

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF DUKE)	CASE NO.
ENERGY KENTUCKY, INC. TO COMPLY WITH)	2024-00114
KRS 278.160(2))	

ORDER

The Commission, on its own motion, pursuant to KRS 278.040, KRS 278.260(1), and KRS 278.990, initiates this proceeding to investigate the alleged failure of Duke Energy Kentucky, Inc. (Duke Kentucky) to comply with KRS 278.160(2).

BACKGROUND

This case arises from Case No. 2022-00289, in which Duke Kentucky was found to have incorrectly billed complainant under its gas and electric annual budget billing tariff provisions.¹ Duke Kentucky therefore violated KRS 278.160(2), which states that 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.”

LEGAL STANDARD

The Commission has exclusive jurisdiction over the rates and service of utilities and is charged with enforcing the provisions of KRS Chapter 278.² KRS 278.260 provides that the Commission, on its own motion or after receiving a complaint, may investigate whether “any regulation, measurement, practice or act affecting or relating to the service

¹ Case No. 2022-00289, *Elizabeth L. Eichelberger v. Duke Energy Kentucky, Inc.* (Ky. PSC Apr. 19, 2024), Order.

² See KRS 278.040(1)-(2).

of the utility or any service in connection therewith is unreasonable.” KRS 278.990(1) allows the Commission to assess a civil penalty of up to \$2,500 for each offense against any utility that willfully violates the provisions of KRS Chapter 278, Commission regulations, or any order of the Commission from which all rights of appeal have been exhausted.

Under 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.”

DISCUSSION

The Commission finds that an investigation is necessary to determine to what extent Duke Kentucky has, on other occasions, incorrectly applied gas or electric annual budget billing to other customers’ accounts. Furthermore, the Commission finds that Duke Kentucky should be required to show cause why it should not be sanctioned pursuant to KRS 278.990 for violating KRS 278.160(2) in Case No. 2022-00289 and for any other violations discovered in this investigation. The Commission further finds that a procedural schedule should be established to ensure the orderly processing of this case.

IT IS THEREFORE ORDERED that:

1. This case is opened to investigate the alleged failure of Duke Kentucky to comply with KRS 278.160(2).
2. Within 20 days of the date of entry of this Order, Duke Kentucky shall submit to the Commission a written response to this Order identifying, subject to 807 KAR 5:001, Section 3(10) rules for redaction of personal information:

a. All accounts receiving gas annual budget billing that had settle-ups calculated before January 4, 2022, for which billing was subsequently changed prior to the next yearly settle-up without customer request;

b. All accounts receiving gas annual budget billing on or after December 1, 2022, for which billing was calculated based on anything other than customer's usage multiplied by the rate in effect at the time of settle-up;

c. All accounts receiving electric annual budget billing on or after December 1, 2022, for which billing was subsequently changed prior to the next yearly settle-up without customer request;

d. All accounts receiving electric annual budget billing on or after April 1, 2022, for which billing was calculated based on anything other than customer's usage multiplied by the rate in effect at the time of settle-up; and

e. All accounts receiving electric annual budget billing on or after December 1, 2021, for which billing was calculated using a divisor of 12.

f. Duke Kentucky may provide this information in a single spreadsheet or other document identifying whether each of the accounts met the qualifying condition.

3. The procedural schedule set forth in the Appendix to this Order shall be followed.

4. All documents, records, and orders included in the record of Case No. 2022-00289 are incorporated by reference into the record of this proceeding.

5. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable,

and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

6. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

7. Duke Kentucky shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

hearing shall include the following statement: “This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov”; and “Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listing on the PSC website, psc.ky.gov.” At the time publication is requested, Duke Kentucky shall forward a duplicate of the notice and request to the Commission.

8. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.


9. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

10. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

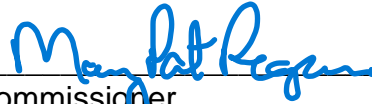
11. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

12. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
JUN 24 2024
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00114 DATED JUN 24 2024

Last day for intervention requests to be accepted.....	08/02/2024
All initial requests for information to Duke Kentucky shall be filed no later than	08/09/2024
Duke Kentucky shall file responses to initial requests for information no later than.....	08/23/2024
All supplemental requests for information to Duke Kentucky shall be filed no later than	09/06/2024
Duke Kentucky shall file responses to supplemental requests for information no later than	09/20/2024
Intervenor testimony, if any, in verified prepared form shall be filed no later than	10/04/2024
All requests for information to Intervenors shall be filed no later than.....	10/18/2024
Intervenors shall file responses to requests for information no later than.....	11/01/2024
Duke Kentucky shall file, in verified form, its rebuttal testimony no later than	11/19/2024
Last day for Parties to request a Public Hearing or submit a request for the matter be decided based upon the written record.....	11/26/2024

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