

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOYLAND KENNEL, INC.)	
COMPLAINANT)	
v.)	
BOONE COUNTY WATER DISTRICT)	CASE NO. 96-218
DEFENDANT)	
)	

O R D E R

On April 8, 1996, Joyland Kennel, Inc. ("Complainant"), a Kentucky corporation, filed a formal complaint against Boone County Water District ("Boone District"). Complainant alleges that Boone District failed to read its meter regularly and that, as a result of Boone District's failure, a water line leak went undiscovered. Complainant requests that Boone District recalculate its bill based on Complainant's consumption for a similar period to negate the effects of the water line leak.

Commission Regulation 807 KAR 5:001, Section 12(4), requires the Commission to review each formal complaint upon its filing to determine whether the complaint establishes a prima facie case and conforms to Commission regulations. A complaint establishes a prima facie case when, on its face, it sets forth 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 or to conform with Commission regulations, the Commission must notify the complainant and provide a reasonable opportunity to amend the complaint.

Assuming that Boone District failed to read Joyland Kennel's meter regularly, KRS 278.160 and 278.170 prohibit the requested relief. Complainant requests that Boone District bill for less than the actual amount of water received. Granting such relief effectively requires Boone District to charge a rate which is less than Boone District's filed rate and which differs from that charged to other customers.

KRS 278.160 requires a utility to file with the Commission "schedules showing all rates and conditions for service established by it and collected or enforced." KRS 278.160(1). It further states:

No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

KRS 278.160(2). Simply put, the statute demands that a utility strictly adhere to its published rate schedules and not, either by agreement or conduct, depart from them.

While KRS 278.160(2) limits a utility's authority to depart from its filed rate schedules, KRS 278.170(1) imposes an affirmative obligation upon a utility to charge and collect its prescribed rates. KRS 278.170(1) requires a utility to treat all similarly situated customers in substantially the same manner. If a utility fails to collect from a customer the full amount required by its filed rate schedule, it effectively grants a preference in rates to that customer as it allows him to pay less than other customers for the same service.

In addition to its failure to state a prima facie case, the complaint fails to comply with Commission Regulation 807 KAR 5:001, Section 12. This regulation provides:

The complaint shall be signed by the complainant or his attorney, if any, and if signed by such attorney, shall show his

post office address. Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

807 KAR 5:001, Section 12(2) (emphasis added). In this case, the Complainant is a corporation and its complaint is signed by a non-attorney.¹


IT IS THEREFORE ORDERED that:


1. Complainant shall have 20 days from the date of this Order to file an amended complaint which sets forth a prima facie case and conforms with Commission regulations.

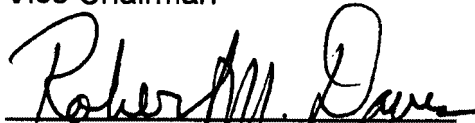
2. In the event that an amended complaint is not filed within 20 days of the date of this Order, this case shall be dismissed without further Order.

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

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

¹ Representation of a corporation or governmental agency before an administrative agency is considered the practice of law and must be performed by a licensed attorney. See Kentucky Bar Ass'n v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967); Adm. Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (June 15, 1981).

APR 08 1996

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE COMMISSION

In the Matter of:

Joyana Kennel
(Your Full Name)
COMPLAINANT

VS.

Boone Cty Water Dist
(Name of Utility)
DEFENDANT

96-218

COMPLAINT

The complaint of Joyana Kennel respectfully shows:
(Your Full Name)

(a) Joyana Kennel
(Your Full Name)

214 FROE-TOWN RD. UNION, KY 41091
(Your Address)

(b) Boone Cty Water Dist
(Name of Utility)

2475 Burlington Pike, Burlington, KY
(Address of Utility)

(c) That: As A Result of Utility Neg
(Describe here, attaching additional sheets if

Regularly Reading our water meter
necessary, the specific act, fully and clearly, or facts

A leak went undetected and caused
that are the reason and basis for the complaint.)

COMPLAINANT TO SUFFER A SERIOUS

Formal Complaint

Taylor's Kennel vs Boone City Water Dist
(Your Name) (Utility Name)

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WATER LEAK. LEAK WAS NOT EVIDENT
AND COULD ONLY HAVE BEEN DETECTED BY
ABNORMALLY HIGH READINGS ON THE WATER
METER. METER READINGS WERE ESTIMATED
NOT DONE SPECIFIC AS WE ARE ENTITLED
TO TO GET A FAIR EVALUATION OF
WATER USED.

Wherefore, complainant asks That Taylor's Kennel
(Specifically state the

be billed for water as used in a
relief desired.)

previous similar period based on prior
meter readings and not for the water
lost (not used) because of the failure of
the utility to actually read the meter (over)

Dated at Union, Kentucky, this 2nd day
(Your City)

of April, 1996.
(Month)

Judith I. Keefe
(Your Signature)

(Name and address of attorney, if any)

Meter was last read in Nov 1995 if then.