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December 7th, 2018

Executive Director Gwen R. Pinson
Kentucky Public Service Commission
211 Sower Boulevard
Post Office Box 615
Frankfort, Kentucky 40601

Case Number 2018-00259 – Corrections; supplemental information; request.

Dear Executive Director Pinson,

Subsequent to doing research on a problem related to this one I revisited paperwork from the above case number and noticed multiple possible issues that suggest it was closed prematurely, some factual inaccuracies, some legal, and some constitutional.

In response to the PSC's most recent queries regarding this ongoing problem, Duke Energy has provided several responses that appear to be of questionable accuracy.

Mr. Ries' statement that analog electric meters are not 'readily available' appears inaccurate for multiple reasons. The contention that Duke Energy does not stock analog electric meters in inventory and that all those meters being removed from service are beyond their useful service life is contradicted by information provided by Ms. Peggy Laub of Duke Energy. On May 23, 2016, in conjunction with a request for authority to create a regulatory asset of \$9.7M for the value of undepreciated meters, Ms. Laub informed the PSC that \$6.6M worth of analog meters were still in use and \$622K worth of analog meters were in inventory. It is evident from their \$6.6M valuation that analog meters still in the field are far from the end of their typically decades long service life, contrary to what was stated, and the \$622K of analog meters in inventory obviously still have all of their decades long service life.

Also contradicting Mr. Ries' statement, on May 4, 2018, Mr. Brian Maynard of Duke Energy E-mailed me that he did have alternatives to the smart meters I am trying to 'opt out' of that he could install once my meter box was rewired so clearly he still had access to an in-house supply of analog meters even after I requested one and so almost certainly still has access to them:

"You will need to have an electrician make the repairs so that we could install meters that are the alternative to the smart meters that you are opting out of."

Additionally, on April 10, 2018, Ms. Jeri Bruns called me from Duke Energy and mentioned during our rather long conversation that Duke Energy is removing

thousands of standard analog meters in conjunction with their rollout of the smart meters. A few days later a visiting Duke Energy installer said he had many removed analog meters stored at his premises. It seems most unlikely that thousands of still serviceable and of new analog meters all suddenly vanished and none remain in the hands of the installers who removed them nor are in storage pending their recycling or resale, never mind the totally functional analog meters still pending replacement.

Even if by some highly improbable set of circumstances Duke Energy truly cannot locate a single analog meter in-house there are external sources for them through which even you and I, who are not multi-billion dollar utilities, can easily acquire analog meters. For Duke Energy doing so should be easier still. I am sure a place not far from where I used to work in Miami, FL, Hialeah Meters, would be happy to provide one. It is also worth noting that other utilities, California Gas & Electric comes to mind immediately, require their 'opt outs' to use analog meters. If CG&E can source analog meters for its 'opt outs' then Duke Energy should be able to, too. I suspect, if asked, that Duke Energy operations in Ohio, Indiana, and the Carolinas, etc., and maybe even PG&E, would give Duke Energy – Kentucky one analog meter.

Mr. Ries went on to state the transmitter was removed from the smart meter (PLC) they attached to my home, but that seems questionable for several reasons. Duke Energy's first response to the PSC's query into this matter was to incorrectly deny to the PSC they ever installed a smart meter on my house so it is not unreasonable to think they might also have misinformed the PSC regarding removing the transmitter from that same meter. As I retired shortly before this problem started I am home about seven days a week and the last time a Duke Energy representative visited me was in mid April. In the subsequent seven months I have seen neither an electrician here to do the alleged transmitter removal nor a monthly meter reader, nor have I found even one, much less eight, of their door knob hangers saying they had visited during an atypical absence. If their smart meter's transmitter is still functioning it would explain the absence of Duke Energy employee visits. Short of uninstalling and disassembling the smart meter to verify the alleged removal was done, something I am disinclined to do for safety reasons, I have no way to confirm it. Mr. Ries did not provide any evidence supporting this claim nor any information regarding the date and time the alleged removal was supposedly accomplished, nor was any evidence provided that a meter reader is reading the meter monthly instead of it still being read via the PLC system or it being estimated instead of read during some months.

Duke Energy's claim that a company meter reader must now read non-transmitting meters, not to mention that they must charge consumers an absurd \$25/mo. fee for allegedly doing so compared to the \$17.50 and \$11.75/\$0.00 they charge in Indiana and North Carolina, respectively, clearly is a manufactured non-issue used by them to punish Kentuckians who have 'opted out' and as a disincentive for those wanting to 'opt out,' but who are on too tight a budget for it to be affordable. The meters can be read and the readings called in for free by 'opt outs' and other ratepayers as is already allowed by Duke Energy in Indiana under their 'EZ Read' program. There is on-going precedent for ratepayers doing the same in Kentucky as indicated by Duke

Energy form 171215 that states, "If you currently read your own meter, please continue to call in your monthly reading while waiting for the mailed notification." As further confirmation I just went to Duke Energy's website, clicked on 'Kentucky' and found this: "You may submit a meter reading by calling Customer Service at 1-800-521-2232. Meter readings may be entered on our automated telephone system, or by speaking to a customer service representative."

Duke Energy could and should offer a free from monthly fees 'EZ Read' or equivalent option to Kentucky 'opt outs' just as it does for Indiana's. In addition to protecting the safety of Kentucky utility consumers, the PSC is also charged with assuring costs to ratepayers are reasonable. As there is nothing reasonable in billing Kentuckians \$25/mo. for a task they can easily perform for free and that achieves the exact same result as when done by a company meter reader it seems reasonable the PSC should require Duke Energy to provide a monthly fee-free 'EZ Read' option to KY 'opt outs' who wish to do it, and for those who do not wish it require the fee be brought in line with the lower fees ranging from \$17.50 to \$0 (medical) charged other 'opt outs.' By mandating 'EZ Read' in Kentucky the PSC would be saving ratepayers \$300/year while concurrently also saving Duke Energy the cost of using its own meter readers.

Although I am a bit surprised the PSC does not aid, even informally, in enforcement of utility-related federal laws given that some federal officers in certain situations have authority to, and do, enforce state laws, I started looking at possibly relevant Kentucky Revised Statutes and the Constitution of Kentucky Bill of Rights instead.

Regarding the KRS, in the context of statements published by Duke Energy in forms such as 171122 and 171215 that state variously that if you wish to 'opt out' of having a smart meter or do not want a smart meter you can 'opt out' for a \$100 removal fee plus a \$25 monthly fee which is diametrically opposite of the Rider AMO text which essentially states that ratepayers have to 'opt in' to smart meters and can only, allegedly, have the meters' transceivers deactivated, it seems a very plausible case could be made that there are violations of Kentucky's bait advertising and false advertising laws, KRS 517.040 and 517.030 respectively. What I ordered and am paying for based upon Duke Energy's meter 'opt out' description is diametrically opposite from what Duke Energy has done to date. That is in addition to probable online misrepresentations Duke Energy has made with respect to illusive consumer benefits and various increased hazards of smart meters compared to the historically extremely safe analog meters. It seems reasonable the PSC should either require Duke Energy to honor their stated meter 'opt out' option or charge them for state law violations of KRS 517.040 and 517.030.

The OAG denies any culpability for the misleading meter 'opt out' label attached to Duke Energy's forced 'opt in' to smart meters plan as currently written in the Rider AMO. In order to learn exactly what the AG and Duke Energy agreed to regarding this so-called 'opt out' program that isn't, I requested the minutes of that conference between AG Beshear and Ms. Laub based on KRS 61.870 through 61.884. It might be

interesting to see if the text in the Rider AMO is identical to the agreed on wording in the meeting's minutes or if it was adversely altered before being sent to the PSC.

Section II of the Bill of Rights is interesting. Given the courts' broad interpretation of 'arbitrary' it seems likely Duke Energy forcing smart meters, which due to unsafe design and construction are generators of EMF into home wiring and appliances not designed to handle it and are also functionally explosive/incendiary devices merely waiting for a power surge or internal malfunction to go off, onto or into a person's home against his or her will and best judgment as to how to protect their homes and property could be viewed as a violation of the Constitution of Kentucky prohibition against absolute and arbitrary power being imposed upon the lives and property of freemen. As this is a state guaranteed right the PSC should be able to enforce it. The OAG informed me they can do nothing with that utility and referred all issues to PSC.

Duke Energy forcing problematic unwanted smart meters onto or into the homes of Kentuckians against their will also seems a clear violation of Bill of Rights Section I that provides Kentuckians the rights of enjoying our lives, protecting our property, and pursuing our safety and happiness, among others. As those are also state guaranteed rights and not federal laws they should also be enforceable by the PSC.

Regarding the Constitution of Kentucky Bill of Rights-guaranteed rights of enjoying life and pursuing happiness and safety, they are violated, in my case at least, by the smart meters recently installed in my area. I did not initially make the connection between the arrival of the smart meters and the concurrent sudden onset of 24/7 tinnitus after 64 years of it not being a problem. That it did begin concurrent with the arrival of Duke Energy's smart meters might have been a temporal coincidence. Six weeks later, however, I left my area for a few hours and noticed the tinnitus had ceased for the first time since it started. Unfortunately, when I returned to my area the whining in my ears also returned. That did get my attention, but I thought that might have been just a second temporal coincidence, albeit a very improbable one. A few weeks later I left the area again and after a few hours away from it the tinnitus disappeared again for only the second time since its onset. Unfortunately, it also returned again when I returned to my area. Any of those coincidences happening in isolation would have been quite unlikely and any two of them happening unlikely in the extreme bordering on impossible, but for all three of those events to be temporal coincidences is an impossibility. That notwithstanding, just to play it safe on the remote chance there was an underlying organic issue, I visited my regular physician about it and he referred me to an ear, nose, and throat specialist. That physician found no acoustic neuromas nor any other health issues that would explain the sudden onset of tinnitus with no prior history. Based upon its geographic and temporal history and the negative medical exam findings it is certain beyond any reasonable doubt the tinnitus that is constantly annoying and distracting me, and occasionally keeping me from sleeping, is due to a new element in my environment and there is but one candidate for that element, Duke Energy's new smart meters.

Tangentially related, Duke Energy demanding their captive customers pay them to protect their homes and themselves from a repeatedly demonstrated fire and high voltage surge hazard, and themselves from scientifically researched and credible health risks, among other smart meter hazards, might be viewed as a violation of KRS 514.080 (1)(a), or could be were it not for the fact they failed to provide that protection by not performing the mentioned removal of the less safe smart meter despite taking 'opt out' money for it which seems a violation of KRS 517.020(1)(b).

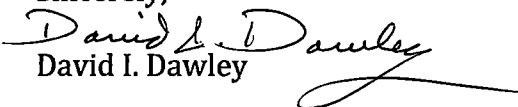
As the OAG eventually said after multiple tries that they can do nothing with that utility, gave up trying and then referred all Duke Energy-related issues to the PSC, apparently it falls to the PSC to prosecute Duke Energy's legal and Constitutional transgressions in addition to any regulatory ones, at least those at the state level.

That experts in assessing potential liability like Lloyd's of London reassessed the liability risk of wireless smart meter system technology and concluded it is too high to insure and consequently will no long cover such systems at any price should be a red flag for utilities such as Duke Energy. If Lloyd's of London, a company who will insure technology as risky as race cars and spacecraft, has concluded that wireless smart meter technology is too risky to insure it seems most unwise of Duke Energy to continue to imperil its fiscal future by persisting in forcing smart meters onto its captive customers and thereby possibly incur billions of dollars in eventual lawsuits not unlike like what finally happened to tobacco companies and as, it seems, Lloyd's of London and others foresee as a real possibility for smart meter system deployers.

Based on Duke Energy's above noted additional apparent factual errors represented to the PSC as being true and correct, their possibly KRS-violating misrepresentation of their smart meter forced 'opt in' plan as a meter 'opt out' plan, and violations of the Constitution of Kentucky Bill of Rights Sections I and II, I request this case be re-opened and reviewed with the corrected and added information being considered.

As resolution I request that Duke Energy provide reimbursement of \$200 for eight months of \$25 fees from April through November for services there is no evidence they provided, i.e., that a meter reader read their smart meter every month for the past eight months; that they discontinue their \$25/mo. charge in lieu of which I will read their meter for them and telephone the readings to them at the phone number specified on their website; that they remove their PLC smart meter regardless of its present transmitter status and replace it with a proper safe 'opt out' analog meter regardless of where they have to acquire it from, be it in-house or outside supplier such as Hialeah Meters, or even CG&E if necessary; that they adjust the smart meter and mesh network technology in my area so as to keep my local EMF/RFR at pre-smart meter and mesh network background levels; that they be constrained from violating any rights provided for in the Constitution of Kentucky Bill of Rights.

Sincerely,


David I. Dawley