

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

STANLEY MARCINEK)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 96-368
)	
KENTUCKY-AMERICAN WATER COMPANY)	
)	
DEFENDANT)	

O R D E R

On July 30, 1996, Stanley Marcinek filed a complaint against Kentucky-American Water Company ("Kentucky-American") concerning a disputed water bill he received for the three-month period from September 20, 1995 to December 19, 1995.¹ Kentucky-American was directed by Order to satisfy or answer the complaint. Kentucky-American filed its answer on August 21, 1996. As further proceedings were necessary, the Commission established a procedural schedule on October 14, 1996. The Commission issued an information request on November 15, 1996, to which Kentucky-American responded on November 22, 1996. While a hearing was scheduled in this matter for December 13, 1996, the Commission on its own motion rescheduled the hearing to January 24, 1997, on which day the hearing proceeded. Kentucky-American appeared represented by counsel, while Mr. Marcinek appeared pro se.

¹ While Kentucky-American billed quarterly at the time Mr. Marcinek received the disputed bill, it has since switched to monthly billing.

The essence of the complaint is that Mr. Marcinek received a bill from Kentucky-American for the billing period between September 20, 1995 and December 19, 1995 for 8,800 cubic feet of water usage in the amount of \$312.33.² Mr. Marcinek believed that only a malfunction in his meter could have resulted in a bill of this magnitude. He and his wife are the only residents in the home located at 236 St. Ann Drive. Mr. Marcinek testified that he and his wife have resided at the same location for 40 years and have raised a family of eight children. During this time, they never before used this much water in a three-month period or received a bill of this proportion. Mr. Marcinek in fact offered testimony that he and his wife are very conservative water users.

After receiving the unusually large bill,³ Mr. Marcinek contacted Kentucky-American regarding the matter. When Kentucky-American first examined the meter, it found no signs of a leak at the box and noted that the flow finder was not moving. Kentucky-American's second examination of Mr. Marcinek's meter revealed a slight leak, as indicated by the flow finder. A slow leak was subsequently discovered in one of Mr. Marcinek's toilets, which he testified he immediately repaired.

Kentucky-American removed the meter through which 236 St. Ann Drive receives service twice for testing. The test conducted by Kentucky-American on January 15, 1996

² To have used 8,800 cubic feet of water over a 90 day billing period, 97.78 cubic feet of water would have had to pass through Mr. Marcinek's meter every day. As there are approximately 7.48 gallons of water in one cubic foot, this would equal 731.39 gallons per day, or 21,941.83 gallons a month.

³ Mr. Marcinek had averaged 1,220 cubic feet per billing period for the 10 billing periods preceding the billing period which ended on December 19, 1995. For the three billing periods immediately following the period in question, Mr. Marcinek used an average of 967 cubic feet every three months.

showed that the accuracy of the meter serving Mr. Marcinek's property was within Commission standards pursuant to 807 KAR 5:066, Section 15, Accuracy Requirements of Water Meters. Attachment 1. The test conducted by Kentucky-American on February 22, 1996, which was witnessed by Mr. and Mrs. Marcinek, again showed that the accuracy of the meter was within Commission standards under 807 KAR 5:066, Section 15. Attachment 2.

While Mr. Marcinek contends that the leak in his toilet could not have resulted in the significant increase in his water usage indicated by the bill he received in December 1995, he offered no real evidence to support his position that the meter failed to accurately record the amount of water that flowed through it between September 10, 1995 and December 19, 1995. While Kentucky-American could not prove that Mr. Marcinek's increased water usage was the result of his leaky toilet or any other leak on his side of the meter, it does not bear the burden of proof. While the Commission understands Mr. Marcinek's position and recognizes that the bill in question is not consistent with his normal water usage, he failed to prove that the amount of water in question did not in fact pass through his meter. Two tests showed that the meter was accurately recording the amount of water which flowed through it.

Kentucky-American is a utility subject to the regulation of this Commission. KRS 278.160(2) 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.

Also, KRS 278.170(1) requires that no utility give an unreasonable preference to any person.

From the facts of this case, it does not appear that Kentucky-American is demanding greater compensation than it deserves for service rendered. The meter in question has been thoroughly tested and examined by Kentucky-American. It met the Commission's minimum accuracy requirements and no defects were discovered. While testimony confirmed that a leak, albeit a small one, was discovered in Mr. Marcinek's home, there was no evidence produced to show that the meter through which Mr. Marcinek received service functioned incorrectly at any time.

Unless Mr. Marcinek pays the amount still in dispute, which is \$209.21,⁴ he will have received service from Kentucky-American for less compensation than prescribed in its schedules contrary to KRS 278.160(2). If Kentucky-American does not require Mr. Marcinek to pay in full for the service he received, the utility would violate KRS 278.170(1).

Pursuant to 807 KAR 5:006, Section 13(2), Mr. Marcinek may request Kentucky-American to establish a partial payment plan for the outstanding bill. The partial payment plan should be mutually agreed upon and subject to the conditions of 807 KAR 5:006, Section 13(2), and 807 KAR 5:006, Section 14. Any partial payment plan agreed upon should extend at least three months, the period during which the amount in question accrued.

IT IS THEREFORE ORDERED that:

1. The complaint of Stanley Marcinek against Kentucky-American is dismissed.

⁴ January 24, 1997 Transcript of Evidence at 112.

2. Kentucky-American shall offer Mr. Marcinek a partial payment plan extending at least three months, and file a copy of said partial payment plan with the Commission within 10 days of its ratification.

Done at Frankfort, Kentucky, this 23rd day of April, 1997,

PUBLIC SERVICE COMMISSION

Linda K. Breadwith
Chairman

Ed H. Olson
Vice Chairman

B. G. Helton
Commissioner

ATTEST:

Don Mills
Executive Director

KENTUCKY - AMERICAN WATER COMPANY

***** OFFICE USE ONLY *****

Customer Name: S. Marcinek Account Number: [REDACTED]
 Service Address: 236 St Ann Dr Service Number: 28292
 Meter: Size 5/8 Make N Number 38723049 Test Scheduled: Date 1-15-96 Time 3:15PM

	GPM	Readings		Percent of Accuracy	Required Accuracy
		Beginning	Ending		
Low Flow:	<u>14</u>	<u>0166.1500</u>	<u>0166.1600</u>	<u>100</u>	90% - 101%
Intermediate Flow:	<u>2</u>	<u>0166.1600</u>	<u>0166.1700</u>	<u>100</u>	98.5% - 101.5%
Maximum Flow:	<u>15</u>	<u>0166.1700</u>	<u>0166.2699</u>	<u>99.9</u>	98.5% - 101.5%

 * IF ANY OF THE TESTS ABOVE ARE NOT WITHIN THE REQUIRED *
 * ACCURACY LIMITS THEN FURTHER TESTING IS REQUIRED BELOW. *
 * *****

Flow Rate % of Capacity	GPM	Beginning	Readings	Ending	Percent of Accuracy
25%	_____	_____		_____	_____
50%	_____	_____		_____	_____
75%	_____	_____		_____	_____

Average of all 3 tests: _____
 Less Standard: 100%
 Equals % of Error: _____ Fast _____ Slow _____

Before Test Reading: 016615 After Test Reading: 016626

Customer Witness? YES _____ NO X

*** IF PERCENT OF ERROR IS GREATER THAN 2% THEN COMPLETE THE APPROPRIATE SECTION BELOW ***

Length of time error is known to exist: _____

FAST METER basis for refund: _____

Amount of refund: _____

SLOW METER basis for additional bill: _____

Amount of additional bill: _____

COMMENTS: _____

Copy to: Customer Service Supt.—Inside
 Customer Service Supt.—Outside
 Customer with letter

Meter Envelope _____
 Meter Dept. File _____

REG 64

COLEMAN BUSN

KENTUCKY - AMERICAN WATER COMPANY

METER SHOP

***** OFFICE USE ONLY *****

FEB 22 1996

Customer Name: MaReinck
Service Address: 236 ST. ANN
Meter: Size 5/8 Make N Number 38923049

Account Number: [REDACTED]
Service Number: 28292
Test Scheduled: Date 2/22/96 Time 2:50 P/L

	GPM	Readings Beginning	Readings Ending	Percent of Accuracy	Required Accuracy
Low Flow:	<u>44</u>	<u>0169.5320</u>	<u>0169.5418</u>	<u>98</u>	90% -- 101%
Intermediate Flow:	<u>2</u>	<u>0169.5418</u>	<u>0169.5518</u>	<u>100</u>	98.5% - 101.5%
Maximum Flow:	<u>15</u>	<u>0169.5518</u>	<u>0169.6514</u>	<u>99.6</u>	98.5% - 101.5%

* IF ANY OF THE TESTS ABOVE ARE NOT WITHIN THE REQUIRED *
* ACCURACY LIMITS THEN FURTHER TESTING IS REQUIRED BELOW. *

Flow Rate % of Capacity	GPM	Readings Beginning	Readings Ending	Percent of Accuracy
25%	_____	_____	_____	_____
50%	_____	_____	_____	_____
75%	_____	_____	_____	_____

Average of all 3 tests: _____
Less Standard: 100%
Equals % of Error: _____ Fast _____ Slow _____

Before Test Reading: 016953 After Test Reading: 016965
Customer Witness? YES NO _____

*** IF PERCENT OF ERROR IS GREATER THAN 2% THEN COMPLETE THE APPROPRIATE SECTION BELOW ***

Length of time error is known to exist: _____
FAST METER basis for refund: _____
Amount of refund: _____
SLOW METER basis for additional bill: _____
Amount of additional bill: _____
COMMENTS: _____

Copy to: Customer Service Supt.--Inside
Customer Service Supt.--Outside
Customer with letter
Meter Envelope
Service File
PSC Complaint File
Meter Dept File
Billing Dept File

EXHIBIT 4