

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TERESA BIAGI AND RAPHE ELLIS	)	
	)	
COMPLAINANTS	)	
	)	CASE NO.
V.	)	2026-00152
	)	
KENTUCKY-AMERICAN WATER COMPANY	)	
	)	
DEFENDANT	)	

ORDER

On May 29, 2026, Teresa Biagi and Raphe Ellis (Complainants) tendered a formal complaint with the Commission against Kentucky-American Water Company (Kentucky-American) alleging that Kentucky-American had originally placed a meter on the property now owned by Complainants, without securing an easement or right-of-way, and that this infrastructure blocks Complainants' only state-approved driveway site, serves zero purpose for their property, and acts as an unauthorized transmission line to service a three-house compound (Complaint).¹ Complainants alleged that Kentucky-American refuses to comply with a verbal agreement to relocate the meter.²

On August 13, 2026 the Commission entered an Order finding that the Complainants' allegations failed to establish a *prima facie* case against the utility and that

¹ Complaint (filed May 29, 2026) at 3-4.

² Complaint at 3-4.

Complainants should be afforded an opportunity to amend the complaint within 20 days of the date of the Order.³

On August 14, 2026, Complainants filed an amended complaint.⁴ For the reasons discussed below, the Commission finds that the amended complaint fails to establish a *prima facie* case and should be dismissed.

BACKGROUND

The original Complaint alleged Kentucky-American has maintained an unauthorized foreign utility line and water meter on the Complainants' private property at 2710 Hwy. 227 North, Worthville, Kentucky 41098, without a recorded easement.⁵ Complainants stated this infrastructure blocks their only state-approved driveway site, serves zero purpose for their property, and services a three-house compound via a downstream splice in violation of the applicable residential tariffs.⁶

The Complaint alleged Kentucky-American's legal team was breaking a verbal agreement made by their own representative on October 29, 2025, to relocate the meter pit onto neighboring land and was instead attempting to leverage Complainants' landlocked status to force them to sign a right-of-entry agreement to maintain this illegal configuration on their private land instead, and that Kentucky-American continued to stall access to Complainants' property based on unrecorded 24-year existence claims.⁷ The requested relief in the Complaint sought the Commission to order Kentucky-American to

³ Order (Ky. PSC Aug. 13, 2026) at 12.

⁴ Amended Complaint (filed Aug. 14, 2026).

⁵ Complaint at 3.

⁶ Complaint at 3.

⁷ Complaint at 3-4

fulfill the verbal agreement made on October 29, 2025, to permanently move the water meter, service line, and all associated third-party infrastructure entirely off Complainants' private property and onto a neighboring property or the public right-of-way.⁸

The Complaint was rejected for failure to present any claim for relief related to the Commission's jurisdiction over rates or service by Kentucky-American.⁹ The Commission found that the claims presented in the Complaint did not present a *prima facie* case and afforded the Complainants an opportunity to amend the complaint in accordance with 807 KAR 5:001, Section 20(4)(a)(1), within 20 days of the date of the Order.¹⁰

LEGAL STANDARD

KRS 278.040(7) requires the Commission to "regulate utilities and enforce the provisions of [KRS Chapter 278]." KRS 278.040(8) grants the Commission has exclusive jurisdiction over the regulation of rates and service of utilities in Kentucky. Pursuant to KRS 278.260, the Commission has jurisdiction over complaints regarding rates or service. However, KRS 278.260(2) allows the Commission to "dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights."

Commission regulation 807 KAR 5:001, Section 20(1)(c) requires each complaint to state fully, clearly and with reasonable certainty, the act or omission, of which failure to comply is alleged. Furthermore, 807 KAR 5:001, Section 20(4)(a), requires the Commission to examine the complaint to ascertain if the complaint establishes a *prima*

⁸ Complaint at 4.

⁹ Order (Ky. PSC Aug. 13, 2026) at 10-11.

¹⁰ Order (Ky. PSC Aug. 13, 2026) at 11-12.

facie case that the utility has violated a statute, regulation, tariff, or order for which the Commission may grant relief. 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.¹¹ If a complaint fails to establish a *prima facie* case, it may be dismissed. However, 807 KAR 5:001, Section 20(4)(a)(1) allows a complainant to amend a complaint within a specified time.

Because a *prima facie* case requires sufficient allegations to entitle a complainant to the relief requested, its fundamental operation is inextricably intertwined with redressability. In administrative settings, redressability is limited by the jurisdictional authority given agencies by the legislature. Thus, a request for relief that is not within the Commission's jurisdiction to provide will not support a finding of a *prima facie* case.¹²

Regarding complaints, KRS 278.260 states that:

[t]he commission shall have original jurisdiction over complaints as to rates or service of any utility, and upon a complaint in writing made against any utility by any person that any rate which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained[.]

As noted above, KRS 278.040(7) also requires the Commission to “enforce the provisions of [KRS Chapter 278],” which provides the Commission jurisdiction over the

¹¹ Case No. 2011-00211, *Brenda Joyce Clayton v. Louisville Gas and Electric Company* (Ky. PSC July 15, 2011), Order 1-2.

¹² See Case No. 2023-00367, *Futrell Holding Co., LLC v. Barkley Laje Water District* (Ky. PSC Mar. 10, 2025), Order (finding that a complainant failed to state a *prima facie* case where the relief requested was not within the Commission's jurisdiction to provide).

rates and services of utilities. Thus, complaints must generally be related, in some causal way, to the Commission's jurisdiction over rates and service.¹³

DISCUSSION AND FINDINGS

The amended complaint reasserted that Kentucky-American maintained a non-easemented water meter pit and infrastructure on Complainants' subject property. Complainants again made clear that they do not receive service from Kentucky-American.¹⁴ Complainants claimed the meter pit in question serves multiple separate customer households, and is positioned in a manner that directly blocks a permitted driveway site, which Complainants alleged has deprived them of necessary vehicular ingress and egress to their farm's agricultural operations, creating an ongoing operational emergency and safety hazard.¹⁵ Complainants further claimed Kentucky-American has refused to relocate the meter pit off Complainants' subject property, and that Kentucky-American asserted that it holds a permanent right or "prescriptive easement" to occupy the land by virtue of the infrastructure being present for 24 years.¹⁶ Complainants further stated that Kentucky-American requested in the alternative that they execute a

¹³ The Commission also has jurisdiction granted by other statutes unrelated to this case. For instance, the Commission is tasked with enforcing Kentucky's Underground Facility Damage Prevention laws (known colloquially as 811) and KRS 367.4917 provides the scope of the Commission's authority, stating that: "[t]he commission shall have statewide authority to enforce and assess civil penalties provided for in this section and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq." KRS Chapter 74 also gives the Commission certain authority over the governance of water districts. See KRS 74.020.

¹⁴ Amended Complaint at 2.

¹⁵ Amended Complaint at 2.

¹⁶ Amended Complaint at 2.

"Temporary Right of Entry" agreement to relocate the meter pit on Complainants' subject property, which Complainants declined to sign.¹⁷

In the amended complaint, Complainants alleged that Kentucky-American has violated the following Commission statutes/regulations:¹⁸

-807 KAR 5:066, Section 15, which mandates separate meters for distinct customer service connections. Complainants alleged that due to the single meter infrastructure located on their property, that is actively serving multiple separate customer households, Kentucky-American has violated this single metering mandate.

-807 KAR 5:066 Section 12, which requires that meters be placed at the point of service on or near the property line of the actual customer being served. Complainants alleged that maintaining a distribution cluster on non-customer land under the guise of an unrecorded prescriptive easement violates proper geographic metering regulations.

-KRS 278.030(2), mandates that every utility maintain "adequate, efficient, and reasonable service" and facilities. Complainants alleged that relying on an unrecorded, inherited meter layout to block a landlocked farm's KYTC-permitted driveway is a violation of reasonable service standards.

-KRS 278.160, provides that a utility is legally prohibited from charging for services delivered via infrastructure setups that explicitly violate Commission administrative rules. Claimants alleged that by continuing to collect retail payments and charging rates for a shared, multi-household service line, this violates separate-metering mandates under 807 KAR 5:066 Section 15, and that Kentucky-American is engaged in unlawful billing and collection practices.

-KRS 278.260, which grants the Commission jurisdiction "over complaints as to rates or service of any utility, and upon a complaint in writing made against any utility by any person that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained" - Complainants alleged that Kentucky-American's attempt to force them to sign a

¹⁷ Amended Complaint at 3.

¹⁸ Amended Complaint at 3.

Right of Entry to expand the alleged non-compliant utility infrastructure further onto private land, constitutes an unjust and unreasonable utility practice.

Complainants' requests for relief in the amended complaint include:

- Finding that Kentucky-American's shared-meter infrastructure configuration violates 807 KAR 5:066 Section 15 and Section 12;
- Ordering Kentucky-American to dismantle the multi-household cluster on Complainants' Property;
- Ordering Kentucky-American to relocate individual meters to the public right-of-way or the actual property lines of the individual customers being served;
- Finding that Kentucky-American cannot claim a prescriptive utility easement to bypass explicit Commission safety, tariff, and separate-meter regulations; and
- Requiring the Commission to investigate and audit all payments and billing records collected by Kentucky-American from the meter pit configuration to determine regulatory non-compliance fines.¹⁹

Complainants have re-confirmed in the amended complaint that they are not utility customers of Kentucky-American utilizing the specific infrastructure at issue, but are instead, affected landowners with a land use dispute, and have requested again for the Commission to intervene and order Kentucky-American to relocate its meter and a water line used to supply water to a third-party or parties.²⁰ As discussed in the Commission's Order rejecting the original Complaint, the Commission has some authority regarding the placement of service connections and meters pursuant to the above referenced statutes and regulations—for instance, to the extent that the placement relates to the reasonableness of service conditions imposed on *customers* or the adequacy of service provided to *customers*.²¹ However, the reasonableness and the adequacy of service is

¹⁹ Amended Complaint at 4.

²⁰ Amended Complaint at 1.

²¹ Order (Ky. PSC Aug. 13, 2026) at 11, footnote 27.

not the real issue raised in this case. In the amended complaint, there is no new claim presented related to improper service or rates for the subject property, or on behalf of any other customers of Kentucky-American that the Commission has jurisdiction to address pursuant to any of the above listed statutes and regulations.

The Commission found Complainants' requested relief in the Complaint was ultimately related to the land use dispute between Complainants and Kentucky-American, which the Commission stressed, should be remedied pursuant to a civil action, and were not within the jurisdiction of the Commission to enforce.²² The Commission afforded Complainants an opportunity to amend their complaint to present a *prima facie* case, but Complainants have again presented allegations ultimately related to their continued land use dispute. Complainants do not receive service from Kentucky-American, have not alleged any new rate violations, or any inadequacy of provision of service to their own property, and these facts remain far removed from the jurisdiction created by KRS 278.040 and KRS 278.260.

Further, as discussed in the Commission's August 13, 2026 Order, even if the service referred to by Complainants was being provided in violation of the regulations discussed above, a Commission order directing the utility to cease such master metering would not entitle Complainants to the relief that they are requesting, because an order pertaining to master metering would not necessarily have to require the lines or meters

²² Order (Ky. PSC Aug. 13, 2026) at 10.

to be moved from their current location.²³ The request for relief regarding any determination of, or the use of a prescriptive easement, is a matter of property law, which would properly be determined by the Kentucky Court of Justice. Regarding the request to determine fines against Kentucky-American for the alleged violations, the Commission has consistently held that “[a]ny remedy arising from a determination that [a utility] willfully violated KRS Chapter 278 . . . and thus should be subject to the assessment of a civil penalty is determined in an investigation/show cause proceeding and not in a complaint case.”²⁴

Based on the above discussion, the Commission finds that the amended complaint failed to comply with 807 KAR 5:001, Section 20, for failure to present a *prima facie* case, and should be dismissed. The Commission further finds that the amended complaint should be dismissed without a hearing as a hearing is not necessary in the public interest or to protect substantial rights based on the evidence and admissions discussed above.

IT IS THEREFORE ORDERED that:

1. The amended complaint is rejected for failing to state a *prima facie* case and failing to conform to the requirements of 807 KAR 5:001, Section 20(1)(c).

²³ Order (Ky. PSC Aug. 13, 2026) at 11, footnote 28, stated “Even assuming there is a violation of the master metering regulation related to other customers and the Commission could use such a violation of the master metering regulation to order relief that is broader than would be required to address such violation, i.e. the requested by the complaint, it would not be in the public interest or necessary to protect substantial rights to do so in this case, because the main disputes in this matter arises from tort and contract law claims and such disputes may be and are generally better addressed through civil court action.”

²⁴ See Case No. 2022-00351, *Carroll County Water District No. 1 v. Gallatin County Water District* (Ky. PSC July 19, 2023), Order at 11-12; See also, Case No. 2013-00291, *Harold Barker, Ann Barker, and Brooks Barker v. East Kentucky Power Cooperative, Inc.* (Ky. PSC July 6, 2015), Order at 20.

2. A copy of this Order shall be served on the Complainants, Teresa Biagi and Raphe Ellis, through the U.S. Postal Service by Certified Mail, Return Receipt Requested, and First-Class Mail at 1585 Butler Inn Road, Worthville, Kentucky 41098.

3. This case is closed and removed from the docket.

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Entered on this 22nd day of October, 2026.

PUBLIC SERVICE COMMISSION



Angie Hutton
Chair



Mary Pat Regan
Vice Chair



Andrew W. Wood
Commissioner



Barry L. Mayfield
Commissioner

ATTEST:



Justin McNeil
Executive Director

Service List for Case 2026-00152

* Teresa Biagi
1585 Butler Inn Rd.
Worthville, KY 41098

* Raphe Ellis
1585 Butler Inn Rd.
Worthville, KY 41098

* Kentucky-American Water Company
2300 Richmond Road
Lexington, KY 40502