

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GARY LEE BALL)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2002-00121
)	
MARTIN COUNTY WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On April 3, 2002, Gary Lee Ball (“Complainant”) filed a formal complaint against Martin County Water District (“Martin District”) alleging that Martin District either improperly installed his meter after disconnection or deliberately broke his service line after installation of his meter, resulting in a larger-than-usual water bill. Complainant requests that the Commission direct Martin District to remove charges for 1,000 gallons of water that allegedly leaked from his service line and to reimburse costs for repairing his service line.

Martin District answers that it correctly installed Complainant’s meter and no leaks were visible at the time of installation.

BACKGROUND

Martin District removed Complainant’s meter on February 19, 2002 for non-payment. Complainant paid the bill on February 20, 2002. Martin District dispatched Michael Sartin, who reinstalled Complainant’s meter on February 22, 2002, allegedly observing no leaks.

Complainant alleges that on February 22, 2002, upon his return home, he noticed disturbed dirt around his meter box. Complainant inspected his meter box, allegedly discovering water gushing from his side of the meter and the meter “spinning wildly.”¹ Complainant then called Martin District. Mr. Sartin, accompanied by another Martin District employee, Clyde Stanley, Jr., went to Complainant’s residence and discovered that Complainant had already turned off his meter. Upon turning on the meter, Mr. Sartin observed a leak on Complainant’s side of the meter. Complainant subsequently had his service line replaced.

DISCUSSION

Complainant requests that: (1) Martin District reimburse him for 1,000 gallons of lost water, and (2) Martin District pay for repairs to his service line. As explained herein, Complainant may recover some adjustment to his bill for the leaked water, but may not recover costs for repairing his service line.

Martin District is required to charge its tariffed rates, even for leaked water. Pursuant to KRS 278.160,² a utility must charge its tariffed rates, no more and no less, to all of its customers. Kentucky courts have found that, even in the presence of a tort committed by a utility, the utility must collect its tariffed rates and charges.

¹ Complaint at 2.

² KRS 278.160. Utilities to file and display schedules of rates and conditions of service; adherence to schedules.

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.

In Boone County Sand and Gravel v. Owen County Rural Electric Cooperative Corporation, 779 S.W.2d 224 (Ky.App. 1989), the Court of Appeals found that a utility must charge its tariffed rates regardless of the action of the utility leading to the charges incurred. The same rationale applies here.

Martin District's tariff contains a leak adjustment clause³ that allows for a leak adjustment of \$2.00 per 1,000 gallons. As this is Martin District's legally tariffed rate, and Martin District is prohibited from charging anything other than its tariffed rate, Complainant may receive a \$2.00 adjustment on his water bill, but cannot receive total compensation for the 1,000 gallons.

Moreover, Complainant is not entitled to recover from Martin District the costs associated with repairing his service line. 807 KAR 5:066, Section 12(2), provides, in pertinent part, that:

(2) Customer's responsibility. The customer shall furnish and lay the necessary pipe to make the connection from the point of service to the place of consumption and shall keep the service line in good repair and in accordance with such reasonable requirements of the utility as may be incorporated in its rules and administrative regulations. (Emphasis added).

Martin District's tariff provides that the customer is responsible for his service line, stating, "[t]he customer shall install, own, and maintain his/her service line from the meter (or point of delivery) to the point of usage."⁴ The Commission, therefore, is unable to award Complainant any damages for Martin District's alleged actions involving damage to his service line.

³ Original Sheet 8, Section F.

⁴ Sheet No. 35, Section X, Ownership of Mains, Services and Appurtenances, subsection 3.

IT IS THEREFORE ORDERED that:

1. Martin District shall apply a leak adjustment of \$2.00 for 1,000 gallons of water to Complainant's next bill.

2. This complaint is dismissed with prejudice and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 19th day of March, 2004.

By the Commission

ATTEST:

Deputy Wm. H. I. Barker
Executive Director