

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOSEPH STANLEY FOGLE)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 96-014
)	
TAYLOR COUNTY RURAL ELECTRIC COOPERATIVE)	
CORPORATION)	
)	
DEFENDANT)	

O R D E R

On January 9, 1996, Joseph Stanley Fogle filed a formal complaint against Taylor County Rural Electric Cooperative Corporation ("Taylor County") alleging that a malfunctioning transformer irreparably damaged his heating and air conditioning equipment, refrigeration and light fixtures. The relief requested included reimbursement for the cost of new electric appliances, other compensatory damages, reimbursement of electric bills and the assessment of fines and penalties against Taylor County.

Upon receipt of a complaint, the Commission is required by 807 KAR 5:001, Section 12(4)(a), to determine whether it establishes a prima facie case. A complaint establishes a prima facie case when, assuming that the facts set forth therein are true, the complainant is entitled to the relief requested.

At the outset, the Commission recognizes that its jurisdiction is expressly limited by KRS 278.040(2) to the rates and service of utilities. Any claim for reimbursement of unliquidated damages,

including the cost to replace appliances and compensation for inconvenience due to faulty utility equipment, is beyond the scope of the Commission's jurisdiction. Carr v. Cincinnati Bell, Ky.App., 651 S.W.2d 126 (1983). Only the Court of Justice has jurisdiction to adjudicate a claim for these types of damages.

In addition, the complaint fails to specify the month, year and amount of each electric bill that should be reimbursed due to Taylor County's faulty equipment. Finally, the complaint fails to set forth sufficient facts for the Commission to find that there is probable cause that Taylor County violated any statutes or regulations. Absent a finding of probable cause that violations exist, there is no basis for the Commission to impose any fines or penalties in the case.

The Commission will, however, direct its Staff to conduct an investigation of the facts and circumstances surrounding the problems experienced by the complainant. The Staff will issue a report upon completion of that investigation.

IT IS THEREFORE ORDERED that:

1. That part of the complaint requesting reimbursement for the cost of appliances replaced and compensation for inconvenience and endangerment shall be dismissed for lack of jurisdiction.


2. The complainant shall have 20 days from the date of this Order to amend his complaint by filing additional information specifying the month, year, and amount of each electric bill for which reimbursement is requested due to Taylor County's faulty

equipment and the basis for the claim that the faulty equipment caused complainant's electric bills to be abnormal.

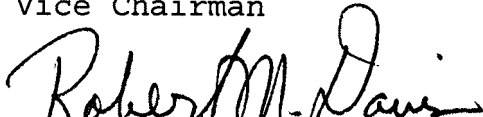
3. In the event that an amended complaint as described above is not filed within 20 days from the date of this Order, this case shall be dismissed without further Order.

Done at Frankfort, Kentucky, this 23rd day of February, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director