

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NANCY AND DAVID KILBY)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2022-00082
SOUTH KENTUCKY RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
)	
DEFENDANT)	

ORDER

On March 11, 2022, Nancy and David Kilby (Kilbys) filed a complaint against South Kentucky Rural Electric Corporation (South Kentucky RECC), alleging that they were overbilled for electric usage billed from January 2021 to April 2021.¹

BACKGROUND

The Kilbys own a rental house that was vacant at the time of electric usage in question.² They stated that during this time, the house had no appliances connected, the water was turned off and the house has no furnace, and that the house’s heating sources are a wood stove and propane heaters.³ The Kilbys further stated that the only electric device in use was a water pump used to provide their ten cattle with water at an adjacent

¹ David and Nancy Kilby’s Response to Commission Order (Kilbys’ Response to Commission Order) (filed Apr. 15, 2022) at unnumbered 2–5.

² Complaint at 1.

³ Complaint at 1–2.

property they own, and that this usage never resulted in more than a minimum electric bill.⁴ However, for electric bills from January 2021 to April 2021, the Kilbys were charged \$295.50, \$460.96, \$323.49, and \$223.15, respectively.⁵

In response to the Kilbys inquiries about their bills, a South Kentucky RECC technician made a field visit to the property on April 27, 2021, to perform an inspection of the meter base and electrical panel box.⁶ The technician found a 30-amp single pole breaker at the panel with 10.2 to 10.4 amps running continuously at 120 volts, but was unable to determine the origin of the power draw.⁷ A second field visit by South Kentucky RECC personnel occurred on June 17, 2021, and the premises' daily and hourly usage records generated by South Kentucky RECC's data management system was discussed with the Kilbys.⁸ These records showed that as the temperature decreased, power usage increased, and as the temperature increased power usage decreased.⁹ A third visit from South Kentucky RECC personnel resulted in replacement of the meter and a meter test performed on June 22, 2021.¹⁰ The test results showed 99.87 percent accuracy at 100 percent load, 99.86 percent accuracy at ten percent load, and 99.87 accuracy at

⁴ Complaint at 1–2.

⁵ Kilbys' Response to Commission Order at unnumbered 2–5.

⁶ Answer of South Kentucky RECC (Answer) (filed July 12, 2022) at 2.

⁷ Answer at 2.

⁸ Answer at 2.

⁹ Answer at 2.

¹⁰ Answer at 2.

100 percent load with a 0.5 power factor, for an average meter error of 99.87, which are within the parameters set forth in 807 KAR 5:041, Section 17(1).¹¹

The Kilbys stated that they hired an electrician to perform an inspection and the electrician found no problems.¹² However, this inspection occurred in spring 2020, one year before the period at issue.¹³

LEGAL STANDARD

Under the filed-rate doctrine, KRS 278.160(2), a utility may not charge, demand, collect, or receive from any person greater or less compensation than what is filed in that utility's applicable tariff. Although the rates may not vary from the tariff, a customer may be entitled to a refund if that customer can establish an overage due to meter inaccuracy to the degree set forth in Commission regulations described below:

Under 807 KAR 5:006, Section 11(2)(a), a customer is allowed a bill adjustment “[i]f test results on a customer’s meter show an average meter error greater than two (2) percent fast or slow, or if a customer has been incorrectly billed for another reason” Pursuant to 807 KAR 5:006, Section 17(1), electric meter testing must conform to the parameters set in 807 KAR 5:041, Section 17(1)(a)-(c). The testing parameters for electric meters are contained in 807 KAR 5:041, Section 17(1), which for this type of meter required testing at 100 percent load, ten percent load, and 100 percent load with a 0.5 power factor.

¹¹ South Kentucky Rural Electric Cooperative Corporation Response to Commission Order (South Kentucky RECC Response) (filed June 14, 2022), Item 2.

¹² David and Nancy Kilbys’ Response to Commission Staff’s First Request for Information (Kilbys’ Response to Staff’s First Request) (filed Aug. 26, 2022), Item 1(a)-(b).

¹³ Kilbys’ Response to Staff’s First Request, Item 1(a).

Furthermore, if a meter is tested by a utility and the testing reflects that the meter is within accuracy parameters established by Commission regulations based on industry standards, and there is no evidence that the meter was misread, then a rebuttable presumption exists that the electricity went through the meter.¹⁴

DISCUSSION AND FINDINGS

Having reviewed the Kilbys' complaint and the case record, the Commission finds that the complaint should be denied and this matter dismissed because the Kilby's failed to meet their burden of proof. The Kilbys, as complainants, bear the burden of proof that the meter was misread or inaccurately measured electricity usage.¹⁵ Under 807 KAR 5:006, Section 11(2)(a), a bill adjustment is allowed "[i]f test results on a customer's meter show an average meter error greater than two (2) percent fast or slow, or if a customer has been incorrectly billed for another reason" Here, the meter test results reflected an average meter error of 0.13 percent, which is less than the 2 percent threshold required by 807 KAR 5:006, Section 11(2)(a) for a billing adjustment.

Similarly, the Kilby's did not provide sufficient evidence that they had "been incorrectly billed for another reason." Despite the Kilby's statements that the house had no electric devices in use other than the water pump that served the cattle's water tank, South Kentucky RECC personnel found power running to the service address from the electrical panel box. This indicates that the service address was drawing power. In light

¹⁴ See *Tackett v. Prestonsburg Water Co.*, 38 S.W.2d 687 (Ky. 1931); *Louisville Tobacco Warehouse Co. v. Louisville Water Co.*, 172 S.W. 928 (Ky. 1915); Case No. 2011-00414, *Moore's Chapel A.M.E. Church v. Water Service Corporation of Kentucky* (Ky. PSC Sept. 17, 2012), Order at 3-4; Case No. 2006-00212, *Robert Young Family v. Southeastern Water Association, Inc.* (Ky. PSC Feb. 26, 2007), Order at 3.

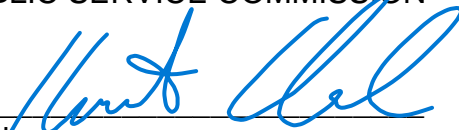
¹⁵ Case No. 2019-00016, *Bollinger v. Kentucky-American Water Co.* (Ky. PSC Dec. 23, 2020), Order at 2.

of the measurement of electric flow at the electrical panel box, the Kilbys' assertion that no electrical devices were running other than the water pump is insufficient to overcome the meter test results and the presumption that the electricity flowed through the meter as recorded by South Kentucky RECC.

IT IS THEREFORE ORDERED that:

1. The Kilbys' complaint is denied.
2. A copy of this Order shall be served upon the Kilbys by U.S. mail to 3950 East Highway 70, Eubank, Kentucky 42567.
3. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

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