

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JUSTIN TALLIO)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2021-00457
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

ORDER

Justin Tallio filed a complaint on December 7, 2021, alleging that Louisville Gas and Electric Company (LG&E) failed to repair streetlights upon his request. He alleged that he shared the locations of 24 non-functioning streetlights via an online tool on October 13 and 14, 2021, and then by email on November 16, 2021. LG&E reported back to him that all the streetlights had been repaired within two days of the email. However, Mr. Tallio claimed that six streetlights had still not been repaired as of the filing of his complaint. His complaint further states:

As compensation for inability or unwillingness to repair items under their sole control, Mr. Tallio request [sic] LG&E be required to make a donation of no less than \$5000 to the Shelby Park Neighborhood Association. This will compensate the neighbors for LG&E's delays and inability [sic] to maintain their equipment in proper working order to ensure safer neighborhoods.¹

¹ Complaint at 2.

Pursuant to KRS 278.260, the Commission has jurisdiction over complaints regarding rates or service. Commission regulation 807 KAR 5:001, Section 20(4)(a), requires the Commission to examine the complaint to ascertain if the complaint establishes a *prima facie* case that the utility has violated a statute, regulation, tariff, or order for which the Commission may grant relief.² A complaint establishes a *prima facie* case when, on its face, it states sufficient allegations that, if uncontroverted by other evidence, would entitle the complainant to the relief requested. If the Commission determines that the complaint does not establish a *prima facie* case, then the Commission affords the complainant the opportunity to amend the complaint within a specified time.

Having reviewed Mr. Tallio's complaint, the Commission finds that he has not established a *prima facie* case that the utility has violated a statute, regulation, tariff, or order for which the Commission may grant relief because Mr. Tallio seeks compensatory damages, which is outside the scope of the Commission's jurisdiction. Pursuant to KRS 278.040, the Commission has jurisdiction over the "rates" and "service" of utilities as defined by KRS 278.010. Mr. Tallio's request for damages does not fall under either category. Further, it is well-settled that the Commission does not have statutory authority to award damages in any matter before the Commission. For example, in *Carr v. Cincinnati Bell*, the Kentucky Court of Appeals held that the legislature did not delegate to the Commission the power to adjudicate claims for damages and it would not be reasonable to infer that the Commission is empowered to adjudicate claims for damages.³

² 807 KAR 5:001, Section 20(4)(a).

³ *Carr v. Cincinnati Bell*, 651 S.W.2d 126 (Ky. App. 1983).

Additionally, Mr Tallio may not seek remedy on behalf of his neighbors or the Shelby Park Neighborhood Association as this would constitute the unauthorized practice of law.⁴ As 807 KAR 5:001, Section 4(4), states in part: “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).” Mr. Tallio may only seek relief for himself.

In accordance with 807 KAR 5:001, Section 20(4)(a)(1)-(2), the Commission finds that Mr. Tallio should be afforded the opportunity to amend the complaint. The Commission further finds that Mr. Tallio should file an amended complaint within 20 days of the date of this Order. Mr. Tallio may file his amended complaint by U.S. mail or by email to PSCED@ky.gov.

IT IS THEREFORE ORDERED that:

1. Mr. Tallio’s complaint is rejected for filing for failing to state a *prima facie* case.
2. Mr. Tallio shall have 20 days from the date of this Order to file an amended complaint with the Commission that conforms to the requirements of 807 KAR 5:001, Section 20(1), and that states a *prima facie* case.
3. Mr. Tallio may file his amended complaint with the Commission by U.S. mail to P.O. Box 615, Frankfort, Kentucky 40602-0615 or by email to PSCED@ky.gov. Mr. Tallio shall include the Case No. 2021-00457, in all filings with the Commission.

⁴ See Case No. 2021-00307, *Larry Raymond Bailey v. West Laurel Water Association, Inc.* (Ky. PSC Aug. 18, 2021), Order at 3.

4. A copy of this Order shall be served upon Mr. Tallio by U.S. mail to 432 E. Ormsby Ave., Louisville, Kentucky 40203.

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By the Commission

Commissioner Marianne Butler did not participate in the deliberations or decision concerning this case.

ENTERED
DEC 20 2021
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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