

FILE

Ohio

Public Utilities
Commission

09150986

Case Number

Public Utilities Commission of Ohio

Attn: Docketing

180 E. Broad St.

Columbus, OH 43215

09-1037-6A-CSS

Formal Complain Form

Gregory Carnes
Customer Name

6716 old station Drive
Customer Address

West Chester Ohio 45069
City State Zip

Against

30502169-03
Account Number

3646 Pebble Creek Court
Customer Service Address (if different from above)

Duke Energy
Utility Company Name

Mason Ohio 45040
City State Zip

Please describe your complaint. (Attach additional sheets if necessary)

See attached

PUCO

2009 NOV -2 PM 1:38

RECEIVED--DOCKETING DIV

Gregory Carnes
Signature

(573) 777-3082
Customer Telephone Number

This is to certify that the images appearing are an
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technician Am Date Processed 11/2/09

Gregory L. Carnes
6716 Old Station Drive
West Chester, Ohio 45069
(513) 777-3082

October 29, 2009

Public Utilities Commission of Ohio
Docketing Division
180 E. Broad St.
Columbus, OH 43215-3793

Subject: Unreasonable charge for an unoccupied residence for Case ID ~~~~0915098G

My family is currently a customer of the utility company Duke Energy, P.O. Box 840, Cincinnati, OH, 45201.

Account Number: 30502169-03
Service Address: 3646 Pebble Creek Court, Mason, Ohio 45040

Duke Energy claims that gas meter #756902 at 3646 Pebble Creek Ct was not registering properly for the time period of 10/02/08 to 8/07/09. As a result of this, the company replaced the meter on 8/07/09. They have re-billed our account for usage they believe did not register. We do not dispute that Duke Energy has the right to re-bill for the portion of any gas that did not register, in accordance with Ohio Revised Code 4933.28. However, we are writing to contest the amount Duke Energy has billed for the time period listed above, which is in violation of Ohio Revised Code 4905.22 "Service and facilities required – unreasonable charge prohibited":

All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission.

In this complaint, we will outline why Duke's re-bill amount is an unreasonable and unjust charge. Please find a copy of the correspondence from Duke Energy included with this complaint (Exhibit 1 – Initial correspondence from Duke, Exhibit 2 – Follow-up correspondence from Duke, Exhibit 3 - Calculation details included with Exhibit 2).

For background, my family vacated 3646 Pebble Creek Court, Mason, Ohio 45040 on 11/27/08. The home was unoccupied from 11/27/08-10/21/09. On 11/27/08, the furnace temperature was significantly reduced from approximately 73 °F to 50 °F. In addition, the hot water heater was turned completely off. We moved into a new residence and began new utility service with Duke at 6716 Old Station Drive, West Chester, Ohio

45069 at approximately this same date of 11-27-08. We have always paid our gas bills on time and this is the first time we have made a complaint against any utility company.

Exhibit 3 shows that Duke's claim of a meter malfunction may be correct. My family and I were residing at 3646 Pebble Creek Court, Mason, Ohio 45040 until 11-27-08, yet the 12-04-08 statement showed 0 CCF usage (see Exhibit 3) for that period. Clearly, some type of malfunction occurred.

The method Duke used to determine our un-billed usage was based on a review of our usage patterns from the prior year, 10/03/07 to 9/03/08. However, what is important to understand is that my family moved out of the residence and Duke's meter malfunctioned within a similar time frame, making comparisons to past usage a grossly inaccurate method to determine usage for the time period when the house was vacated.

Duke made *estimates* of our usage from 10-02-08 to 8-07-09. The "Adjusted CCF" from Exhibit 3 is an attempt by Duke to estimate our usage during the time period of the meter malfunction, basing this estimation on usage from the same time period from the previous year. Since my family had vacated 3646 Pebble Creek Court, Mason, Ohio 45040 on 11-27-08, this adjusted CCF is an inaccurate estimation of actual usage. Duke therefore offered 50% off the adjusted CCF as their initial estimation (see Exhibit 1) of our unmetered usage.

We informed Duke via telephone the additional details of the furnace temperature being reduced from 73 °F to 50 °F, and the hot water heater being turned completely off. Consequently, they further reduced our usage from 50% off the adjusted CCF to 70% off the adjusted CCF. We agree with Duke that 70% off the adjusted CCF is a better, but not necessarily accurate, representation of the actual usage conditions in the residence during the time period of the meter malfunction. Especially given that the house was vacated and winterized, and any usage would be only a fraction of our normal usage or "Adjusted CCF." It should be stressed that no evidence has been offered that even 70% off the adjusted CCF was actually used/unmetered in this situation.

The reason for our complaint to the PUCO is that there are clear errors in Duke's determination of the "Adjusted CCF," leading to further inaccuracies in the 70% off adjusted CCF, and thus the adjusted net charge. We will list these point by point:

1. The "Adjusted CCF" for 6/5/09 from Exhibit 3 shows 27 CCF. The "CCF Usage" for the same time period in the prior year, 6/4/08, shows 24 CCF. Data from the National Weather Service website (www.weather.gov) shows an average temperature in Cincinnati of 64 °F for May 2009 and an average of 61 °F for May 2008. So despite the hot water tank being off in May 2009 and on in May 2008, and the average outside temperature rising in May 2009 compared to May 2008, Duke has estimated that the "Adjusted CCF" increased in May 2009. This is incorrect. (With the indoor temperature set at 50 °F, the average outdoor temperature at 64 °F, and the average low temperature of 54 °F, it is unlikely the furnace was activated except for a rare occasion).

2. The "Adjusted CCF" for 5/6/09 from Exhibit 3 shows 68 CCF. The "CCF Usage" for the same time period in the prior year, 5/5/08, shows 50 CCF. Data from the National Weather Service website shows an average temperature in Cincinnati of 55 °F for April 2009 and an average of 55 °F for April 2008. So despite the hot water tank being off in April 2009 and on in April 2008, and the average outside temperature remaining the same in April 2009 compared to April 2008, Duke has estimated that the "Adjusted CCF" would increase in April 2009. This again is incorrect. (With the indoor temperature set at 50 °F, and the average outdoor temperature at 55 °F, *on average*, the furnace would not have been activated during the month of April 2009).
3. The "Adjusted CCF" for 12/4/08 from Exhibit 3 shows 159 CCF. The "CCF Usage" for the same time period in the prior year, 12/4/07, shows 130 CCF. Data from the National Weather Service website shows an average temperature in Cincinnati of 42 °F for November 2008 and an average of 44 °F for November 2007. It is reasonable to assume there is some increase in the "Adjusted CCF" for November 2008 as a result of the slightly colder temperature. However, as stated above, my family moved out of 3646 Pebble Creek Court, Mason, Ohio 45040 on 11-27-08 and winterized the premises on that date, a fact that can be verified by our new usage with Duke at our new residence. There was therefore a period of days with significantly reduced usage at the premises which would reduce the "Adjusted CCF" for the 12/04/08 billing period compared to the prior year. This is supported by our electric usage dropping from 855 kWh for November 2007 (12/5/07) to 773 kWh for November 2008 (12/5/08). We do not see any evidence that this was taken into consideration in Duke's calculation of "Adjusted CCF" for 12/4/08.
4. The "Adjusted CCF" for 10/31/08 from Exhibit 3 shows 61 CCF. The actual meter reading from 10/31/08 shows 27 CCF of usage. The meter was indeed working in October of 2008 as usage was registered. Duke however has apparently *assumed* that since our usage was less than the previous year statement, 11/1/07, which shows 44 CCF, that the meter must have failed early within the month of October 2008, resulting in unregistered usage. Data from the National Weather Service website shows an average temperature in Cincinnati of 57 °F for October 2008 and an average of 61 °F for October 2007, which is a justifiable reason for the usage to increase. However, from our knowledge of what was going on inside the premises, we know that all things were not equal between those two months. First, my family and I were on vacation for the first week of October 2008. During this vacation, we turned off the furnace and the hot water heater. The fact that we were on vacation in October of 2008 is supported by our electric usage dropping from 694 kWh for October 2007 (11/2/07 bill) to 688 kWh for October 2008 (11/3/08 bill). Also, our daughter Kayla was born in October 2007 and we increased the heat that month to approximately 75 °F in the house so that we could put her in her crib without any blankets, per the National Academy of Pediatrics recommendations. Our

contention is that it is not possible to determine what day the meter failed in October 2008. There are legitimate reasons that the actual gas meter reading of 27 CCF in October of 2008 (10/31/08 bill) is accurate, as we reduced our usage in October of 2008, a contention that is supported by our electric usage drop. Duke's *assumption* that the meter malfunctioned in early in October of 2008 is apparently only based on the fact that their billable revenue year over year is lower, not because of circumstances within the house that would have reduced those usage numbers. Our contention is that there is no evidence that the meter was not reading properly through October 2008 (the 10/31/08 statement). No "Adjusted CCF" is necessary for October 2008; the actual meter reading should be used.

5. As mentioned previously, the hot water heater was turned completely off after our family vacated the premises on 11/27/08. The billing notes in Exhibit 3 shows that Duke has estimated our base usage in the summer months of 2008 to be 14 CCF per month (the average CCF from the 7/3/08, 8/1/08 and 9/3/08 statements). This would be representative of our hot water tank usage, as no usage for home heating would have occurred in these summer months. Given that the hot water heater was turned completely off after our family vacated the premises on 11/27/08, the "Adjusted CCF" should be reduced by 14 CCF per month for the time period from 1/7/09 to 6/5/09. It is not clear to us, nor do the numbers suggest, that this was taken into consideration in Duke's calculation of "Adjusted CCF."

It is understood that under Ohio law Duke has 365 days prior to the date they remedied the meter inaccuracy to bill us. Nonetheless, in this situation, it is within the law to question Duke's methodology of estimating usage when the charges it estimates are unjust and unreasonable. Year over year comparisons are invalid when comparing an occupied premise to an unoccupied premise. It is our opinion, and we hope it is one shared by the PUCO, that Duke should not be entitled to unreasonable and unjust estimations of usage that increase their revenue at the expense of working families.

We are requesting Duke to please re-estimate the usage for the time period in question at 3646 Pebble Creek Court, Mason, Ohio 45040, taking into consideration the factors listed above. Duke has refused our last request to consider these points, and has instructed us that any further correspondence on this matter should be directed to the PUCO. As a result, we are submitting our own estimates of "Adjusted CCF" which can be found in Exhibit 4. Please notice in Exhibit 4 that we have attempted to estimate the "Adjusted CCF" based on the factors discussed above, which would translate to an adjusted net charge of \$262.53. We believe this is a reasonable billing adjustment in this matter. The current adjustment being sought by Duke is \$467.45, which is an excessive amount for an unoccupied residence. It should also be noted that under Ohio Law the maximum portion of the undercharge for unmetered gas rendered that may be recovered from a customer in any billing month is the amount of the undercharge divided by twelve. In Duke's last bill to us, they have required payment for the full amount within one month.

Thank you in advance for your attention and consideration to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gregory L. Carnes".

Gregory L. Carnes

Home: (513) 777-3082

Work: (859) 572-8062



Exhibit 1

DUKE ENERGY CORPORATION
P. O. Box 840
Cincinnati, OH 45201

September 8, 2009

Gregory Carnes
6716 Old Station Dr
West Chester, OH 45069

Subject: Billing Adjustment for Unmetered Usage for Account Number 30502169-03

Dear Mr. Carnes:

It has been determined that gas meter #756902 at 3646 Pebble Creek Ct was not registering properly for the time period of 10-02-08 to 08-07-09. As a result of this finding, the meter was replaced on 08-07-09. Although metering equipment may occasionally malfunction, use of the service often continues without interruption and without proper meter registration.

When this circumstance occurs, Ohio law states that the company can re-bill residential accounts for the portion of gas usage that did not register for up to one year immediately prior to the date the defective meter was removed. Therefore, in accordance with Ohio law, we have recalculated and re-billed your account for the time period of 10-02-08 to 08-07-09 in order to bill for the unmetered usage.

The method of determining the actual usage during this time period was based on a review of your usage patterns before and/or after installation of the new meter. We also reviewed a base period of non-heating and non-air conditioning usage, and used this information to determine usage during the re-billing period. If heating or air conditioning was a factor in this determination, weather difference adjustments were factored into the calculation accordingly. Additionally, the appropriate rate in effect during the malfunction period was used to calculate the dollar amount owed. Any payments made to this account during the noted time period have been credited as well. (Please note: we used 50% of CCF calculated for months January through June, and July through September – used 0 CCF based on info from field technician and your electric usage dropping off after the 12-4-08 meter reading.)

A billing adjustment of \$629.58 for unmetered gas usage will be reflected on your next billing statement.

We realize that unexpected bills can be difficult to manage. After you have received your bill, please feel free to call our Customer Service Department at 1-800-544-6900 if you need to make payment arrangements, or if you have any questions concerning the adjustment.

At Duke Energy, we value you as a customer and appreciate the opportunity to serve you.

Sincerely,

J.R. Rainear
Customer Service Department



DUKE ENERGY
P. O. Box 840
Cincinnati, OH 45201

September 22, 2009

Gregory Carnes
6716 Old Station Dr
West Chester, OH 45069

Subject: Billing Adjustment for Unmetered Usage for Account Number 30502169-03

Dear Mr. Carnes:

As requested, enclosed you will find a spreadsheet with additional information regarding the revenue recovery adjustment for loss of CCF registration from 10-02-08 to 08-07-09.

At Duke Energy, we value you as a customer and appreciate the opportunity to serve you.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.R. Rainear', written in a cursive style.

J.R. Rainear
Customer Service Department

Enclosure

[illegible][illegible]

EXHIBIT 4

	DUKE					CARNES				
Date	Adjusted CCF	70% off Adj CCF	Adjusted Net Charge	\$/CCF		Adjusted CCF	70% off Adj CCF	Adjusted Net Charge	\$/CCF	
9/3/2009	0	0	\$29.30			0	0	\$29.30		
8/7/2009	0	0	\$0.00			0	0	\$0.00		
8/5/2009	0	0	\$29.30			0	0	\$29.30		
7/7/2009	0	0	\$29.30			0	0	\$29.30		
6/5/2009	27	8	\$35.04	\$0.71		0	0	\$29.30	\$0.71	
5/6/2009	68	20	\$40.02	\$0.79		11	3	\$26.57	\$0.79	
4/6/2009	92	28	\$44.82	\$0.81		78	23	\$41.44	\$0.81	
3/6/2009	165	50	\$70.22	\$0.96		151	45	\$66.18	\$0.96	
2/5/2009	230	69	\$101.29	\$1.14		216	65	\$96.50	\$1.14	
1/7/2009	206	62	\$92.20	\$1.13		231	69	\$100.75	\$1.13	
12/4/2008	159	159	\$209.88	\$1.18		114	34	\$62.73	\$1.18	
10/31/2008	61	61	\$94.81	\$0.66		27	8	\$59.90	\$0.66	
Total	1,008	456	\$776.18		Total	828	248	\$571.26		
Minus as billed		27	\$308.73		Minus as billed		27	\$308.73		
Adjustment		429	\$467.45		Adjustment		221	\$262.53		