

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

JUL 19 2018
PUBLIC SERVICE
COMMISSION

In the matter of:

<u>DAVID I. DAWLEY</u> (Your Full Name)	_____)
	COMPLAINANT)
VS.)
<u>DUKE ENERGY</u> (Name of Utility)	_____)
	DEFENDANT)

COMPLAINT

The complaint of DAVID I. DAWLEY respectfully shows:
(Your Full Name)

(a) DAVID I. DAWLEY
(Your Full Name)

1831 WHISPERING TRAILS UNION, KY 41091
(Your Address)

(b) DUKE ENERGY
(Name of Utility)

P.O. BOX 1326 CHARLOTTE, NC 28201 (FOR CORRESPONDENCE PER BILL)
(Address of Utility)

(c) That: PLEASE SEE THE ATTACHED PAGES WHICH SHOULD BE
(Describe here, attaching additional sheets if necessary,

SUFFICIENT TO FULLY ACQUAINT THE COMMISSION
the specific act, fully and clearly, or facts that are the reason

WITH THE FACTS RELEVANT TO ALLEDED VIOLATIONS
and basis for the complaint.)

OF THE RESIDENTIAL SMART METER 'OPT OUT'

Continued on Next Page

DAVID I. DAWLEY vs. DUKE ENERGY

AGREEMENT BETWEEN THE KENTUCKY ATTORNEY
GENERAL AND DUKE ENERGY, THE IMPROPER
BILLING FOR AN ANALOG METER NOT YET
PROVIDED, AND APPARENT NONCOMPLIANCE WITH
FEDERAL LAW AS IT APPLIES TO SMART METERS.

Wherefore, complainant asks PLEASE SEE ATTACHED PAGES 12
(Specifically state the relief desired.)

AND 13 FOR SPECIFICS OF RELIEFS REQUESTED.

Dated at UNION, Kentucky, this 16th day
(Your City)

of JULY, 2018.
(Month)

David I. Dawley
(Your Signature*)

N/A
(Name and address of attorney, if any)

July 16th 2018
Date

*Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the Commission.

Sec. C - Smart meter 'opt out' violation facts and context

I only learned of the existence of smart meters on March 29th of 2018 via a post card from Duke Energy stating they would be installing them in my area in the next few weeks and that if I did not want one I need only call (877) 675-1656. Although devices called 'smart meters' sounded innocuous, I proceeded to research them so as to be able to make an informed choice as to 'opting in' or 'opting out.' While doing so I made the following concerning findings:

1. The 2017 Kaiser Permanente study of 913 pregnant women found those with increased exposure to non-ionizing radiation had 2.72 times the risk of miscarriage compared to women with lower exposure.
2. The ten-year twenty-five-million-dollar National Institute of Environmental Health Sciences (NIEHS) National Toxicology Program's (NTP) Study of the Toxicology and Carcinogenicity of Cell Phone Radiation and the 2012/2014 BioInitiative Report with about 1,800 new studies state that non-ionizing radiation from radio frequencies shared by cellular phones and smart meters produced increased rates of tumors: malignant lethal gliomas of the brain and schwannomas of the heart, that children exposed to

non-ionizing radiation early in life have a more than five fold increased risk for gliomas when they reach the 20 to 29 years old age group, that people can be adversely affected by placing wireless pulsed radiofrequency radiation (RFR) transmitters (smart utility meters) on the sides of or in the interiors of or in close proximity to their homes even when the time-weighted radiofrequency radiation (RFR) average is miniscule in both cases, and that there is increasing reason to believe that the critical factor for adverse biological significance is the intermittent pulse of radiofrequency (RF) and not the time averaged Specific Absorption Rate (SAR). A study published in Environmental Research in 2018 also found an increased incidence of heart and brain tumors related to RFR exposure consistent with and reinforcing the results of the earlier NTP study.

3. These experimental findings are consistent with human studies showing increased rates of gliomas and acoustic neuromas (Schwann cells) among humans exposed to non-ionizing radiation of the type shared by cell phones and smart meters.

4. In addition to increased cancers, the NTP study also reported that prenatally exposed animals produced offspring

with lower birth weights and evidence of direct genetic damage.

5. The World Health Organization classified non-ionizing radiation as a Group 2B carcinogen in 2011. Subsequent independent re-evaluation of data concluded RF/EMF emissions do cause cancer and should be classified as Group 1 carcinogens.

6. The American Academy of Environmental Medicine (AAEM) in a January 19, 2012 document stated that chronic exposure to wireless radiofrequency radiation (RFR) is a preventable environmental hazard sufficiently well documented to warrant immediate preventive public health action and that said documentation raises sufficient serious concern regarding the levels of radio frequency (RF) exposures produced by smart meters to warrant an immediate and complete moratorium on their use and deployment until further study can be performed. In 2015 the EMFScientists.org, in its 'Appeal to the United Nations,' expressed similar serious concerns regarding non-ionizing radiation exposure from wireless devices such as smart meters.

7. The 1971 U.S. Naval Medical Research Institute

(NMRI) paper on non-ionizing radiation noted serious adverse effects supported by 2,311 study citations.

8. The 1976 U.S. Defense Intelligence Agency (DIA) report on non-ionizing radiation also noted serious adverse effects related to exposure to it.

9. Non-ionizing radiation from wireless devices such as cellular telephones and smart meters and WiFi has been scientifically proven in independent studies to cause harm to human and other forms of life.

10. In 2017 the California Department of Public Health's Department of Environmental and Occupational Disease Control warned the public that exposure to electromagnetic fields (EMF), of the type emitted by cell phones and smart meters, might cause brain cancer, tumors of the acoustic nerve and salivary gland, lower sperm counts and motility, headaches, and adversely affect hearing, learning, memory, sleep, behavior, and cause other health issues, and that such EMFs penetrate deeper into the brains of children.

11. In a 2014 document the Bioinitiative Work Group noted adverse effects occur at levels far below the FCC's safety limits, guidelines not designed to protect people from non-thermal risks that might occur with prolonged or long-term exposure to radiofrequency radiation (RFR). Smart

meters in normal installations and operation are likely to exceed even the inadequate very high old FCC safety levels.

12. Individual smart meters are calculated to emit up to 160 times more cumulative whole body radiation exposure than do cellular phones when duty cycles are accounted for.

13. A 2017 university study of smart meter accuracy found five of the nine types tested can record erroneous usage amounts up to 582% of the electricity used as their designs are not compatible with the variable loads and voltages of common energy saving devices such as LED light bulbs and dimmer switches whose non-ideal waveforms confuse the meters, something never a problem with analog meters which are typically accurate to within 2%.

14. Communications between the California Public Utility Commission and Pacific Gas and Electric noted smart meters transmit inaccurate data if too hot and can transmit the same usage data multiple times resulting in ratepayers being billed repeatedly for the same electricity thereby inflating its cost and providing utilities with the functional equivalent of an unapproved rate increase, something not a problem with the simple transparent usage recording of traditional analog meters. Poor calibration, electric arcing and malfunctions, some transient and very

difficult to detect after the fact, in smart meters can also discreetly increase ratepayers' utility bills.

15. The 2010 Electric Power Research Institute (EPRI) report 'Accuracy of Digital Electric Meters' detailed for the utility industry why digital electric meters, also known as smart meters, are inferior to standard analog meters in most respects but for the gathering of private personal data, praising analog meters' superior accuracy, durability, economy, reliability, safety and security.

16. The 2011 study of 8,000 randomly selected houses using Commonwealth Edison's smart meters showed a "zero statistically different result in usage, compared to business as usual" with a few homes increasing usage.

17. The 2014 study analysis of 524,479 people in 156 field trials published in Energy Policy Journal concluded few people would benefit even slightly from smart meters initially and fewer still after the novelty wears off, and a small number of people would be motivated by the meters' information to use more electricity.

18. Smart meters consume electricity to unnecessarily power transmitters 24x7 that customers might be billed for.

19. The largest utility in New England, Northeast Utilities, studied smart meters and concluded there is no rational basis for deploying them, that there is no

evidence that this is a good choice for customers, and that there is ample evidence that this technology choice will be unduly costly for customers and that the objectives of electric grid modernization are achievable with technologies and strategies that rank substantially higher in terms of cost effectiveness.

23. Smart meters have not demonstrated any significant benefit for ratepayers in general, and many times have done the opposite by drastically increasing their utility bills, sometimes by hundreds and even a thousand+ percent, or by causing or exacerbating health problems, or both. The Kentucky Attorney General found little support that smart meter deployment benefits Kentucky ratepayers in any way.

24. Public Law 109-58 - the Energy Policy Act of 2005, in Section 1252 - Smart Meters, directs that smart meters and any related time-based rate schedule are to be offered to individual customers upon customer request. Based upon those three words, "upon customer request," it is clear that smart meter programs were intended by Congress from inception to be cost neutral opt-in programs, not opt-out with coercive penalties that discriminate against the poor.

26. The Supremacy Clause, Article VI Paragraph 2, of the U.S. Constitution dictates that when a state law conflicts with federal law the federal law preempts it.

27. Smart meters are hazardously inferiorly designed and constructed compared to standard analog meters. Being made of very high temperature resistant materials such as Bakelite, glass and metal with heavy-duty surge arrestors built-in, and without any flammable internal components, analog meters are virtually surge-proof and fire-proof. Smart meters have no heavy-duty surge arrestors nor circuit breaker protections and are made of flammable plastics containing combustible internal components such as circuit boards and have built-in remote disconnect switches that can generate extreme heat. They are less durable than are analog meters and can, and occasionally do, catch fire and/or explode and/or pass supply-side power surges into house wiring and appliances, sometimes burning them, under conditions which would leave analog meters unaffected.

28. Analog meters protect grid security and customer privacy and security; smart meters do not. The California State University Center for Information Assurance and Security 2012 Smart Grid Cyber Security Potential Threats, Vulnerabilities and Risks study concluded smart meters have the potential to allow access to the bulk electric grid which will expose the head end systems and related equipment to attacks including unauthorized interactions and modifications, planting of malicious code, components,

viruses, worms, and denial of service which could threaten national, ratepayer, and utility security, a view mirroring former CIA Director Woolsey's 2011 warning of electric grid vulnerability.

29. Smart meters violate the privacy and security of the home by collecting data in excess of that needed for billing purposes and which can be sufficiently granular to allow a knowledgeable person to tell if the residents are absent or present and, if home, to infer what they are doing and when they are doing it. The American Civil Liberties Union Technology and Security Project Director noted recently that the ability to analyze data from the meter has improved to the point where it can not only show what appliance is operating, but, in the case of TV, what movie is being watched. The latter was done in 2012 and is documented in a paper presented at the 'Computers, Privacy and Data Protection' conference in Brussels that same year. "Unfortunately, smart meters are able to become surveillance devices that monitor the behavior of the customers," the paper concludes. "This leads to unprecedented invasions of consumer privacy."

Based upon the above worrisome facts, among others, I concluded the liabilities attached to the new smart meters

vastly outweigh any hypothetical benefit they might have and so I called the number referenced above to decline Duke Energy's offer. The woman I spoke to indicated no problem doing so and said someone might call me first, but nobody did. It was discovered shortly thereafter Duke Energy had already placed a type of smart meter (PLC?) on my home ages ago without my knowledge or consent. I called them again, but only got voice mail. I left a message saying I wanted that smart meter removed immediately. Shortly thereafter an installer showed up, but did not switch out the smart meter as A) he did not like the wiring and the height of my meter box and would not do a switch until it was redone, and B) he showed up with a truck that had no analog meters in it. Given that lowering and rewiring my meter box was made a precondition for getting back a safer analog meter, I had an electrician lower it to eye level, rewire it and check its sockets and overall condition, which are all excellent. Duke Energy knew it was fixed as they were present at the time in order to turn the power off beforehand and back on afterward. That notwithstanding, weeks went by without an analog meter being reinstalled so I contacted Duke Energy again and was told they were waiting for me to repair the meter box that they knew had been repaired weeks earlier. Knowing the box is now at eye level and rewired as they

requested, they could have replaced the meter the next day. Instead, more weeks went by without an analog meter being reinstalled, and repeated requests for the reinstallation date were ignored and E-mails went unanswered. The Office of the Attorney General tried to get Duke Energy to honor its 'opt out' agreement with the AG and got nowhere, stated there is nothing more they could do with them, and referred me back to the Kentucky Public Service Commission. The PSC filed an informal complaint with Duke Energy and gave them three days to respond, but Duke Energy ignored them also.

Even though Duke Energy's service people seem glacially slow when it comes to reinstalling safer analog meters on ratepayers' homes given they have yet to accomplish that here in three months, they appear to be too efficient when it comes to informing Duke Energy's billing department they have accomplished that task as I have now been billed \$25 three months in a row for an analog meter they have yet to reinstall. I am not a prosecutor, but charging a ratepayer for a safe meter they never deliver seems a trifle illegal, perhaps defrauding a consumer or similar criminal act, not to mention being noncompliant with the 'opt out' agreement between Attorney General Beshear and Peggy A. Laub of Duke Energy as recorded in PSC Case #2016-00152 Exhibit 12 which

provides for residential smart meter 'opt outs,' a consumer option Duke Energy acknowledges on their smart meter cards.

Sec. C - Smart meter 'opt out' violation reliefs sought

First, and most immediate, direct Duke Energy to fully comply with the residential smart meter 'opt out' agreement made between Peggy A. Laub of Duke Energy and Kentucky Attorney General Beshear as recorded in PSC Case #2016-00152 Exhibit 12, not just the penalizing ratepayers portion of it, by removing their unauthorized smart meter from my home and reinstalling a safer regular analog meter.

Second, direct Duke Energy to credit my account \$25 for each month they penalize me for the yet to be reinstalled much less costly to them analog meter. Currently an amount totaling \$75, exclusive of taxes or other fees that might be added to it, has been charged against my account for a still nonexistent analog meter that Duke Energy no doubt paid for ages ago and so will basically cost them nothing. Even a new analog meter, which a ratepayer can buy on the Internet as easily as a utility can, costs only about \$20 (Landis+Gyr) to \$35 (Westinghouse and General Electric) vs. a smart meter that might cost hundreds of dollars more and not last as long effectively making it even more expensive.

Third, based upon Public Law 109-58 - the Energy Policy

Act of 2005, Section 1252 - Smart Meters, that directs that smart meters and any related time-based rate schedule are to be offered to individual customers "upon customer request," and The Supremacy Clause, Article VI Paragraph 2 of the U.S. Constitution, which dictates that when a state law conflicts with federal law the federal law preempts it, that Duke Energy be directed to bring their smart meter program into compliance with federal law by converting it from an 'opt out' program with coercive penalties which discriminate disproportionately against their economically challenged ratepayers to an 'opt in' program without any discriminatory coercive penalties as Congress clearly had intended when it created Public Law 109-58 - the Energy Policy Act of 2005, Section 1252 - Smart Meters. Further, Duke Energy should be directed to refund with interest all penalties collected from customers contrary to federal law.