

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NICOLAS PANGALLO
COMPLAINANT

CASE NO.
2026-00130

v.

DUKE ENERGY KENTUCKY, INC.
DEFENDANT

COMPLAINANT'S RESPONSE TO DUKE ENERGY KENTUCKY, INC.'S BRIEF

Comes now Nicolas Pangallo (“Complainant”), pro se, subject to his pending Motion for Leave, responds to the Brief filed by Duke Energy Kentucky, Inc. (“Duke Energy Kentucky” or “the Company”) on October 2, 2026, as follows. This Response is confined to the points raised in Duke Energy Kentucky's Brief and does not reargue points already made in Complainant's prior filings.

I. INTRODUCTION

Duke Energy Kentucky's Brief addresses, at length, whether Complainant's February 17, 2026 call constituted a report of a gas odor triggering 49 CFR § 192.605(b)(11). Duke Energy Kentucky's Brief does not address — anywhere, in any section — Complainant's central and independent claim: that Duke Energy Kentucky's own natural gas tariff, K.Y.P.S.C. Gas No. 2, Fourth Revised Sheet No. 24, imposed an obligation on Duke Energy Kentucky to detect and investigate the usage deviation on Complainant's own account through its own automated billing system, independent of any phone call Complainant did or did not make. That claim does not depend on whether Complainant reported an odor, and it does not depend on the timing of Complainant's February 17 call relative to the disputed billing periods. It depends on what Duke Energy Kentucky's own system should have flagged, on its own, from Duke Energy Kentucky's own billing data, before Complainant ever called.

Because this claim is dispositive of whether a hearing is necessary, and because Duke Energy Kentucky's Brief does not address it, Complainant respectfully submits that dismissal with prejudice is not appropriate at this stage.

II. COMPLAINANT DOES NOT CONTEST THAT THE FEBRUARY 17, 2026 CALL DID NOT INCLUDE A REPORT OF A GAS ODOR UNDER 49 CFR § 192.605(b)(11)

Complainant does not contest Duke Energy Kentucky's characterization of the February 17, 2026 call recording on this narrow point: when asked directly whether he smelled “anything funny,” Complainant answered that he did not. Complainant does not ask the Commission to find a violation of 49 CFR § 192.605(b)(11) premised on that call. Complainant raises this concession at the outset, plainly, because the remainder of this Response does not depend on that regulation or on that characterization of the call, and Complainant does not wish to obscure the issues that do remain genuinely in dispute.

III. DUKE ENERGY KENTUCKY'S BRIEF DOES NOT ADDRESS COMPLAINANT'S TARIFF-BASED MONITORING CLAIM, WHICH IS INDEPENDENT OF ANY CUSTOMER CALL

A. The Commission's own Staff has already treated this claim as properly before it.

Duke Energy Kentucky's Brief asserts, in a footnote, that allegations made in Complainant's Reply and Supplemental Filing “should not be considered part of the Complaint” because Complainant did not file a formal motion to amend. Duke Energy Kentucky's Brief, p. 5 n.24. Whatever the merits of that procedural argument as a general matter, it cannot be squared with the record in this specific case. On July 2, 2026 — after Complainant's Reply was filed but before the Supplemental Filing — Commission Staff itself issued its First Request for Information to Duke Energy Kentucky, directing the Company to “[d]escribe what an investigation under this tariff provision entails” and to “[i]dentify how Duke Kentucky determines whether a usage deviation is significant enough to warrant further action.” Commission Staff's First Request for Information to Duke Energy Kentucky, Inc. (Jul. 2, 2026), Item 2. That request tracks, nearly verbatim, the tariff-based monitoring duty under K.Y.P.S.C. Gas No. 2, Fourth Revised Sheet No. 24, and Duke Energy Kentucky answered it under oath through its witness Beth White. If this issue were not properly before the Commission, Commission Staff would not have directed sworn discovery on it. The issue has been part of this proceeding's developed record since July 2026, regardless of how the underlying allegation is procedurally labeled.

To remove any doubt on this point, Complainant respectfully moves, in the alternative, for leave to formally incorporate the factual allegations set forth in Complainant's Reply (filed July 1, 2026) and Supplemental Filing (filed August 3, 2026) into the Complaint in this proceeding.

B. Duke Energy Kentucky's Brief relies on the same filings it asks the Commission to disregard.

Duke Energy Kentucky's own Brief undercuts its procedural objection. In arguing that Complainant lacked a basis to report a leak, Duke Energy Kentucky's Brief quotes Complainant's characterization of his own suspicion as based on "abnormal billing," citing "Complainant's Reply, p. 2." Duke Energy Kentucky's Brief, p. 8 n.42. Duke Energy Kentucky cannot simultaneously rely on Complainant's Reply as evidence against Complainant's position while arguing elsewhere in the same Brief that the Reply is not properly part of this case. The Commission should treat the record as a whole, as Duke Energy Kentucky's own Brief does in practice.

C. The tariff-based monitoring duty applies to Complainant's own account history and does not depend on the prior accountholder's usage.

Duke Energy Kentucky's Brief argues that Sheet No. 24 refers to comparing a customer's current usage to that "customer's past usage," not to a different accountholder's usage, and that "[n]ot all customers behave identically." Duke Energy Kentucky's Brief, p. 10. Complainant agrees that Sheet No. 24 is keyed to a customer's own usage history — and that is precisely the comparison at issue here. Complainant does not need to rely on usage recorded under the prior accountholder's account to establish this claim. The deviation is fully present within Complainant's own account, [REDACTED], using only Duke Energy Kentucky's own billing records for that account:

Billing Period (Account [REDACTED])	Avg Temp	Billed CCF	Change from Immediately Prior Period
December 2025 (11/15–12/15)	31°F	137 CCF	— (baseline for comparison)
January 2026 (12/16–1/16)	38°F	138 CCF	+0.7%, despite 7°F warmer
February 2026 (1/17–2/13)	24°F	223 CCF	+61.6% over January

Duke Energy Kentucky's own witness, Beth White, testified under oath in response to STAFF-DR-01-002 that the Company's billing system "checks the customer's consumption for the same billing period of the previous year and the billing period immediately prior to the current one being evaluated," and then "compares the deviation threshold to a corresponding table in the billing system." Two raw, within-account deviations appear in Duke Energy Kentucky's own data. First, January usage (138 CCF) was essentially unchanged from December (137 CCF) even though January was 7°F warmer, when weather alone would be expected to reduce heating use by roughly one-fifth. Second, February usage rose 61.6% over January. Complainant acknowledges that colder weather accounts for part of the February increase; Complainant's weather-adjusted analysis, filed in this proceeding, attributes 131 CCF of the usage across these periods to a source other than weather. Ms. White's sworn description of the Company's process identifies exactly

these within-account, immediately-prior-period comparisons as the basis for flagging a bill for review. Duke Energy Kentucky's Brief does not dispute that this comparison exists in its own data. It does not address this comparison at all.

Ms. White's response to STAFF-DR-01-002(b) did not disclose the specific numerical threshold used to determine when a deviation warrants action, nor the specific circumstances under which a field investigation is dispatched as opposed to a phone-only review. Without that threshold, neither Complainant nor the Commission can determine, on the present paper record, whether the 61.6% increase shown above should have automatically triggered Duke Energy Kentucky's own investigation process in January or February 2026 — before Complainant ever called. That is a factual question requiring Ms. White's testimony and cross-examination at a hearing; it is not a question the Commission can resolve by dismissing the Complaint on the pleadings.

D. Duke Energy Kentucky's timing argument does not defeat this claim.

Duke Energy Kentucky's Brief argues that any shortfall in the Company's response to Complainant's calls “could not have possibly contributed to any alleged ‘excess’ usage during the several months prior to February 17,” because the disputed billing period entirely preceded Complainant's first call. Duke Energy Kentucky's Brief, p. 9. Complainant agrees that nothing Duke Energy Kentucky did or did not do in response to a phone call could retroactively change usage that had already been billed. But that is not the theory of liability Complainant advances here. The claim is that Duke Energy Kentucky's own automated billing system should have detected and triggered an investigation into the December 2025 and January-to-February 2026 deviations on its own, from its own data, as part of its ordinary monthly billing-exception process — not in response to anything Complainant said on a call. Duke Energy Kentucky's timing argument answers a claim Complainant is not making and leaves this claim entirely unaddressed.

E. Duke Energy Kentucky's own recording of the February 17, 2026 call shows the Company itself treated the usage as a deviation to be investigated.

Duke Energy Kentucky's Brief relies on a selected portion of the February 17, 2026 call. The complete recording was produced to Commission Staff in response to STAFF-DR-01-003 (Attachment 1) and, on Complainant's review of it, includes additional context not reflected in the excerpt quoted in Duke Energy Kentucky's Brief. Complainant refers to it by time stamp, does not reproduce it, and respectfully asks the Commission to review it in full. Complainant's understanding of its contents, which Complainant asks the Commission to verify against the recording itself, is as follows:

(1) At approximately 24:30 to 25:00 of the recording, Complainant tells the Duke Energy Kentucky representative that he has turned his thermostat off to test whether gas is being lost, and the representative acknowledges how difficult it is to determine whether something is wrong with gas service by looking at billing figures alone.

(2) At approximately 31:50 to 32:00, the representative states that the concern is why the usage is so high, and goes to consult a supervisor.

(3) At approximately 36:20 to 37:30, the representative returns and states, in substance, that his supervisor directed that the account be placed “on observation,” that a note be left on file reflecting the Company's suspicion arising from the gas bill, that a ticket be raised, and that the account be placed on an installment plan with no balance due until April “so we can investigate on what's happening.”

Whatever the Commission concludes about the odor question, these portions of Duke Energy Kentucky's own recording show that on February 17, 2026 the Company, through a representative and a supervisor, recognized the usage as a deviation brought to its attention by customer inquiry and stated that it would investigate. That is the circumstance in which Sheet No. 24 provides that the Company “shall immediately investigate.” Duke Energy Kentucky's Brief does not address what investigation followed, whether the ticket and note described on the call exist, or why no field investigation occurred until April 7, 2026. Those are factual questions for Duke Energy Kentucky's witnesses at a hearing.

IV. THE DISCONNECTION NOTICE ISSUE IS SECONDARY AND MAY BE RESOLVED ON A NARROWER RECORD

Complainant acknowledges that service was never actually disconnected and that a portion of the amount referenced in the May 18, 2026 disconnection notice related to charges outside the disputed period. Complainant does not press this issue as a central basis for relief and defers to the Commission's judgment as to whether it warrants further inquiry at a hearing addressing the issues above, or separate resolution.

V. CONCLUSION

A hearing remains necessary in this matter. The central disputed fact — the specific numerical deviation threshold Duke Energy Kentucky's billing system applies, and whether the 61.6% increase in Complainant's own billed usage from January to February 2026 met or exceeded that threshold — has not been disclosed on this record and cannot be resolved without testimony from Duke Energy Kentucky's witnesses, as can the question of what investigation followed the

“observation” note and ticket described on the February 17, 2026 call. Complainant respectfully requests that the Commission deny Duke Energy Kentucky's request for dismissal with prejudice, grant Complainant's Request for Hearing filed October 2, 2026, and grant such other relief as the Commission deems appropriate and just.

/s/ Nicolas Pangallo

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Date: October 14, 2026

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing has been emailed to the Kentucky Public Service Commission at PSCED@ky.gov, and served on counsel for Duke Energy Kentucky, Inc. at the addresses listed below, on this 14th day of October, 2026.

Larisa M. Vaysman, larisa.vaysman@duke-energy.com; Rocco O. D'Ascenzo, rocco.d'ascenzo@duke-energy.com; Sheena McGee Leach, sheena.mcgee@duke-energy.com — Duke Energy Business Services LLC, 139 East Fourth Street, 1303-Main, Cincinnati, Ohio 45202.

/s/ Nicolas Pangallo

Nicolas Pangallo