

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PEGGY HOWELL D/B/A KOUNTRY CAFÉ)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2011-00426
)	
WATER SERVICE CORPORATION OF)	
KENTUCKY)	
)	
DEFENDANT)	

ORDER

Peggy Howell d/b/a Kountry Café has filed a formal complaint against Water Service Corporation of Kentucky (“Water Service Corporation”) in which she alleges several billing errors. Finding that the Complainant has failed to meet her burden of proof, we deny the complaint.

Water Service Corporation, a Kentucky corporation organized under KRS Chapter 271B, owns and operates facilities used in the treatment, storage, transmission, and distribution of water to approximately 7,388 customers in Middlesboro and Clinton, Kentucky.¹

Complainant owns and operates a small restaurant in Clinton, Kentucky. She has received water service from Water Service Corporation since on or before October 3, 2010.

¹ *Annual Report of Water Service Corporation of Kentucky to the Public Service Commission of Kentucky for the Year Ended December 31, 2011* at 5, 30; Application at ¶ 6.

On October 24, 2011, Complainant filed a formal complaint against Water Service Corporation in which she alleges several billing errors or improper billing practices. She states that on two occasions she has received two bills for water service in the same month,² that Water Service Corporation issued a bill to her whose due date fell on a Sunday, and that she was overcharged due to an erroneous usage reading in September 2011.

In its Answer, Water Service Corporation acknowledges that Complainant may have received multiple bills in a one month period but was issued only one bill for each monthly billing period. It further states that the balance due for each bill reflects the actual amount due for that billing period and the payment credited for the prior billing period. It denies that any double billing or failure to credit payment has occurred as a result of the multiple bills. Finally, Water Service Corporation states that, as a result of a transition to new water meters, the Complainant's stated average daily usage for the month of September 2011 was incorrectly calculated. This error, it further states, was not reflected in the amount owed and therefore no refund is purportedly due.

Following receipt of Water Service Corporation's Answer, the Commission, on its own motion ordered the removal and testing of the meter that served Complainant's business. On January 18, 2012, in the presence of Commission Staff and Complainant's counsel, Water Service Corporation employees removed the water meter from service and transferred custody of it to Commission Staff. The following day, Commission Staff tested the meter at the Commission's Meter Laboratory in Frankfort, Kentucky. The results of these tests indicated the meter was not within the accuracy

² Complaint at 1-2. Complainant refers to four bills for water service that were due on the following dates: January 2, 2011; January 28, 2011; May 1, 2011; and May 26, 2011.

requirements of 807 KAR 5:066, Section 15(2)(a), for the medium flow rate.³ Pursuant to 807 KAR 5:066, Section 15(4), Commission Staff then performed three additional tests to determine the average meter error. It found the average meter error to be 0.2 percent fast. This error is within the Commission's accuracy standard and did not require any customer refund.⁴

After Commission Staff released the results of the tests, the Commission, on April 9, 2012, directed Complainant to advise the Commission in writing within 20 days as to how it wished to proceed. When Complainant failed to respond within the time permitted, the Commission, on May 14, 2012, ordered that this matter stood submitted for decision.

The complainant bears the burden of proof in matters before an administrative body.⁵ In failing to provide any evidence that she was erroneously billed, the Complainant has failed to carry her burden. A review of the billing information that Water Service Corporation submitted with its Answer indicates that any errors regarding

³ The meter was registering 103.0 percent, or three percent fast for the medium flow rate. The acceptable accuracy limit is from 98.5 percent to 101.5 percent.

⁴ 807 KAR 5:006, Section 10, provides:

(1) If upon periodic test, request test, or complaint test a meter in service is found to be more than two (2) percent fast, additional tests shall be made to determine the average error of the meter. Said tests shall be made in accordance with commission administrative regulations applicable to the type of meter involved.

(2) If test results on a customer's meter show an average error greater than two (2) percent fast or slow, or if a customer has been incorrectly billed for any other reason, except in an instance where a utility has filed a verified complaint with the appropriate law enforcement agency alleging fraud or theft by a customer, the utility shall immediately determine the period during which the error has existed, and shall recompute and adjust the customer's bill to either provide a refund to the customer or collect an additional amount of revenue from the underbilled customer.

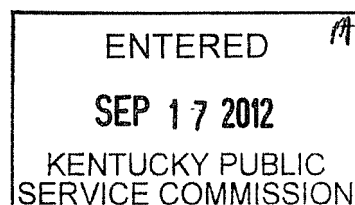
⁵ *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

water usage on billing statements were not mirrored in the actual amounts owed or paid. Complainant has further failed to indicate that any harm resulted from two billing periods ending in the same calendar month or that Water Service Corporation's actions violated any statute or administrative regulation. Accordingly, the Commission finds that the complaint should be dismissed with prejudice.

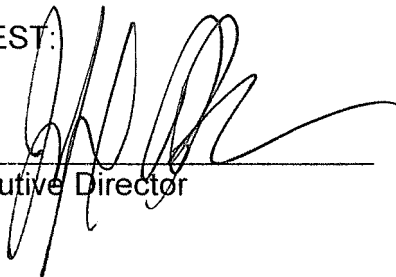
IT IS THEREFORE ORDERED that:

1. The Complaint is dismissed with prejudice.
2. This case is closed and shall be removed from the Commission's docket.

By the Commission



ATTEST:



Executive Director

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

James Leonard
Regional Manager
Water Service Corporation of Kentucky
1221 East Cumberland Avenue
Middlesboro, KY 40965

Mary B Potter
113 North Washington Street
Clinton, KENTUCKY 42031