

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOWELL DEWAYNE SHEPHERD)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2019-00259
)	
KENTUCKY-AMERICAN WATER COMPANY)	
)	
DEFENDANT)	

ORDER

On June 21, 2019, Lowell Dewayne Shepherd (Mr. Shepherd) tendered a formal complaint with the Commission against Kentucky-American Water Company (Kentucky-American) in which he alleges that Kentucky-American overcharged him for water that he did not use in February 2019.¹ Mr. Shepherd asserts that when Kentucky-American tested his water meter, the flow rates were accurate, but the meter was “scrapped” due to not transmitting properly.² Mr. Shepherd requests that all the excess charges be refunded to his account.³ Mr. Shepherd further states that he entered into a payment plan with Kentucky-American so his water service would not be disconnected.⁴

¹ Complaint at unnumbered page 1.

² *Id.* at 1–2.

³ *Id.* at 2.

⁴ *Id.*

On August 5, 2020, the Commission entered an Order in this case that detailed the issues and history of the case. Because the only evidence in the record indicates that Mr. Shepherd's old meter has tested accurately, the August 5, 2020 Order gave Mr. Shepherd an additional 20 days from the August 5, 2020 Order to submit additional evidence in support of his complaint.

Mr. Shepherd did submit a response, but his response did not contain clear and satisfactory evidence to support his complaint.⁵ In his response, Mr. Shepherd lists various scenarios that he asserts proves that he could not have possibly used 62,084 gallons of water for the billing period of January 14, 2019, to February 11, 2019 (29 days). He states that it would take a bathroom faucet approximately 19.5 days and a shower head approximately 17.2 days of continuous running to use 62,084 gallons of water. He states that it would take approximately six days of a bathroom tub continuously running to use 62,084 gallons of water. He states that he does not own a swimming pool and neither do his adjacent neighbors. He goes on to assert that at no time during the period in question was he or his wife away from the house for more than 36 hours at a time. He adds that it would be ludicrous to say that some person stole this amount of water. He asserts that it would take over five large tanker trucks to hold this amount of water and thus theft of the water is not a possibility.

Also, in his response, Mr. Shepherd contends that the meter transmitted incorrect data to the meter reader, as the meter readers merely drive by and receive an electronic signal from the meter. He contends that since the meter readers do not physically read a meter or number, Kentucky-American cannot state with certainty that the meter did not

⁵ Lowell DeWayne Shepherd Response to Commission Order (filed Aug. 10, 2020).

transmit incorrect data. Lastly, Mr. Shepherd asserts that it has already been established in this case that part of the meter was faulty, and this is the reason that the meter was taken out of service.

The various scenarios and opinions contained within the response of Mr. Shepherd did not contain clear and satisfactory evidence. The complainant bears the burden of proof in matters before an administrative body.⁶ Here, Mr. Shepherd has not met that burden of proof. In the absence of a defective meter, a customer is responsible for the quantity of water supplied.⁷ Hence, Mr. Shepherd does not qualify for a reimbursement.

IT IS HEREBY ORDERED that Mr. Shepherd's formal complaint is dismissed with prejudice and is removed from the Commission's docket.

⁶ *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

⁷ *Louisville Tobacco Warehouse Co. v. Louisville Water Co.*, 172 S.W. 928, 931 (Ky. 1915). See also Case No. 2006-00212, *Robert Young Family vs. Southeastern Water Association* (Ky. PSC Jan. 25, 2007); Case No. 1999-00109, *Susan Elizabeth Spangler and Mark Lewis Farman vs. Kentucky-American Water Company* (Ky. PSC Oct. 7, 1999).

By the Commission



ATTEST:


Executive Director

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