

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2014-00193

RECEIVED

In the Matter of:

JUN 18 2014

SONYA D. STIPES

PUBLIC SERVICE
COMMISSION

and

PATRICK STIPES

COMPLAINANTS

VS. ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES

FARMDALE WATER DISTRICT

DEFENDANT

Comes Farmdale Water District by counsel, and for its answer and/or response to the Complaint filed herein states as follows:

1. The Defendant denies that it is responsible for the alleged water damage to property located at 1106 Evergreen Road, Frankfort, Franklin County, Kentucky
2. The Defendant disconnected the water to the above address on July 29, 2013 as requested. The account was in the name of Wendy Stahlman (account # 6-86500-09). (Copy of work order attached as Exhibit "A"). At no time did Complainants nor anyone on their behalf request that service be reconnected at this address.
3. There are no billing records for the above address nor have there been any bills processed for that address since August 1, 2013, and there has been no request to reconnect water service.
4. On January 27, 2014, the Defendant, after being called by the Complainants, went to the above address and disconnected or "shut off the water

DEFENSES

Farmdale Water District accordingly asserts the following defenses:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against this Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The damages, if any, sustained by Complainants resulted from the Complainants own conduct and failure to inspect or re-inspect their property from August 1, 2013 to January 27, 2014, nor did the Complainants exercise due diligence in having the home winterized by themselves or a professional in taking proper procedures by turning the valve off coming into the home, draining lines, pouring antifreeze in commodes/sinks/lavatories or anything with a trap and also draining of the hot water heater as to prevent any water damage such as freezing and thawing of any of the water lines in the home, including hot water heater, during freezing weather in which Frankfort, Kentucky had been experiencing beginning early December, 2013. With this said, principles of Complainants negligence, contributory negligence, comparative fault, and/or assumption of risk apply.

THIRD AFFIRMATIVE DEFENSE

Farmdale Water District complied with its duty to Complainants in disconnecting the water on July 29, 2013 as requested. The Complainants nor anyone on their behalf requested the service be reconnected at the aforementioned address.

FOURTH AFFIRMATIVE DEFENSE

If Complainants sustained damage or incurred expenses as alleged, said damage or expenses were directly and proximately caused by the negligence or fault of parties other than this Defendant, whether named or unnamed in the Complainants Complaint, over whom this Defendant had no supervision or control and for whose action and omission this Defendant has no legal responsibility.

FIFTH AFFIRMATIVE DEFENSE

Complainants' claims are barred, in whole or in part, by the Complainants failure to mitigate the alleged damages.

SIXTH AFFIRMATIVE DEFENSE

The damages claimed by Complainants, if any, resulted from an intervening or superseding cause and/or causes, and any purported act or omission on the part of this Defendant was not the proximate cause of such alleged damages.

SEVENTH AFFIRMATIVE DEFENSE

Complainants' claims may be barred, in whole or in part, by the applicable statutes of limitation and/or statues of repose.

EIGHTH AFFIRMATIVE DEFENSE

Complainants' claim may be barred, in whole or in part, by laches, waiver and/or estoppel.

NINTH AFFIRMATIVE DEFENSE

Complainants claims are barred by reason of their failure to join an indispensable party or parties to this action.

TENTH AFFIRMATIVE DEFENSE

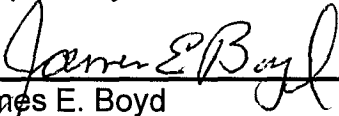
Farmdale Water District expressly reserves the right to file further pleadings and to assert additional defenses as the proof develops.

REQUEST FOR RELIEF

Wherefore, Defendant Farmdale Water District respectfully request that the Kentucky Public Service Commission:

1. Dismiss the Complaint with prejudice
2. Award to this Defendant its costs and attorney's fees incurred in the defense of this action; and
3. Award to the Defendant such other relief as the Commission deems just and equitable.

Respectfully submitted,



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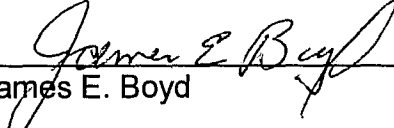
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true correct copy of the foregoing Answer and Affirmative Defenses has been mailed to:

Sonya D. Stipes
and
Patrick Stipes
20 Hurstland Street
Frankfort, Kentucky 40601

This 18 day of June, 2014



James E. Boyd