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June 4, 2024

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

**RE: Duke Energy Progress, LLC's Proposed Order
Docket No. E-2, Sub 1338**

Dear Ms. Dunston:

Enclosed for filing in the above-referenced docket, please find Duke Energy Progress, LLC's Proposed Order.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Robert W. Kaylor, P.A.

Enclosures

cc: Parties of Record

OFFICIAL COPY

JUN 04 2024

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1338

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
)	
Marleen Asbury)	
3117 Brushy Mountain St.)	DUKE ENERGY PROGRESS, LLC'S
Cary, North Carolina 27519)	PROPOSED ORDER
)	
)	Complainant
)	
)	v.
Duke Energy Progress, LLC)	
)	
)	Respondent

HEARD: Tuesday, April 16, 2024 at 10:00 a.m.
Commission Hearing Room 2115
430 North Salisbury Street
Raleigh, North Carolina 27603

BEFORE: Kimberly Murrell, Hearing Examiner

APPEARANCES:

For Complainant:

Marleen Asbury
3117 Brushy Mountain Street
Cary, North Carolina 27519

For Duke Energy Progress, LLC:

Robert W. Kaylor
Law Office of Robert W. Kaylor
P.O. Box 30036
Raleigh, North Carolina 27622

MURRELL, HEARING EXAMINER:

On January 17, 2024, Marleen Asbury (“Complainant”) filed a complaint with the Commission against Duke Energy Progress, LLC (“Duke” or “Respondent”) alleging that Duke had overcharged her electric account by over \$1,000.00 since 2021 as a result of an alleged wrong meter reading at her apartment in Cary, North Carolina.

On January 24, 2024, the Commission issued an *Order Serving Complaint* in the above-referenced proceeding. In that Order, the Commission directed Respondent to either satisfy the demands of Complainant or file an answer with the Commission. On February 2, 2024, Respondent filed an Answer and Motion to Dismiss.

On February 6, 2024, the Commission issued an *Order Serving Answer and Motion to Dismiss*. In that Order, the Commission directed Complainant to review the Answer and Motion to Dismiss and advise the Commission by February 20, 2024, whether the Answer was acceptable and, if not, whether Complainant desired a public hearing to present evidence of her Complaint.

On February 20, 2024, Complainant filed her response indicating that she was not satisfied with the Answer filed by Duke and requested a public hearing to present evidence in support of her complaint.

On March 15, 2024, the Commission issued an *Order Scheduling Hearing* that scheduled the hearing for April 16, 2024.

The Hearing was conducted as scheduled on April 16, 2024.

Based upon consideration of the testimony, the evidence, and the exhibits presented at the hearing, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. Duke is a public utility providing utility service to customers in North Carolina and is subject to the jurisdiction of the Commission.

2. Duke provided electric service to Complainant at her residence at 3117 Brushy Mountain Street, Cary, North Carolina 27519.

3. Complainant, with the burden of proof in this complaint matter, failed to produce evidence supporting her claim that Duke has improperly back-billed her for electricity usage at her apartment and had improperly “prorated” her bills as a result of an alleged “crossed meter” situation with another apartment. The evidence Complainant submitted at the hearing consisted of electric bills, meter numbers, testimony by Complainant and Complainant’s son regarding the electric usage by Complainant at her residence but did not contain any evidence of over-billing or defective meters or incorrect meter readings.

4. Duke presented evidence that Complainant’s billing issues related to a “crossed-meter” between Complainant’s apartment and an adjacent apartment in the apartment complex where Complainant has resided since August 2018, that the corrected billing was made to Complainant’s account after discovery of the adjacent apartment owner being billed for usage that was coming from Complainant’s apartment due to the “crossing” of the meter numbers and that Duke had not “prorated” Complainant’s bill to correct the improper billing for Complainant and the adjacent apartment owner.

DISCUSSION OF EVIDENCE AND CONCLUSIONS

As provided in N.C.G.S. § 62-75, the burden of proof in complaint proceedings is upon the complainant to show the action of the utility with respect to its rates, services, classifications, rules, regulations, or practices is unjust and unreasonable. The Complainant may meet this burden of proof with the submission of evidence, including testimony and exhibits, in support of the complaint at an evidentiary hearing.

In this proceeding Complainant alleges that there have been as many as five different electric meters at her apartment and that if the meters were not connected properly, it was the fault of Duke or the building management. Complainant testified that in 2018 her meter had been changed as the builder of the apartment had installed the wrong meter. There was no billing issue or indication of a meter problem until January 2021 when Duke installed a smart meter. On September 5, 2023, Complainant was informed by the apartment manager that another tenant had complained about a high bill and that Duke would be changing her meter again. Complainant testified that, in her opinion, Duke installed the wrong meter on September 5, 2023, and installed another meter on September 11, 2023. Complainant maintains that the meter to her apartment was the correct meter from September 1, 2018, until September 5, 2023, and that any attempt by Duke to back bill her for usage during that period of time is unreasonable and inaccurate. Complainant testified that due to size of her apartment and the electric appliance in usage that the “prorated” back billing for her alleged usage for over five years is unreasonable and that she should not have to pay any amount to Duke for the back-billing that has been applied to her account.

Duke presented testimony by witness Bob Donaldson, Regulatory Affairs Manager, 25-year employee of Duke Energy with various roles in power quality, energy management, demand side management, and metering. He is a graduate of North Carolina State University with a Bachelor of Science in Mechanical Engineering, a licensed Professional Engineer in North Carolina, licensed Electrical Contractor in North Carolina, and a Certified Energy Manager with the Association of Energy Engineers.

Witness Donaldson denied that Complainant's corrected billing was "prorated" or "based on theory" or that actual usage was not used. The complaint and corrected billing stems from a crossed meter situation between the Complainant's premise at 3117 Brushy Mountain St. and another customer premise at 3112 Brushy Mountain St. in the same apartment building. Corrected invoices and billing for the Complainant's account were based on actual historical metered usage from Complainant's premise at 3117 Brushy Mountain St. that was erroneously applied to the other customer's account at 3112 Brushy Mountain St. Witness Donaldson testified that Duke used actual meter usage to correct the Complainant's account, and that the crossed meter situation and resulting undercharge of the Complainant was discovered by the Company on August 25, 2023. This stemmed from a high bill complaint from the customer in 3112 Brushy Mountain St. who was later found to be overcharged. On August 29, 2023, the Company created and completed an investigation service order to confirm the crossed meter situation in the field. On the date of this service order, the Complainant's meter number on her account was 328530411. This meter number is indicated on Complainant's bill dated August 28, 2023. (Duke Confidential Exhibit A.) Also, on the date of the service order, the meter number on the account serving the customer in 3112 Brushy Mountain St. was 328530413. The completed

service order noted and confirmed that meter 328530411 was installed on the electrical service to 3112 Brushy Mountain St. This was confirmed in the field by powering the meter down and back up. When this was performed by Duke, electrical service was interrupted to the apartment at 3112 Brushy Mountain St. Meter 328530413 was confirmed in the field as installed on the electrical service to 3117 Brushy Mountain St. (the Complainant's premise & service address). Once the crossed meter situation was confirmed in the field by Duke, Duke initiated the bill correction process for the two accounts in question by switching meter numbers on the accounts in the billing system. Duke did not physically switch the meters in the field.

Duke was able to determine that the crossed meter situation and undercharges dated back to October 22, 2021. This date is 672 days prior to the date of discovery of the undercharge. Upon discovery of the undercharge, the Complainant's account was rebilled the difference between the correct meter usage and the incorrect meter usage for the entire 672-day period. The rebill difference was then credited for all additional usage, except the last 150 days allowed for back billing by Commission Rule R8-44(4) a. Witness Donaldson testified that Complainant was not and has not been back billed for the 672-day period, only the 150 days allowed by Commission rule.

On September 22, 2023, a corrected bill was issued to the Complainant that brought the account balance to \$728.64 which included the outstanding balance of \$86.89 at that time plus the Commission allowable back billing charges and associated taxes through August 24, 2023. The corrected bill was set forth in Duke confidential Exhibit B.

On September 26, 2023, a bill was issued (with the correct meter) for \$237.29 for service rendered from August 25, 2023, to September 22, 2023, bringing the account balance to \$965.93.

On September 6, 2023, the Complainant contacted Duke disputing her bill and claiming meter 328530413 on her account was incorrect. The Company created a service order on September 6, 2023, to investigate and reconfirm the meter number. On September 11, 2023, the Company completed the service order. To reconfirm that meter 328530413 was correct, the Company service technician attempted to disconnect the power from the meter and see if power was off in the Complainant's apartment. The meter disconnected power from the Complainant's apartment at 2:53 p.m. but would not reconnect. Given the failed reconnection, the Company service technician elected to replace meter 328530413 with meter 325396214. Upon physically removing meter 328530413 and installing meter 325396214, power was restored to the Complainant's apartment at 3:01 p.m. This activity confirms that meter 328530413 was indeed correct and was installed in the meter base serving the Complainant's apartment.

Complainant continued to claim that her energy use with new and current meter 325396214 was incorrect and requested a meter test on November 9, 2023. The Company tested meter 325396214 on November 13, 2023, per Commission Rule R8-14. The meter tested accurate and within the accuracy requirements of Commission Rule R8-12. Test results are as follows:

Meter Test Date	Accuracy Heavy Load (HL)	Accuracy Light Load (LL)	Accuracy Weighted Avg (WA)
November 13, 2023	100.17	100.12	100.16

Witness Donaldson also provided a comparison of energy usage data supporting the fact that both meters, 328530413 (previous meter, confirmed in the field and used for back billing) and 325396214 (new and current meter) were correct and accurate. Energy usage data for the month of January 2023 for meter 328530413 and January 2024 for meter 325396214 were provided in the chart below:

Meter No.	Month	Period	Days in the Period	Energy Usage (kWh)	kWh/Day
328530413	January 2023	1/1/23 - 1/29/23	29	1400	48.3
325396214	January 2024	1/1/24 - 1/29/24	29	1491	51.4

On February 8, 2024, Witness Donaldson conducted a site visit at the Complainant's apartment complex and confirmed that meter 325396214 does serve the Complainant's premise at 3117 Brushy Mountain St., thus confirming that previous meter 328530413 (in that same meter base) was the correct meter to be used for back billing.

In conclusion, the Hearing Examiner has fully reviewed the testimony and exhibits introduced in this case and concludes that Complainant has failed to meet her burden of proof and that her complaint, therefore, should be dismissed. The evidence indicates that the Company properly calculated the back-billing amount and that the current account balance for Complainant's account is correct and in accordance with applicable Commission rules.

IT IS, THEREFORE, ORDERED that, for the reasons stated herein, the complaint of Marleen Asbury shall be, and is hereby, dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____ 2024.

NORTH CAROLINA UTILITIES COMMISSION

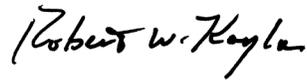
_____, Deputy Clerk

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Proposed Order, in Docket No. E-2, Sub 1338, has been served by hand delivery or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to:

Marleen Asbury
3117 Brushy Mountain Street
Cary, North Carolina 27519

This the 4th day of June, 2024.



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*ATTORNEY FOR RESPONDENT DUKE ENERGY
PROGRESS, LLC*