

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JUDY M. HANDSHOE	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.
	)	2020-00161
	)	
DUKE ENERGY KENTUCKY, INC.	)	
	)	
DEFENDANT	)	

ORDER

This matter arises upon Duke Energy Kentucky, Inc.'s (Duke Kentucky) motion to dismiss this matter. On May 7, 2020, Judy M. Handshoe (Ms. Handshoe) 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.<sup>1</sup>

On October 16, 2020, 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 October 27, 2020. Duke Kentucky asserted that the meter in place at Ms. Handshoe's premises during the billing period in question had been tested

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<sup>1</sup> On July 10, 2020, the Commission issued an Order stating that it was unable to determine whether the complaint established a *prima facie* case and required Ms. Handshoe to file copies of all electric bills issued to her by Duke Kentucky that support the allegations made in her complaint. On July 28, 2020, Ms. Handshoe filed copies of her bills into the record, thus establishing a *prima facie* case.

and met all applicable accuracy requirements.<sup>2</sup> Duke Kentucky provided a copy of the meter test results indicating the same.<sup>3</sup> Duke Kentucky contended that because Ms. Handshoe's meter was tested and was accurately capturing usage, that this matter should be dismissed because Duke Kentucky complied with the terms of its tariff and the usage Ms. Handshoe was billed for was accurate and billed correctly.<sup>4</sup>

At the request of Ms. Handshoe, the Commission had the meters in question tested by Luthan Electric Meter Testing on July 7, 2020. Both meters passed all accuracy requirements.<sup>5</sup>

In its August 5, 2021 Order, the Commission found that the evidence in the record indicated that, because the meter test reflected that the meter accuracy was within the regulatory standards, Ms. Handshoe should have 20 days from the date of the August 5, 2021 Order to submit additional evidence in support of her complaint that she was overcharged due to an inaccurate meter. Ms. Handshoe did not file a response to the August 5, 2021 Order and, to date, has not provided any additional evidence to support her complaint.

It is well-settled that a complainant bears the burden of proof in matters before an administrative body.<sup>6</sup> Here, the burden of proof that must be met is that Duke Kentucky's meter failed to accurately measure electric usage, resulting in Ms. Handshoe being

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<sup>2</sup> Duke Kentucky's Answer and Motion to Dismiss at 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 3.

<sup>5</sup> Order (Ky. PSC Aug. 5, 2021), Appendix.

<sup>6</sup> *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

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 Ms. Handshoe has not met that burden of proof and Duke Kentucky's motion to dismiss should be granted. This is because Ms. Handshoe failed to provide sufficient evidence that the meter at issue did not accurately measure her electric usage, and thus there is no evidence that Duke Kentucky violated a statute, regulation, or its tariff.

Further, consistent with long-standing precedent, in the absence of a defective meter, a customer is responsible for the quantity of utility service supplied.<sup>7</sup> Because Ms. Handshoe has not provided evidence that the meter was defective, Ms. Handshoe is responsible for electric service she consumed and there is no basis for reimbursement of amounts billed for electric service used by Ms. Handshoe.

IT IS HEREBY ORDERED that Ms. Handshoe's formal complaint is dismissed with prejudice and is removed from the Commission's docket.

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<sup>7</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).

By the Commission



ATTEST:

  
Executive Director

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