

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHN RILEY DOWELL	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2023-00249
	)	
OHIO COUNTY WATER DISTRICT	)	
	)	
DEFENDANT	)	

ORDER

On July 24, 2023, John Riley Dowell tendered a complaint against Ohio County Water District (Ohio District) arising from alleged excessive water pressure. Thereafter, Mr. Dowell made several additional filings providing supplemental information. Ohio Water District responded to two requests for information from Commission Staff. This matter is now before the Commission for a decision.

BACKGROUND

Mr. Dowell's initial complaint alleged Ohio District's water service to his home was delivered at an excessive pressure, which resulted in damage to his water heater pop off valve and excess water and electric usage from January 2023 through April 2023.¹ He requested \$1,149.77 in damages. He supplemented his initial complaint in December 2023 and requested to add an additional \$248 in expenses to the damages for the repair to his water heater. Mr. Dowell provided a bill with that filing from a plumbing and heating

¹ Dowell's Complaint (filed July 24, 2023).

company dated April 19, 2023, in the amount of \$248 indicating “bad T&P valve replaced.”² Mr. Dowell then clarified that his “total expense refund should be about \$1,600.”³

Ohio District responded to two rounds of request for information from Commission Staff regarding the excessive pressure alleged by Mr. Dowell. Ohio District acknowledged that it received an informal complaint in April 2023 regarding alleged high pressure on Mr. Dowell’s service line. Ohio District indicated that as a result of that informal complaint that its distribution personnel tested the pressure at a hydrant near Mr. Dowell’s residence on April 21, 2023, and stated that they found the pressure at the hydrant was near 150 psi.⁴ Ohio District stated that pursuant to its policies a regulator is installed at a meter when pressure equals or exceeds 150 psi, so after pressure at the hydrant was found to be near 150 psi, Ohio District installed a meter with a regulator at Mr. Dowell’s service connection.⁵ The work order states “Had 150 PSI, put in meter with regulator.”⁶

On July 18, 2023, Ohio District installed a pressure monitor in addition to the regulator at Mr. Dowell’s service connection. From that date until the pressure monitor was removed on July 24, 2023, the pressure monitor recorded readings from about 130 psi to about 138 psi. It never recorded readings below 130 psi or above 140 psi while

² Dowell’s Second Supplement Filing (filed Dec. 5, 2023).

³ Dowell’s Third Supplement Filing (filed Dec. 6, 2023).

⁴ Ohio District’s Response to Commission Staff’s Second Request for Information (Staff’s Second Request)(filed Feb. 4, 2025), Item 1.

⁵ Ohio District’s Response to Staff’s Second Request, Items 1 and 4.

⁶ Ohio District’s Response to Commission Staff’s First Request for Information (Staff’s First Request)(filed June 3, 2024), Item 3, Attachment 1-2.

attached (there are reading outside that range on the day the sensor was removed but those appear to be from the installation and removal of the sensor).⁷ Ohio District indicated that it did not receive any complaints from the customer after installing the regulator, and that to their knowledge the issue was resolved.⁸

Ohio District stated that the meter located at the residence of the customer had been installed 15 years prior to the complaint being made. Ohio District indicated that it is its practice to check the pressure at the point of service when a meter is install and to install a regulator if the pressure meets or exceeds 150 psi, and Ohio District indicated that it assumes that was done when the meter was originally set but that it does not have records confirming that.⁹ Ohio District also indicated that there are no records to indicate that the area in question is a high-pressure area.¹⁰

Ohio District asserted that it did not have the ability to determine the pressure during the periods which Mr. Dowell complained as a pressure monitor was not in place at the point of service at that time.¹¹ However, Ohio District asserted that its hydraulic model completed in November 2021 shows the property is between two nodes and that the hydraulic model provides evidence that the pressure at that location would not exceed 150 psi during normal operations.¹²

⁷ See Ohio District's Response to Staff's First Request, Items 1 and 2 (including a printout of the results of the pressure monitoring at Mr. Dowell's residence); Ohio District's Response to Staff's Second Request, Item 3 (summarizing the results of the pressure monitoring and indicating its relationship to the hydraulic study).

⁸ Ohio District's Response to Staff's Second Request, Item 4.

⁹ Ohio District's Response to Staff's Second Request, Item 1, 2, and 4.

¹⁰ Ohio District's Response to Staff's Second Request, Item 1.

¹¹ Ohio District's Response to Staff's Second Request, Item 4.

¹² Ohio District's Response to Staff's Second Request, Item 1.

Specifically, Ohio District stated that a North pressure node is 1,800 feet from the meter and shows a static model pressure of 105 psi while at an elevation of 478.80 mean sea level, and that a South pressure node is 2,500 feet from the meter and shows a static model pressure of 127 psi while at an elevation of 430.60 mean sea level. Ohio District stated that Mr. Dowell's meter is at an elevation of 420.70 mean sea level, which based on the pressure at the North and South pressure nodes would indicate an Average hydraulic calculated pressure at the meter equal to 130.8 psi. Ohio District noted that the pressure monitoring at Mr. Dowell's meter mentioned above, which was upstream of the regulator, closely correlated to the expected results based on the hydraulic study.¹³

LEGAL STANDARD

KRS 278.040(7) requires the Commission to "regulate utilities and enforce the provisions of [KRS Chapter 278]." Pursuant to KRS 278.040(8), the Commission has exclusive jurisdiction over the regulation of rates and service of utilities in Kentucky. The Commission also has original jurisdiction with respect to complaints regarding the rates or services of any utility pursuant to KRS 278.260.

Pursuant to 807 KAR 5:001, Section 20(1)(c), each formal complaint filed with the Commission must state "[f]ully, clearly, and with reasonable certainty, the act or omission, of which complaint is made." Upon the filing of a formal complaint, "the commission shall examine the complaint to ascertain if it establishes a *prima facie* case and conforms to this administrative regulation."¹⁴ The Commission has held that a complaint establishes

¹³ Ohio District's Response to Staff's Second Request, Item 1.

¹⁴ 807 KAR 5:001, Section 20(1)(c).

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.¹⁵

Commission regulations provide that all water sold by a utility shall be upon the basis of metered volume sales.¹⁶ Pursuant to KRS 278.160(2), no person shall receive service from a utility for compensation greater or less than that prescribed within the utility's filed schedules. KRS 278.160(2) codifies the “filed rate doctrine,” which requires strict application of tariffed rates and bars equitable defenses against a utility billing its filed rates for services provided.

While the Commission may review claims of improper billing and require bill corrections to enforce KRS 278.160, among other applicable laws, the Commission does not have the statutory authority to award monetary damages. The Commission’s statutory authority in that regard is limited to enforcing utilities’ rates and service standards, Commission regulations, and the provisions of KRS Chapter 278. State courts have declined to interpret the Commission’s jurisdiction as including the authority to award monetary damages.¹⁷

DISCUSSION

Mr. Dowell’s allegations of “excess water pressure” and damage to the pop off valve on his water heater could potentially be read as alleging a violation of 807 KAR 5:066, Section 5(1). That regulation establishes certain minimum service standards for water utilities and states, in relevant part, that the pressure at a customer’s service pipe

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

¹⁶ 807 KAR 5:066, Section 13(1).

¹⁷ See *Carr v. Cincinnati Bell, Inc.*, 651 S.W. 2d 126 (Ky. App. 1983).

shall not exceed 150 psig under normal conditions.¹⁸ Further, Ohio District's personnel acknowledged recording 150 psig at a fire hydrant near Mr. Dowell's residence when they first responded to the informal complaint. While a reading of 150 psig would not violate the regulation per se, it is so close to the upper limit that the reading and Mr. Dowell's complaints could potentially support an inference that the limit of 150 psig had been exceeded, at least viewing the evidence in the light most favorable to Mr. Dowell.

Conversely, there is also evidence that would tend to indicate that the pressure at Mr. Dowell's meter did not exceed 150 psig. First, once a pressure monitor was installed at his meter, the pressure never exceeded 140 psig and typically hovered in the low- to mid-130 psig range. The range of the actual readings from the pressure monitor at his meter were also consistent with expectations from Ohio District's hydraulic model, and there is no evidence that the system experienced any material change that would invalidate the model's results. Thus, while it is possible that the pressure exceeded the threshold in the regulation, there is no direct evidence that the regulation was violated, and there is circumstantial evidence that could support an inference that no violation occurred, especially during normal operations.

Importantly though, it is not necessary to determine whether pressure at Mr. Dowell's residence exceeded 150 psig or violated 807 KAR 5:066, Section 5(1) to resolve this matter. The only relief that Mr. Dowell now requests is alleged damages arising from the alleged excessive pressure, including \$1,149.77 requested in the initial complaint and \$248.00 requested in the December 2023 supplemental filing. The complaint was clear that \$248.00 requested in the supplemental filing was for property damage arising from

¹⁸ 807 KAR 5:066, Section 5(1).

alleged damage to his water heater. The complaint was less clear about the nature of the other amounts requested as the complaint refers to both damage to the water heater and excessive water and electric usage without breaking down the alleged damages. However, as with the \$248 for the repair of the water heater, claims for damage to the water heater and alleged increases in electric or water bills arising from Mr. Dowell's claims are the type of unliquidated damages that are not within the jurisdiction of the Commission to award. Thus, Mr. Dowell's complaint fails to state allegations that would entitle him to the relief requested by the Commission even if true, because the Commission simply cannot award him the relief he is requesting.

If Mr. Dowell's complaint alleged and he supported a finding that Ohio District continued to provide service at an excessive pressure, then the Commission would be able to address the issue and take steps to require Ohio County to resolve that service issue pursuant to its jurisdiction over utility service standards. However, Mr. Dowell did not allege that the service issue was on going. Moreover, evidence developed in this case to assess whether the issue was ongoing or widespread indicates that to the extent there was an issue with excessive pressure that it has been resolved. Specifically, Ohio District presented evidence that it took action when it received an informal complaint from the customer to immediately install a meter with a pressure regulator at Mr. Dowell's residence, which should resolve any further issues to the extent that pressure had previously exceeded 150 psig. There is also no evidence that other customers were affected by the alleged excessive pressure in the area, much less that they continue to be affected by it. Thus, Mr. Dowell's complaint does not support a finding that there is an ongoing service issue within the Commission's jurisdiction to resolve.

Based on the forgoing, the Commission finds that the complaint fails to establish a *prima facie* case that Mr. Dowell is entitled to relief that may be provided by the Commission. However, in finding that Mr. Dowell failed to establish a *prima facie* case, the Commission specifically notes that it is not making a finding regarding whether Ohio District's service was provided at an excessive pressure before the regulator was installed, or whether such alleged excessive pressure resulted in the damages alleged by Mr. Dowell—the award of such damages are simply not relief within the Commission's jurisdiction to provide.

Notwithstanding the Commission's findings above, 807 KAR 5:001, Section 20(4)(a)(1) contemplates that complainants will be given an opportunity to amend a complaint before a case is dismissed upon an initial finding that a complaint failed to establish a *prima facie* case. Thus, the Commission finds that Mr. Dowell should be given 20 days to amend the complaint. If Mr. Dowell fails to do so, the complaint should be dismissed without prejudice.

IT IS THEREFORE ORDERED that:

1. The complaint fails to establish a *prima facie* case as contemplated by Section 20 of 807 KAR 5:001.
2. Mr. Dowell shall have 20 days from the date of service of this Order to submit an amended complaint that establishes a *prima facie* case.
3. A copy of this Order shall be served on John Riley Dowell by U.S. Postal Service Certified Mail, Return Receipt Requested, and First-Class mail at 856 Buford Rd., Utica, KY 42376.

Entered on this 11th day of August, 2026.

PUBLIC SERVICE COMMISSION



Angie Hatton
Chair



Mary Pat Regan
Vice Chair



Andrew W. Wood
Commissioner



Barry L. Mayfield
Commissioner

ATTEST:



Justin McNeil
Executive Director

Service List for Case 2023-00249

* John Dowell
856 Buford Road
Utica, KY 42376

* Ohio County Water District
124 E Washington Street
P. O. Box 207
Hartford, KY 42347

* Eric Hickman
Ohio County Water District
124 E Washington Street
P. O. Box 207
Hartford, KY 42347