

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GARY A. SMITH	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.
	)	2024-00302
BLUEGRASS WATER UTILITY OPERATING	)	
COMPANY, LLC	)	
	)	
DEFENDANT	)	

ORDER

On September 12, 2024, Gary A. Smith tendered a formal complaint with the Commission against Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) alleging that Bluegrass Water took a deposit for service but refused to connect his residence to the Delaplain wastewater treatment system.<sup>1</sup> On October 23, 2024, the Commission rejected the complaint for failing to state a *prima facie* case and failing to conform to the requirements of 807 KAR 5:001, Section 20(1)(c) but gave Mr. Smith the opportunity to amend his complaint.<sup>2</sup> On December 26, 2024 Mr. Smith filed an amended complaint and on January 17, 2025, the Commission found that Bluegrass Water should satisfy the matters complained of or file a written answer to the complaint.<sup>3</sup> Bluegrass Water, through counsel, filed an answer and motion to dismiss on January 27, 2025. On

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<sup>1</sup> Complaint at 1-2.

<sup>2</sup> Order (Ky. PSC Oct. 10, 2024).

<sup>3</sup> Order (Ky. PSC Jan. 17, 2025).

February 5, 2025, Commission Staff sent requests for information to both Mr. Smith and Bluegrass Water, individually, with responses required by March 7, 2025. On April 4, 2025, Bluegrass Water's counsel filed a notice of appearance, a motion for extension of time and a response to Commission Staff's First Request for Information. Mr. Smith did not respond to Commission Staff's First Request for Information nor did he provide written explanation of the specific grounds for the failure to respond.

### LEGAL STANDARD

Commission regulation 807 KAR 5:001, Section 20, governs the filing of a formal complaint. In accordance with 807 KAR 5:001, Section 20(1)(c), a complaint must state "[f]ully, clearly, and with reasonable certainty, the act or omission" that the complaint alleges the utility failed to comply with and facts, with details, of the alleged failure. Pursuant to 807 KAR 5:001, it was determined that the allegations in the complaint and answer support further investigation into the merits of the complaint. Commission regulation 807 KAR 5:001, Section 4(12)(b) provides that "[c]ommission staff, through the commission's executive director, may request information from any party to a case on the commission's behalf." Administrative regulation 807 KAR 5:001, Section 4(12)(d) requires that "[i]f a party served with a request for information fails or refuses to furnish all or part of the requested information, the party shall provide a written explanation of the specific grounds for the failure to completely and precisely respond."

### DISCUSSION AND FINDINGS

In his amended complaint, Mr. Smith alleged that a new septic system needed to be installed at his residence but cannot be accomplished due to easement constraints.<sup>4</sup>

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<sup>4</sup> Amended Complaint (filed Dec. 26, 2024).

However, Mr. Smith did not respond to the request for information which requested, in part, that he provide proof of any system failure in the form of local health department inspections reports and photographs.<sup>5</sup> Mr. Smith did not provide the requested proof, nor did he provide a written explanation of the specific grounds for the failure to completely and precisely respond to the request. Bluegrass Water requested an extension of time pointing out that although Bluegrass Water received Commission Staff's First Request for Information, counsel for the utility did not.

As to the pending motion, the Commission finds good cause to grant Bluegrass Water's motion for an extension of time to respond. As discussed above, Bluegrass Water did respond to the request for information when it filed the motion for an extension of time. The extension did not result in prejudice to the complaining party in this matter and the counsel for the utility stated he was not served directly.

As to the substance of the complaint, without the additional documentation in the record, there is not sufficient evidence for the Commission to make a finding in this matter, even with the evidence taken in the light most favorable to Mr. Smith. As such, the Commission finds that this complaint should be dismissed.

IT IS THEREFORE ORDERED THAT:

1. Bluegrass Water's motion for an extension of time is granted.
2. Mr. Smith's formal complaint and this case shall be dismissed.
3. A copy of this Order will be mailed via U.S. Postal Service, certified mail, to Mr. Smith at 2410 Cincinnati Road, Georgetown, Kentucky 40324. Service shall be complete upon the U.S. Postal Services initial attempt of delivery.

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<sup>5</sup> Commission Staff's First Request for Information to Gary A. Smith (issued Feb. 5, 2025) at 3.

4. The case is closed and removed from the Commissions docket.

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PUBLIC SERVICE COMMISSION

  
Chairman

Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director



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