

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JEANE COLE	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2022-00435
	)	
DUKE ENERGY KENTUCKY, INC.	)	
	)	
DEFENDANT	)	

ORDER

This matter arises upon Duke Energy Kentucky, Inc.’s (Duke Kentucky) motion to dismiss this matter<sup>1</sup> wherein Duke Kentucky denied the claim that Duke Kentucky incorrectly billed the Complainant for gas usage between March 2022 and August 2022.

On December 27, 2022, Jeane Cole tendered a formal complaint with the Commission against Duke Kentucky stating that her account was overbilled due to a faulty meter, and that Duke Kentucky should be required to reimburse her for the alleged overcharged consumption. On March 30, 2023, the Commission issued an Order directing Duke Kentucky to either satisfy the complaint or answer the allegations. Duke Kentucky filed an answer and motion to dismiss on April 10, 2023. Duke Kentucky asserted that the meter in place at Ms. Cole’s premises during the billing period in question accurately reflected her usage.<sup>2</sup> Duke Kentucky contended that because Ms.

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<sup>1</sup> Duke Energy Kentucky, Inc. Answer to Complaint (Answer) and Motion to Dismiss (filed Apr. 10, 2023).

<sup>2</sup> Duke Kentucky’s Answer and Motion to Dismiss at 3.

Cole's meter was accurately capturing usage, that this matter should be dismissed because Duke Kentucky complied with the terms of its tariff and the usage Ms. Cole was billed for was accurate and billed correctly.<sup>3</sup>

The Commission had the meter in question tested by Kentucky Meter Service, a third-party meter tester for the Commission, on August 2, 2024. The meter passed all accuracy requirements.<sup>4</sup>

It is well-settled that a complainant bears the burden of proof in matters before an administrative body.<sup>5</sup> Here, the burden of proof that must be met is that Duke Kentucky's meter failed to accurately measure gas usage, resulting in Ms. Cole being overcharged for service in violation of KRS Chapter 278, Commission regulations, and Duke Kentucky's tariff.

Based upon a review of the case record, and being otherwise sufficiently advised, the Commission finds that, given the meter in question tested within the acceptable accuracy limitations, the Complainant has not met the burden of proof and Duke Kentucky's motion to dismiss should be granted. The record does not contain sufficient evidence that the meter at issue did not accurately measure her gas usage, and thus there is no evidence that Duke Kentucky violated a statute, regulation, or its tariff. Further,

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<sup>3</sup> Duke Kentucky's Answer and Motion to Dismiss at 3.

<sup>4</sup> PSC Notice of Filing Meter Test Results into the Record (filed Sept. 4, 2024).

<sup>5</sup> *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

in the absence of a defective meter, a customer is responsible for the quantity of utility service supplied.<sup>6</sup>

IT IS HEREBY ORDERED that:

1. Ms. Cole's formal complaint is dismissed with prejudice and is removed from the Commission's docket.

2. A copy of this Order shall be served on Jeane Cole by U.S. certified mail, return receipt requested, at 319 Ervin Terrace, Dayton, Kentucky 41074.

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<sup>6</sup> *Louisville Tobacco Warehouse Co. v. Louisville Water Co.*, 172 S.W. 928, 931 (Ky. 1915). See also Case No. 2006-00212, *Robert Young Family vs. Southeastern Water Association* (Ky. PSC Jan. 25, 2007); Case No. 1999-00109, *Susan Elizabeth Spangler and Mark Lewis Farman vs. Kentucky-American Water Company* (Ky. PSC Oct. 7, 1999).

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner



ATTEST:

  
\_\_\_\_\_  
Executive Director

Jeane Cole  
319 Ervin Terrace  
Dayton, KENTUCKY 41074

\*Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45202

\*Rocco O D'Ascenzo  
Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45201