

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TERESA BIAGI AND RAPHE ELLIS	)	
	)	
COMPLAINANTS	)	
	)	CASE NO.
V.	)	2026-00152
	)	
KENTUCKY-AMERICAN WATER COMPANY	)	
	)	
DEFENDANT	)	

ORDER

On May 29, 2026, Teresa Biagi and Raphe Ellis (Complainants) tendered a formal complaint with the Commission against Kentucky-American Water Company (Kentucky-American) alleging that Kentucky-American had originally placed a meter on the property now owned by Complainants, without securing an easement or right-of-way, and that this infrastructure blocks Complainants' only state-approved driveway site, serves zero purpose for their property, and acts as an unauthorized transmission line to service a three-house compound (Complaint).¹ Complainants alleged that Kentucky-American is refusing to comply with a verbal agreement to relocate the meter.²

On June 12, 2026, Complainants filed a motion for emergency relief and expedited status conference (Motion for Emergency Relief).³ On June 23, 2026, Complainants filed

¹ Complaint (filed May 29, 2026) at 3-4.

² Complaint at 3-4.

³ Motion for Emergency Relief and Expedited Status Conference (filed June 12, 2026).

a motion for cease and desist order and immediate inspection (Motion for Cease and Desist).⁴ On July 1, 2026, Complainants further filed a motion for immediate default judgment, compulsion of discovery, and expedited procedural order (Motion for Default Judgment).⁵ On July 13, 2026, Complainants filed a motion to incorporate by reference and for expedited hearings (Motion to Incorporate).⁶

For the reasons discussed below, the Commission finds that a *prima facie* case has not been established; Complainants' Motion for Emergency Relief, Motion to Cease and Desist, Motion for Default Judgment, and Motion to Incorporate, including the requests to procedurally expedite this matter, should be denied; and Complainants should be given 20 days to amend the complaint to establish a *prima facie* case or the case should be dismissed.

BACKGROUND

The Complaint alleged Kentucky-American has maintained an unauthorized foreign utility line and water meter on the Complainants' private property at 2710 Hwy. 227 North, Worthville, KY 41098, without a recorded easement.⁷ Complainants stated this infrastructure blocks their only state-approved driveway site, serves zero purpose for their property, and services a three-house compound via a downstream splice in violation of the applicable residential tariffs.⁸

⁴ Motion for a Cease and Desist Order and Immediate Field Inspection (filed June 23, 2026).

⁵ Motion for Immediate Default Judgment, Compulsion of Discovery, and Expedited Procedural Order (filed July 1, 2026).

⁶ Motion to Incorporate by Reference and for Expedited Hearings (filed July 13, 2026).

⁷ Complaint at 3.

⁸ Complaint at 3.

Complainants provided the following timeline of alleged events in the Complaint:⁹

- October 29, 2025: Kentucky-American representative Jeremy Dempsey met with Complainants on-site and Mr. Dempsey asked if Complainants and the neighboring landowner, Mr. Duvall, were okay placing the meter at a particular spot on Mr. Duvall's property. Complainants stated that Mr. Duvall agreed, and Mr. Dempsey then promised that as soon Complainants secured their state encroachment permit, Kentucky-American would move the meter to that spot.
- October 30, 2025: Complainants applied for their driveway encroachment permit from the Kentucky Transportation Cabinet (KYTC).
- February 18, 2026: Complainants emailed Kentucky-American to request the removal of the meter because it was actively causing their property to be landlocked.
- February 23, 2026: Complainants received a response which stated the Kentucky-American legal team was actively reviewing the matter.
- March 5, 2026: Complainants further emailed Kentucky-American to inform them that their single meter was unlawfully servicing three separate households.
- March 25, 2026: KYTC issued the encroachment permit. Complainants stated they immediately informed Kentucky-American of the issuance, which they alleged triggered the verbal agreement made by Mr. Dempsey in October 2025. Complainants stated that Kentucky-American instead provided a 45-day resolution window.

⁹ Complaint at 3-4.

- May 6, 2026: After the 45-day estimate, Kentucky-American representative John Magner emailed to admit that multiple properties are served by the single meter in question. Complainants stated that Mr. Dempsey did not honor the original promise, but instead suggested a possible option to temporarily relocate the meter if Complainants signed a right-of-entry agreement.
- May 14, 2026: Complainants had further correspondence from Kentucky-American's counsel that claimed they had a solution that accomplishes the meter removal from the driveway site, but conditioned it by demanding written permission to relocate a temporary meter elsewhere on Complainants' private property.
- Mid-May 2026: In further follow-up calls with Mr. Dempsey, he stated that he could physically move the meter in a single day, but Kentucky-American's proposed temporary fix had to sit on Complainants' land because that's where Mr. Duvall's line lays now for the tie in.

Then, at the time of the filing of the Complaint: Complainants stated they have rejected Kentucky-American's conditional proposals. Complainants alleged Kentucky-American's legal team is breaking the verbal agreement made by their own representative on October 29, 2025 and is instead attempting to leverage their landlocked status to force them to sign a right-of-entry agreement to maintain this illegal configuration on their private land, and that Kentucky-American continued to stall access to Complainants' property based on unrecorded 24-year existence claims.¹⁰

¹⁰ Complaint at 3-4

Complainants' requested relief in the Complaint is for the Commission to order Kentucky-American to fulfill the verbal agreement made on October 29, 2025, to permanently move the water meter, service line, and all associated third-party infrastructure entirely off Complainants' private property and onto a neighboring property or the public right-of-way.¹¹

The Motion for Emergency Relief stated the Complainants' "Immediate Material Harm" is that "Kentucky-American Water maintains a water meter infrastructure directly inside Complainant's legally permitted driveway site, completely halting property use and development."¹² Complainants alleged that Kentucky-American has refused Complainant's requests for a physical site inspection, and is actively using the stalled status of Complainant's permitted property access as financial leverage, conditioning a one-week relocation on Complainants signing a "Temporary Right-of-Entry" to grant Kentucky-American expanded rights over their private land to maintain the pre-existing meter.¹³ In the Request for Emergency Relief, Complainants requested the Commission: (1) shorten Defendant's time to answer this emergency motion to five business days; (2) order Kentucky-American to immediately cease pressure tactics regarding the temporary right-of-entry; (3) order an immediate site inspection by independent Commission engineering staff to document the encroachment and trace the multi-customer tap; and

¹¹ Complaint at 4.

¹² Motion for Emergency Relief at 1.

¹³ Motion for Emergency Relief at 1.

(4) compel an expedited status conference to order Kentucky-American to permanently relocate the meter and separate the service lines at Kentucky-American's sole expense.¹⁴

In the Motion to Cease and Desist, Complainants again alleged their irreparable harm coming from the disputed water meter inside Complainant's private property line, and the Complainants' primary construction project being completely halted because this utility equipment physically blocks the only viable, state-approved highway access point.¹⁵ Complainants further stated they are "experiencing an immediate, unconstitutional deprivation of the use of their own land due to [Kentucky-American] KAW's failure to police its infrastructure."¹⁶ Complainants' Motion to Cease and Desist requested the Commission bypass standard procedural timelines and (1) command Kentucky-American to immediately cease and desist from routing water to unauthorized, multi-family extensions across Complainant's private property; (2) order the Commission's Division of Inspections to conduct an immediate, expedited field investigation and physical audit of the meter pit to map this illegal multi-home configuration; and (3) compel Kentucky-American to abandon the infrastructure on Complainant's land and permanently relocate their delivery lines and meters to the public right-of-way.¹⁷

The Motion for Default Judgment alleged Complainants should be granted default judgment, because Kentucky-American failed to file any formal response to

¹⁴ Motion for Emergency Relief at 1.

¹⁵ Motion to Cease and Desist at 2.

¹⁶ Motion to Cease and Desist at 2.

¹⁷ Motion to Cease and Desist at 2.

Complainants' May 29, 2026 "discovery requests."¹⁸ Complainants further claimed that Kentucky-American has failed to offer any defense to the following allegations:

- **Active Life-Safety Emergency:** A residential home sits on the subject property with zero fire department or emergency vehicular access because Kentucky-American maintains its meter pit directly inside the Complainants' sole remaining driveway site, which was officially designated and permitted by the KYTC.
- **Critical Grid Vulnerability:** High-voltage electric transmission lines operated by Kentucky Utilities (KU) cross the property. Kentucky-American's un-moved meter pit completely blocks emergency utility repair vehicles from entering the land to service this vital regional power infrastructure.
- **Prior Attempted Regulatory Violations:** In June 2026, Kentucky-American attempted to circumvent these proceedings by proposing an unlawful temporary agreement to install a shared meter on the Complainants' property to serve three independent, off-site parcels, in direct violation of 807 KAR 5:066, Section 12.¹⁹

The Motion for Default Judgment requested the Commission: (1) grant Default Judgment to the Complainants; (2) Order Kentucky-American to immediately relocate its meter pit out of the KYTC-permitted driveway zone at its own sole corporate expense; (3) Order Kentucky-American to immediately clear any remaining infrastructure or barriers

¹⁸ Motion for Default Judgment at 1-2. (Complainants' Complaint was filed on May 29, 2026, but no discovery requests have been filed in this case.)

¹⁹ Motion for Default Judgment at 1-2.

preventing vehicular ingress and egress to the residential structure and the KU transmission line corridor.

Complainants' Motion to Incorporate requested the Commission incorporate the record of Kentucky-American's current rate application, Case No. 2026-00094, into the record of this proceeding.²⁰ Complainants stated Kentucky-American is actively seeking a multi-million-dollar rate adjustment from this Commission, claiming total infrastructure and tariff compliance, but Complainants again alleged that Kentucky-American is operating a non-easement, illegal multi-household distribution main across Complainants' property.²¹

LEGAL STANDARD

KRS 278.040(7) requires the Commission to "regulate utilities and enforce the provisions of [KRS Chapter 278]." KRS 278.040(8) grants the Commission has exclusive jurisdiction over the regulation of rates and service of utilities in Kentucky. Pursuant to KRS 278.260, the Commission has jurisdiction over complaints regarding rates or service. However, KRS 278.260(2) allows the Commission to "dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights."

Commission regulation 807 KAR 5:001, Section 20(1)(c) requires each complaint to state fully, clearly and with reasonable certainty, the act or omission, of which failure to comply is alleged. Furthermore, 807 KAR 5:001, Section 20(4)(a), requires the Commission to examine the complaint to ascertain if the complaint establishes a *prima*

²⁰ Motion to Incorporate.

²¹ Motion to Incorporate.

facie case that the utility has violated a statute, regulation, tariff, or order for which the Commission may grant relief. A complaint establishes a *prima facie* case when, on its fact, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief.²² If a complaint fails to establish a *prima facie* case, it may be dismissed. However, 807 KAR 5:001, Section 20(4)(a)(1) allows a complainant to amend a complaint within a specified time.

Because a *prima facie* case requires sufficient allegations to entitle a complainant to the relief requested, its fundamental operation is inextricably intertwined with redressability. In administrative settings, redressability is limited by the jurisdictional authority given agencies by the legislature. Thus, a request for relief that is not within the Commission's jurisdiction to provide will not support a finding of a *prima facie* case.²³

Regarding complaints, KRS 278.260 states that:

[t]he commission shall have original jurisdiction over complaints as to rates or service of any utility, and upon a complaint in writing made against any utility by any person that any rate which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained[.]

As noted above, KRS 278.040(7) also requires the Commission to “enforce the provisions of [KRS Chapter 278],” which provides the Commission jurisdiction over the

²² Case No. 2011-00211, *Brenda Joyce Clayton v. Louisville Gas and Electric Company* (Ky. PSC Jul. 15, 2011), Order 1-2.

²³ See Case No. 2023-00367, *Futrell Holding Co., LLC v. Barkley Laje Water District* (Ky. PSC Mar. 10, 2025), Order (finding that a complainant failed to state a *prima facie* case where the relief requested was not within the Commission's jurisdiction to provide).

rates and services of utilities. Thus, complaints must generally be related, in some causal way, to the Commission's jurisdiction over rates and service.²⁴

DISCUSSION AND FINDINGS

Complainants' fundamental factual assertions are that the meter in question was placed on their property and maintained by Kentucky-American without an easement; that the meter now blocks their only state-approved driveway site; and that Kentucky-American has failed to honor a verbal agreement by one of its representatives to move the meter to a neighboring property. These allegations fail to present any claim for relief related to the Commission's jurisdiction over rates or service by Kentucky-American. Complainants are not alleging any rate violations, or any inadequacy of provision of service to their own property. While the Commission makes no statement regarding the actionability of the facts presented, these facts are far removed from the jurisdiction created by KRS 278.040 and KRS 278.260.

Complainants' actual request for relief is also ultimately related to a land use dispute regarding the placement of equipment allegedly infringing on the use and enjoyment of their property. Complainants' alleged harm and requested relief are therefore based on tort and contract law, beyond the Commission's jurisdiction to adjudicate, and would be more viably addressed through civil court action.²⁵

²⁴ The Commission also has jurisdiction granted by other statutes unrelated to this case. For instance, the Commission is tasked with enforcing Kentucky's Underground Facility Damage Prevention laws (known colloquially as 811) and KRS 367.4917 provides the scope of the Commission's authority, stating that: "[t]he commission shall have statewide authority to enforce and assess civil penalties provided for in this section and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq." KRS Chapter 74 also gives the Commission certain authority over the governance of water districts. See KRS 74.020.

²⁵ See, e.g. *Iola Capital v. Public Service Commission of Kentucky*, 659 S.W.3d 563, 578 (Ky. App. 2022) (where the Court of Appeals, in affirming the dismissal of landowners' complaints regarding the Commission's grant of a certificate of public convenience and necessity pursuant to KRS 278.020 for a

While Complainants have alleged improper master metering pursuant to 807 KAR 5:066, Section 12,²⁶ Complainants have failed to allege any relation to their own service. Complainants do not allege a failure to provide them with adequate water service, and make no claims regarding the billing practices related to their water service. In essence, Complainants are requesting that the Commission intervene in a property dispute and order a utility to immediately relocate its meter and a water line used to supply water to a third-party or parties.²⁷ However, even if the service referred to by Complainants was being provided in violation of 807 KAR 5:066, Section 12, a Commission order directing the utility to cease such master metering would not entitle Complainants to the relief that they are requesting, because an order pertaining to master metering would not necessarily have to require the lines or meters to be moved from their current location.²⁸

Based on the above discussion, the Commission finds that Complainants failed to present a *prima facie* case and that it did not comply with 807 KAR 5:001, Section 20. However, notwithstanding the finding above the Commission lacks jurisdiction to provide

pipeline that was planned over their property, noted that “denying the appellants’ claims for redress in this appeal does not mean that the pipeline will necessarily be constructed through their properties. Instead, the appellants’ interests are specifically addressed and preserved by the Eminent Domain Act of Kentucky (KRS 416.540 to 416.670) in the ongoing condemnation proceedings before the Bullitt Circuit Court.”).

²⁶ See 807 KAR 5:066, Section 15 (which generally mandates separate meters for distinct customer service connections).

²⁷ The Commission has some authority regarding the placement of service connections and meters—for instance, to the extent that the placement relates to the reasonableness of service conditions imposed on customers or the adequacy of service provided to customers. However, the reasonableness and the adequacy of service is not the real issue raised in this case.

²⁸ Even assuming there is a violation of the master metering regulation related to other customers and the Commission could use such a violation of the master metering regulation to order relief that is broader than would be required to address such violation, i.e. the requested by the complaint, it would not be in the public interest or necessary to protect substantial rights to do so in this case, because the main disputes in this matter arises from tort and contract law claims and such disputes may be and are generally better addressed through civil court action.

the relief requested by Complainants, the Commission finds that Complainants should be given the opportunity to amend their complaint in accordance with 807 KAR 5:001, Section 20(4)(a)(1). The Commission further finds that Complainants' further motions, including repeated requests to procedurally expedite this matter, are denied as moot, because the Complaint has failed to present a *prima facie* case.

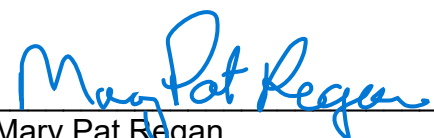
IT IS THEREFORE ORDERED that:

1. The complaint is rejected for failing to state a *prima facie* case and failing to conform to the requirements of 807 KAR 5:001, Section 20(1)(c).
2. Complainants' Motion for Emergency Relief, Motion to Cease and Desist, Motion for Default Judgment, and Motion to Incorporate are denied.
3. Complainants shall have 20 days from the service date of this Order to file an amended complaint with the Commission that conforms to the requirements of 807 KAR 5:001, Section 20(1)(c), and which states a *prima facie* case.
4. A copy of this Order shall be served on the Complainants, Teresa Biagi and Raphe Ellis, by U.S. certified mail, return receipt requested at 1585 Butler Inn Road, Worthville, Kentucky 41098.
5. If Complainants do not file an amended complaint within 20 days of the date of this Order, their complaint shall be dismissed without prejudice and removed from the Commission's docket.

Entered on this 13th day of August, 2026.

PUBLIC SERVICE COMMISSION



Angie Hatton
Chair

Mary Pat Regan
Vice Chair

Andrew W. Wood
Commissioner

Barry L. Mayfield
Commissioner

ATTEST:



Justin McNeil
Executive Director

Case No. 2026-00152

Service List for Case 2026-00152

* Teresa Biagi
1585 Butler Inn Rd.
Worthville, KY 41098

* Raphe Ellis
1585 Butler Inn Rd.
Worthville, KY 41098

* Kentucky-American Water Company
2300 Richmond Road
Lexington, KY 40502