

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LARRY RAYOMND BAILEY	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.
	)	2021-00307
	)	
WEST LAUREL WATER ASSOCIATION, INC.	)	
	)	
DEFENDANT	)	

ORDER

On April 19, 2021, Larry Raymond Bailey filed a formal complaint against West Laurel Water Association (West Laurel Water), a copy of which is attached to this Order. In the complaint, Mr. Bailey alleges that West Laurel Water incorrectly charged him a late fee of \$3.01. Mr. Bailey asserts that West Laurel Water incorrectly charged him the late fee because there had been no notice or publication that West Laurel Water would reinstitute the assessment of late fees. Mr. Bailey, in his prayer for relief, requests that the Commission (1) require West Laurel Water to suspend late fees and shutoffs until customers have been properly and timely notified; and (2) require West Laurel Water to refund late fees and reconnect services to any customers who have been affected until the customers have been properly notified.

Commission regulation 807 KAR 5:001, Section 20(4)(a) requires that the Commission review a complaint to determine if the complaint establishes a prima facie case. It appears to the Commission that Mr. Bailey's complaint, which alleges he was

incorrectly charged a late fee because of insufficient or no notice, establishes a prima facie case and, therefore, this complaint can proceed and the Commission will investigate the assessment of the fee.

Mr. Bailey's requested relief, however, on behalf of West Laurel Water customers, is not a claim for which the Commission can provide relief in this proceeding. Mr. Bailey is requesting that the Commission issue an order that would, *inter alia*, refund any incorrectly collected late fees to, and cease any disconnections of, any affected West Laurel Water customers. The Commission cannot entertain Mr. Bailey's request because, on information and belief, Mr. Bailey is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice.

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.<sup>1</sup>

It includes, as Kentucky's highest court held in *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967), the representation of a corporation before a state administrative agency.

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association.<sup>2</sup>

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<sup>1</sup> Kentucky Supreme Court Rule 3.020.

<sup>2</sup> Administrative Case No. 249, *Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC June 15, 1981) at 2.

It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layperson.

Commission regulations incorporate, at least in part, these sentiments. As 807 KAR 5:001, Section 4(4), states in part: “A person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2).”

Based on the above, Mr. Bailey’s request that the Commission suspend all disconnections for and make refund to certain customers, constitutes the unlicensed practice of law. The Commission cannot entertain such requests for relief. The Commission, however, finds that West Laurel Water should be required to satisfy or answer Mr. Bailey’s allegation that he was incorrectly charged a late fee.

Pursuant to 807 KAR 5:001, Section 20, West Laurel Water is HEREBY ORDERED to satisfy the matters complained of or file a written answer regarding whether Mr. Bailey was properly charged a late fee within ten days from the date of entry of this Order.

The Commission directs West Laurel Water and Mr. Bailey to the Commission’s July 22, 2021 Order in Case No. 2020-00085<sup>3</sup> regarding filings with the Commission. In the Commission’s March 16, 2020 Order in Case No. 2020-00085,<sup>4</sup> the Commission provides instructions for filings in non-electronic cases, insofar that parties of non-electronic cases may file one original document with no copies, or send an electronic mail

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<sup>3</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission mandated the use of the electronic filing procedures found in 807 KAR 5:001, Section 8, except for *pro se* formal complaints filed against utilities).

<sup>4</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6.

message with an electronic copy of the document to the Commission and to parties to the matter. Any electronic email filed in this manner should be sent to [PSCED@ky.gov](mailto:PSCED@ky.gov), and each message should include the case number in the subject line of the message and a read receipt to ensure the Commission received the message and documents. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

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By the Commission

ENTERED  
AUG 18 2021 rca  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  

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Executive Director

ATTACHMENT

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00307 DATED AUG 18 2021

THREE PAGES TO FOLLOW

APR 19 2021

PUBLIC SERVICE  
COMMISSION

**COMPLAINT**

**(In Re: Notification of Late Fees and Shutoffs)**

**Complainant:**

Larry (Raymond) Bailey  
181 Ben Bailey Road  
London KY. 40744

Email [REDACTED]  
Utility account [REDACTED]  
Name on Account. Raymond Bailey

**Utility:**

West Laurel Water Association  
1670 E. Hal Rogers Parkway  
London Ky. 40744  
606-878-9420

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**HISTORY**

On May 8, 2020, the governor issued Executive Order (EO) 2020-323 suspending late fees and disconnects for utilities. I was made aware of this approximately three months ago when I was unable to contact West Laurel to pay my bill. They were closed for about a week but did not inform customers with a recording. I was on hold for about one and a half hours then disconnected. A few days later when they reopened, I was informed they were not charging late fees per executive order.

On April 15, 2021 I called the water district to pay my bill. I was unable to contact the water district due to high caller volume. On April 16, 2021 I contacted the water district and was informed there would be a late charge of \$3.01. I was told that late fees had been reinstated in April 2021. I asked why there had been no notice sent out informing costumers of the reinstatement of late fees and shutoffs. I was told the notice was in the news. I was also informed that direct notice was not required pursuant to Kentucky Public Service Commission (PSC) rules.

On April 16, 2021 I called the PSC to inquire about filing a complaint. I was told by the representative that I could not file a complaint because the late fee/shutoffs ending was published in the news. I disagree with the legitimacy of that claim.

**ARGUMENT**

Reinstating late fees and shutoffs are not covered by the general rules and regulations. That is because the EO suspended normal adherence to rules and regulations as well as statutes.



Pursuant to KRS § 74.360 publication of notices is required under specific statutes, *The notices required by KRS 74.110, 74.150, 74.160, 74.170, 74.180 and 74.200 shall be given by publication pursuant to KRS Chapter 424.* KRS 74.110 *Change of districts; procedure; deficit* does not mention late fees or shutoffs. KRS 74.150 *Assessment roll; statement of costs; hearing; final order; appeal* has no language considering late fees or shutoffs. Neither does KRS 47.160 *Striking assessments from roll; procedure.* Nor do KRS 74.170 *Payment of assessments in thirty days; constructive consent to bond issue or loan.* Nor KRS 74.180 *Issuance of bonds or temporary financing of unpaid assessments.* Nor KRS 74.200 *Modification of assessment; relevy.* Public notice simply does not relieve a water district from directly notifying its customers of a change in late fees or shutoffs. Those type of changes directly affect customers, not the public at large. Pursuant to KRS § 278.030 utility companies have a duty to use reasonable rules of conduct in its business. The water district could have reasonably sent out notices along with the last water bill alerting customers to the change in policy. They could have easily notified customers who call in with a simple recording. Subjecting customers to unreasonable prejudice or disadvantage is prohibited pursuant to KRS § 278.170.

No statute exists allowing public publication of changes in late fee/shutoff policies to satisfy the requirements notifying customers of changes. Therefore, the PSC cannot add to the statute by allowing it to become its proper procedure, *South Central Bell Telephone Co. v. Utility Regulatory Com'n*, 637 S.W.2d 649 (KY 1982). Also see *Union Light, Heat & Power Co. v. Public Service Com'n*, 271 S.W.2d 361 (KY 1954).

#### SUMMARY

As aforementioned, this issue is unique because of an EO in wake of a pandemic. Understandably there are no existing laws or rules governing the matter. Nonetheless, the PSC lacks authority to add late fees and shutoff notices to the public notice rules prescribed by existing statutes. Neither is it equitable for a utility company to blindside customers with late fees or shutoffs when they could have easily notified consumers beforehand.

#### REQUEST

I request the PSC to require the water district to suspend late fees and shutoffs until customers have been properly and timely notified.

I request the PSC to require the water district to refund late fees and reconnect services to any customers who have been affected until they have been properly and timely notified.

**Complainant:**

  
Larry Raymond Bailey



Larry Bailey  
181 Ben Bailey Rd.  
London KY 40744

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