

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SONJA D. AND PATRICK STIPES)	
)	
COMPLAINANTS)	CASE NO.
V.)	2014-00193
)	
FARMDALE WATER DISTRICT)	
)	
DEFENDANT)	

ORDER

On May 20, 2014, Complainants Sonja D. and Patrick Stipes filed a complaint against Defendant Farmdale Water District. The complaint alleges that Defendant failed to turn off its water service connection at 1106 Evergreen Road following an August 1, 2013, request by Complainants to turn off the connection. The complaint further alleges that a water pipe burst in January 2014, flooded the building, and the water service connection was discovered to have been in the "on" position. The Complainants seek \$25,000 in damages plus the loss of rental income in the amount of \$650.00 per month since February 1, 2014.

Upon the filing of a formal complaint, 807 KAR 5:001, Section 20(4)(a) requires the Commission to examine and determine whether the complaint establishes a prima facie case. A complaint establishes a prima facie case when, on its face, it states

sufficient allegations that, if not contradicted by other evidence, would entitle the Complainants to the requested relief.¹

The Commission finds that Complainants have failed to establish a prima facie case. Complainants seek compensatory damages. The Commission is without jurisdiction to award the relief requested by Complainants. Pursuant to KRS 278.040, the Commission has jurisdiction of only the “rates” and “service” of utilities as defined by KRS 278.010. Complainants’ request for damages does not fall under either category.

In *Carr v. Cincinnati Bell, Inc.*, 651 S.W.2d 126 (Ky. App. 1983), a customer brought an action in Kenton Circuit Court seeking, among other things, compensatory damages for tortious breach of contract for telephone service. The circuit court dismissed the suit, holding that the Commission had exclusive jurisdiction over the matter. Reversing the circuit court’s ruling, the Court of Appeals stated:

[A]ppellant seeks damages for breach of contract. Nowhere in Chapter 278 do we find a delegation of power to the PSC to adjudicate contract claims for unliquidated damages. Nor would it be reasonable to infer that the Commission is so empowered or equipped to handle such claims consistent with constitutional requirement. Kentucky Constitution Sec. 14.²

Accordingly, consideration of Complainants request for damages is beyond the Commission’s jurisdiction, and the complaint should be dismissed.

¹ See, Case No. 2005-00451, *Raynanza L. Duke v. Louisville Gas and Electric Company* (Ky. PSC Feb. 6, 2006).

² *Carr* at 128.

IT IS THEREFORE ORDERED that Complainants' complaint against Farmdale Water District for the recovery of damages is dismissed as being beyond the scope of the Commission's jurisdiction.

By the Commission

ENTERED
JUN 20 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00193

Jan Sanders
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