

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TERESA LYN CUNNINGHAM)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2009-00333
)	
DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANT)	

O R D E R

On August 3, 2009, Complainant, Teresa Lyn Cunningham, brought this action against Duke Energy Kentucky, Inc. ("Duke Kentucky"), claiming that Duke Kentucky had improperly billed her for service due to a broken electric meter at her residence. Complainant requested that the Commission order Duke Kentucky to review her electric bills for the prior ten years and to "prove [her] exact usage" for that period of time.

Defendant, Duke Kentucky, filed its Answer to the Complaint on August 25, 2009 and moved the Commission to dismiss the complaint for failure to state a claim upon which the Commission may grant relief. Duke Kentucky claimed that it properly billed Complainant for all service provided to her, in compliance with all applicable statutes, regulations, and tariff provisions, and denied that Complainant is entitled to a review of her billing statements for the prior ten years.

In Duke Kentucky's September 24, 2009 Reply to Complainant's September 14, 2009 Response in opposition to its motion to dismiss ("Reply"), Duke Kentucky stated

that “[t]he inability to receive data electronically [from Complainant’s meter] was due to switched leads, causing the electronic AMI [Advanced Metering Infrastructure] device not to function properly.” Duke Kentucky further stated that, since September 20, 2007, it has installed three different electric meters and accompanying AMI devices at Complainant’s residence.

According to Duke Kentucky, the original AMI meter, which was installed at Complainant’s residence on September 20, 2007 (Meter No. 97081770), was replaced with a new AMI meter on or about June 12, 2008 (Meter No. 97081813). The second meter was subsequently replaced on February 11, 2009 with another new meter (Meter No. 97081778). Duke Kentucky states in its Reply that it examined Meter Nos. 97081770 and 97081813 at the time they were replaced and, in each instance, it found that the meters were functioning properly. Copies of the meter test results were appended to its Reply.¹

In response to Commission Staff’s November 5, 2009 data request, Duke Kentucky explained that the switched leads in Complainant’s electric meter did not adversely affect the data-collecting functions of the meter or the functioning of the AMI device:

Because of new metering technology, switched leads would not have affected the function of the meter or AMI device. The switched leads would have caused the meter to register reverse flow but the actual meter display would have reflected this as positive usage due to the internal programming. This is known as secure kilowatt hour registration and is designed to prevent energy theft. The AMI device simply transfers the delivered and received watt-hour values back to the billing system for analysis. When the

¹ Duke Kentucky Reply, Attachments 1 and 2.

reverse flow was detected in the collection system, a field investigation was issued.²

Complainant did not make a request to the Commission to test the accuracy of the electric meters installed at her residence. However, the resolution of the billing dispute, which is the crux of the Complaint, depends upon whether the meters were accurately recording Complainant's electric usage. Therefore, on November 24, 2009, the Commission ordered Duke Energy to produce the three electric meters for the purpose of testing their accuracy at a third-party meter servicing laboratory.³

Duke Kentucky transferred the meters to the custody of Commission Staff and, on December 1, 2009, Commission Staff delivered the meters to Specialized Technical Services, Inc. (a/k/a TEAMsTs) in Richmond, Kentucky, where they were tested by TEAMsTs personnel. Commission Staff and Duke Kentucky personnel were present during testing. Complainant was informed that she could be present during the meter testing; however, she did not attend.

The results of the December 1, 2009 meter tests revealed no inaccuracies in the recording of electric usage data. Each of the meters tested within the limits of 2 percent fast or slow, as required under 807 KAR 5:041, Section 17. A report dated December 14, 2009 reflecting the December 1, 2009 meter test results was filed in the record of this matter.

² Duke Kentucky's Response to Commission Staff's First Data Request, Item 1a.

³ KRS 278.210(1) provides that "[t]he commission may provide instruments for, and carry on, the examination and testing of any meter or appliance used to measure the product or service of any utility, and the examination and testing of any instrument used by a utility to test the accuracy of any meter or appliance used to measure its products or services."

Having tested all three electric meters installed at the Complainant's residence since September 20, 2007 and having found all of the electric meters to be functioning properly, in accordance with the requirements of 807 KAR 5:041, Section 17, the Commission finds that the Complainant's claims that Duke Kentucky improperly charged her for electric service at her residence are not supported by the evidence in the record of this matter. Therefore, the Commission finds that the Complaint should be dismissed.

As to Complainant's request for the Commission to order Duke Kentucky to provide her billing records for the past ten years, the Commission finds that there is no statutory or regulatory requirement for utilities in Kentucky to provide customers with historic billing data for a ten-year period. Attachment 6 to Duke Kentucky's Reply contained copies of Complainant's electric bills from February 2, 2006 to October 1, 2009. This billing data covers the period of time referenced in the Complaint and is sufficient to show seasonal trends in Complainant's electricity usage. Upon examination, the Commission found no abnormalities in the billing data.

In its Reply, Duke Kentucky explained that it used estimated readings of Complainant's electric meters to calculate her electric bills during the times that the AMI devices in the meters were not functioning properly. The Commission finds that use of billing estimates did not violate Duke Kentucky's tariff because the meters were actually read at least once per quarter during the time period cited by Complainant. Original Sheet No. 25, Section VI, of Duke Kentucky's tariff states that meters are ordinarily read at monthly intervals but may be read more or less frequently at the company's option, but no less than quarterly. Duke Kentucky read Complainant's meter in October 2008

(fourth quarter of 2008), February 2009 (first quarter of 2009), and June 2009 (second quarter 2009).⁴

All three of the AMI meters installed at Complainant's residence were Form 4s, Landis & Gyr, Focus meters.⁵ In its AMI pilot project approved in Case No. 2006-00172,⁶ Duke Kentucky has installed 52 electric meters of this type on its system. Duke Kentucky stated that it is investigating all of the 52 Form 4s installations to ensure that the leads are not switched and reverse flow being registered.⁷ The Commission finds that the information obtained by Duke Kentucky in its investigation of its Form 4s meter installations may be helpful to the Commission in assessing problems that may come to light as more electric utilities install AMI systems. Therefore, the Commission will order Duke Kentucky to file a report of its findings with the Commission's Division of Engineering once it completes its investigation.

IT IS THEREFORE ORDERED that:

1. The Complaint filed by Complainant, Teresa Lyn Cunningham, on August 3, 2009, against Defendant, Duke Kentucky, is hereby DISMISSED with prejudice.

⁴ Duke Kentucky's Response to Commission Staff's First Data Request at item 5.

⁵ Id. at item 3a.

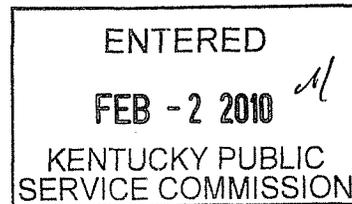
⁶ Case No. 2006-00172, An Adjustment of the Electric Rates of the Union Light, Heat and Power Company d/b/a Duke Energy Kentucky, Inc. (Ky. PSC Dec. 21, 2006).

⁷ Duke Kentucky's Response to Commission Staff's First Data Request at item 3b.

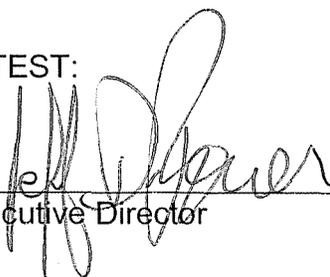
2. Within 60 days of completing its investigation of the 52 Form 4s meters installed in accordance with its AMI pilot project, Duke Kentucky shall file a report with the Commission explaining its findings in detail.

3. Any documents filed in the future pursuant to ordering paragraph 2 herein shall reference this case number and shall be retained in the Duke Kentucky general correspondence file.

By the Commission



ATTEST:



Executive Director

Teresa L Cunningham
4590 Burlington Pike
Burlington, KY 41005

Teresa Cunningham
Esq
Attorney & Counselor at Law
71 Cavalier Blvd., Suite 125
Florence, KY 41042

Rocco D'Ascenzo
Senior Counsel
Duke Energy Kentucky, Inc.
139 East 4th Street, R. 25 At II
P. O. Box 960
Cincinnati, OH 45201