

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO, 2021-00307

LARRY RAYOMND BAILEY

COMPLAINANT

V. AMENDED COMPLAINT

WEST LAUREL WATER ASSOCIATION, INC.

DEFENDANT

Comes Larry Raymond Bailey to amend my original complaint filed on April 19, 2021.

In my original complaint I,

A. Requested that my complaint include all customers of West Laurel Water District.

B. I also included shut off notices in my complaint.

I now want to exclude those issues in this amended complaint.

The Public Service Commission (PSC) opined that my request to apply its opinion to all West Laurel customers was the illegal practice of law. I believe it would be superfluous to argue that point because both West Laurel and the PSC has a legal and ethical obligation to ensure that

all customers be treated equally and fairly. Thus, I do not have to request what is already required. However, the water district's policy is not exclusive to me, therefore, I will reference West Laurel's **customers** as a matter of supporting evidence in my complaint.

I was not issued a shut off notice, thus, I will omit that previous part of my original complaint.

Therefore, based on the aforementioned, and/or other information relevant to the issue not understood at the time of the first complaint, I now amend my complaint.

COMPLAINT

West Laurel failed to properly notify me that it was reinstating late fees before assessing a \$3.01 late charge to my account on April 16, 2021.

HISTORY

On May 8, 2020, the governor issued Executive Order (EO) 2020-323 suspending late fees for utilities. West Laurel did not notify its customers, but the EO was publicized in news media. On April 15, 2021, the water district reinstated late fees, but did not directly notify customers of the pending date beforehand.

On April 15, 2021, I called West Laurel to pay my bill, but was unable to contact them because of high caller volume. The next day on April 16, 2021, I did contact them and was told I would have to pay a late fee of \$3.01. I was told that late fees were reinstated the day before on April 15th. 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 media. I was also informed that direct notice was not required pursuant to 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 reinstatement was published in the news and their website. After that I filed a complaint to the PSC by U.S. Mail, but when I called to verify the complaint was received, I was told it was not. Then on April 23rd 11:47 ^{am} I filed a copy of that complaint via email. On April 23rd 1:21 ^{pm} I received a response. After reading the PSC response I filed a request to reconsider the final order via email on April 28th 4:31 ^{pm}.

In its email response the PSC disputed my claim that it said I could not file a complaint. It also supported West Laurel's assertion that the billing statement notified customers the fee could be reinstated on April 15, 2021. The PSC further stated their web page, and a press release notified the public that late fees were allowed to resume on January 1, 2021. In reply to the PSC's response, I filed a request to reconsider its order. However, the PSC did not react to my request to reconsider the order it had sent to me by email. (See attached email copies).

ARGUMENT

This issue is unique because of a national crisis and subsequent EO's issued by the governor. Reinstating late fees after a suspension are not directly covered by the general rules and regulations for utilities. The argument put forth by West Laurel and supported by the PSC is not consistent with current law regarding public notification of policies. None of the Kentucky Revised Statutes on public notification mentions the reinstatement of late fees after being suspended under an EO or during a crisis. Since no statute or rule exists on the unique issue the PSC cannot create one by opinion. *South Central Bell Telephone Co. v. Utility Regulatory Com'n*, 637 S.W.2d 649 (KY 1982). Thus, the PSC should consider any relevant authority following Kentucky's statutes and administrative rules that may govern the issue. I believe the

Kentucky Administrative Code does give some indication that customers' bills should have reflected the changes in late fees.

Pursuant to 807 KAR 5:006 Section 5 (1)(b) *A utility shall inform its customers of a change made or proposed in the character of its service that might affect the efficiency, safety, or continuity of operation.*

Because the EO's were enacted as a safety measure for consumers and directly affected continuation of service West Laurel was required by law to inform its customers of both the fee suspension **and its termination**.

Section 7 (1)(a) 9 of that regulation states, *(a) Each bill for utility service issued periodically by a utility shall clearly show: 9. **Adjustments**, if applicable[.]*

Since the fee suspension was an adjustment in its billing practice West Laurel was legally required to notify its customers on their bills. Therefore, my bill should have had a specific date that I would have been charged a late fee.

None of the EO's state a specific date or procedure for water districts to resume late fee policies. That left water districts to decide how to notify customers of the reinstatement of fees, or not to notify them. So, West Laurel decided to let me, and other customers, **presume** when the fees would begin again based on the billing statement that had not been changed during the suspension of those fees.

West Laurel contends, and the PSC concurred, that publication of EO's allowing the resumption of late fees in January 2021 combined with the notice of late fees on bills amount to

notification that fees would “*possibly*” resume on April 15, 2021. Since no authority exists on the matter to support their assertion West Laurel is relying on legal theory to support the claim.

The water district relies on my **presumption** that I **may** have had to pay a late fee on April 16, 2021, as its notification statement. The United States Supreme Court has opined on the subject of presumption.

“[T]he justification for a conclusive presumption disappears when application of the presumption will not reach the correct result most of the time.” Coleman v. Thompson, 501 U.S. 722 (U.S. 1991).

If West Laurel had charged any late fees within the period, presumption could arguably be in their favor, but it did not. In fact, the claim of presumption works to my favor in this matter.

According to its email response the PSC stated that late fees were allowed to resume on January 1, 2021. However, West Laurel continued its fee suspension until April 15, 2021. From March 16, 2020, until April 15, 2021, was one year and one month. Since fee suspension was uninterrupted for over a year, it should be **presumed** that the suspension would continue until customers were otherwise notified.

Notifying customers of the reinstatement of fees would have been an easy task for the water district. A simple notification on the previous bill, or a separate statement mailed to customers could have been done. Even a notification on their automated recording for callers paying their bills would have been simple. West Laurel failed to make any attempt to notify its customers, instead it relied on presumption. West Laurel subjected me to a late fee that could have been easily avoided by proper notification. Pursuant to KRS § 278.030 and 278.170 the

water district had an obligation to avoid subjecting me and other customers from any unreasonable disadvantage but failed to make any attempt to do so.

The governor's EO's were meant to protect utility consumers during a national crisis. West Laurel's failure to notify customers and avoid late fees directly contradicted the intention of the Executive Orders. This is especially true considering how easily the water district could have notified consumers.

CONCLUSION

West Laurel Water District failed to provide me with proper notification of its reinstatement of late fees before charging a late fee to my account.

REQUESTED RELIEF

I request West Laurel refund my late fee.

Respectfully filed by,

Larry Raymond Bailey (pro se)
181 Ben Bailey Road
London Kentucky, 40744

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was sent to,

The Public Service Commission
PSCED@ky.gov
(Electronically)

And

Larry G. Bryson
318 West Dixie Street
London Kentucky, 40741
(Hand Delivered)

West Laurel Water Association
 PO Box 726
 London, KY 40743

Return Service Requested

(606) 878-9420
 (800) 551-7965 (Outside London-East Bernsstedt Area)

ACCOUNT #	
Net Due On or Before 12/15/2020	\$53.17
Penalty Amount	\$4.97
Pay After 12/15/2020	\$58.14



Raymond Bailey
 181 Ben Bailey Rd
 London, KY 40744-8521

West Laurel Water Association
 P.O. Box 726
 London, KY 40743

IF PAYING AT THE OFFICE PLEASE BRING ENTIRE BILL
 RETURN THIS PORTION WITH PAYMENT

RETAIN THIS SECTION FOR YOUR RECORDS

West Laurel
 Water Association
 1670 E. Hal Rogers Pkwy
 PO Box 726
 London, KY 40743

ACCOUNT NAME							
RAYMOND BAILEY							
ACCOUNT #		SERVICE ADDRESS					
		181 BEN BAILEY RD					
DESCRIPTION	METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES	
WA Water	18006348	10/06 - 11/09	128300	133100	4800	\$48.22	
E9 E911						\$3.50	
UT Local Tax						\$1.45	
The office will be closed December 24 & 25th			Net Due On or Before 12/15/2020			\$53.17	
			Penalty Amount			\$4.97	
			Pay After 12/15/2020			\$58.14	

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Now Offering Online Pay By Debit And Credit Cards
Pay Online at westlaurelwaterassociation.com
Or Stop By And Sign Up For Our Automatic Payment Service
From A Checking Account

Customers with signed payment arrangements

You **MUST** pay the current bill **PLUS** your arranged amount by the 15th
 for your payment arrangement to remain valid & avoid disconnection.

"This institution is an equal opportunity provider, and employer."

West Laurel Water Association
 PO Box 726
 London, KY 40743

Return Service Requested

(606) 878-9420
 (800) 551-7965 (Outside London-East Bernstadt Area)

ACCOUNT #	
Net Due On or Before 1/15/2021	\$37.27
Penalty Amount	\$3.38
Pay After 1/15/2021	\$40.65



Raymond Bailey
 181 Ben Bailey Rd
 London, KY 40744-8521

West Laurel Water Association
 P.O. Box 726
 London, KY 40743

IF PAYING AT THE OFFICE PLEASE BRING ENTIRE BILL
 RETURN THIS PORTION WITH PAYMENT
 RETAIN THIS SECTION FOR YOUR RECORDS

West Laurel
 Water Association
 1670 E. Hal Rogers Pkwy
 PO Box 726
 London, KY 40743

ACCOUNT NAME							
RAYMOND BAILEY							
ACCOUNT #		SERVICE ADDRESS					
		181 BEN BAILEY RD					
DESCRIPTION	METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES	
WA Water	18006348	11/09 - 12/07	133100	136100	3000	\$32.79	
E9 E911						\$3.50	
UT Local Tax						\$0.98	
The office will be closed January 1st			Net Due On or Before 1/15/2021		\$37.27		
			Penalty Amount		\$3.38		
			Pay After 1/15/2021		\$40.65		

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 PO Box 726
 London, KY 40743

Return Service Requested

(606) 878-0420
 (800) 551-7965 (Outside London-East Bernstadt Area)

ACCOUNT #	
Net Due On or Before 2/15/2021	\$43.45
Penalty Amount	\$4.00
Pay After 2/15/2021	\$47.45



Raymond Bailey
 181 Ben Bailey Rd
 London, KY 40744-8521

West Laurel Water Association
 P.O. Box 726
 London, KY 40743

IF PAYING AT THE OFFICE PLEASE BRING ENTIRE BILL
 RETURN THIS PORTION WITH PAYMENT

RETAIN THIS SECTION FOR YOUR RECORDS

West Laurel
 Water Association
 1670 E. Hal Rogers Pkwy
 PO Box 726
 London, KY 40743

ACCOUNT NAME							
RAYMOND BAILEY							
ACCOUNT #		SERVICE ADDRESS					
		181 BEN BAILEY RD					
DESCRIPTION	METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES	
WA Water	18006348	12/07 - 01/08	136100	139800	3700	\$38.79	
E9 E911						\$3.50	
UT Local Tax						\$1.16	
						Net Due On or Before 2/15/2021	\$43.45
						Penalty Amount	\$4.00
						Pay After 2/15/2021	\$47.45

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West Laurel Water Association
 PO Box 726
 London, KY 40743

Return Service Requested

(606) 878-9420
 (800) 551-7965 (Outside London-East Barnstadt Area)

ACCOUNT #	
Net Due On or Before 3/15/2021	\$42.57
Penalty Amount	\$3.91
Pay After 3/15/2021	\$46.48



Raymond Bailey
 181 Ben Bailey Rd
 London, KY 40744-8521

West Laurel Water Association
 P.O. Box 726
 London, KY 40743

IF PAYING AT THE OFFICE PLEASE BRING ENTIRE BILL
 RETURN THIS PORTION WITH PAYMENT

RETAIN THIS SECTION FOR YOUR RECORDS

West Laurel
 Water Association
 1670 E. Hal Rogers Pkwy
 PO Box 726
 London, KY 40743

ACCOUNT NAME		RAYMOND BAILEY					
ACCOUNT #		SERVICE ADDRESS					
		181 BEN BAILEY RD					
DESCRIPTION	METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES	
WA Water	18006348	01/08 - 02/10	139800	143400	3600	\$37.93	
E9 E911						\$3.50	
UT Local Tax						\$1.14	
						Net Due On or Before 3/15/2021 \$42.57	
						Penalty Amount \$3.91	
						Pay After 3/15/2021 \$46.48	

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 From A Checking Account

Customers with signed payment arrangements

You **MUST** pay the current bill **PLUS** your arranged amount by the 15th
 for your payment arrangement to remain valid & avoid disconnection.

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West Laurel Water Association
 PO Box 726
 London, KY 40743

Return Service Requested

(606) 878-9420
 (800) 551-7965 (Outside London-East Bernstadt Area)

ACCOUNT #	
Net Due On or Before 4/15/2021	\$33.57
Penalty Amount	\$3.01
Pay After 4/15/2021	\$36.58



Raymond Bailey
 181 Ben Bailey Rd
 London, KY 40744-8521

West Laurel Water Association
 P.O. Box 726
 London, KY 40743

IF PAYING AT THE OFFICE PLEASE BRING ENTIRE BILL
 RETURN THIS PORTION WITH PAYMENT

RETAIN THIS SECTION FOR YOUR RECORDS

West Laurel
 Water Association
 1670 E. Hal Rogers Pkwy
 PO Box 726
 London, KY 40743

DESCRIPTION		METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES
WA	Water	18006348	02/10 - 03/12	143400	146000	2600	\$29.19
E9	E911						\$3.50
UT	Local Tax						\$0.88
				Net Due On or Before 4/15/2021		\$33.57	
				Penalty Amount		\$3.01	
				Pay After 4/15/2021		\$36.58	

The office will be close on April 2, 2021 for Good Friday

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Or Stop By And Sign Up For Our Automatic Payment Service
From A Checking Account

Customers with signed payment arrangements

You **MUST** pay the current bill **PLUS** your arranged amount by the 15th
 for your payment arrangement to remain valid & avoid disconnection.

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West Laurel Water Association
 PO Box 726
 London, KY 40743

Return Service Requested

(606) 878-9420
 (800) 551-7965 (Outside London-East Bernstadt Area)

ACCOUNT #	
Net Due On or Before 5/15/2021	\$35.42
Penalty Amount	\$3.19
Pay After 5/15/2021	\$38.61



Raymond Bailey
 181 Ben Bailey Rd
 London, KY 40744-8521

West Laurel Water Association
 P.O. Box 726
 London, KY 40743

IF PAYING AT THE OFFICE PLEASE BRING ENTIRE BILL
 RETURN THIS PORTION WITH PAYMENT

RETAIN THIS SECTION FOR YOUR RECORDS

West Laurel
 Water Association
 1670 E. Hal Rogers Pkwy
 PO Box 726
 London, KY 40743

ACCOUNT NAME							
RAYMOND BAILEY							
ACCOUNT #		SERVICE ADDRESS					
		181 BEN BAILEY RD					
DESCRIPTION	METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES	
WA Water	18006348	03/12 - 04/13	146000	148800	2800	\$30.99	
E9 E911						\$3.50	
UT Local Tax						\$0.93	
The office will be close on May 31st for Memorial Day			Net Due On or Before 5/15/2021			\$35.42	
			Penalty Amount			\$3.19	
			Pay After 5/15/2021			\$38.61	

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Pay Online at westlaurelwaterassociation.com

Or Stop By And Sign Up For Our Automatic Payment Service From A Checking Account

Customers with signed payment arrangements

You **MUST** pay the current bill **PLUS** your arranged amount by the 15th

for your payment arrangement to remain valid & avoid disconnection.

Go to www.krwa.org/ccr/westlaurel.pdf for important information regarding your Annual Drinking Water Quality Report. Call 606-878-9420 to request a copy.

"This institution is an equal opportunity provider, and employer."

RE: Complaint

From: PSC Consumer Web Inquiry (psc.consumer.inquiry@ky.gov)

To:

Date: Friday, April 23, 2021, 01:21 PM EDT

Thank you for contacting the Commission regarding West Laurel Water Association.

You referenced the Governor's May 8, 2020 Executive Order 2020-323. The Governor issued another Executive Order after that date on October 19, 2020. The Governor's Order can be read by following this link https://governor.ky.gov/attachments/20201019_Executive-Order_2020-881_Utilities.pdf. Please see point 13 of that Executive Order which states that nothing in the Governor's Order supersedes the orders of the Kentucky Public Service Commission. The paragraph has been copied below:

13. Nothing in this Order is intended to supersede the orders of the Kentucky Public Service Commission for utilities under its jurisdiction. The Kentucky Public Service Commission's orders continue in full effect until rescinded or modified by the Kentucky Public Service Commission.

The Commission opened Case No. 2020-00085 to address issues related to COVID-19. On September 22, 2020, the Commission modified its March 16, 2020 Order relating to late payment fees and disconnections. Per that Order, disconnections were allowed to resume on October 20, 2020. For residential customers, **late payment fees were allowed to resume on January 1, 2021.**

You can read the Order by following this link https://psc.ky.gov/PSCSCF/2020%20cases/2020-00085/20200921_PSC_Order.pdf. You can read the Press Release by following this link https://psc.ky.gov/agencies/psc/press/092020/0921_r01.pdf.

You advised when you called West Laurel on April 16 that you were informed that the late fees were reinstated as of April 2021. You advised that there had been no notice. Please see a sample bill below. The bill clearly indicates that there will be a late penalty if payment is not received by April 15. West Laurel confirmed to us that every bill contains the amount of the late penalty that will be assessed. They did not change their bills even though they did not charge late fees between March 2020 and April 2021. Therefore, **customers were informed each month from January 2021 to present that a late penalty was possible.**

ACCOUNT #	
Net Due On or Before 4/15/2021	\$33.57
Penalty Amount	\$3.01
Pay After 4/15/2021	\$36.58



West Laurel Water Association
P.O. Box 728
London, KY 40743

ACCOUNT NAME							
ACCOUNT #		SERVICE ADDRESS					
0014-02480-002							
DESCRIPTION	METER	READING DATES	PREVIOUS	PRESENT	USAGE	CHARGES	
WA E9 T	17372726	02/10 - 03/09	75500	78100	2600	\$29.19	
						\$3.50	
						\$0.88	
The office will be close on April 2, 2021 for Good Friday						Net Due On or Before 4/15/2021	
						\$33.57	
						Penalty Amount	
						\$3.01	
						Pay After 4/15/2021	
						\$36.58	

You also advised that West Laurel was closed for a week, and they did not inform customers via their recorder. We contacted West Laurel and learned the office was closed due to a snow storm that disrupted their electric service. Their recording was updated to inform callers that the office was closed due to weather.

With regard to your call to the PSC on April 16, you were not advised you could not file a complaint. You were advised the utility was allowed to resume late fees as of January 2021. Our role is to make sure the rules, regulations, and Orders are followed. We explained the utility was in compliance with the regulations and the Commission's Order by assessing a late fee since the bill was paid late. Since the utility was in compliance, we could not have the utility remove the late fee. As promised, we made a record of your complaint, although you advised your utility was Wood Creek Water District rather than West Laurel.

When disconnections and late fees were allowed to resume, the Commission notified customers and utilities via our web page, the Order, and a Press Release, which is seen by all state newspapers and news stations. Additionally, customers were notified each month about potential late fees through their water bill, which is mailed directly to each customer. Late fees were allowed to resume as of January 1, 2021. Any bills paid late after that date can be assessed a late fee.

From: larry bailey
 Sent: Friday, April 23, 2021 11:48 AM
 To: PSC Consumer Web Inquiry <PSC.Consumer.Inquiry@ky.gov>
 Subject: Complaint

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Last week I called the PSC with a complaint and was told that I could not file a complaint because of existing statutes. I disagreed with those laws and sent a hard copy by USPS. Today I was advised that copy has not been received. I am

now sending an email copy of that hard copy. The complaint will explain the issue.

Larry Bailey

181 Ben Bailey Road

London KY, 40744

Sent from Mail for Windows 10