

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RHONDA LYNNE LUCAS)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2023-00199
)	
DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANT)	

ORDER

On June 7, 2023, Rhonda Lynne Lucas (Ms. Lucas) filed a formal complaint with the Commission against Duke Energy Kentucky, Inc. (Duke Kentucky) in which she alleged that Duke Kentucky made errors in her bills for natural gas service after her gas meter was replaced on August 2, 2022, and had overcharged her for gas service based on estimated gas usage. Ms. Lucas filed supplemental information in support of her complaint on July 28 and August 14, 2023.

The Commission entered an order on August 16, 2023, notifying Duke Kentucky that it had been named as a Defendant in a formal complaint, a copy of which was attached to the Order, and ordered Duke Kentucky to satisfy the matters complained of or file a written answer to the Complaint within ten days from the date of the Order. The Commission further ordered Duke Kentucky to file with its answer, if any, copies of relevant billing statements, meter test records, and communications regarding gas service with Ms. Lucas. On August 28, 2023, Duke Kentucky filed an answer, along with

billing statements, meter test records, and communications and moved to dismiss the complaint. On August 29, 2023, Duke Kentucky filed an amended Exhibit 2 to its answer.

In its answer, Duke Kentucky stated that it removed Lucas's gas meter on August 2, 2022, and replaced it with a new gas meter as part of its periodic meter testing program. Duke Kentucky stated that the old meter was tested on August 4, 2022, and found to be within applicable accuracy limits.

According to Duke Kentucky, when the New Meter was set up, the technician inadvertently entered an incorrect module number and meter manufacturer into the field order, which prevented the New Meter from being set up in the Company's system and which caused Lucas's bills to continue to display the Old Meter number and, in turn, caused Lucas to receive four estimated bills during the period of August 2022 to November 2022. According to the bills submitted by Duke Kentucky, there were no actual meter reads between July 25, 2022, and December 13, 2022, when the new meter was read.

Duke Kentucky stated that it issued a bill on December 9, 2022, that corrected for part of the previously estimated period, but did not capture the complete period. Duke Kentucky stated that it took 3 attempts in April and May 2023 to true up all of the estimated reads during this period, which resulted in Lucas receiving three separate bills. Duke Kentucky stated that it also did not obtain actual meter reads between April 13, 2023, and August 10, 2023, and that Lucas received estimated bills for the months of May, June, and July 2023.

Duke Kentucky stated that the correct setup of the new meter in its billing system was not completed until August 2023. Duke Kentucky stated that Lucas's August 17,

2023 bill corrected the previous estimates from the May to July 2023 bills, based on actual meter reads.

LEGAL STANDARD

The Commission has exclusive jurisdiction over the rates and service of utilities and is charged with enforcing the provisions of KRS Chapter 278.¹ KRS 278.260(1) also explicitly authorizes the Commission to investigate, upon complaint by a party directly interested, whether “any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable.” KRS 278.260(2) states that the Commission “may 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.”

Upon the filing of a Complaint, the Commission must “examine the complaint to ascertain if it establishes a prima facie case and conforms to [the relevant] administrative regulation.”² The Commission has most often described a prima facie case as occurring “when on its face, [the complaint] states sufficient allegations that, if uncontroverted by other evidence, would entitle the complainant the relief requested.”³ However, the Commission has also generally required some evidence to support a finding of a prima facie case.⁴

¹ KRS 278.040.

² 807 KAR 5:001, Section 20(4).

³ See e.g., Case No. 2020-00107, *In the Matter of: Christ Church United Methodist v. Louisville Gas and Electric Company* (Ky. PSC June 10, 2020), Order at 2.

⁴ See e.g., Case No. 2016-00347, *In the Matter of: Louisville/Jefferson County Metro Government v. Louisville Gas and Electric*, (Ky. PSC Oct. 19, 2016), Order at 3 (in which the Commission rejected a complaint because Louisville Metro did not provide any evidence regarding which LG&E customers received their gas through main lines located under Louisville Metro’s rights-of-way); Case No. 2022-00133, *In the Matter of: Biofuel Mining, Inc. v. Kentucky Power Company* (Ky. PSC May 6, 2022), Order at 6 (in

If the Commission finds that a complaint establishes a prima facie case and conforms to the administrative regulation, then the Commission will order that the defendant satisfy or answer the complaint.⁵

If the defendant desires to satisfy the complaint, he or she shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief that the defendant is willing to give. Upon the acceptance of this offer by the complainant and with the approval of the commission, the case shall be dismissed.⁶

Conversely, an answer must contain a denial of all matters controverted by the defendant and a statement of any new matters constituting a defense.⁷

KRS 278.160(1) requires each utility to “file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it.” KRS 278.160(2) prohibits a utility from charging “greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules.”

Pursuant to 807 KAR 5:022, Section 3(a), all gas sold by a utility must be metered except in cases of an emergency or when authorized by the Commission pursuant to Section 8 of that reregulation. Section 7(5)(a) of 807 KAR 5:006 requires that a utility read customer meters at least quarterly unless the meter is a customer read meter or the utility is prevented from reading the meter by reasons beyond its control.

which the Commission rejected a complaint because the evidence provided by the Complainant showed that Kentucky Power calculated its rates according to the tariff).

⁵ 807 KAR 5:001, Section 20(4)(b).

⁶ 807 KAR 5:001, Section 20(5).

⁷ 807 KAR 5:001, Section 20(6).

DISCUSSION

Ms. Lucas alleged in her complaint that Duke Kentucky made errors in her bill and overcharged her for gas service based on estimated meter readings after Duke Kentucky replaced her meter. Ms. Lucas requested that charges based on all reads of the old meter, both estimated and actual, after August 2, 2022, be removed and amounts overpaid based on the estimated usage of the new meter be credited to bills based on actual usage readings of the new meter.

The evidence presented by Ms. Lucas and Duke Kentucky indicates that that there were two periods of three consecutive months that Duke Kentucky billed Lucas based on estimated readings. Specifically, according to the bills submitted by Duke Kentucky, there were no actual meter reads between July 25, 2022, and December 13, 2022, and Ms. Lucas received estimated bills for the months of August, September, October, and November 2022.⁸ Duke Kentucky also did not obtain actual meter reads between April 13, 2023, and August 10, 2023, and Ms. Lucas received estimated bills for the months of May, June, and July 2023.⁹

Both Duke Kentucky's tariff and 807 KAR 5:006, Section 7(5)(a), require that Duke Kentucky read each customer's meter at least quarterly.¹⁰ The Commission finds that

⁸ Application, Exhibit 1.

⁹ Application, Exhibit 1.

¹⁰ Ky. P.S.C. Gas No. 2, Seventh Revised Sheet No. 25 ("Meters are ordinarily read at monthly intervals but may be read more or less frequently at Company's option but no less than quarterly.").

Duke Kentucky did obtain actual readings at least each calendar year quarter during this timeframe as required by 807 KAR 5:006, Section 7(5)(a) and Duke Kentucky's tariff.¹¹

To the extent that Ms. Lucas was charged based on estimated usage, Duke Kentucky was required to true up those bills pursuant to Duke Kentucky's tariff, 807 KAR 5:022, Section 3(a), and KRS 278.160, which require Duke Kentucky to charge no more or less than the tariffed rate based on metered gas. The Commission finds that Duke Kentucky has filed into the record evidence that Ms. Lucas's bills were trued up so that corrected charges are based on the actual readings of both the old¹² and new meters¹³, which would justify dismissing this matter without further hearing. The Commission further finds, however, that Ms. Lucas should have 20 days from the date of this order to file additional evidence in support of her complaint and to show cause why her complaint should not be dismissed as satisfied.

IT IS HEREBY ORDERED that within 20 days of the date of this order, Ms. Lucas shall submit any additional evidence in support of her complaint, and further that if Ms. Lucas does not show cause why her complaint should not be dismissed as satisfied, the complaint will be dismissed.

¹¹ According to bill submitted by Duke Kentucky, Duke Kentucky obtained actual readings at least each calendar year quarter during this timeframe – actual reads were obtained in the third (July 25) and fourth (December 13) quarters of 2022, and in the second (April 13) and third (August 10) quarters of 2023.

¹² Application, Exhibit 1. Duke Kentucky made adjustments for gas charges under Lucas's old meter in bills dated September 12, 2022, December 9, 2022, and May 4, 2023.

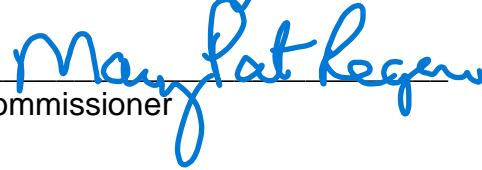
¹³ Application, Exhibit 1. Duke Kentucky made adjustments for gas charges under Lucas's new meter in bills dated May 4, 2023, and August 17, 2023.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

File

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