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AUG 1 6 2018

Case No. 2018-00259 – Amendments and supplemental information as requested IC SERVICE COMMISSION

Dear Executive Director Pinson,

I will endeavor to address all of the concerns raised in your recent correspondence. I apologize for not detailing the initial submission to your standards, but I am not an attorney and I did try to achieve this 'opt out' at the lowest and least formal level via the manner specified by the utility and later informally through both your office and the Office of the Attorney General, but Duke Energy basically ignored PSC's informal complaints and similar OAG efforts. Strictly speaking, Duke Energy only ignored the PSC's second informal complaint completely. In response to the first they denied to the PSC that they ever installed a smart meter on my home, but for whatever reason admitted to doing so to the OAG who then advised the PSC. Given that Duke Energy failed to follow their own 'opt out' procedure as specified on their own smart meter advisory cards and also disregarded both the PSC's and the OAG's less formal efforts to gain their voluntary compliance with the 'opt out' agreement they made with the Kentucky Attorney General, I was advised to file this formal complaint against Duke Energy through the PSC by Ms. Rosemary Tutt of your office and also by Ms. Heather Napier and her director at the OAG.

On page two of your response you expressed reservations regarding the accuracy of my accounting, or perhaps of my memory, and also about the timeline involved with respect to the 'opt out' request, subsequent meter box lowering and rewiring, and when Duke Energy became cognizant of it having been done. The 'opt out' request was placed on April 5 with a representative who said her name is Judy. On or about April 10 I was informed my meter box should be rewired. I also received a call on or about that date from another person identifying herself as a Duke Energy employee named Ms. Jeri Bruns who said she was filling in for a Mr. Brian Maynard who was out of the office and the reason I did not get a timely callback. Ms. Bruns said she would try to take care of the 'opt out' for me due to Mr. Maynard's absence. I was informed on Friday April 13 that my meter box also needed to be lowered to eye level. Due to the weekend the earliest that work could be done was April 17. The lowering and rewiring was a moot issue at the time as the gentleman with Duke Energy who came to replace the existing smart meter showed up without an analog meter in his truck to replace it with. ARC Electric did do the work on that date and coordinated it with Duke Energy for power shutoff and reactivation. Regardless of whether or not Duke Energy personnel here at the time advised him of the meter box lowering and rewiring on April 17, Mr. Maynard, who was now back in his office and had informed me he had available multiple options for replacing a smart meter once the meter box was redone, was advised by me via E-mail on May 4, May 12 and May 17 the box had been lowered, rewired, inspected, and is in excellent condition including its sockets which have allegedly been an issue with some boxes. He was also advised it has a new Kentucky approval sticker on it should that matter. I will include a copy of the bill from ARC Electric so you may verify the work was done as stated and that also notes that ARC did coordinate their work with Duke Energy.

With respect to the premature billing for the analog meter they are extremely tardy in reinstalling, Duke Energy has now done it four times for a total of \$100 plus any taxes or other fees that might get tacked onto their \$25/mo. analog meter charges. I will include copies of those bills along with copies of the related check carbon copies so that you may verify those analog meter charges did actually occur and were paid. The Duke Energy bills showing the \$25/mo. analog meter charge I have to date are:

- 1. Prepared on May 3 and paid in full by check #2407 on May 7
- 2. Prepared on June 6 and paid in full by check #2414 on June 13
- 3. Prepared on July 6 and paid in full by check #2418 on July 10
- 4. Prepared on August 2 and paid in full by check #2423 on August 7

On page three of your response to my initial submission is a denial of a civil penalty against Duke Energy I had not requested. Perhaps I was insufficiently precise in my wording. I was merely requesting Duke Energy refund with interest the penalty fees it had improperly collected from its ratepayers, not that Duke Energy be assessed a civil penalty for having collected them. Were that my intent I would have specified a civil penalty that was multiples of the amount of money they collected under false pretenses, likely triple to start, and Duke Energy could then petition for mitigation, if they wished, based upon any extenuating circumstances they could come up with. For them to retain funds acquired in that manner essentially allows them a stealth rate increase at the expense of the ratepayers they wrongly penalized. I believe one facet of the PSC's responsibilities is to protect ratepayers from overcharges. On the topic of overcharges, a tangentially related issue I will touch on only briefly for now is the amount Duke Energy penalizes its captive Kentucky ratepayers. Assuming for the moment an 'opt out' penalty is not contrary to federal law, \$25/mo. is excessive in comparison to other areas where the charge can be as little as \$0/mo. Even Duke Energy charges less in other places, \$11.75/mo. in South Carolina for example. Why should Duke Energy's Kentucky ratepayers be charged 213% of what Duke Energy's South Carolina ratepayers are charged for the same thing from the same company?

Also touched upon, on page three, was the meaning of the smart meter-related portion of the Energy Act of 2005's wording. Public Law 109-58 Section 1252(a)(14)(A) directs: "Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level." It is clear this portion dictates time-based rate schedules are to be provided to individual customers such as myself "upon customer request." I did not request one. Public Law 109-58 Section 1252(a)(14)(C) goes on to direct: "Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively." Given that I am not a "customer requesting a time-based rate" I should not be provided with the related time-based meter nor charged a penalty fee for not having one. This result would apply to all individual customers who also did not request timebased rate schedules and, by extension also did not request a smart meter, hence the request for refunds of all the penalty money improperly charged to customers for opting out of meters they were not intended to get in the first place per federal law. Subparagraphs (A) and (C), with their emphasis on smart meter participation being contingent solely upon the customers' requests, clearly indicates smart meter programs are to be 'opt in' only.

Since it was also referenced on page three as the codified version of Public Law 109-58 Section 1252, I also reviewed 16 U.S.C. 2621(d)(14). It seems to state as effectively and unambiguously as does the Energy Act of 2005 that smart meter programs are to be 'opt in.' 16 U.S.C. 2621(d)(14)(A) states: "Not later than 18 months after August 8, 2005, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level." This, too, makes it clear that individual customers such as myself are to be offered a time-based rate schedule solely in response to a specific customer request. 16 U.S.C. 2621(d)(14)(C) states: "Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively." It is clearly indicated here, too, that if an individual customer like me has not requested a time-based rate schedule that customer should get neither the time-based rate schedule nor the

The problem of Duke Energy ignoring federal law ostensibly in favor of state law in violation of the Supremacy Clause of the U.S. Constitution was brought to the attention of the OAG concurrent with its failure to comply with the state AG's 'opt out' agreement and a possible violation of KRS 517.030. The OAG said they can do nothing with Duke Energy and referred all issues with them to the PSC for resolution. If the PSC and the OAG cannot encourage a Kentucky regulated utility to comply with federal law I am open to suggestions as to what state entity can.

time-based meter associated with it.

Regarding the adverse health effects and other negative issues noted in the original submission regarding this technology and dismissed, they are much more than mere general allegations in that they are statements of facts determined by credible sources including, but not limited to, the American Academy of Environmental Medicine, Cedars Sinai, Kaiser Permanente, the National Institute for Environmental Health Sciences National Toxicology Program, Yale, the U.S. Naval Medical Research Institute and the World Health Organization, conclusions that are based upon methodologically sound peer reviewed research. Their inclusion is relevant at least to the extent they help to provide context and to state the situation more fully and clearly and are reasons for the 'opt out' decision that initiated this issue. If smart meters were, to the same extent as analog meters or better, free of adverse health effects, free of hazardous design defects and safe from power surges and resulting fires, free from intermittent and difficult to detect after the fact errors that can cause inaccurate electric usage recording, secure from the standpoint of privacy and from hacking and would save me a substantial amount of money every month I would not be concerned by or opposed to them, but their real world track record and scientific research to date show the exact opposite is true.

Given the PSC's functions include protecting consumers fiscally and physically as noted in its mission statement, it would seem reasonable that credible information pertaining to potential billing inaccuracies, adverse health effects, fire hazards, etc., would be of some value and relevance beyond this one case and therefore worthwhile to retain.

If I have omitted anything please advise me and I will address it.

Thank you,

Darend I. Danile David I. Dawley David I. Dawley

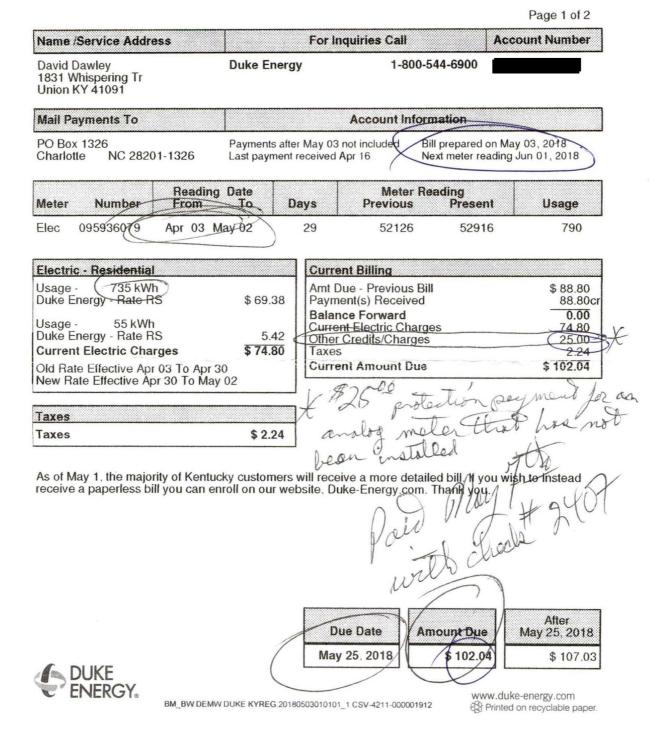
August 14, 2018

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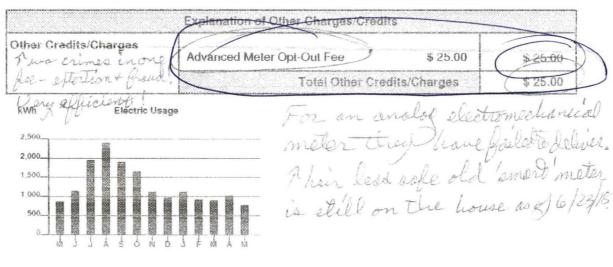


Page 2 of 2

Name	Service Address	Account Number
David Dawley	1831 Whispering Tr Union KY 41091	

	Explanation of Current Charges	
Electric Meter - 09	5936079 Rate RS - Residential Service	
kWh Usage - Apr 03 - May 02 29 Days	790 Old Rate Effective Apr 03 To Apr 30 Customer Charge \$4.28 Energy Chrg 735 kWh @ \$0.07545600 55.46 Elec DSM Rider 735 kWh @ \$0.00285700 282	
	735 kWh @ \$ 0.00385700 2.83 Rider PSM 735 kWh @ \$ 0.00176700cr 1.30cr Elec Fuel Adjustment	
115	Duke Energy Rate RS - Residential Service	69.38
a los	New Rate Effective Apr 30 To May 02 Customer Charge \$ 0.77 Energy Chrg	
Kar 102.40	55 kWh © \$ 0.07152000 3.93 Elec DSM Rider 55 kWh © \$ 0.00385700 0.21 Rider PSM 80.00385700 0.21 0.21	
12 10 - marine	55 kWh @ \$ 0.00176700cr 0.10cr Elec Fuel Adjustment 55 kWh @ \$ 0.01103300 0.61	5.42
P	Total Current Electric Charges \$	74.80

	Explanation of Taxes		
Taxes	Rate Incr for School Tax	\$ 2.24	\$ 2.24
		Total Taxes	\$ 2.24





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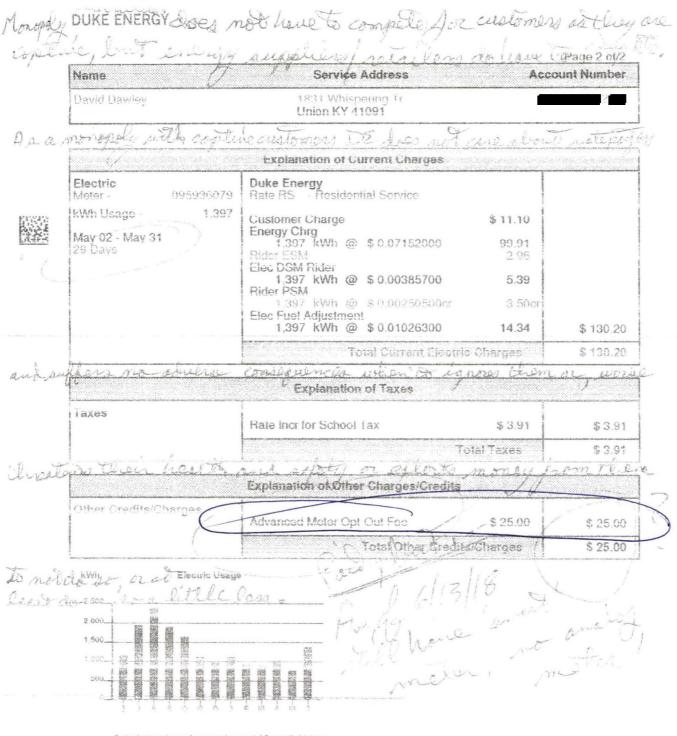
Name /Service Addre	155		For		Account Number		
David Dawley D 1831 Whispering Tr Union KY 41091			nergy	1-800-{	544-6900		
Mail Payments To				Account Infor	mation		
PO Box 1326 Charlotte NC 2820	1-1326		ts after Jun 06 ment received			on Jun 06, 2018 ading Jul 02, 2018	
Meter Number	Reading From	Date To	Days	Meter Re Previous	ading Presen	t Usage	
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Electric - Residential	~		Curr	ent Billing			
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4	Jun 28, 2018	P	\$ 160.61	\$ 168.37

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www.duke-energy.com



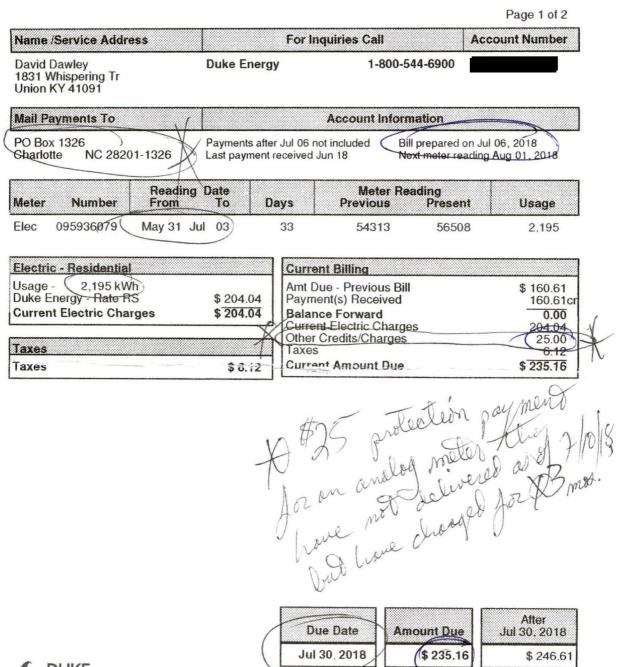
Calculations based on most recent 12 month history Total Usage 16,259

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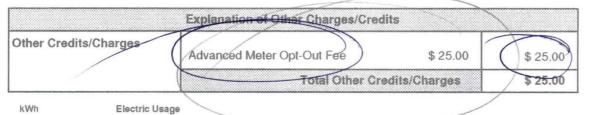
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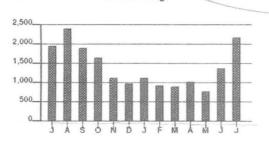
DUKE ENERGY

		Page 2 of 2
Name	Service Address	Account Number
David Dawley	1831 Whispering Tr	
Daria Darioj	1831 Whispering Tr Union KY 41091	

Electric Meter -	095936079	Duke Energy Rate RS - Residential Service		
kWh Usage	2,195	Customer Charge Energy Chrg	\$ 11.10	
May 31 - Jul 03 33 Days		2,195 kWh @ \$ 0.07152000 Rider ESM Elec DSM Rider	156.99 5.06	
		2,195 kWh @ \$ 0.00385700 Rider PSM	8.47	
		2,195 kWh @ \$ 0.00250500cr Elec Fuel Adjustment	5.50cr	
		2,195 kWh @ \$0.01271800	27.92	\$ 204.04

	Explanation of Taxes		
Taxes	Rate Incr for School Tax	\$ 6.12	\$ 6.12
		Total Taxes	\$ 6.12





Calculations based on most recent 12 month history Total Usage 16,504 Average Usage 1,375

	JUL	AUG	SEP	ОСТ	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL
Electric	1,950	2,403	1,922	1,660	1,135	992	1,125	925	921	1,039	790	1,397	2,195



 Image: Clothing
 Food
 Transportation

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 Mortgage

 Entertainment
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 Other: ______

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Page 1 of 2

Name /Service Addre	955		For	Inquiries Call		Account Number		
David Dawley 1831 Whispering Tr Union KY 41091		Duke En	ergy	1-800-5				
Mail Payments To				Account Inform	nation			
PO Box 1326 Charlotte NC 2820)1-1326		Payments after Aug 02 not included Bill prepared on A ast payment received Jul 16 Next meter readin					
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Elec 095936079	Jul 03 A	ug 01	29	56508	58447	7 1,939		
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Aug 24, 2018	\$ 196.03	\$ 205.58



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DUKE ENERGY

		Page 2 of 2
Name	Service Address	Account Number
David Dawley	1831 Whispering Tr Union KY 41091	
	Union KY 41091	

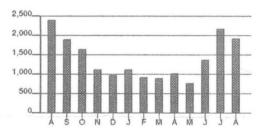
Electric Meter - 095	Duke Energy Rate RS - Residential Service		
kWh Usage -	Customer Charge Energy Chrg	\$ 11.10	
Jul 03 - Aug 01' 29 Days	1,939 kWh @ \$0.07152000 Elec DSM Rider	138.68	
	1,939 kWh @ \$ 0.00385700 Rider PSM	7.48	
	1,939 kWh @ \$ 0.00250500cr Elec Fuel Adjustment	4.86cr	
	1,939 kWh @ \$0.00272300	5.28	
	Rider ESM	8.37	\$ 166.0

Taxes	Rate Incr for School Tax	\$ 4.98	\$ 4.98
		Total Taxes	\$ 4.98

Explanation of Other Charges/Gra	dits	
Other Credits/Charges Advanced Meter Opt-Out Fee	\$ 25.00	\$ 25.00
Total Other Cr	edits/Charges	\$ 25.00

kWh

Electric Usage



Calculations based on most recent 12 month history Total Usage 16,040 Average Usage 1,337

	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG
Electric	2,403	1,922	1,660	1,135	992	1,125	925	921	1,039	790	1,397	2,195	1,939



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