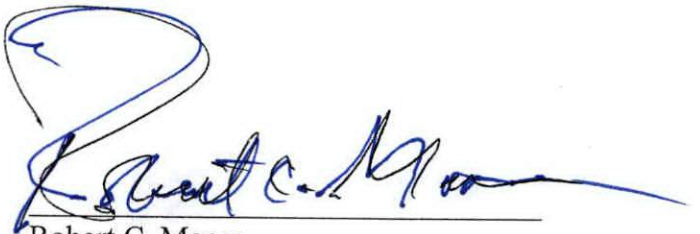
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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via first class mail, postage prepaid on this the 20<sup>th</sup> day of July, 2015, upon:

Gregory Dutton  
Jennifer Black Hans

Assistant Attorney General  
1024 Capital Center Drive  
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Frankfort, Kentucky 40601-8204



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Robert C. Moore