

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SAM HARDY)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 97-441
)	
KENTUCKY TURNPIKE WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

Sam Hardy has brought a formal complaint against Kentucky Turnpike Water District (Kentucky Turnpike) concerning the location of his water meter. This case presents two issues: (1) whether Kentucky Turnpike failed to comply with Administrative Regulation 807 KAR 5:066, Section 12(1)(b), when installing Hardy s meter, and (2) whether it unreasonably discriminated against Hardy in the placement of that meter. Finding in the negative on both issues, we dismiss the complaint.

STATEMENT OF THE CASE

Kentucky Turnpike is a water district organized pursuant to KRS Chapter 74. It currently provides water service to approximately 5,415 customers in portions of Bullitt County, Kentucky.

Sam Hardy, a retiree, resides in Shepherdsville, Kentucky. His residence is currently served through a private well system. In August 1994, Hardy applied to Kentucky Turnpike for water service and executed a \$3,000 promissory note to cover

the cost of extending a water main to his home.¹ On June 10, 1997, after the water main extension's completion, Hardy paid his \$3,000 and executed a water service contract with Kentucky Turnpike. Upon submission of Hardy's water service contract, a Kentucky Turnpike employee gave Hardy a blue stake and directed him to place the stake along his property where he desired his water meter.² Hardy immediately returned home and placed the stake near the western end of his property.³

In 1997 Kentucky Turnpike completed construction of its Cedar Grove Road Water Main. This main is an 8-inch water main that runs from west to east along the south side of Cedar Grove Road.⁴ It sits in a 40-inch deep, 24-inch wide trench on an easement approximately 30 feet from the road.

Hardy's property is located at 3140 Cedar Grove Road on the north side of Cedar Grove Road. It consists of approximately 10.5 acres of land. Hardy's residence is located between 800 and 900 feet from Cedar Grove Road. An asphalt driveway runs along the western portion of the property from that road to the Hardy residence. A community fence runs along the western property line of Hardy's property. The fence and driveway are approximately 12 feet apart.

¹ The payment had two components. Approximately \$2,550 of the note represented Hardy's required contribution for the water main extension. The remaining \$450 represented a tap fee that covers the cost of installation of a meter and metering vault.

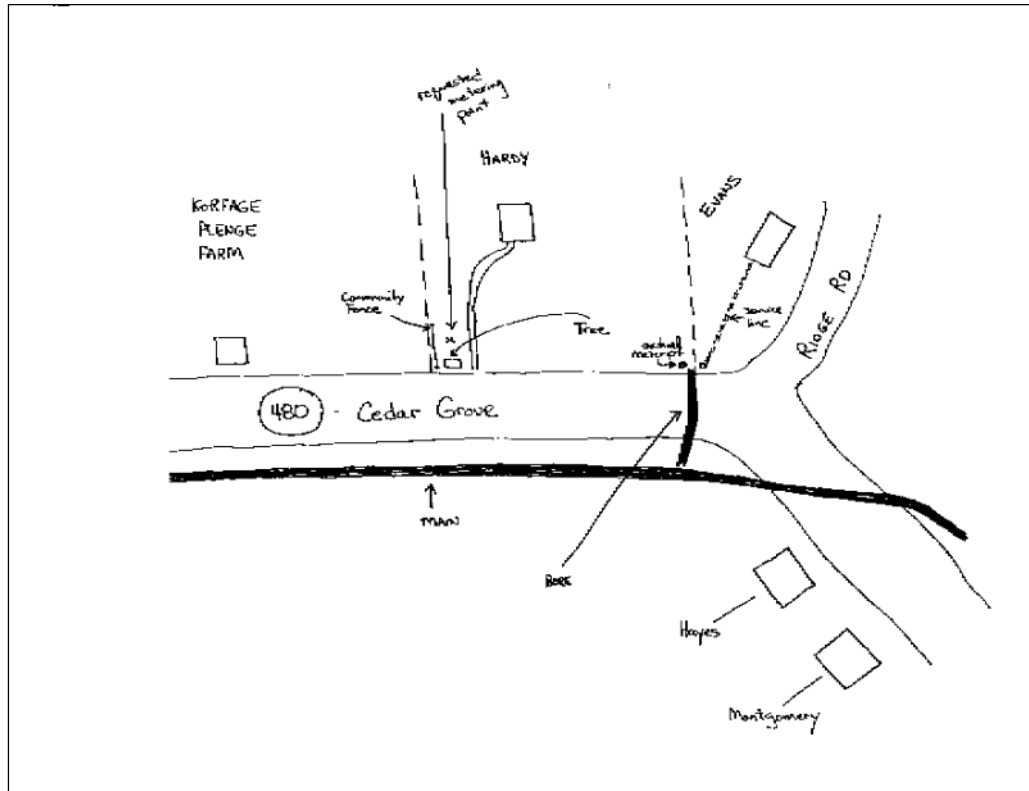
² The water service contract also directs the applicant to [p]lease place a stake at the location the meter is to be installed. See Complainant Exhibit 2.

³ Transcript at 25.

⁴ Cedar Grove Road is also known as Kentucky Highway 480.

Hardy's property is bounded on the west by the Korfage Plenge Farm. This property is primarily agricultural land. On the east, Hardy's property is bounded by a land tract which Daryl Evans owns and upon which his personal residence sits (the

Hardy Property and Cedar Grove Road Main Extension



Source: Defendant Exhibit 2

Evans Tract). The Evans tract primarily fronts Kentucky Highway 1442, which is also known as Ridge Road. A small portion of the Evans tract fronts Cedar Grove Road.

Because Hardy's property and the Cedar Grove Road Main are located on the opposing sides of Cedar Grove Road, Kentucky Turnpike had to bore a hole under the road to provide water service to the property. As Cedar Grove Road sits atop a coral stone rock shelf,⁵ such boring is a difficult and expensive process. Lacking the

⁵ Transcript at 75.

equipment and technical ability to make such bores, the water district retained Custom Services, Inc., an independent contractor, to perform such work.⁶

Although Hardy made his required payment and executed his service contract in June 1997, Kentucky Turnpike did not immediately install a meter. It made service connections to prospective customers along the Cedar Grove Road Main only after the prospective customer had installed his or her service line and was ready to take water service. (Hardy had, as of July 1998, still not installed a service line from Cedar Grove Road to his residence.) The record does not indicate that Hardy complained about the delay which this policy caused.

In July 1997, Hardy became concerned about the placement of his water meter. Unable to locate his blue stake and finding other stake markers on the eastern portion of his property, he contacted Kentucky Turnpike and spoke with Kentucky Turnpike General Manager Raymond Abell. Hardy testified that during this conversation Abell asked Hardy to consider placing his water meter on the east side of his property. Hardy rejected this suggestion and explained his reasons for locating the meter on the west side of his property. According to Hardy, Abell then advised him to install your line and we will hook it up.⁷

Abell testified that during this conversation he told Hardy that if the service was immediately installed, then it would be installed at Hardy's requested location. He also suggested a different location for the meter. He further testified that he advised Hardy

⁶ Kentucky Turnpike retained Custom Services to perform meter installations on the Cedar Grove Road Main only. Its employees continue to perform all other meter installations.

⁷ Transcript at 60.

of problems with the meter's proposed location. According to Abell, Hardy requested that the meter be located between his western property line and his driveway. Abell testified that a large tree obstructed this location and would have to be removed at Hardy's expense if the meter were located there. Abell further testified that, after his telephone conversation with Hardy, he sent a letter to Hardy that further discussed this problem.⁸

On August 20, 1998, Daryl Evans applied for water service to the Evans tract.⁹ On September 17, 1999, Kentucky Turnpike made a single bore underneath Cedar Grove Road to serve Hardy's property and the Evans tract. The water district placed the meter on the far eastern portion of Hardy's property. Abell testified that Kentucky Turnpike chose this location to avoid the expense of making two bores under the Cedar Grove Road.¹⁰ He further testified that at the time of installation, Evans had applied for service, had installed his service line, and was ready to receive water service.

Hardy testified that, as a result of Kentucky Turnpike's placement of the meter, he has incurred approximately \$1,380 in additional costs. The estimated cost to install a water service line from the requested meter location to Hardy's residence is \$1,300.¹¹ Hardy estimates that these costs will increase to \$2,680 if a water service line is

⁸ This letter is not part of the evidentiary record. After Commission requests to produce the document, Kentucky Turnpike advised that it was unable to locate a copy. Hardy has not disputed the contents of the letter.

⁹ Kentucky Turnpike's Notice of Filing Request Documents, Item 4.

¹⁰ The total savings resulting from using a single bore for 2 meter installations is \$550.

¹¹ Transcript at 30.

installed from the meter's current location. Hardy also anticipates that, since the water service line must cross his asphalt driveway, his driveway will also be damaged.¹²

DISCUSSION

A water utility's obligations concerning the placement of a water meter are set forth in Administrative Regulation 807 KAR 5:066, Section 12(1)(b), which provides:

In areas where the distribution system follows well-defined streets and roads, the customer's point of service shall be located at that point on or near the street right-of-way or property line most accessible to the utility from its distribution system. In areas where the distribution system does not follow streets and roads, the point of service shall be located as near the customer's property line as practicable. Prior to installation of the meter the utility shall consult with the customer as to the most practical location.

The regulation provides considerable discretion to the utility in the placement of a meter. While it requires consultation with the customer, the regulation does not require the utility to satisfy the customer's preference. See, e.g., Case No. 98-611, Perkins v. Northern Kentucky Water Service District (Mar. 15, 1999).

Based upon our review of the record, the Commission finds that Kentucky Turnpike has complied with Administrative Regulation 807 KAR 5:066, Section 12(1)(b). The utility consulted with Hardy regarding the meter's location. Based upon the circumstances existing at the time of the meter installation, its chosen location was not unreasonable. Its selection avoided an additional road bore and thus reduced the utility's cost of service.

In his complaint, Hardy contends that Kentucky Turnpike unreasonably discriminated against him in the placement of the meter. He notes that two other Kentucky Turnpike customers, Roger Hayes and Paul Montgomery, who live within a

¹² Id. at 30, 44-45.

mile of his residence and whose properties adjoin each other and are also located on the north side of Cedar Grove Road, received water service through single bore. Kentucky Turnpike made these meter installations less than a week before making Hardy's installation.¹³

The Commission finds Kentucky Turnpike's explanation of this disparate treatment to be reasonable. Kentucky Turnpike's Abell testified that he first learned of the separate bores after they were performed on September 12, 1997. After learning of them, he instructed the water district's contractor to use a single bore when installing water meters to adjoining properties. The contractor apparently was unaware that the water district's normal practice was to use a single bore for connection involving adjoining properties.¹⁴ Nothing in the record indicates that either Hayes or Montgomery was singled out for favorable treatment or that Hardy was treated in a different manner from most Kentucky Turnpike customers.

Complainants before the Commission have the burden of proof. Hardy has failed to meet this burden. The location of his meter results more from a quirk of timing than any improper action on Kentucky Turnpike's part. Had Hardy installed his service line earlier, or had Evans requested service at a later date, a different result would have occurred.

¹³ Id. at 85-86.

¹⁴ Id. at 104.

CONCLUSION

Finding that the Complainant has failed to meet his burden of proof in this matter,
the Commission HEREBY ORDERS that:

1. The Complaint is dismissed with prejudice.
2. This matter shall be removed from the Commission s docket.

Done at Frankfort, Kentucky, this 5th day of April, 1999.

By the Commission

ATTEST:

Executive Director