

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHN AND MARILYN DANIEL	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.
	)	2022-00393
	)	
KENTUCKY UTILITIES COMPANY	)	
	)	
DEFENDANT	)	

ORDER

This matter arises upon John and Marilyn Daniel (the Daniels) complaint against Kentucky Utilities Company (KU) that was tendered on November 9, 2022. For the reasons discussed below the Commission finds that a *prima facie* case has not been established and that the Daniels should be given 20 days to amend the complaint to establish a *prima facie* case or the case should be dismissed.

LEGAL STANDARD

Commission regulation 807 KAR 5:001E, Section 20 governs the filing of a formal complaint. In accordance with 807 KAR 5:001E, Section 20(1)(c), a complaint must state “[f]ully, clearly, and with reasonable certainty, the act or omission” that the complaint alleges the utility failed to comply with and facts, with details, of the alleged failure. In accordance with 807 KAR 5:001E, Section 20(4)(a), the Commission examines a complaint to determine whether the complaint establishes a *prima facie* case and conforms to the administrative regulation. A complaint establishes a *prima facie* case

when, on its face, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief.

If a complaint fails to establish a *prima facie* case or conform to the administrative regulation, 807 KAR 5:001E, Section 20(4)(a)(1) provides that the complainant be notified and provided an opportunity to amend the complaint within a specified time. Additionally, 807 KAR 5:001E, Section 20(4)(a)(2) provides that if the complaint is not amended within the time that the Commission grants, then the complaint shall be dismissed.

KRS 278.466(3) outlines the method for which net metering customers are compensated for energy that flows to the retail electric supplier, and states that the rate to be used shall be set by the Commission in the usual ratemaking process.

KRS 278.466(4) sets the requirements for how a retail electric supplier must credit a customer-generator's bill when the amount of credit for energy that flows to the retail electric supplier exceeds the amount to be billed to the customer for energy used by the customer from the retail electric supplier. In particular this statute states that any excess bill credit shall carry forward to the customer's next bill, and that if the customer-generator closes their account no cash refund for accumulated bill credits shall be paid.

### BACKGROUND

On November 9, 2022, John and Marilyn Daniel filed a formal complaint with the Commission. The complaint listed three complaints and requests:

1. The Daniels complain that the rate at which KU credits them for kWh that flow from their system onto KU's is unequal to the amount for which KU sells the excess energy originating on the Daniels' system. Further, the Daniels state that the price paid to them by KU does not consider the cost of constructing the Daniels' generating

infrastructure. The Daniels state that they do not believe KU should make money on electricity generated by the Daniels.

2. The Daniels also complain that KU is holding the amount of excess credit from month to month in an indefinite amount and for an indefinite time without being required to pay interest. They request that KU be limited to holding no more than \$50 credit for no more than two months.

3. The Daniels claim that the term “Total usage” is deceptive and ask that it be removed from KU’s bills.

KU’s net metering rates are described in its tariff on file with the Commission.<sup>1</sup> These rates were approved in Case No. 2020-00349 by Order on November 4, 2021.<sup>2</sup> KU’s Net Metering Service-2 tariff sets the rate at which KU will provide credit for energy flowing onto its system at a rate of \$0.07366.<sup>3</sup> Further, the tariff outlines that any “unused excess billing-period credits” shall be carried forward to be applied as needed, and that unused excess billing-period credits existing at the time when the customer’s service is terminated will end with the customer’s account and are not transferable between customers or locations.<sup>4</sup>

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<sup>1</sup> TFS 2020-00349 (Ky. PSC Nov. 4, 2021); the tariff was accepted for filing by the Commission and effective September 24, 2021, Original Sheet No. 58, Net Metering Service-2.

<sup>2</sup> Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Nov. 4, 2021), Order.

<sup>3</sup> TFS 2020-00349 (Ky. PSC Nov. 4, 2021); the tariff was accepted for filing by the Commission and effective September 24, 2021, Original Sheet No. 58, Net Metering Service-2.

<sup>4</sup> TFS 2020-00349 (Ky. PSC Nov. 4, 2021); the tariff was accepted for filing by the Commission and effective September 24, 2021, Original Sheet No. 58, Net Metering Service-2.

## DISCUSSION AND FINDINGS

For the reasons discussed below the Commission finds that a *prima facie* case has not been established, and that the Daniels should have 20 days to amend to the complaint to establish a *prima facie* case or the case shall be dismissed.

Commission regulation 807 KAR 5:001E Section 20(4) requires a complaint to state the act or omission that results in a utility's failure to comply with a statute, regulation, or Commission Order. The Commission also has the authority to investigate if any utility practice or tariff, relating to rates or service, is fair, just or reasonable.<sup>5</sup>

The Daniel's complaint takes issue with the value that is credited to their account for energy that flows onto KU's system from the Daniels' facility versus the amount for which KU sells the energy. As stated in the complaint, that amount is \$.0737 per kWh for energy that flows from a generating customer to KU. The complaint also alleges that KU then charges someone else \$.09699 for that energy.<sup>6</sup>

KRS 278.466(3) states that the rate a utility pays a generating-customer for kWh may be established by the Commission by the rate making process outlined in Chapter 278. The rate at which KU is paying the Daniels for energy that flows from their system onto KU's system is in accord with KU's filed tariff, as well as the November 4, 2021 Commission Order in Case No. 2020-00349. In setting the rate KU is to use to compensate its customers for energy generated by the customer and flowing to KU's

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<sup>5</sup> KRS 278.030: Every utility may demand, collect, and receive fair, just and reasonable rates for services rendered. Every utility shall furnish adequate, efficient, and reasonable service; KRS 278.260: The Commission shall have jurisdiction over complaints as to rates and services of any utility; KRS 278.250: The Commission may investigate and examine the condition of any utility subject to its jurisdiction.

<sup>6</sup> This is the same amount that the Daniels are billed for energy they consume that was created by KU according to the bill attached the Complaint.

system, the Commission used the ratemaking process outlined in Chapter 278 of the Kentucky Revised Statutes as required by KRS 278.466(3). The Daniels did not present any evidence to support a finding that KU's use of a rate approved by the Commission creates an unjust or unreasonably discriminatory result.<sup>7</sup>

The Daniels also take issue with KU holding credits for any month in which the value of kWh that flow from the Daniel's system unto KU's system is greater than the value of energy produced by KU and used by the Daniels. The Daniels state that KU holds the credits for use in future months as needed, but that there is no limit on the amount of the credit or the length of time for which it can be held. Further, the Daniels request that the Commission place a limit of a maximum of \$50 and/or two months and then require KU to reimburse them. KU's actions are in alignment with both the filed tariff and KRS 278.466(4). In its entirety, KRS 278.466(4) provides:

Each billing period, compensation provided to an eligible customer-generator shall be in the form of a dollar-denominated bill credit. If an eligible customer-generator's bill credit exceeds the amount to be billed to the customer in a billing period, the amount of the credit in excess of the customer's bill shall carry forward to the customer's next bill. Excess bill credits shall not be transferable between customers or premises. If an eligible customer-generator closes his or her account, no cash refund for accumulated credits shall be paid.

Finally, the Daniels request that the term "Total Usage" be removed from KU bills as they state it is deceptive. The Daniels do not allege that the use of the term "Total Usage" violates any Commission Order, statute, or regulation. The Commission notes

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<sup>7</sup> KRS 278.260 requires the Commission to investigate any written complaint made by a customer of a utility subject to the Commission's jurisdiction that presents evidence that the rate charged to the customer is unreasonable or unjustly discriminatory.

that the bill provided by the Daniels as part of their complaint clearly shows that “Total Usage” is equal to kWh used from KU’s system minus kWh generated by the Daniels’ system. Though a different term could be used to capture more clearly what is being expressed, the usage of the term “Total Usage” in this context is not unreasonable, unsafe, insufficient or unjustly discriminatory<sup>8</sup>.

The Commission finds that no violation of statute, order, or regulation has been stated in the complaint, and that the alleged practices of KU are in compliance with the tariff on file with the Commission. The Commission further finds that the complaint fails to support a finding that the use of an approved rate, arrived upon by the ratemaking procedures in KRS Chapter 278, and in conformity with the requirements of KRS 278.466, results in an unjust or unreasonably discriminatory result, and that the Daniels should be given 20 days to amend the complaint to establish a *prima facie* case.

IT IS THEREFORE ORDERED that:

1. The Daniel’s complaint does not establish a *prima facie* case.
2. The Daniel’s shall file an amended complaint within 20 days of service of this Order.
3. The Daniel’s shall file the amended complaint by electronic mail to PSCED@ky.gov or by US Mail to P.O. Box 615, Frankfort KY 40602- 0615.
4. A copy of this Order shall be served on the Daniel’s by U.S. Mail at the address on file with the Commission in this proceeding.

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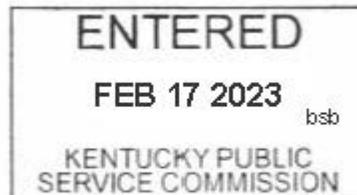
<sup>8</sup> KRS 278.260 requires the Commission to investigate any written complaint made by a customer of a utility subject to the Commission’s jurisdiction that presents evidence that an act of the utility is unreasonable, unsafe, insufficient or unjustly discriminatory.

PUBLIC SERVICE COMMISSION

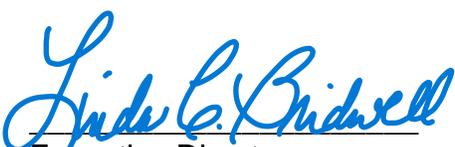
  
Chairman

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Vice Chairman

  
Commissioner



ATTEST:

  
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