

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BERNICE COYLE WATSON TACKETT)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2025-00148
BLUEGRASS WATER UTILITY OPERATING)	
COMPANY)	
)	
DEFENDANT)	

ORDER

On June 16, 2025, Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) filed a motion, requesting to dismiss the complaint initiated pursuant to KRS 278.54611(3).

LEGAL STANDARD

KRS 278.030(2) mandates that utilities provide adequate, efficient, and reasonable service. KRS 278.010(14) defines adequate service as having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service.

Commission regulation 807 KAR 5:071 governs the service of sewage utilities operating under the jurisdiction of the Public Service Commission. Sections 5 requires Bluegrass Water to maintain and operate sewage treatment facilities of adequate size

and properly equipped to collect, transport, and treat sewage, and discharge the effluent at the degree of purity required by the health laws of the State of Kentucky, and all other regulatory agencies, federal, state, and local, having jurisdiction over such matters. Commission regulation 807 KAR 5:071, Section 6, requires the utility to keep records of interruptions. Commission regulation 807 KAR 5:071, Section 7, requires that the utility maintain and operate the sanitary sewer system in accordance with accepted good engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property. Commission regulation 807 KAR 5:071, Section 8, mandates a sewage utility install and maintain that portion of the service pipe from the main to the boundary line of the easement, public road, or street, under which such main may be located.

On March 16, 2025 Ms. Bernice Coyle Watson Tackett (Ms. Tackett), the owner of 2029 Longview Drive, Georgetown, Kentucky 40324, discovered approximately 8 inches of wastewater in her basement due to a sewage backup.¹ Ms. Tackett's residence is served by the Longview/Homestead Wastewater Treatment Plant which is owned and operated by Bluegrass Water.² A complaint was filed with the Commission by Ms. Tackett's son, Charles Tackett II, as her power of attorney.³ The Complaint alleges that

¹ Complaint (filed Apr. 8, 2025) at 1 and 3.

² Case No. 2019-00104 *Electronic Proposed Acquisition by Bluegrass Water Utility Operating Company, LLC and the Transfer of Ownership and Control of Assets by P.R. Wastewater Management, Inc., Marshall County Environmental Services, LLC, LH Treatment Company, LLC., Kingwood Development, Inc., Airview Utilities, LLC., Brooklyn Utilities, LLC., Fox Run Utilities, LLC., and Lake Columbia Utilities, Inc.* (Ky. PSC Aug 14, 2019), final Order.

³ Complaint at 7-9.

the backup was caused by a tree root obstruction on the main line and seeks restitution for the damage caused by the backup.⁴

BLUEGRASS WATER'S MOTION TO DISMISS

In support of its motion, Bluegrass Water argued that dismissal is justified under two grounds: (1) the Commission does not have the statutory authority to award the damages sought in the Complaint;⁵ and (2) Bluegrass Water's tariff clearly exempts Bluegrass Water from any liability for any losses or damages resulting from the provision of sewer service.⁶

Having considered the motion and the material at issue, the Commission finds that Bluegrass Water has failed to provide sufficient evidence that, the facts, when viewed in the light most favorable to the complainant, do not present a *prima facie* case. The issues surrounding operation and maintenance are unresolved. KRS 278.030(2) mandates that utilities provide adequate, efficient, and reasonable service.

In addition, to facilitate a resolution to the complaint, Bluegrass Water should file its responses to the Commission Staff's request for information, attached to this Order as an Appendix, and should respond to any future requests for information propounded by Commission Staff by the date or dates set forth on any such requests.

⁴ Complaint at 3.

⁵ Citing *Carr v. Cincinnati Bell, Inc.*, 651 S.W.2d 126, 128 (Ky. App. 1983) ("Nowhere in Chapter 278 do we find a delegation of power to the PSC to adjudicate contract claims for unliquidated damages. Nor would it be reasonable to infer that the Commission is so empowered or equipped to handle such claims consistent with [its] constitutional requirement.").

⁶ Bluegrass Water Utility Operating Company, LLC, KY P.S.C. Tariff No. 1, Rules and Regulations, Original Sheet No. 17.

IT IS THEREFORE ORDERED that Bluegrass Water's motion to dismiss the complaint is denied.

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PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2025-00148 DATED JUL 21 2025

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC

Bluegrass Water Utility Operating Company, LLC (Bluegrass Water), pursuant to 807 KAR 5:001, shall file with the Commission an electronic version of the following information. The information requested is due on August 8, 2025. The Commission directs Bluegrass Water to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

Bluegrass Water shall make timely amendment to any prior response if Bluegrass Water obtains information that indicates the response was incorrect or incomplete when

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

made or, though correct or complete when made, is now incorrect or incomplete in any material respect.

For any request to which Bluegrass Water fails or refuses to furnish all or part of the requested information, Bluegrass Water shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied and scanned material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Bluegrass Water shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read. Regarding Longview/Homestead Wastewater Treatment Plant (Longview WWTP), located at 3243 Frankfort Road, Georgetown, Kentucky 40324:

1. Provide a copy of the Kentucky Pollutant Discharge Elimination System (KPDES) permit, DOW ID KY0081591, in which Bluegrass Water is listed as the permittee following the purchase of Longview WWTP from LH Treatment Company, LLC on January 29, 2019, and transfer in Case No. 2019-00104.² If there is no KPDES permit for Longview WWTP with Bluegrass Water listed as the permittee, explain why.

² Case No.2019-00104, *Electronic Proposed Acquisition by Bluegrass Water Utility Operating Company, LLC and the Transfer of Ownership and Control of Assets by P.R. Wastewater Management, Inc., Marshall County Environmental Services, LLC, LH Treatment Company, LLC, Kingswood Development, Inc., Airview Utilities, LLC, Brocklyn Utilities, LLC, Fox Run Utilities, LLC, and Lake Columbia Utilities, Inc.* (Ky. PSC Aug. 14, 2019), final Order.

2. Provide a copy of the engineering memorandum and the Corrective Action Plan (CAP) or amended CAP detailing the status of and repairs needed at Longview WWTP, which was submitted to and accepted by the Energy and Environment Cabinet in Case No. DOW-19-3-0154.

3. Provide Bluegrass Water's regular sewer maintenance schedule for the Longview WWTP, specifically include and denote the sanitary sewer line along Longview Drive (affected sewer line).

a. Provide a detailed explanation of how the maintenance schedule was created and who approved the provided schedule.

b. Describe in detail the steps taken and items inspected, as well as any forms designed to document the scheduled maintenance. If forms are to be filled out, provide a copy of an example of each required form.

c. Provide the maintenance log and inspection records for the affected sewer line from January 29, 2019, to date.

4. Provide a copy of the records for all Sanitary Sewer Overflows (SSOs) occurring from the affected sewer line since January 29, 2019, with the date, the name company doing the repair/maintenance work, what occurred, and what was done to remedy the problem including any cleanup and damages paid, including the overflow that is the subject of this Complaint.

5. State or present a diagram establishing the exact location where in the sewer line Bluegrass Water found the obstruction(s) on March 21, 2025, and jetted to clear them.³

³ Bluegrass Water's Verified Answer and Motion to Dismiss, Exhibit A (filed June 16, 2025).

6. Confirm that the use of cameras, established the presence of tree roots infiltrating the main sewer line, causing the blockage discovered on March 21, 2025. If there is a video record, present a copy of the video. If not confirmed, explain the response.

7. State whether the SSO that occurred on March 16, 2025, at 2029 Longview Drive, Georgetown Kentucky 40324 was reported to the Energy and Environment Cabinet Kentucky Division of Water (DOW).

a. If it was not reported to DOW, explain why it was not.

b. If it was reported to DOW, state whether a Notice of Violation was issued.

8. State whether Bluegrass Water carries insurance for damage to property owners as a result of a sewer backup.

9. State what Bluegrass Water is doing or has done to prevent this from occurring again other than cleaning out roots and debris such as the installation of a backwater or check valve to prevent backflow.

Bernice CW Tackett
2029 Longview Drive
Georgetown, KY 40324

*Bluegrass Water Utility Operating Company, LLC
1630 Des Peres Road, Suite 140
St. Louis, MO 63131