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Rocco O. D'Ascenzo
Associate General Counsel

VIA OVERNIGHT DELIVERY

February 16, 2018

Ms. Gwen R. Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

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FEB 19 2018

**PUBLIC SERVICE
COMMISSION**

**Re: Case No. 2017-00403
In the Matter of Christina Rule vs. Duke Energy Kentucky, Inc..**

Dear Ms. Pinson:

Enclosed please find one (1) original and twelve (12) copies of Duke Energy Kentucky's Answer and Motion to Dismiss in the above captioned matter.

Please file-stamp 2 copies of this letter and Answer and return to me in the enclosed return-addressed envelope.

Feel free to contact me should you have any questions.

Sincerely,

Rocco D'Ascenzo
Associate General Counsel

Enclosures
cc: Christina Rule

FEB 19 2018

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:)	
)	
CHRISTINA RULE)	Case No. 2017-00403
)	
VS.)	
)	
DUKE ENERGY KENTUCKY, INC.)	

**DUKE ENERGY KENTUCKY, INC.'S ANSWER
AND MOTION TO DISMISS**

Now comes Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by and through counsel, does hereby respectfully tender its Answer to the Complaint and respectfully requests that the Complaint be dismissed. In response to the allegations contained in the Complaint, Duke Energy Kentucky states as follows:

1. Duke Energy Kentucky denies the claims that the Company illegally overcharged Christina Rule (Complainant) for gas consumption between March 21, 2017 and May 19, 2017.
2. Duke Energy Kentucky admits that Complainant's gas meter does not have remote capabilities and is located within the property requiring the Company to have access to get an actual read of usage. Between April 20, 2016 and March 21, 2017, the Company included messages on Complainant's monthly bills indicating that it was unable to access the meter for reading, that usage was estimated, and requesting Complainant to make arrangements for meter reading. Complainant did not provide access and the Company had to continue estimating readings. The Company obtained an actual reading on April 20, 2017.

3. Duke Energy Kentucky admits that on or about March 24, 2017, Complainant received a bill in the amount of \$575.54, which included estimated gas consumption due to failure to gain access to read the meter.

4. Duke Energy Kentucky admits that on or about April 21, 2017, Complainant received a bill in the amount of \$591.81, which included actual gas consumption as the Company was able to gain access for the read.

5. Answering further, Duke Energy Kentucky admits that on or about June 7, 2017, Complainant received a new adjusted gas bill, that included canceled and rebilled gas charges for April 2017. Due to a system error the Complainant had been incorrectly billed under March's GCR rate. Duke Energy Kentucky became aware of the issue on or about May 30, 2017 and made the necessary billing changes to the account to reflect the correct GCR rate and sent Complainant a corrected bill. The error did not impact the amount of consumption, just the GCR rate that was applied to the actual consumption. Duke Energy Kentucky further states that the Company obtained actual readings from customer for usage for the months of June, July, August, and September 2017.

6. In response to all of the averments set forth in the Complaint, Duke Energy Kentucky states that it follows the requirements of the tariffs and Kentucky law in providing gas service to its customers.

7. All averments in the Complaint not expressly and affirmatively admitted herein are hereby expressly denied.

FIRST AFFIRMATIVE DEFENSE

8. The Complaint fails to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

9. The Complainant fails to set forth a *prima facie* case that Duke Energy Kentucky has violated its tariff or any statute or Commission regulation, and the Complaint should be dismissed for that reason.

THIRD AFFIRMATIVE DEFENSE

10. At all relevant times, Duke Energy Kentucky has appropriately re-billed Complainant for actual consumption and has otherwise acted in accordance with rules and regulations of the Kentucky Public Service Commission, Duke Energy Kentucky's filed tariffs, and Kentucky law, including but not limited to 807 KAR 5:006 Section 11, and 807 KAR 5:041.

FOURTH AFFIRMATIVE DEFENSE

11. Duke Energy Kentucky respectfully reserves the right to plead any and all additional defenses that discovery may reveal.

MOTION TO DISMISS

12. With regard to the Complainant's averments that the Company should be responsible for damages and fines, Duke Energy Kentucky affirmatively states that it adhered to the terms of its tariff and the Commission's regulations with respect to billing the Complainant.

13. The Complainant was aware of the inadequate access to the property's meter and failed to contact the Company to make arrangements for obtaining actual meter reads. Accordingly, Complainant has failed to state a claim for which relief may be granted and the Complaint should be dismissed with prejudice.

WHEREFORE, Duke Energy Kentucky prays that the Complaint be dismissed with prejudice, this case be stricken from the Commission's docket, and Duke Energy Kentucky be granted any and all other relief to which it may be entitled.

Respectfully submitted,



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Counsel for Duke Energy Kentucky, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served on the following via regular mail, this 16th day of February 2018:

Christina Rule
637 W. 12th Street
Covington, KY 41011



Rocco O. D'Ascenzo