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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BENT TREE CONDOMINIUM ASSOCIATION)
COMPLAINANT)

V.)

CASE NO. 2019-00133

KENTUCKY-AMERICAN WATER COMPANY)
DEFENDANT)

**BENT TREE'S REPLY TO KAWC'S RESPONSE TO BENT TREE'S MOTION FOR
LEAVE TO FILE REQUESTS FOR INFORMATION TO KENTUCKY-AMERICAN
WATER COMPANY**

Comes now the Complainant, Bent Tree Condominium Association ("Bent Tree" or the "Complainant"), by and through counsel, and files this Reply to KAWC's Response to Bent Tree's Motion for Leave to File Requests for Information to Kentucky-American Water Company ("KAWC" or "the Company") in this matter. As grounds for this Reply, Complainant states that as evidenced by KAWC's continuing to argue over the "facts" in its Response, it is self-evident that certain facts remain in contest and should be fully discovered. Indeed, nothing could beg the question for the need to develop the record louder. The "fundamental facts" that water flowed through a meter, or meters, somewhere on Bent Tree's property, and the notion that it, or they, read accurately are issues still in dispute. KAWC attempts to oversimplify the matter and divert the Commission's attention away from necessary, relevant facts, as noted in Bent Tree's requests for information, should be denied and Bent Tree's Motion for Leave to File Requests for Information to KAWC should be granted.

In its Response to Complainant's Motion¹, KAWC refers to its response to PSC Staff's DR- 3 and continues to refuse to acknowledge Complainant, through Mr. Marquette, went to KAWC's office, had in-person meetings with KAWC personnel and attempted to settle the dispute related to the unusually high consumption billed to Bent Tree. Discovery will demonstrate Marquette had in-person meetings with a KAWC representative in an attempt to settle the dispute in October. Moreover, after hearing no response from KAWC, he did so again in November with whatever means necessary to bring closure to the dispute, whether by testing the meters or otherwise as Marquette would have to defer to KAWC to satisfactorily address the complaint. Indeed, pursuant to 807 KAR 5:006, Section 14(1)(b), the Company is required to have at least one designated representative "available to answer customer questions, **resolve disputes**, and negotiate partial payment plans at the company's offices." (Emphasis added.) For some reason, KAWC either wants to deny the substance of these in-person meetings to settle the dispute² or ignore its legally mandated customer relations obligations.

KAWC goes to great length to discuss the March 9, 2018 meeting to argue that it met with Bent Tree to perform listening tests to assist Bent Tree in "identifying a problem it [Bent Tree] might be having downstream from KAW's meters. But, again, that was part

¹ KAWC Response, page 2.

² At page 2 of its Response, KAWC maintains that "communications prior to the September 19, 2018 'in-person meeting' that, at least in KAW's view, were part of the parties' exploration of elevated usage." In addition to KAWC's denial that some of the prior communications constituted in-person meetings, KAWC states that the communications were merely to determine elevated usage. Regardless of KAWC's "view", Bent Tree's intent was to appeal to KAWC for assistance to ascertain the possible cause, such as a faulty meter, as part of the process of settling the billing dispute as to why its bills had nearly doubled.

of an effort to explore the elevated usage – not an ‘attempt to settle the billing dispute.’”^{3,4} However, the purpose of the meeting was conducted to determine whether the leak emanated from the Redding Road location or the Kirklevington location. KAWC informed Bent Tree the “intermittent” leak was at the Redding Road location, which was incorrect, but subsequently corrected itself on or about July 25, 2018 and stated the “intermittent” leak was at the Kirklevington location. This begs the question as to whether there was any leak at all with Bent Tree’s meters.

If there was a “leak” at the Kirklevington meter, PSC Staff DR- 2 attempts to ascertain same by asking for the accuracy tests of the meters for Complainant’s account, including the Kirklevington meter. KAWC responded that the meters were tested prior to installation on February 6, 2018⁵. However, this is the “new” meter, number 83113560⁶, at Kirklevington which began showing usage closer to historical usage around February 2018. The **old** meter, number 060670947N, associated with the Kirklevington account relates to the time period in question and should be the one under examination. It clearly shows high volumetric readings from February 2 – 4, 2017 at 8,727 gallons per day (26,180 gallons/3 days), versus the temporary flow reading meter at 5,236 for one day on

³ KAWC Response, page 3.

⁴ One might speculate that KAWC conducted this meeting to attempt to be complaint with 807 KAR 5:006, Section 11(3), Monitoring usage. This regulation reads: “(3) Monitoring usage. (a) A utility shall monitor a customer’s usage at least quarterly according to procedures that shall be included in its tariff. **(b) The procedures shall be designed to draw the utility’s attention to unusual deviations in a customer’s usage and shall provide for reasonable means by which the utility can determine the reasons for the unusual deviation. (c) If a customer’s usage is unduly high and the deviation is not otherwise explained, the utility shall test the customer’s meter to determine if the meter shows an average meter error greater than two (2) percent fast or slow.**” (Emphasis added.) Nonetheless, there is nothing in the record which would demonstrate KAWC’s adherence to this regulation.

⁵ Complainants hereby correct their Complaint to state the Kirklevington meter account nearly doubled and continued at unusual high rates from July 2017 through February 2018.

⁶ See Bent Tree’s Responses to PSC Staff’s DR-2 at page 283.

February 5 (5,236 gallons/1 day), and, more importantly the new meter from February 6 - March 1, 2018 at 6,158 gallons/day, (147,800/24 days)⁷. A difference of 2,569 gallons per day (8,727 - 6,158 = 2,569) after the new meter was installed calls into question the accuracy of the reading of the old meter, number 060670947N. Thus, KAWC's assertion that an "accurate" meter measured a certain amount of water passing through that meter⁸ is dubious at best, if not simply wrong at worst.

To fully explore this striking difference in volumetric flow within the span of **one** day, and as it may reflect the accuracy of the meter number 060670947N during the disputed period, Bent Tree should be entitled to fully explore the facts at hand as they pertain to the issues and meter in question, assuming it has been pulled out of service pursuant to 807 KAR 5:006, Section 11(4), Usage investigation⁹.

As specified in Bent Tree's proffered Requests for Information to the Commission, many questions remain unanswered and should be explored in order to exhaust the cause of the high volumetric and temporary readings associated with the Kirklevington meter and the bills related to the Complaint.

To conclude, Bent Tree should be entitled to file the attached requests for information if it is to be afforded procedural and substantive due process in resolving its complaint.

⁷ *id.*

⁸ KAWC Response, page 3.

⁹ Regardless of whether KAWC uses the date of the Formal Complaint as November 1, 2018 attached to the PSC's Order dated 5/14/2019 or the Complaint filed on 5/6/2019, the Company is required to maintain the meter until the Complaint is resolved.

WHEREFORE, Bent Tree respectfully moves the Commission for leave to file its tendered Requests for Information to KAWC.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that this BENT TREE'S REPLY TO KAWC'S REPSONSE TO BENT TREE'S MOTION FOR LEAVE TO FILE REQUESTS FOR INFORMATION is a true and accurate copy of the document being filed with the Commission in paper medium; that the individuals below were mailed a true and accurate copy of same; and that an original and ten copies of the filing in paper medium are being hand delivered to the Commission all on this 18th day of November 2019.



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