

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JERRY WAYNE COYT)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2000-006
)	
SOUTHEASTERN WATER ASSOCIATION)	
)	
DEFENDANT)	

O R D E R

On December 30, 1999, Jerry Wayne Coyt filed a formal complaint against the Southeastern Water Association (“SWA”) requesting that SWA adjust one water bill and remove charges from part of another bill. The gravamen of Mr. Coyt’s complaint is that SWA failed to inform him in a timely matter of irregular water usage. The abnormal water usage resulted from a leak on Mr. Coyt’s side of the meter and he did not discover the leak until 2 months had passed. During those months he incurred charges for water consumption of thousands of gallons of water above his average consumption.

On January 31, 2000, SWA filed its answer, denying it acted wrongly and stated that it had billed Mr. Coyt in accordance with its filed tariff. On October 19, 2000, a hearing was held before the Hearing Examiner, with Mr. Coyt appearing *pro se* and SWA appearing by counsel.

Statement of Facts

SWA distributes water to various areas of Pulaski County. Its main office is located in Somerset. Mr. Coyt lives within SWA's service area and receives water from SWA. Mr. Coyt has been SWA's customer for 4 years, but the service has been listed in his name since March 1999. Prior to March 1999, the service was listed in Mr. Coyt's ex-wife's name and upon their separation, Mr. Coyt assumed service in his name at their former residence. At the same time, phone service to the residence was disconnected. Mr. Coyt was engaged to his current wife at the time his phone service was disconnected and he listed her phone number with SWA as his contact number. Upon their marriage on October 30, 1999, Mrs. Coyt moved to Mr. Coyt's residence.

SWA employs the services of Tru-Check for meter readings. SWA does not require Tru-Check to notify SWA's customer when a meter reading reveals a substantial increase of water consumption. However, as a matter of courtesy, Tru-Check notifies the customer of an abnormal meter reading. In this case, the Tru-Check employee left no notice with the Coyts that the October 5, 1999 reading of their meter revealed an abnormal quantity of water consumed. The reading of the Coyts' meter showed that the Coyts had consumed 87,600 gallons of water. The Coyts' average consumption is between 5,000 to 6,000 gallons per billing period.

When preparing water bills a few days after the meter reading, employees of SWA noticed the Coyts' abnormal water consumption. SWA does not believe it has a duty to contact a customer when meter readings indicate abnormal consumption. SWA, however, has an unofficial policy of contacting a customer by telephone if a meter reading indicates abnormal usage.

SWA claims that its office manager attempted to call Mr. Coyt at the phone number he listed when he transferred service to his own name. Mr. Coyt claims he did not receive such a phone call and an attached answering machine registered no messages from SWA. This is the only attempt to contact Mr. Coyt alleged by SWA.

Mr. Coyt received his first notice of irregular use on October 29, 1999. The bill was for \$422.20 based upon consumption of 87,600 gallons of water. When Mr. Coyt contacted SWA, SWA informed him that the high reading was probably due to a leak on his side of the meter. Based upon SWA's recommendation, Mr. Coyt inspected his property and discovered a leak, which he promptly repaired. Mr. Coyt received a bill from SWA, for the period ending November 4, 1999, in the amount of \$1,141.12 based upon consumption of 147,500 gallons. This bill included the October 29, 1999 bill minus \$30 that Mr. Coyt had paid on the previous bill.

Section 21 of the Rules and Regulations portion of SWA's tariff filed with the Commission states the procedure to be followed when a meter reading indicates abnormal usage.

In addition to annual monitoring, the water association will immediately investigate water usage deviations brought to its attention as a result of its on going [sic] meter reading or billing process or customers' inquiry.

SWA also employs a leak-adjustment policy that contains a formula for adjusting a customer's water bill if the bill is abnormally high and the leak is beyond the control of the customer. SWA used this formula in reducing the combined total of the water bills from \$1,172.12 to \$614.05. SWA claims that it is due \$562.64, the amount of the unpaid bill after the leak adjustment was applied.

CONCLUSIONS

KRS 278.160(1) and (2) state:

(1) Under rules prescribed by the commission, each utility shall file with the commission, within such a time and in such form as the commission designates, **schedules showing all rates and conditions for service** established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedule. (Emphasis added.)

The issue presented here is that, pursuant to KRS 278.160(1) and (2), SWA must charge Mr. Coyt for the water delivered to his side of the meter. On the other hand, SWA violated its tariff (Section 21 of Rules and Regulations) by not immediately investigating the “usage deviations brought to its attention as a result of its on going [sic] meter reading...” SWA does not appear to have investigated the substantial increase in Mr. Coyt’s usage. SWA alleges that it attempted to contact Mr. Coyt once, but that single attempt does not, in any event, constitute an investigation.

Pursuant to its tariff and to KRS 278.160 (which requires strict adherence to tariffed rates and conditions of service), SWA should have launched an investigation when it noticed the Coyts’ abnormal usage. However, SWA did not conduct an investigation, and Mr. Coyt discovered the leak well after SWA knew of the abnormal usage. According to Morris Vaughn’s testimony, SWA would have known or should have known of the abnormal usage 1 to 2 days after Tru-Check read the Coyts’ meter. This means that SWA became aware of the usage deviation no later than October 7, 1999. If SWA had conducted an investigation at the time it learned of the abnormal

usage, it would have discovered the leak and Mr. Coyt would not have incurred the additional consumption of roughly 140,000 gallons. In short, if SWA had acted in accordance with its tariff as KRS 278.160 requires, Mr. Coyt would not have incurred the additional charges for the second billing period once he had repaired the leak.

The last paragraph in Section 21: Monitoring of Customer Usage of SWA's tariff states:

In addition to annual monitoring, the water association will immediately investigate water usage deviations brought to its attention as a result of its on [sic] going meter reading or billing process or customer inquiry.

If not for this portion of the tariff, the "Filed Rate Doctrine" would require that the Coyts be charged for the water flowing through their meter. However, the above-stated provision of their tariff is also part SWA's "Filed Rate."¹ As SWA's non-compliance with its tariff resulted in customer charges greater than or less than the customer charges would have been had SWA followed its tariff, the charges to the customer should be adjusted accordingly.

IT IS THEREFORE ORDERED that:

1. SWA shall adjust the Coyts' bill as calculated in Appendix A.
2. SWA shall amend its water leak adjustment policy to fully describe how SWA calculates its wholesale rate and what issues are addressed when calculating water leak adjustments.

¹ KRS 278.010(12) states: "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof.

3. SWA shall amend its tariff to provide for a method by which it formally notifies a customer when SWA first observes a customer's abnormal usage.

Done at Frankfort, Kentucky, this 5th day of February, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE PUBLIC SERVICE
COMMISSION IN CASE NO. 2000-006 DATED FEBRUARY 5, 2001

	<u>To</u>	<u>From</u>	<u>Days in Cycle</u>
Billing Cycle	10/05/98	11/04/98	30
	<u>Previous</u>	<u>Present</u>	<u>Usage</u>
Meter Reading	215,800.00	363,300.00	147,500.00

Adjusted Usage for 10/05/98 through 11/04/98 Billing Cycle

Average Monthly Usage - Gallons			6,000.00
Add:			
Actual Gallons	147,500.00	4,917.00 x 2 Days* =	9,834.00
Deduct:			
Average Usage	6,000.00	200.00 x 2 Days* =	<u>(400.00)</u>
Adjusted Usage			<u>15,434.00</u>

<u>Utility Rate Schedule</u>		<u>Adjusted Bill</u>	
		<u>Gallons</u>	<u>Amount</u>
First 2,000 Gal.	\$ 11.00 (Min. Bill)	2,000.00	\$11.00
Over 2,000 Gal.	\$ 4.66 per 1,000 Gal.	13,434.00	62.60
Totals		<u>15,434.00</u>	<u>\$73.60</u>

* The 2 days represents the amount of time that lapsed between the date the meter was read and the date Southeastern Water Association was aware of the abnormal usage.