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### JUN 04 2025

## COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE	
COMMISSION	

STINSON FITNESS, LLC D/B/A	)	
WORKOUT ANYTIME	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.: 2024-00303
	)	
KENTUCKY-AMERICAN WATER COMPANY	)	
DEFENDANT	)	

### RESPONSE TO MOTION TO DISMISS

\* \* \* \* \* \*

Comes now Stinson Fitness, LLC, d/b/a Workout Anytime (Complainant), by and through counsel, and, for its Response to Motion to Dismiss pursuant to 807 KAR 5:001, Section 5(2), would hereby state as follows:

The Complainant has established a *prima facie* case against the Defendant in this matter. In fact, the Defendant has admitted that an estimated read was performed in September of 2023. This estimated read was followed by a claimed actual read which showed usage of approximately three times the largest use ever recorded for the property and exponentially more than the average recorded gallons for the property. The Complainant has never uncovered any leak or other problem which would have led to this increased usage, and this issue occurred for only a brief period of time. There has absolutely been enough evidence put forth to necessitate an investigation in this matter.

The Defendant relies on the same three cases in its Motion to Dismiss which it seemingly always attempts to rely on in matters before this body. None of the cases cited by the Defendant address the issue which is before this body on this Complaint. Despite the claim of the Defendant

that the meter in question was tested and found to be sufficiently accurate, the fact remains that there was no change in circumstances for the Complainant which would have led to this situation; ergo, it must be an issue with the Defendant and its systems. The Complainant has established a case to move forward, and dismissal of the Complaint at this time would be unwarranted and would not serve the purpose of this body.

WHEREFORE, the Complainant requests the Commission overrule the Defendant's Motion to Dismiss.

Respectfully submitted,

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/s/ Rhett B. Ramsey
RHETT B. RAMSEY

#### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was transmitted to the Commission at psced@ky.gov and that a true and correct copy of the foregoing was served via U.S. Mail and e-mail to Hon. Lindsey W. Ingram III, Stoll Keenon Ogden PLLC, 300 West Vine Street, Suite 2100, Lexington, KY 40507, L.Ingram@skofirm.com; all this done this 4<sup>th</sup> day of June, 2025.

/s/ Rhett B. Ramsey
RHETT B. RAMSEY