

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELDAN CRAIG GAINES)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2024-00262
)	
BULLOCK PEN WATER DISTRICT)	
)	
DEFENDANT)	

ORDER

On August 12, 2024, Belden Craig Gaines filed a formal complaint against Bullock Pen Water District (Bullock Pen District). On September 23, 2024, Belden Craig Gaines filed his response to the Commission's September 5, 2024 Order directing him to provide customer bills and any other documentation in support of his allegations against Bullock Pen District. By Order on November 7, 2024, the Commission found a *prima facie* case had been established and ordered Bullock Pen District to satisfy the matters complained or file a written answer. On November 15, 2024, Bullock Pen District filed an answer. Bullock Pen District responded to three requests for information, and Mr. Gaines responded to one request for information¹. This case now stands submitted for decision.

¹ Bullock Pen District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Dec. 20, 2024); Bullock Pen District's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Feb. 4, 2025); Bullock Pen District's Response to Commission Staff's Third Request for Information (Staff's Third Request) (filed Mar. 10, 2025); Belden Gaines' Response to Commission Staff's First Request for Information (Staff's First Request) (filed Feb. 17, 2025).

BACKGROUND

In his complaint, Mr. Gaines alleged that, because of Bullock Pen District's failure to test his meter as requested, and failing to allow him to be present during the service call, there was a delay in detecting a leak.² He had requested the test due to a problem with service pressure.³ Mr. Gaines stated that he noticed the drop in pressure either late Friday, May 17, 2024, or Saturday, May 18, 2024.⁴ Mr. Gaines stated that he called the first business day after noticing the drop, which was Monday, May 20, 2024.⁵ Mr. Gaines stated that his call raising concerns resulted in Bullock Pen District personnel testing water pressure between the dates of May 20 and 23, 2024.⁶

Mr. Gaines alleged that his Customer Rights were violated by not allowing him to be present during the service call.⁷ Mr. Gaines made a number of other allegations, including that one of the bills received was approximated by Bullock Pen District to be \$3,000 but ended up being \$3,700.⁸ Mr. Gaines stated that he was notified that he and his wife had used 478,000 gallons of water since the last reading and between June 17, 2024 and June 26, 2024 had specifically used 109,720 gallons of water.⁹ On June 26,

² Belden Craig Gaines' Complaint (Gaines' Complaint) (filed Aug. 12, 2024) at 1.

³ Gaines' Complaint at 1.

⁴ Belden Gaines' Response to Staff's Frist Request, Item 2.

⁵ Belden Gaines' Response to Staff's Frist Request, Item 2.

⁶ Gaines' Complaint at 1.

⁷ Gaines' Complaint at 1.

⁸ Gaines' Complaint at 2.

⁹ Gaines' Complaint at 4.

2024, a technician was sent out to verify the abnormal reading.¹⁰ On June 26, 2024, a hidden leak was located and pressure returned to normal.¹¹

Mr. Gaines' requested relief is a billing adjustment.¹² Mr. Gaines stated that he feels he should owe in the range of \$500 after an estimated adjustment for Bullock Pen District not catching the meter spinning during its inspection either May 20, 2024 or May 23, 2024.¹³ Mr. Gaines also alleged that Bullock Pen District never filled their request for a water main pressure test and did not call for a follow-up regarding the results of the test.¹⁴

On September 23, 2024, Mr. Gaines filed a response to the Commission's September 5, 2024 Order, in which Mr. Gaines provided customer bills and a copy of the notes from the June 17, 2024 meter readings.¹⁵ Mr. Gaines also provided a timeline and how he calculated the requested relief.¹⁶ Mr. Gaines stated that he is requesting relief in the form of a bill reduction of Bullock Pen District's original bill for July 2024, from the amount of \$2,735.02 to \$369.82.¹⁷ Mr. Gaines stated that when the original call was made to Bullock Pen District to report the drop in pressure and ask for the meter test, Bullock Pen District said that they could not guarantee when a technician could be out to

¹⁰ Gaines Complaint at 4.

¹¹ Gaines Complaint at 5.

¹² Gaines' Complaint at 5.

¹³ Gaines' Complaint at 3.

¹⁴ Gaines' Complaint at unnumbered 2.

¹⁵ Belden Gaines' Response to the Commission's Sept. 5, 2024 Order (Gaines' Response) (filed Sept. 23, 2024), Exhibits 3, 4.

¹⁶ Gaines' Response, Exhibits 1 and 2.

¹⁷ Gaines' Response at 1.

do the test, and that he was only told that it would be in the next few days.¹⁸ Mr. Gaines stated that by not scheduling a specific date and time appointment window, his right to be present was negated.¹⁹ Mr. Gaines stated that in lieu of an appointment, he asked to have the technician call him while a technician was at his property, and they agreed they would.²⁰ He alleged that the technician never called during the visit or left any other communication to indicate he had come, and Bullock Pen District did not follow up.²¹ Mr. Gaines provided his call history from AT&T Wireless, which he alleged showed that there were no incoming calls from Bullock Pen District between May 20, 2025, to June 25, 2025.²² Mr. Gaines stated that by not informing him prior to the technician service call, during the service call, or after the service call, his Customer Rights were violated.²³

Mr. Gaines stated that based on the calculations showing an average usage of 12,111 gallons per day over 30.5 days, the meter had to have been running at the same or very similar rate during the original test date of May 20, 2024, as it was on May 26, 2024, when the Bullock Pen District technician reported the meter to be flying and screaming.²⁴ Mr. Gaines alleged that it proves his suspicion of a problem and the reason for the service call on March 20, 2024 was ultimately related to a water leak.²⁵ He stated

¹⁸ Gaines' Response at 2.

¹⁹ Gaines' Response at 2.

²⁰ Gaines' Response at 2.

²¹ Gaines' Response at 2.

²² Gaines' Response, Exhibit 5.

²³ Gaines' Response at 2.

²⁴ Gaines' Response at 2.

²⁵ Gaines' Response at 2.

that this validated the reason he specifically requested a street pressure test, not a house pressure test.²⁶ Mr. Gaines stated that had they provided the proper test, he would have known he had a pressure drop and would have looked for a leak at that time, thus delaying the identification of the leak.²⁷ Mr. Gaines alleged that instead of turning off the meter as is expected of the technician in the case of leakage or high usage, he disregarded the meter activity and decided to check the pressure at the house, disregarding his request and the service request to check the pressure at the meter.²⁸ Mr. Gaines stated that this proves an act or omission by the Bullock Pen District technician to provide the requisite standard of service.²⁹

Mr. Gaines stated that the fact that the crock was too deep to check the pressure at the crock, shows that the technician was initially directed to test at the meter, and that the technician had to uncover and look at the meter to note that it was too deep.³⁰ Mr. Gaines stated that the technician failed to note that the flying and screaming meter as it is proved by the usage calculation that it was leaking at that point.³¹

Mr. Gaines explained that the leak discovered on June 26, 2024, was found in the northwest corner of the property where an outdoor standing hydrant was previously located.³² Mr. Gaines explained that the hydrant had been removed and capped below

²⁶ Gaines' Response at 2-3.

²⁷ Gaines' Response at 3.

²⁸ Gaines' Response at 3.

²⁹ Gaines' Response at 3.

³⁰ Gaines' Response at 3.

³¹ Gaines' Response at 3.

³² Gaines' Response to Staff's First Request, Item 1.

ground because it had been leaking several years ago.³³ This is an area of the property that is located behind an outbuilding along the woods that is not an area that Mr. Gaines' mows or have reason to ever be in.³⁴ Mr. Gaines stated that it was not somewhere where he or his wife would have noticed leaking unless looking specifically for it.³⁵

Mr. Gaines stated that he specifically asked what additional options he had regarding a resolution beyond the standard bulk rate while meeting with Mr. Harp and Ms. Rourke.³⁶ Mr. Gaines stated that Mr. Harp was adamant that the Board of Commissioners (Board) would not be willing or able to offer anything beyond the standard bulk rate adjustment and that Ms. Rourke was in agreement to that statement.³⁷ Mr. Gaines explained that he took him at his word that it would be of no use to go to the meeting and asked what other options we might have.³⁸ Mr. Gaines stated that Mr. Harp informed him that the other option would be to contact the Commission and file a formal complaint.³⁹

Bullock Pen District denied the allegations in Mr. Gaines' Complaint.⁴⁰ Bullock Pen District stated that Superintendent Harp never told Complainant that Bullock Pen District should have done more and did not tell Complainant that the verified water pressure was

³³ Gaines' Response to Staff's First Request, Item 1.

³⁴ Gaines' Response to Staff's First Request, Item 1.

³⁵ Gaines' Response to Staff's First Request, Item 1.

³⁶ Gaines' Response to Staff's First Request, Item 4.

³⁷ Gaines' Response to Staff's First Request, Item 4.

³⁸ Gaines' Response to Staff's First Request, Item 4.

³⁹ Gaines' Response to Staff's First Request, Item 4.

⁴⁰ Bullock Pen District's Answer to Complaint (Bullock Pen District's Answer) (filed Nov. 15, 2024) at 1.

not normal.⁴¹ Bullock Pen District explained that Complainant contacted Bullock Pen District on May 24, 2024, for the purpose of checking water pressure in his home and never mentioned a possible leak.⁴² Bullock Pen District stated that representatives of Bullock Pen District immediately went to Complainant's home on May 24, 2024, and conducted a pressure test, which Bullock Pen District provided a copy of the work order.⁴³ Bullock Pen later corrected that it was May 20, 2024, which was consistent with the work order.⁴⁴ Bullock Pen District stated that the water pressure tested at 50 psi which is within the normal range of psi.⁴⁵ Bullock Pen District stated that one of Bullock Pen District's office employees remembered trying to call Mr. Gaines, but the call prompted a response that led her to believe it was a non-working number.⁴⁶ Bullock Pen District alleged that there was no option to leave a voicemail and as stated by Bullock Pen District that the pressure reading recorded wasn't abnormal, as there was no urgency to get in contact with Mr. Gaines.⁴⁷

Bullock Pen District explained that typically pressure tests are performed at the meter setter, but this being an abnormal situation, with the meter being unusually deep, the service technician couldn't reach the meter by himself.⁴⁸ The onsite technician

⁴¹ Bullock Pen District's Answer at 1.

⁴² Bullock Pen District's Answer at 1.

⁴³ Bullock Pen District's Answer at 1 and Exhibit 1.

⁴⁴ Bullock Pen District's Response to Staff's First Request, Item 1.

⁴⁵ Bullock Pen District's Answer at 1-2.

⁴⁶ Bullock Pen District's response to Staff's First Request, Item 9.

⁴⁷ Bullock Pen District's response to Staff's First Request, Item 9.

⁴⁸ Bullock Pen District's response to Staff's First Request, Item 2.

noticed an outside spigot on the property, and in an effort to save time and additional resources, a decision was made to get a pressure reading at the outside spigot, with the understanding that the pressure record there would be similar to the pressure reading on the meter itself.⁴⁹ Bullock Pen District explained that the recorded reading was 50 psi, which was a normal reading.⁵⁰ Bullock Pen District stated that there was no mention of a leak, only a pressure test request.⁵¹

Bullock Pen District explained that typically depending on the reading recorded, more investigation takes place, or the pressure reading is communicated to the customer.⁵² If it is determined that more investigation is needed, then there is a pressure reading taken from a hydrant on the main water line, to determine if the district has an issue with the main line or the service line feeding the particular meter.⁵³

Bullock Pen District explained that during May 2024, Bullock Pen District installed a new Neptune meter reading system and when this new system was installed, there were a few bugs in the system that prevented Bullock Pen District from retrieving water usage data and the like.⁵⁴ Bullock Pen District stated that it worked diligently with Neptune and Software Solutions (Bullock Pen's IT provider) over several days to work out the bugs in the system.⁵⁵ All systems, according to Bullock Pen District, were fully operational on

⁴⁹ Bullock Pen District's response to Staff's First Request, Item 2a.

⁵⁰ Bullock Pen District's response to Staff's First Request, Item 2a.

⁵¹ Bullock Pen District's response to Staff's First Request, Item 2a.

⁵² Bullock Pen District's response to Staff's First Request, Item 2b.

⁵³ Bullock Pen District's response to Staff's First Request, Item 2b.

⁵⁴ Bullock Pen District's Answer at 2.

⁵⁵ Bullock Pen District's Answer at 2.

June 26, 2024.⁵⁶ Bullock Pen District representatives learned of the Complainant's water usage as follows: for the period from May 14 to June 17, 2024, the Complainant registered 369,000 gallons; and for the period from June 17 to June 26, 2024, the Complainant registered 109,000 gallons for a total of 478,000 gallons.⁵⁷ Bullock Pen District argued that given the circumstances with the Neptune meter reading system, Bullock Pen District's handling of this situation was within reason.⁵⁸

Bullock Pen District noted that it did not determine the exact location of the leak discovered on June 26, 2024.⁵⁹ Bullock Pen District's service technician, when visually observing Mr. Gaines' meter noticed that the leak detector was turning, which indicates a leak on the customer's side of the meter.⁶⁰ It was at that point that Mr. Gaines was notified he had a leak on his side of the meter.⁶¹ Mr. Gaines then took corrective action and repaired the teak.⁶² Bullock Pen District stated that it did not participate in any way in correcting Mr. Gaines'. water line leak.⁶³

Bullock Pen District representatives met with Complainant on July 3, 2024.⁶⁴ At that time, Bullock Pen District informed Complainant that the total bill was \$3,736.02.⁶⁵

⁵⁶ Bullock Pen District's Answer at 2.

⁵⁷ Bullock Pen District's Answer at 2.

⁵⁸. Bullock Pen District's Answer at 2.

⁵⁹ Bullock Pen District's Response to Staff's First Request, Item 3.

⁶⁰ Bullock Pen District's Response to Staff's First Request, Item 3.

⁶¹ Bullock Pen District's Response to Staff's First Request, Item 3.

⁶² Bullock Pen District's Response to Staff's First Request, Item 3

⁶³ Bullock Pen District's Response to Staff's First Request, Item 3

⁶⁴ Bullock Pen District's Answer at 3.

⁶⁵ Bullock Pen District's Answer at 3.

The Complainant was offered the standard policy of a "bulk water rate adjustment" which would have lowered his bill to \$1,756.40.⁶⁶ That offer still stands for Bullock Pen District.⁶⁷

On July 3, 2024, the Complainant was notified that he could attend the regular July 18, 2024 monthly meeting of the Bullock Pen District Board to address his issue and make his presentation for a greater water bill adjustment. Complainant did not attend the July 18, 2024 meeting.⁶⁸ At the July 3, 2024 meeting, Complainant was given all Public Service Commission contact information.⁶⁹

LEGAL STANDARD

Pursuant to KRS 278.260, the Commission has jurisdiction over complaints regarding rates or service. Commission regulation 807 KAR 5:001, Section 20(1)(c) requires each complaint to state fully, clearly and with reasonable certainty, the act or omission, of which failure to comply is alleged.

KRS 278.160 states that no utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules. Complainant bears the burden to establish that a utility has violated a statute, regulation, tariff, or Commission order.⁷⁰

⁶⁶ Bullock Pen District's Answer at 3.

⁶⁷ Bullock Pen District's Answer at 3.

⁶⁸ Bullock Pen District's Answer at 3.

⁶⁹ Bullock Pen District's Answer at 3.

⁷⁰ *Energy Regulatory Comm'm v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (KY. App. 1980).

Bullock Pen District has several tariff provisions that are informative of the issue at hand. First related to meter tests,

The utility will make a test of any meter upon written request of any customer if the request is not made more frequently than once every twelve (12) months. The customer shall be given the opportunity to be present at the requested test. If the test shows that the meter was not more than two (2) percent fast, the utility will make a reasonable charge for the test, the amount being approved by the Public Service Commission and set out in the utility's tariff.⁷¹

Bullock Pen District's tariff also requires that the utility will maintain a standard pressure in its distribution system at locations to be designated as the point or points of "standard pressure."⁷²

According to Bullock Pen District's Tariff:

In those instances where it shall be determined, after an investigation by the District that an underground leak which is not subject to detection by ordinary methods, and where the Customer is free from negligence in causing or failing to timely report the leak, the District will make a Bill Adjustment on the Customer's monthly bill. In order to qualify for a bill adjustment for an underground leak, the customer must do the following:

- (A) Be free from negligence or responsibility for causing the leak;
- (B) The customer must timely report the underground leak to the district;
- (C) The customer must submit in writing a request for a bill adjustment;
- (D) The written request for a bill adjustment must include the location of the leak and the date the leak was repaired; and
- (E) The customer must provide reasonable proof that the source of the Underground Leak has been repaired.⁷³

⁷¹ P.S.C. Ky. No. 1. Original Sheet (effective Jan. 1, 2010) at 22.

⁷² P.S.C. Ky. No. 1. Original Sheet (effective Jan. 1, 2010) at 25.

⁷³ P.S.C. Ky. No. 1. Original Sheet (effective Jan. 1, 2010) at 22.

The tariff further lays out that requests for Bill Adjustments must be submitted by the Customer in writing, and the Customer may also present their request for a Bill Adjustment by personal appearance at the District's regular monthly meeting.⁷⁴

Customers submitting fully compliant requests for a Bill Adjustment shall be charged for the lost water as follows:

Customers shall be charged an average monthly bill calculated as an average of the twelve (12) month period preceding the water leak; and

The Customer shall pay for all additional lost water based upon the District's then current wholesale water rate charged to the District by its wholesale water provider nearest the Customer's residence.⁷⁵

DISCUSSION AND FINDINGS

Having considered the record and being otherwise sufficiently advised, the Commission find that the burden of proof has not been met that Bullock Pen District is in violation of its tariff in relation to the water pressure test. There is conflicting information in the record regarding whether Mr. Gaines' request could be considered a meter test request, or a service request related to the low pressure. However, there is no evidence in the record to indicate that Mr. Gaines submitted a written request for a meter test, which is required by Bullock Pen District's tariff.⁷⁶ There is also conflicting information regarding whether Bullock Pen District went to the house to conduct a pressure test, as Mr. Gaines contests at certain times that the service technician ever visited his property. However, based on the evidence in the record it does appear that Bullock Pen District did go out to

⁷⁴ P.S.C. Ky. No. 1. Original Sheet (effective Jan. 1, 2010) at 29.

⁷⁵ P.S.C. Ky. No. 1. Original Sheet (effective Jan. 1, 2010) at 29-30.

⁷⁶ P.S.C. Ky. No. 1. Original Sheet (effective Jan. 1, 2010) at 29.

perform the pressure test. While Bullock Pen District did not follow its normal procedures for a pressure test, it did not violate its tariff by testing pressure at a spigot rather than at the meter. However, the Commission is troubled by Bullock Pen District's lack of further communication with Mr. Gaines. Therefore, the Commission recommends that Bullock Pen District consider putting policies in place regarding communication with customers after a service test or update its tariff with the responsibilities of customers to follow up after a test.

The Commission further finds that the calculation for the leak adjustment provided by Bullock Pen District complies with Bullock Pen District's tariff but cautions both Mr. Gaines and Bullock Pen District that the tariff procedures, including that Mr. Gaines must submit a request in writing for a leak adjustment, must be followed. As defined in Bullock Pen District's tariff, customers shall be charged an average monthly bill calculated as an average of the 12-month period preceding the water leak. Mr. Gaines' average 12-month usage was 4,000 gallons, and including tax, totaled \$52.21 for the month.⁷⁷ Therefore, the remaining 474,000 gallons were charged at the current wholesale water, which was \$3.49 per thousand gallons.⁷⁸ Mr. Gaines' proposed calculated amount for the leak adjustment in this matter does not reflect Bullock Pen District's tariff. The also Commission finds that Mr. Gaines is not entitled to an additional bill adjustment because, other than the procedure provided by Bullock Pen District, there are no other tariff provisions to allow for an additional adjustment. Pursuant to KRS 278.160, Mr. Gaines cannot receive from any utility for compensation greater or less than that prescribed in

⁷⁷ Bullock Pen District's Response to Staff's Third Request, Item 1a.

such schedules. While the Commission is sympathetic to Mr. Gaines' issues with Bullock Pen District's administration of this situation following his initial inquiry, the customer ultimately has responsibility to maintain his/her service line from the meter to the point of usage.

IT IS THEREFORE ORDERED that:

1. For the reasons set forth above the relief sought in Mr. Gaines's complaint is denied.
2. The case is closed and is removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Linda Bridwell RP
Executive Director



Belden Gaines
5005 Warsaw Road
Dry Ridge, KY 41035

*Bullock Pen Water District
One Farrell Drive
P. O. Box 188
Crittenden, KY 41030

*Charles Givin
Bullock Pen Water District
One Farrell Drive
P. O. Box 188
Crittenden, KY 41030