

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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**PUBLIC SERVICE
COMMISSION**

IN THE MATTER OF

JAMES S. WAYNE, INDIVIDUALLY AND AS)
TRUSTEE OF THE JAMES S. WAYNE)
LIVING TRUST)

COMPLAINANTS)

VS)

HENRY COUNTY WATER DISTRICT #2)

DEFENDANT)

CASE NO. 2009-00264

ANSWER

Comes the above-named Defendant, by counsel, and for its ANSWER to the complaint in this proceeding, respectfully states as follows:

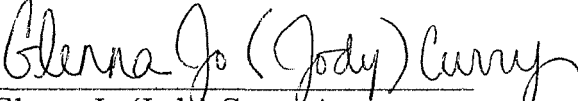
1. The Complaint fails to state a claim upon which relief can be granted.
2. Defendant admits the allegations contained in Paragraphs 1, 2 and 3 of the Complaint.
3. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraphs 4 and 5 of the Complaint, and denies same.
4. Defendant denies the allegations contained in Paragraph 6, 7, 9 and 10 of the Complaint.
5. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 8 of the Complaint and denies same, except that Defendant admits as a matter of public record that the

letter dated February 12, 2009 was sent to the Defendant and admits the allegation that the Defendant conducted the meeting with Complainant on April 14, 2009.

6. The letter dated August 11, 2009 from Defendant to the Public Service Commission is attached hereto as Exhibit 1 and is incorporated herein by reference as affirmative statements by the Defendant of matters that constitute a defense to the Complaint.
7. The Public Service Commission does not have jurisdiction or authority to grant the relief requested.

WHEREFORE, the Defendant prays the Complaint be dismissed and held for naught.

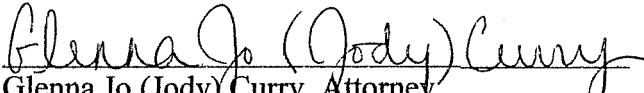
Respectfully submitted,


Glenna Jo (Jody) Curry, Attorney
1900 East Mt. Zion Road
Crestwood, Kentucky 40014
(502) 222-9808
Facsimile: (502) 225-0924
gjcurrylaw@aol.com

Certificate of Service:

I hereby certify that a true and correct copy of the foregoing ANSWER was mailed by US mail, postage prepaid to the following this 17th day of September, 2009:

W. Henry Graddy, IV, Attorney
W.H. Graddy & Associates
P. O. Box 4307
Midway, Kentucky 40347


Glenna Jo (Jody) Curry, Attorney

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(502) 532-6279 • (502) 532-6280
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Fax:
(502) 532-0027



Water Treatment Plant:
3278 Morton Ridge Road
Bedford, KY 40006

Telephone:
(502) 255-0126

Fax:
(502) 255-0347

COPY

08/11/2009

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

Defendant's Exhibit 1
Letter dated Aug 11, 2009

Reference: Case No. 2009-00264

Dear Mr. Derouen:

This writing is in response to the complaint filed by W.H. Graddy and Associates representing James S. Wayne, Trustee of the James S. Wayne living trust.

- History of service

In May of 1997 water service was applied for by Mr. Ray Powell to serve the property now owned by Mr. Wayne. The District was on a tap-on ban at the time and all new services had to be approved by Division of Water. Service was approved by Division of Water and meter was installed on Mr. Larry Congleton's property with Mr. Congleton's permission May 1997. Shortly after service installation, Mr. Clarence Davis had the account transferred to his name and hired a contractor to install a three inch water line from the meter to his property. Mr. Davis sold the property to Mr. Wayne in the year 2000. Mr. Wayne had the account transferred to his name August 2000.

Prior to the construction of the three inch line from the meter to Mr. Davis' property, Mr. Davis and Mr. Congleton contacted then Water District Superintendent Mr. Gene Powell about the District taking over the three inch line after installation of the line. This would allow the other residents on McCarty Lane the ability to receive water service from the District.

Mr. Gene Powell agrees to take over the water line on behalf of the District once the District came off of the tap-on ban. Mr. Powell retired from the District shortly

thereafter before an easement was signed. All of this information is in an affidavit signed by Mr. Davis. (Attached)

In January of 2008 the meter readers noted that Mr. Wayne's meter was turning and that he could possibly have a leak. After previous and present readings were compared a high usage notification letter was sent to Mr. Wayne. Mr. Wayne hired a plumbing company to repair the leak. The plumbing company was denied entry onto the property to repair the leak by Mr. Congleton. Mr. Wayne had service disconnected on March 6, 2008.

Mr. Larry Congleton called me around March 20, 2008 and inquired about having the meter service connected in his name. I told him I would need to contact the PSC before we could do that because even though the meter was on Mr. Congleton's property, it was the meter for the three inch line.

On March 24, 2008 I called Ms. Ginny Smith at the PSC and explained the situation to her. I told her about the dispute between the two property owners over the water meter and line. Ms. Smith said it would be okay to let Mr. Congleton pay a connection fee and have the meter in his name. Mr. Congleton had the meter put in his name on April 4, 2008.

Mr. Wayne never came back in to have the meter re-connected in his name. Mr. Congleton continued to pay the bill on the account.

On July 23, 2008 a letter was sent to Mr. Wayne. A copy has been enclosed. In summary the letter stated that Mr. Congleton will give the District an easement for the three inch water line that is entirely on his property.

On September 3, 2008 Mr. Congleton granted an easement to the District for the three inch water line. A copy of the recorded easement has been provided. (Attached)

On September 30, 2008 the District submitted plans to the Division of Water for the purpose of getting approval of the three inch line.

On October 6, 2008 District personnel begin work on the three inch line to bring it up to specifications. Work sheets of employee hours and supplies used to repair water line are enclosed.

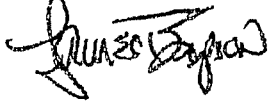
The water line issue was discussed at the November 11, 2008 Board of Directors meeting. A letter was sent to Mr. Wayne detailing the outcome of the discussion. The Division of Water approved the plans on the three inch water line. The meter base was removed from the original site. Bear in mind that Mr. Wayne is not a customer of the District and has not been since he requested service to be disconnected in March. The District has never denied Mr. Wayne service. Mr. Wayne was told that when he wanted service again that the meter would be installed near the end of the line on his property.

The District researched Mr. Wayne's deed to his property and there is absolutely no mention of a water line whatsoever.

Since Mr. Wayne consulted an attorney who assisted with the purchase of the farm, would a title search not have been done? Why is there no mention of a water line in the deed? Why does Mr. Wayne state numerous times in the complaint that the District is not providing service when he had service disconnected?

In closing, the District believes that they have a legal recorded easement from the property owner that the water line is on. Mr. Wayne has not been a customer of the District since March 6, 2008 and has not requested to be one since then. The District contacted PSC staff before allowing Mr. Congleton to put account in his name. The District believes that they have acted properly in this matter and in the best interests of the other residents on McCarty Lane who now have access to city water which was the original intent at the beginning.

Sincerely,



James T. Simpson
Chief Operating Officer
Henry County Water District #2