

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOSEPH J. OKA)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2021-00324
)	
DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANT)	

ORDER

Joseph J. Oka filed a complaint on August 11, 2021, alleging that Duke Energy Kentucky, Inc. (Duke Kentucky) billed and credited him incorrectly for net metering and changed his bills in a manner that made it impossible for him to determine whether he was being properly billed and credited. The Commission ordered Duke Kentucky to satisfy or answer the complaint,¹ and Duke Kentucky filed an answer denying the substantive allegations of the complaint.² Duke Kentucky answered four requests for information from Commission Staff. This matter now stands submitted for a decision.

BACKGROUND

Mr. Oka received approval to become a Duke Kentucky net metering customer in January 2020 and connected a 71-panel solar power system to Duke Kentucky's grid in

¹ Order (Ky. PSC Aug. 20, 2022).

² Answer (filed Aug. 30, 2022).

March 2020, using a bi-directional meter.³ His meter reading would show a positive number during months when Mr. Oka used more power than he generated and a negative number if he generated more than he used. When the meter reading was negative, his bills stated 0 kilowatt-hour (kWh) usage, and his electric bill total would be limited to customer charge, riders, and taxes.⁴ The bills would also show a graph of past usage history.⁵ Mr. Oka was entitled to carryover credits for excess electricity produced that would be deducted from future usage. The bills did not indicate Mr. Oka's carryover total of credits.

Between late 2020 and early 2021, Duke Kentucky notified Mr. Oka that it would be replacing bi-directional meters with Advanced Metering Infrastructure (AMI) meters and changing its billing system.⁶ Beginning with Mr. Oka's February 2021 bill, his bills changed to a format that showed usage regardless of his generation, deducting a "net metering adjustment," from the total electric charge, the calculation of which was not included or clear from the new format.⁷ Duke Kentucky installed a new bi-directional AMI meter for Mr. Oka's net metering service in April 2021.⁸ On Mr. Oka's April 2021 bill the electric usage history graph was eliminated.⁹

Questioning whether he was being properly billed under the new billing format, Mr.

³ Complaint at 2.

⁴ Complaint at 2.

⁵ Complaint, Exhibit 1 (Jan. 28, 2021 bill).

⁶ Complaint, Exhibit 2.

⁷ Complaint, Exhibit 3.

⁸ Complaint at 3.

⁹ Complaint, Exhibit 4.

Oka filed a complaint alleging that (1) Duke Kentucky was not giving him a 1:1 kWh denominated energy credit for his generation as required by KRS 278.466(6), (2) the new meter was resulting in a different net metering calculation in violation of KRS 278.466(2) and Duke Kentucky's net metering tariff, and (3) Duke Kentucky was not entitled to collect Demand-Side Management (DSM) Environmental Surcharge Mechanism (ESM) and Fuel Adjustment Clause (FAC) riders when he generated more electricity than he used.¹⁰ Duke Kentucky's answer denied that Mr. Oka had been billed incorrectly despite the billing format change.¹¹ Duke Kentucky stated that the removal of the usage history was a result of a "defect impacting some accounts"¹² and that starting in 2022, its new billing system would allow bills to show full net metering calculations, including carryover credits.¹³ However, from February 2021 to April 2022, Duke Kentucky used spreadsheets to manually calculate net metering bills.¹⁴

During discovery, Duke Kentucky produced these spreadsheets and the data necessary to determine Mr. Oka's monthly usage, generation, carryover credits, and complete billing calculations for bills from April 2021 to September 2022.¹⁵ (See Appendix

¹⁰ Complaint at 16-17.

¹¹ Answer at 3.

¹² Duke Kentucky's Responses to Commission Staff's Second Request for Information (Response to Staff's Second Request), Item 1. The usage history graph was included again starting with the March 2021 bill.

¹³ Duke Kentucky's Responses to Commission Staff's First Request for Information (Response to Staff's First Request), Item 1b.

¹⁴ Response to Staff's First Request, Item 1e.

¹⁵ Duke Kentucky's Response to Commission Staff's Third Request for Information (Response to Staff's Third Request), Item 1(a), STAFF-DR-03-001(a), Attachment 2, Worksheet Cust Sheet; Duke Kentucky's Response to Commission Staff's Fourth Request for Information (Response to Staff's Fourth Request), Item 3(a), STAFF-DR-04-003, Attachment.

A). This data showed that Mr. Oka was receiving the proper 1:1 kWh credit each month, with the exception of the December 2021 bill as discussed below. For Mr. Oka's electric service, due to his carryover kWh balance, Duke Kentucky only billed Mr. Oka the customer charge and the appropriate environmental surcharge, school tax, and franchise fee amounts. Duke Kentucky correctly billed Mr. Oka for the period of time prior to the filing of the complaint in August 2021. However, the data also showed that Duke Kentucky failed to apply Mr. Oka's carryover generation credit balance to his December 2021 bill. Duke Kentucky acknowledged the error, and it was corrected on the February 2022 bill.¹⁶

Regarding the change in billing format, the electric usage graph returned to bills starting with Mr. Oka's March 2022 bill.¹⁷ Duke Kentucky changed its net metering bills starting in April 2022 to show a net metering calculation including usage, energy delivered to the grid, previous carryforward credit balance, and new carryforward credits.¹⁸

Mr. Oka made an additional filing regarding a zeroing of his credit carryover balance shown on his June 2022 bill.¹⁹ Duke Kentucky acknowledged that this was a "known issue" and corrected it on the following bill.²⁰

LEGAL STANDARD

Net metering rules are found in KRS 278.466. Under KRS 278.466(3), a retail electric supplier is required to compensate net metering generator-customers. Legacy

¹⁶ Response to Staff's Third Request, Item 1b.

¹⁷ Response to Staff's Fourth Request. Item 2.

¹⁸ Response to Staff's Second Request. Item 2.

¹⁹ Joseph J. Oka Supplemental Information to Complaint (filed July 27, 2022).

²⁰ Response to Staff's Fourth Request. Item 1c.

net metering customers are entitled to compensation in the form of a 1:1 kilowatt-hour denominated energy credit provided for electricity fed into the grid.²¹ Any energy credit exceeding the amount of the customer's bill shall carry forward to the next bill.²² Under KRS 278.466(2), "[i]f additional meters are installed, the net metering calculation shall yield the same result as when a single meter is used."

Duke Kentucky's bill format is governed by 807 KAR 5:006, Section 7 and a sample bill format was approved by the Commission in Case No. 2019-00271.²³ The sample bill was incorporated as Appendix A into Duke Kentucky's tariff as required by 807 KAR 5:006, Section 7(3). The sample bill format did not include a net metering sample bill. Under 807 KAR 5:006, Section 7(1)(a)(3), the present and last meter readings must be included on bills.

DISCUSSION AND FINDINGS

Mr. Oka's January 2021 bill reflected the approved sample Duke Kentucky bill from its tariff, showing electric usage history, but showing usage as zero if Mr. Oka's generation matched or exceeded his usage. Starting with his February 2021 bill, the usage showed as a positive number regardless of generation. Starting with the April 2021 bill, the electric usage history graph was removed. None of these billing formats showed carryover credits for generation, but at least the format prior to February 2021 let Mr. Oka know that

²¹ KRS 278.466(6). Mr. Oka is a legacy net metering customer because Duke Kentucky has not filed an application to adjust net metering rates pursuant to KRS 278.466(3) and (6).

²² KRS 278.466(4).

²³ Case No. 2019-00271, *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of The Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief* (Ky. PSC Apr. 27, 2020), Order at 54.

his carryover credit exceeded his usage, limiting his bill to customer charge, surcharges, and tax. Subsequent bills did not provide enough information for Mr. Oka to determine whether his accumulated credits were being applied.

Having reviewed Mr. Oka's complaint and subsequent filings and all evidence provided, the Commission finds that Duke Kentucky violated 807 KAR 5:006, Section 7, the Commission's Final Order in Case No. 2019-00271, and KRS 278.466—however, Duke Kentucky has subsequently satisfied these matters.

Duke Kentucky violated 807 KAR 5:006, Section 7(3), and the Commission's Order in 2019-00271 by removing the electric usage history graph from Mr. Oka's bill contrary to the sample bill provided in Case No. 2019-00271 and incorporated into its tariff. Furthermore, Duke Kentucky violated 807 KAR 5:006, Section 7(1)(a)(3) when it changed its net metering bill format in February 2021. The meter reading information on the bill was incomplete without any indication of the amount of power delivered to the grid using the bi-directional meter. This change made it difficult for Mr. Oka to determine whether his generation credits were being applied. This bill format lacked transparency by not including any information about how the "net metering adjustment" was being determined. Duke Kentucky has since changed its net metering bills to include the electric usage history graph and add a net metering calculation including usage, generation, past carryover credits, and current credits to be carried over.

Duke Kentucky violated KRS 278.466 on two occasions in calculating Mr. Oka's bills. On Mr. Oka's December 2021 bill, Duke Kentucky failed to compensate Mr. Oka for carryover generation credits. This error was subsequently satisfied on the February 2022 bill. This mistake demonstrates the importance of including full net metering calculations

on bills so customers can review calculations and detect errors instead of receiving a net metering adjustment of unknown origin. On Mr. Oka's June 2022 bill, Duke Kentucky failed to carry over Mr. Oka's generation credit balance—zeroing it out completely. Duke Kentucky satisfied this matter in the following bill. Thus, although Duke Kentucky failed to calculate Mr. Oka's December 2021 and June 2022 bills appropriately, the mistakes were corrected on subsequent bills and thus his complaint on this issue was satisfied.

The Commission finds that neither the billing format change nor the meter change resulted in a violation of KRS 278.466(2) or (6) as asserted in Mr. Oka's complaint. The meter change did not result in a change in the result of net metering calculations. However, the change in bill format led to uncertainty and confusion as to whether the calculation had changed. Nor did Duke Kentucky change its billing to deprive Mr. Oka of the 1:1 kWh generation credit—the change in bill format just made it more difficult to ascertain how the net metering adjustment was being applied. For this reason, the Commission concludes that Mr. Oka's complaint on this issue should be denied for failure to state a claim for which relief can be granted.

In addition, in regards to Mr. Oka's claim that Duke Kentucky should not be entitled to recover on DSM, ESM, or FAC riders, it should be noted that as long as Mr. Oka delivers more energy to Duke Kentucky's system than he consumes or has a carryover kWh balance, he will not be billed any DSM charges pertaining to his electric usage or FAC charges as those charges are billed on a per kWh basis. While those items did appear on Mr. Oka's bills, they were reversed as part of the net metering adjustment. Regarding the ESM charges, those are calculated based on a percentage of revenue, so it is proper for Duke Kentucky to bill ESM charges to Mr. Oka based on the electric portion

of his bill. As long as Mr. Oka delivers more energy to Duke Kentucky's system than he consumes or has a carryover kWh balance, the ESM charge should just be based on Duke Kentucky's customer charge. Again, while Mr. Oka's bills showed the ESM charge based on the customer charge and energy usage, the energy usage portion was reversed out in the net metering adjustment. For this reason, the Commission concludes that Mr. Oka's complaint on this issue should be denied for failure to state a claim for which relief can be granted.

Mr. Oka also asks for relief for other customers,²⁴ but he is not permitted to advocate on behalf of other customers as a non-attorney. This is because in accordance with 807 KAR 5:001E, Section 4(4), Supreme Court rules, and case law, a person cannot represent another person or seek a legal remedy on behalf of another person unless the person is an attorney licensed to practice law in Kentucky.²⁵ However, this does not prevent the Commission from opening a separate investigation independent of Mr. Oka's complaint to investigate whether other net metering customers failed to receive proper credit for feeding power into the grid.

IT IS THEREFORE ORDERED that:

1. Mr. Oka's complaint is dismissed as satisfied in part and denied in part.
2. Mr. Oka's complaint has been satisfied as to Duke Kentucky's violations of 807 KAR 5:006, Section 7, the Commission's final Order in Case No. 2019-00271, and KRS 278.466.

²⁴ Complaint at 17.

²⁵ See 807 KAR 5:001E, Section 4(4); Case No. 2021-307, *Larry Raymond Bailey v. West Laurel Water Association, Inc.* (Ky. PSC Aug. 18, 2021), Order at 3; Kentucky Supreme Court Rule 3.020; and *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967).

3. The remaining requests for relief in Mr. Oka's complaint are denied for failure to state a claim for which relief can be granted.

4. A copy of this Order shall be served upon the Mr. Oka by U.S. mail to 42 Ross Avenue, Fort Mitchell, Kentucky 41017.


5. This matter is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00324 DATED JAN 10 2023

Staff Analysis of Bills Issued to Joseph J. Oka

Bill Date	Delivered kWh	Received kwh	Difference	Carryover	Bill Calculated by Commission Staff					Actual Bill (F)	Difference (G)
					Previous Balance (A)	Gas Charge (B)	Electric Charge (C)	Taxes (D)	Total Bill (E)		
					=(B + C) x 0.0609=(A + B + C + D)						
1/28/2021	*	*		(5,049)	\$ -	\$25.14	\$13.73	\$ 2.36	\$ 41.23	\$ 41.23	\$ -
2/24/2021	*	*		(1,483)	\$ -	\$22.38	\$14.37	\$ 2.23	\$ 38.98	\$ 38.98	\$ -
4/5/2021	*	*		(2,128)	\$ -	\$25.53	\$13.85	\$ 2.41	\$ 41.79	\$ 41.79	\$ -
4/9/2021	**	**		(3,029)							
4/27/2021	403	838	(435)	(3,464)	\$ -	\$21.15	\$13.96	\$ 2.13	\$ 37.24	\$ 37.24	\$ -
5/25/2021	717	2,530	(1,813)	(5,277)	\$ -	\$23.76	\$14.07	\$ 2.30	\$ 40.13	\$ 40.13	\$ -
6/24/2021	844	2,250	(1,406)	(6,683)	\$ -	\$21.52	\$13.96	\$ 2.17	\$ 37.65	\$ 37.65	\$ -
7/28/2021	875	2,209	(1,334)	(8,017)	\$ -	\$19.63	\$14.06	\$ 2.05	\$ 35.74	\$ 35.74	\$ -
8/31/2021	735	1,481	(746)	(8,763)	\$ -	\$19.63	\$13.84	\$ 2.05	\$ 35.52	\$ 35.52	\$ -
9/27/2021	355	1,599	(1,244)	(10,007)	\$ -	\$19.90	\$13.83	\$ 2.07	\$ 35.80	\$ 35.80	\$ -
10/22/2021	120	1,369	(1,249)	(11,256)	\$ -	\$21.97	\$13.65	\$ 2.17	\$ 37.79	\$ 37.79	\$ -
11/29/2021	491	733	(242)	(11,498)	\$ -	\$23.05	\$13.33	\$ 2.21	\$ 38.59	\$ 38.59	\$ -
12/30/2021	2,016	1,175	841	(10,657)	\$ -	\$27.38	\$13.32	\$ 2.48	\$ 43.18	\$142.14	\$ 98.96
1/28/2022	2,857	1,013	1,844	(8,813)	\$ -	\$27.94	\$13.28	\$ 2.52	\$ 43.74	\$ 43.74	\$ -
2/22/2022	2,967	1,270	1,697	(7,116)	\$ 43.74	\$30.57	\$13.31	\$ 2.67	\$ 90.29	\$ (8.67)	\$ (98.96)
3/22/2022	1,695	1,606	89	(7,027)	\$ (8.67)	\$26.83	\$13.53	\$ 2.46	\$ 34.15	\$ 34.15	\$ -
4/29/2022	1,603	1,791	(188)	(7,215)	\$ -	\$24.88	\$14.07	\$ 2.38	\$ 41.33	\$ 41.33	\$ -
5/23/2022	454	2,414	(1,960)	(9,175)	\$ -	\$23.51	\$14.05	\$ 2.29	\$ 39.85	\$ 39.85	\$ -
6/23/2022	56	2,079	(2,023)	(11,198)	\$ -	\$26.46	\$14.17	\$ 2.47	\$ 43.10	\$ 43.10	\$ -
7/26/2022	92	1,320	(1,228)	(12,426)	\$ -	\$26.46	\$14.17	\$ 2.47	\$ 43.10	\$ 43.10	\$ -
8/30/2022	142	1,280	(1,138)	(13,564)	\$ 43.10	\$23.57	\$13.32	\$ 2.25	\$ 82.24	\$ 82.24	\$ -
9/23/2022	52	1,413	(1,361)	(14,925)	\$ -	\$22.53	\$13.30	\$ 2.18	\$ 38.01	\$ 38.01	\$ -

* The Commission did not have adequate information to determine the delivered and received kWh for these months.

** Mr. Oka's meter was changed out on this day.

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