

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DONALD E. THRASHER)	
)	
COMPLAINANT)	
V.)	CASE NO.
)	2017-00098
SALT RIVER ELECTRIC COOPERATIVE)	
CORPORATION)	
)	
DEFENDANT)	

ORDER

On February 17, 2017, Donald E. Thrasher filed a formal complaint against Salt River Electric Cooperative Corporation ("Salt River"). Mr. Thrasher alleges that he is a member, owner, and customer of Salt River, which requires its members to pay for subscriptions to the Kentucky Living magazine, a publication of the Kentucky Association of Electric Cooperatives ("KAEC"). The complaint cites Salt River's Bylaw 11:05 as providing that: "The cost of a subscription to Kentucky Living and Salt River News is to be paid as a part of the cost of electrical service." Mr. Thrasher asserts that "Salt River members subsidize this non-regulated product for the most part unknowingly and unwittingly," that requiring a subscription to the magazine as a condition to receiving electric service is unjust, unfair, and unreasonable, and that "never documenting the subscription cost on any billing is deceptive, unjust, unfair, and

unreasonable.”¹ For relief, Mr. Thrasher requests that the Commission require Salt River to remove the cost of the Kentucky Living magazine from the cost of electricity or, in the alternative, require Salt River to include a line item on customers’ bills showing the cost of the magazine subscription.

On March 13, 2017, Mr. Thrasher filed a motion requesting the Commission to issue a *subpoena duces tecum* to Salt River for the production of all documents over the past five years relating to Kentucky Living magazine, communications with named KAEC officers regarding Kentucky Living magazine, payments to KAEC, and benefits received from KAEC.

Based on a review of the complaint and being otherwise sufficiently advised, the Commission finds that 807 KAR 5:001, Section 20(4)(a), requires us to review each formal complaint upon its filing to determine whether the complaint establishes a *prima facie* case. A complaint establishes a *prima facie* case when, on its face, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief. If a complaint fails to establish a *prima facie* case, the regulation provides that the complainant be so notified and allowed an opportunity to amend the complaint within a specified time.

The Commission begins its analysis of Mr. Thrasher’s complaint by noting that, under KRS 278.040(2), “The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities” With respect to rates, KRS 278.030(1) provides, “Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered” With respect to service, KRS 278.030(2) provides, “Every utility shall furnish adequate, efficient and reasonable service” Further,

¹ Complaint at 1–2.

KRS 278.260(1) empowers the Commission with “original jurisdiction over complaints as to rates or service of any utility.” KRS 278.270 authorizes the Commission to change a utility’s rate upon finding that “any rate is unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of [KRS Chapter 278].”

Mr. Thrasher’s complaint contains no basis to support a claim that Salt River’s current rates are unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of KRS Chapter 278. The Commission establishes a utility’s rates to produce sufficient revenue to recover all reasonable expenses, including debt service and a profit margin. An objection by a customer to a specific expenditure by a utility does not render the utility’s rates unfair, unjust, or unreasonable. The complaint contains no financial analysis to indicate that Salt River’s current annual revenues are excessive based on its current level of annual expense, including debt service and a profit margin. Absent such an analysis, the Commission is unable to find that Mr. Thrasher’s complaint contains sufficient allegations to constitute a *prima facie* case that Salt River’s rates are unfair, unjust, and unreasonable.

In addition, the Commission takes administrative notice that Salt River utilizes the Kentucky Living magazine for purposes of complying with the Commission’s regulations when notice of a hearing is required to be published.² Thus, customers do receive a benefit from receipt of Kentucky Living magazine. Absent publication of hearing notices

² See Case No. 2016-00248, *An Examination of the Application of the Fuel Adjustment Clause of Salt River Electric Cooperative Corporation from November 1, 2015 Through April 30, 2016*, Salt River’s Affidavit of Mailing filed November 7, 2016.

in Kentucky Living magazine, Salt River would be required to incur the cost of utilizing newspaper publication or direct mail.

IT IS THEREFORE ORDERED that:

1. Mr. Thrasher's complaint is rejected for failing to conform to the requirements of 807 KAR 5:001, Section 20(4), by failing to state a *prima facie* case.

2. Mr. Thrasher shall have 20 days from the date of this Order to file an amended complaint with the Commission that conforms to the requirements of 807 KAR 5:001, Section 20(4), by stating a *prima facie* case.

By the Commission

ENTERED
MAR 21 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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