

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KURT AND LAYNE NETHERTON)	
)	
COMPLAINANTS)	
V.)	CASE NO.
)	2014-00141
KENTUCKY-AMERICAN WATER COMPANY)	
)	
DEFENDANT)	

ORDER

On March 31, 2014, Layne and Kurt Netherton filed a complaint against Kentucky-American Water Company (“Kentucky-American”) claiming that two monthly water bills they received for the period of November 6, 2013, through January 7, 2014, were excessively high and clearly incorrect. Kentucky-American was directed by Order to satisfy or answer the Complaint. Kentucky-American filed its answer and motion to dismiss on May 1, 2014. In its motion, Kentucky-American alleges that, since the meter in question met all applicable accuracy requirements in separate tests conducted by Kentucky-American and the Commission, the water meter readings are accurate and the Nethertons are liable for all amounts resulting from the indicated usage.

Commission regulations provide that, if upon a test of a customer’s meter in service, the test results show an average meter error greater than 2 percent fast or slow, the utility shall recompute and adjust the customer’s bill for the period during which the error has existed. 807 KAR 5:006 § 11(2)(a). There are no Commission provisions for adjusting a bill when the results of the meter testing are within the limits

established by 807 KAR 5:022, § 8(3)(a)(2), 5:041, § 17(1), or 5:066, § 15(4). Pursuant to KRS 278.160(2), no utility can demand greater compensation for service rendered nor can any person receive service for less compensation than prescribed in the utility's filed schedules. While the Complainants claim that there is no test that can prove that the meter was accurately reading the actual usage in November and December 2013, the Commission notes that the complainants bear the burden of proof in matters before an administrative agency.¹

The Commission, having considered Kentucky-American's motion to dismiss, finds that it should be denied because it appears that there are material issues of fact in dispute between the parties. The Commission further finds that a procedural schedule should be established to ensure the prompt resolution of this matter.

IT IS THEREFORE ORDERED that:

1. Kentucky-American's motion to dismiss is denied.
2. The procedural schedule set forth in the Appendix attached hereto and incorporated herein shall be followed.
 - a. Responses to requests for information shall be appropriately bound, tabbed, and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record and an original and seven copies to the Commission
 - b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or

¹ *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. Any party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. All parties shall respond to any requests for information that Commission Staff submits in accordance with the procedural schedule set forth in the Appendix.

3. An informal conference shall be scheduled after the time to respond to requests for information as set forth in the procedural schedule in the Appendix.

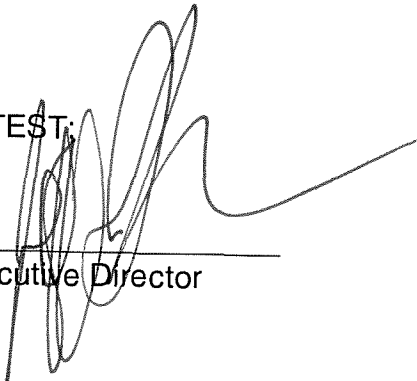
4. The Commission does not look favorably upon motions for continuance. Consequently, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

5. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission

ENTERED ¹⁴
MAY 16 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00141

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2014-00141 DATED **MAY 16 2014**

Requests for Information to Kentucky-American Water
Company ("Kentucky-American") shall be filed
no later than May 30, 2014

Requests for Information to Layne and Kurt Netherton
shall be filed no later than May 30, 2014

Kentucky-American's responses to Requests for
Information shall be filed no later than June 17, 2014

Layne and Kurt Netherton's responses to Requests for
Information shall be filed no later than June 17, 2014

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