

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LARRY RAYMOND BAILEY)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2021-00307
)	
WEST LAUREL WATER ASSOCIATION, INC.)	
)	
DEFENDANT)	

ORDER

On August 23, 2021, Larry Raymond Bailey (Mr. Bailey) filed a motion requesting that the Commission reconsider the August 18, 2021 Order that, among other things, dismissed Mr. Bailey’s requested relief made on behalf of all of West Laurel Water Association, Inc. (West Laurel Water) customers as unauthorized practice of law pursuant to 807 KAR 5:001, Section 4(4). Mr. Bailey requested that West Laurel Water refund to customers any late fees collected after April 2021, and to suspend late fees and disconnection for nonpayment pending notice that West Laurel Water is reinstating the assessment of late fees.

In his motion, Mr. Bailey alleged that requesting relief for all affected customers does not constitute the practice of law because the legal standards on which the Commission based its decision apply only to corporations and business entities.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to “any party to the proceedings” to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”¹ An Order can only be unlawful if it violates a state or federal statute or constitutional provision.²

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

Regarding the unauthorized practice of law, 807 KAR 5:001 Section 4(4) states in relevant part that “[a] person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2).”

Kentucky Supreme Court Rule 3.020 states that:

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.

KRS 278.010(2) defines a “person” to include a natural person.

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

² *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

DISCUSSION AND FINDINGS

Based upon a review of the motion and case record, and being otherwise sufficiently advised, the Commission finds that, as discussed below, Mr. Bailey did not establish that the August 18, 2021 Order was unlawful, unreasonable, or contained a material error or omission, and therefore Mr. Bailey's motion is denied.

Mr. Bailey misconstrues the legal standards regarding the unauthorized practice of law because he argues that they only apply to representation of corporations and business entities. Mr. Bailey further argues that those legal standards do not apply to a customer who requests relief on behalf of other customers that share the same injury arising from the same alleged violation of law. However, Mr. Bailey's arguments conflict with the express language of Kentucky Supreme Court Rule 3.020 and 807 KAR 5:001, Section 4(4), which do not limit the unauthorized practice of law to the representation of corporations and business entities.

Stated plainly, Kentucky Supreme Court Rule 3.020 prohibits exactly what Mr. Bailey requested. In his complaint, Mr. Bailey requested a legal remedy of damages in the form of a refund on behalf of another person -- all West Laurel Water customers -- regarding an alleged injury arising from the same alleged violation of law -- imposition of late payment fees without notice. Kentucky Supreme Court Rule 3.020 prohibits a person who is not licensed to practice law in Kentucky from representing the rights of another person, such as requesting a legal remedy of damages in the form of a refund, based upon an alleged legal injury arising from the same alleged violation of law, such as failure to provide sufficient notice of the assessment of late fees.

Further, Commission regulation 807 KAR 5:001, Section 4(4) expressly prohibits one person from filing a “paper,” which includes a complaint, on behalf of another person if the person filing the complaint is not licensed to practice law in Kentucky. Here, Mr. Bailey does not argue that he is an attorney licensed to practice law in Kentucky. Instead, he argues that he should be allowed to represent the interests of all West Laurel Water customers to receive a legal remedy of damages for an alleged violation of law of failing to provide notice of the assessment of late fees. Again, what Mr. Bailey requested is expressly prohibited by Commission regulation 807 KAR 5:001, Section 4(4).

Finally, if the Commission were to find that West Laurel Water violated a statute or regulation that the Commission enforces, or a Commission Order, then the Commission has the statutory authority under KRS 278.260 to initiate an investigation into the alleged violation, assess a civil penalty upon a finding of a willful violation, and determine whether a refund is an appropriate remedy.

IT IS THEREFORE ORDERED that Mr. Bailey’s motion for reconsideration is denied.

By the Commission



ATTEST:


Executive Director

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