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September 11, 2009

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SEP 14 2009

PUBLIC SERVICE
COMMISSION

Jeff Derouen, Executive Director
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602-0615

RE: Teresa Lyn Cunningham, case no. 2009-00333

Dear Mr. Derouen:

Enclosed you will find an original and six copies of Complainant's Response to Duke Energy's Motion to Dismiss. Please accept same for filing, and return a time-stamped copy in the enclosed, self-addressed, stamped envelope. Thank you.

Sincerely,



Teresa Cunningham

TLC/ch
Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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SEP 14 2009

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

TERESA LYN CUNNINGHAM)	
)	CASE NO. 2009-00333
COMPLAINANT)	
)	COMPLAINANT'S RESPONSE
V.)	TO DEFENDANT'S MOTION TO
)	DISMISS
DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANT)	

NOW COMES TERESA LYN CUNNINGHAM, Complainant, and for her Response in Opposition to Defendant's Motion to Dismiss states as follows.

Complainant states that there have been issues regarding the meter readings and that Duke replaced the meter twice. After the meter was replaced the second time, Complainant's electric bills were substantially lower. Prior to replacement of the meter, Complainant received high bills. Duke subsequently credited her account, but gave no explanation as to how the credit was calculated. Complainant wants to review past bills and meter reads to determine if she has been over-charged for electric for the past years and correctly credited.

The Commission determined that Complainant stated a prima face case. 807 KAR 5:001(4)(b). In response to the complaint, defendant filed an Answer stating that it properly billed Complainant and that she is not entitled to her past bills.


Complainant is entitled to the past bills for the following reasons.

1. Pursuant to 807 KAR 5:006, sec. 6(5) Duke is required to keep records regarding billing.

2. Pursuant to 807 KAR 5:006 sec. 10(2) if a test shows an average error of greater than two percent or if the customer has been incorrectly billed for any other reason, Duke must immediately determine the period within which the error occurred, and correct the bill. If the time period during which the error existed cannot be determined, historical usage data for the customer will be used. If the customer and Duke are unable to agree on the estimated time, the commission shall determine the issue. Here, the bills reflect over a two percent error in billing. Duke merely credited the bill and did not advise or consult with Complainant regarding the time during which the error occurred or how the credit was calculated.
3. Pursuant to 807 KAR 5:006 sec. 10(5) requires that the customer be notified if it is necessary to make a refund. Complainant was never notified in the manner required by the regulation. Complainant has no way to verify the accuracy of the refund.
4. Pursuant to 807 KAR 5:006, sec. 17, Duke is required to maintain records of all meter testing.
5. To tell Complainant that her bill is so much lower simply because her “usage habits must have changed” is insufficient.

For the foregoing reasons, Duke’s motion to dismiss must be denied. Complainant is entitled to know whether the prior meters were reading accurately, when they malfunctioned and the correctness of her previous and current bills and the credit on her bill.


Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed to Amy Spiller, Duke Energy Kentucky, Inc., 139 E. Fourth St., Rm. 25 AT II, Cin., OH 45202 this 11th day of September 2009.



Teresa Cunningham