

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of: :
:
Debbie Malloy, :
:
Complainant, :
:
vs. : Case No. 10-158-EL-CSS
:
:
Duke Energy Ohio, :
:
Respondent. :

- - -

PROCEEDINGS

before Mr. Jim Lynn, Attorney Examiner, at the Public
Utilities Commission of Ohio, 180 East Broad Street,
Room 11-D, Columbus, Ohio, called at 10:12 a.m. on
Tuesday, October 19, 2010.

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1 APPEARANCES:

2 Ms. Debbie Malloy
3 6725 Fairfield Business Drive
4 Value Place
5 Fairfield Ohio 45014.

6 Pro Se.

7 Eberly McMahon, LLC
8 By Mr. Robert A. McMahon
9 2321 Kemper Lane, Suite 100
10 Cincinnati, Ohio 45206

11 On behalf of the Respondent

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1 Tuesday Morning Session,
2 October 19, 2010.

3 - - -

4 THE ATTORNEY EXAMINER: The Public
5 Utilities Commission has assigned for record at this
6 time and place Case No. 09-158-EL-CSS, In the Matter
7 of Debbie Malloy versus Duke Energy Ohio.

8 I am Jim Lynn, the attorney-examiner
9 assigned to hear this case, and at this time we will
10 take the appearances of the parties

11 Ms. Malloy, can you state your name and
12 address.

13 MS. MALLOY: I am Debbie Malloy.

14 THE ATTORNEY EXAMINER: And your address?

15 MS. MALLOY: It's a hotel on Dixie
16 Highway, the Value Place on Dixie Highway.

17 THE ATTORNEY EXAMINER: I have it as
18 6725 Fairfield Business Drive.

19 MS. JONES: Yes, sir, that's it.

20 THE ATTORNEY EXAMINER: Value Place,
21 Fairfield Ohio 45014.

22 And present for Duke Energy.

23 MR. McMAHON: Robert McMahon, the firm of
24 Eberly McMahon, 2321 Kemper Lane, Suite 100,
25 Cincinnati, Ohio 45206.

1 THE ATTORNEY EXAMINER: Thank you.

2 At this time we will begin with

3 Ms. Malloy.

4 Ms. Malloy, if you would like to come up
5 to the witness stand and bring whatever exhibits you
6 have with you and we will swear you in.

7 - - -

8 DEBBIE MALLOY

9 being first duly sworn, as prescribed by law was
10 examined and testified as follows:

11 DIRECT TESTIMONY

12 THE ATTORNEY EXAMINER: If you can
13 describe what brought you here today and what makes
14 up your complaint and so on.

15 MS. MALLOY: About two years ago I
16 started receiving duplicate energy bills.

17 THE ATTORNEY EXAMINER: What do you mean
18 by "duplicate"?

19 MS. MALLOY: I was getting charged for
20 two separate accounts. I called, let them know what
21 was going on. They said they would check into it for
22 me. Nothing happened.

23 Okay, I didn't receive any bills. All of
24 the sudden I started getting four bills all at one
25 time, huge bills. I got a bill for \$1,000. I don't

1 have that one here with me because it was a year and
2 a half ago and I've moved since then. So they said
3 that I owed \$1,184 on one bill for the month of
4 April.

5 THE ATTORNEY EXAMINER: And you're saying
6 this was approximately April 2008?

7 MS. MALLOY: 2008, yes, sir. I think I
8 have that with me. So I argued with them and started
9 to set up payment agreements, and I did that, and
10 just as you can see from these bills here -- do you
11 want to --

12 THE ATTORNEY EXAMINER: Do you have some
13 you want to introduce as exhibits?

14 MS. MALLOY: Yes, I do.

15 THE ATTORNEY EXAMINER: We will call this
16 bill Exhibit 1. This is a bill that is dated
17 April 5, 2010.

18 Off the record, please.

19 (Discussion off record.)

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 THE ATTORNEY EXAMINER: Ms. Malloy has
22 introduced this as Malloy Exhibit 1, and this has
23 multiple pages. It consists of copies of various
24 bills she had received from Duke Energy. One is due
25 date December 3, 2009. Another one is due date July

1 6, 2009. Another is due date May 5, 2010; and a due
2 date of April 5, 2010. So these are copies of four
3 bills that make up this Malloy Exhibit 1.

4 Ms. Malloy, with this information, how
5 about if you could get back to the point you were
6 trying to make with these bills, in fact. What were
7 you trying to say by bringing these bills? What do
8 you have to say?

9 MS. MALLOY: Well, I didn't receive any
10 bills for a while.

11 THE ATTORNEY EXAMINER: You didn't get
12 any at all?

13 MS. MALLOY: No. All of the sudden I got
14 a bill for \$1,084. I kept calling the company when I
15 didn't get a bill, and I explained the situation to
16 them, and they were the rudest, most inconsiderate
17 people I ever dealt with in my life. I tried to tell
18 them that something was wrong because I was getting
19 bills with two different account numbers, and then it
20 was discovered in the pretrial hearing over the phone
21 in June that one account was still attached to the
22 Lakes Edge Apartment that I was living in in '03 to
23 '06.

24 THE ATTORNEY EXAMINER: Ms. Malloy, let
25 me ask you a question. You were saying for a time

1 you did not receive any bills in the mail at all from
2 Duke Energy.

3 MS. MALLOY: Right. And all of the
4 sudden I would get four bills.

5 THE ATTORNEY EXAMINER: Just a minute.
6 For the time you were not receiving any bills at all,
7 what address were you at at the time?

8 MS. MALLOY: The Preserves on Fox Sedge,
9 2455 Sedge Way.

10 THE ATTORNEY EXAMINER: When you were
11 there, you were not receiving any bills for a time.

12 MS. MALLOY: Then I started to get a
13 bill --

14 THE ATTORNEY EXAMINER: And then you
15 started to receive them and --

16 MS. MALLOY: With an account number for
17 the Lakes Edge apartment.

18 THE ATTORNEY EXAMINER: Let's back up.
19 You eventually began to receive bills again when you
20 were at the Fox Sedge address, and this was in
21 April 2008, you were saying approximately then they
22 began to come along.

23 MS. MALLOY: No, it was actually like --
24 yeah, it was around springtime.

25 THE ATTORNEY EXAMINER: Spring of 2008,

1 and at that point in time Duke was stating that you
2 owed over \$1,100, 1,184.

3 MS. MALLOY: Uh-huh.

4 THE ATTORNEY EXAMINER: You mentioned
5 something about different accounts and another
6 address. Could you go on with that, please.

7 MS. MALLOY: Okay. It shows on these
8 bills here.

9 THE ATTORNEY EXAMINER: This is Malloy 1,
10 looking at Malloy Exhibit 1. Which bill are you
11 looking at in particular?

12 MS. MALLOY: Here it is.

13 THE ATTORNEY EXAMINER: This is a page of
14 Malloy Exhibit 1 that has the due date of April 5,
15 2010.

16 MS. MALLOY: And this is the account
17 number.

18 THE ATTORNEY EXAMINER: She's looking at
19 an account number that ends in 15-2.

20 Mr. McMahon, do have that page?

21 MR. McMAHON: I do.

22 THE ATTORNEY EXAMINER: What are you
23 comparing it to?

24 MS. MALLOY: To this bill of December 3,
25 '09.

1 MR. McMAHON: And this is an account
2 number that ends in 10-1.

3 MS. MALLOY: 10-1. And it says here on
4 the April 5 bill that I owe \$674.46.

5 THE ATTORNEY EXAMINER: Ms. Malloy is
6 looking at the amount, the current amount due.

7 MS. MALLOY: This one says that I owe
8 \$705.

9 THE ATTORNEY EXAMINER: She's now
10 referring to the bill that is dated December of 2009,
11 due date December 3, 2009, and that has a total
12 account balance -- current amount due of 200.04 and a
13 total account balance of \$705.22.

14 MS. MALLOY: 705.

15 THE ATTORNEY EXAMINER: \$705.22.
16 Ms. Malloy, you are looking at some other pages in
17 Malloy Exhibit 1.

18 MS. MALLOY: Then it goes to July 6,
19 2009.

20 THE ATTORNEY EXAMINER: So she's pointing
21 to a page of Malloy Exhibit 1 that has a due date
22 July 6, 2009, and that's the account that ends in
23 10-1, total account balance \$981.88.

24 MS. MALLOY: And then May 2010, this was
25 the final bill.

1 THE ATTORNEY EXAMINER: She's looking at
2 due date May 5, 2010 of Exhibit 1 and it indicates a
3 current amount due of \$674.46.

4 Mr. McMahon, I didn't want to get ahead
5 of you on these.

6 MR. McMAHON: I'm following.

7 THE ATTORNEY EXAMINER: That's the
8 account that ends in 10-1. This was the -- I'm
9 sorry, it ends is 15-2. So it's dated May 5, 2010,
10 and it indicates an amount owed of \$674.46.

11 MS. MALLOY: So they're still billing me
12 for the two accounts.

13 THE ATTORNEY EXAMINER: Okay.

14 MS. MALLOY: And I tried endlessly to
15 work this out with the customer service reps, and
16 it's very difficult to do that because my ex-husband,
17 Patrick A. Malloy, is the senior coordinator for
18 Duke, and he assaulted me.

19 So it's very difficult. It was very
20 difficult to relay this information to them, and I
21 was treated very rudely. I started making the
22 payments because of the rudeness of the people that I
23 was dealing with, and this is the payment history.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 THE ATTORNEY EXAMINER: Ms. Malloy has

1 what we will call this Malloy Exhibit 2. These are
2 copies of money -- this is a copy of the money order
3 receipt, and a copy of letter from Fifth/Third Bank,
4 and we have a copy of a bill here that you had
5 written a money order number on.

6 MS. MALLOY: Right.

7 THE ATTORNEY EXAMINER: And we can go off
8 the record for a minute to show Mr. McMahon what you
9 have here.

10 MR. McMAHON: I saw them before the
11 hearing. I don't have copies of any of those things.

12 THE ATTORNEY EXAMINER: Off the record.

13 (Discussion off record.)

14 THE ATTORNEY EXAMINER: Again, we have
15 three pages of Malloy Exhibit 2. There is a money
16 order receipt that is -- I didn't find the date on
17 here but it may be evident somewhere, and that's for
18 \$153.

19 There's also a letter from the
20 Fifth/Third Bank addressed to Ms. Malloy,
21 February 17, 2010 indicating a payment that she made
22 to Duke Energy February 2, 2010.

23 And finally a copy of a bill from
24 Cinergy, which is the predecessor of Duke Energy, and
25 that's bill that has a due date of May 3, 2006, and

1 Ms. Malloy has written on there a money order number
2 that ends in 660, and she also indicates \$153,
3 May 28.

4 MR. McMAHON: Okay.

5 THE ATTORNEY EXAMINER: Were you able to
6 keep with that, Mr. McMahon?

7 MR. McMAHON: Yes. I've noted what those
8 documents are. I guess I will deal with the
9 admissibility at a later time.

10 THE ATTORNEY EXAMINER: All right, yes.

11 MS. MALLOY: There were also two
12 additional payments that I don't have verification of
13 because they were made by my parents.

14 THE ATTORNEY EXAMINER: Those were made
15 2009, 2010?

16 MS. MALLOY: 2009 and 2010.

17 THE ATTORNEY EXAMINER: I see. And how
18 many of those payments?

19 MS. MALLOY: Two.

20 THE ATTORNEY EXAMINER: On two separate
21 occasions?

22 MS. MALLOY: Uh-huh.

23 THE ATTORNEY EXAMINER: What other
24 evidence might you have or what other comments might
25 you have today?

1 MS. MALLOY: I was overbilled by about --
2 I have it broken down but I don't have it up here
3 with me.

4 THE ATTORNEY EXAMINER: So you feel you
5 were overbilled.

6 MS. MALLOY: I don't use -- I didn't use
7 my heating or my air conditioning when I was living
8 in that apartment because --

9 THE ATTORNEY EXAMINER: You are referring
10 to the Fox Sedge Way address?

11 MS. MALLOY: Yes. And the Lakes Edge
12 address also. I was told by Alicia and by several
13 other customer service representatives for Duke that
14 anyone who turns down their heat and does not use
15 their air conditioning that the bill runs about
16 \$30 for a one-bedroom apartment.

17 I was the living in a one-bedroom
18 apartment and my bills were outrageously high, and,
19 like I said, I didn't receive a bill for a long time,
20 and so I figured if you take \$30 times 12, it comes
21 out to what?

22 THE ATTORNEY EXAMINER: 360.

23 MS. MALLOY: \$360, and I was being billed
24 \$1,100.

25 Then I was told by another very rude

1 representative that they guesstimated my bill. It
2 was guesstimated based on the amount of electric that
3 was used by everyone in our apartment complex, in
4 other words, an even bill.

5 And I was living in an apartment complex
6 with a very wealthy man, businessman, who owned his
7 own corporation, who was paying for 600 of his
8 employees to live there and he was paying all their
9 utilities.

10 MR. McMAHON: Objection, relevance.

11 THE ATTORNEY EXAMINER: We will strike
12 that. Just focus on your own place.

13 MS. MALLOY: I was told by one of their
14 representatives that my bills were being compared to
15 the other people living in that same building, and if
16 I knew that, my bill, I wouldn't have turned off my
17 heat or my air conditioning and my bill would be, you
18 know -- he would be paying for my bill, and he
19 wasn't.

20 MR. McMAHON: Objection, relevance.

21 THE ATTORNEY EXAMINER: Well, we'll
22 strike that, too. I understand how you feel.

23 MS. MALLOY: But that's what I was told
24 by their employees, that my bills were being
25 guesstimated according to the people who were living

1 in the same building. And if this man was paying for
2 these other people to live there, do you think
3 they're going to have a \$30 bill for their electric?

4 MR. McMAHON: Objection, lack of
5 foundation, relevancy.

6 MS. MALLOY: I don't think so.

7 THE ATTORNEY EXAMINER: This isn't the
8 point to be asking questions.

9 MS. MALLOY: Okay.

10 THE ATTORNEY EXAMINER: You introduced a
11 couple of exhibits and you have indicated that --

12 MS. MALLOY: But I wasn't aware I was on
13 even billing, and I did not tell them that, that I
14 was on even billing, and then I was told that they
15 guesstimated that.

16 THE ATTORNEY EXAMINER: You say they were
17 billing you like approximately the same amount due
18 every month or something?

19 MS. MALLOY: Right. And if that were
20 true, I wouldn't have such high bills.

21 THE ATTORNEY EXAMINER: Okay. Just for
22 the record, too, this is other evidence from
23 Ms. Malloy. It shows the 2455 Fox Sedge Way,
24 Apartment B, and that is in West Chester, Ohio.

25 Ms. Malloy, so apparently then from what

1 you're saying, you feel that for the amount of
2 electricity that you used, you were overbilled, and
3 you're indicating that you believe that was true for
4 your Fox Sedge address and also your address which
5 was on Lakes Edge Drive. You are saying either
6 location you used a minimal amount.

7 MS. MALLOY: Right. That bill was
8 finalized and taken care of when I left there.

9 THE ATTORNEY EXAMINER: The one on Lakes
10 Edge Drive?

11 MS. MALLOY: Yes, sir. There was a very
12 nice woman from our church who came and helped me and
13 paid everything off.

14 THE ATTORNEY EXAMINER: Do you have
15 anything at all today to indicate that?

16 MS. MALLOY: It was almost seven years
17 ago.

18 THE ATTORNEY EXAMINER: So you left the
19 prior address, you left the Lakes Edge Drive
20 approximately when?

21 MS. MALLOY: I can tell you right here,
22 1/31 of '04.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 THE ATTORNEY EXAMINER: Ms. Malloy has
25 handed me a letter. We will call this Malloy

1 Exhibit 3. It's a letter -- just a minute, we will
2 call these two pages Malloy Exhibit 3.

3 Off the record for a minute.

4 (Discussion off record.)

5 THE ATTORNEY EXAMINER: Malloy
6 Exhibit 3 consists of two pages. One is a letter
7 from Summit Management Services. It indicates that
8 when she vacated the prior address on Lakes Edge
9 Drive in West Chester; and the other sheet of paper
10 is a letter indicating when she moved in and began
11 her lease at Fox Sedge Way.

12 So, Ms. Malloy, you introduced evidence
13 about when you left the Lakes Edge Drive address and
14 you moved into Fox Sedge. You indicated that someone
15 paid up all your past-due bills before --

16 MS. MALLOY: Yes, sir, they did.

17 THE ATTORNEY EXAMINER: -- before you
18 left the Lakes Edge address.

19 MS. MALLOY: Yes, sir.

20 THE ATTORNEY EXAMINER: You don't have
21 any evidence with you today.

22 MS. MALLOY: It was seven years ago, your
23 Honor. I moved several times and I don't have that
24 information.

25 THE ATTORNEY EXAMINER: Okay. Are there

1 any other comments you would have?

2 MS. MALLOY: Just that I broke down, you
3 know, like I said it was -- if my bill is being
4 guesstimated at -- supposed to be guesstimated at
5 \$30 a month based on a one-bedroom apartment and I
6 was being charged \$1,184, I broke it down with the
7 payments.

8 And you don't understand what I went
9 through. I had a very good relationship with my
10 property manager, and she got very irate and very
11 violent with me. She shut off my water. It was
12 cold. I didn't have any water or heat because of
13 this issue.

14 My electricity was being shut off. They
15 would not listen to me. They were rude. And I feel
16 like I should be reimbursed for the money that I was
17 overpaid, and I lost \$150 in food because of the
18 disconnections that were done to me unnecessarily.
19 My electricity was disconnected two days -- for an
20 entire month and up to two days before my daughter
21 was married.

22 So it's been a very --

23 THE ATTORNEY EXAMINER: All three
24 disconnections you are referring to, those were on
25 the Fox Sedge address?

1 MS. MALLOY: Yes. That's when I started
2 getting the double billing. It wasn't until we had
3 the initial hearing that they understood that there
4 were two accounts.

5 THE ATTORNEY EXAMINER: When you say
6 that, you actually mean the prehearing conference?

7 MS. MALLOY: Yes, sir. I wish I could
8 have the representative that helped me because I feel
9 like I'm being left alone in this, and, you know, I
10 feel like before I at least had somebody to help.

11 THE ATTORNEY EXAMINER: Sure. Okay.

12 MS. MALLOY: But I broke it down. Can
13 you understand that?

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 THE ATTORNEY EXAMINER: We can call this
16 Malloy Exhibit 4, what you're indicating apparently
17 is what you believe your amount of overpayment was.

18 MS. MALLOY: Uh-huh.

19 THE ATTORNEY EXAMINER: I see. Okay.

20 I'll show this to you, Mr. McMahon.

21 We will call this Malloy Exhibit 4, and
22 this is Ms. Malloy's handwritten description of what
23 she believes was her overpayment to Duke Energy.

24 And this is while you were living on at
25 Fox Sedge address in West Chester, Ohio.

1 MS. MALLOY: Yes, sir.

2 THE ATTORNEY EXAMINER: Okay. Did you
3 have any other exhibits?

4 MS. MALLOY: I don't believe so.

5 THE ATTORNEY EXAMINER: You don't believe
6 so, okay.

7 MS. MALLOY: I did have -- I did have
8 where they started to listen to me and they started
9 adjusting my bill. And you could see -- you know how
10 they have those little bars?

11 THE ATTORNEY EXAMINER: You are referring
12 to maybe copies of prior bills or something.

13 MS. MALLOY: Right. See how these --

14 THE ATTORNEY EXAMINER: Ms. Malloy has --
15 this is a bill from Cinergy where it indicates the
16 prior electric usage. It does not indicate, though,
17 the date of this bill.

18 We will go off the record for a minute.

19 (Discussion off record.)

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 THE ATTORNEY EXAMINER: This will be
22 Malloy Exhibit 5. It's a second page of a bill that
23 we have determined was due May 3, 2006. It
24 indicates, according to Ms. Malloy, was trying to
25 point out like prior usage. There is like a bar

1 graph there.

2 And can you explain what you are trying
3 to point out there?

4 MS. MALLOY: Well, there was very little
5 electricity used, and then it spiked, and so it
6 doubled, which would explain the double billing.

7 THE ATTORNEY EXAMINER: Looks like as
8 though from December of '05 onward the electric
9 kilowatts used spiked.

10 MS. MALLOY: Because that's when they
11 started to backpay. They started to backpay.

12 THE ATTORNEY EXAMINER: Back-bill?

13 MS. MALLOY: Right.

14 THE ATTORNEY EXAMINER: Ms. Malloy, when
15 you mentioned double billing, just to get it clear in
16 my own mind --

17 MS. MALLOY: They were using two
18 different accounts but still billing me
19 simultaneously.

20 THE ATTORNEY EXAMINER: When you say two
21 accounts --

22 MS. MALLOY: The two different accounts.

23 THE ATTORNEY EXAMINER: You're saying you
24 were being billed for the Lakes Edge account as well
25 as the Fox Sedge account?

1 MS. MALLOY: Yes, sir.

2 THE ATTORNEY EXAMINER: And you were
3 being billed for both accounts even though you're
4 saying --

5 MS. MALLOY: I can't live in two
6 apartments at one time.

7 THE ATTORNEY EXAMINER: Well, you're also
8 saying when you vacated the location at Lakes Edge
9 that was paid by some kind benefactor.

10 MS. MALLOY: Yes.

11 THE ATTORNEY EXAMINER: You are also
12 indicating when you lived in the new address at Fox
13 Sedge, according to your exhibits, Malloy Exhibit 3,
14 you moved into that address in January of '04.
15 You're saying for a time you did not get any electric
16 bill in the mail at all.

17 MS. MALLOY: (Witness shakes head.)

18 I called them and asked them how much I
19 needed to send, and I would send them a check as soon
20 as they told me. And that's exactly what I did.
21 Every time I get off the phone with them, I sent a
22 check. Even though these checks were like for \$179 I
23 don't -- I don't use that much.

24 THE ATTORNEY EXAMINER: So you're saying
25 that when you did not receive -- you moved into Fox

1 Sedge and did not get a bill for sometime --

2 MS. MALLOY: This started back in 2008.

3 THE ATTORNEY EXAMINER: Oh, I see, so you
4 started to get a bill for awhile.

5 MS. MALLOY: Yes. And then all the
6 sudden --

7 THE ATTORNEY EXAMINER: And then the
8 bills just stopped.

9 MS. MALLOY: The way that the woman,
10 which I explained in that letter from the other
11 apartment that I gave you --

12 THE ATTORNEY EXAMINER: Just a minute.
13 Go off the record.

14 (Discussion off record.)

15 THE ATTORNEY EXAMINER: Ms. Malloy is
16 looking at Exhibit 3.

17 MS. MALLOY: They were bought out by
18 another company and somehow picked up the old
19 information from my old address. That's what I was
20 told by this woman who now is in charge of that
21 property, which is the Lakes Edge property.

22 MR. McMAHON: Objection, hearsay.

23 THE ATTORNEY EXAMINER: We will strike
24 that.

25 MS. MALLOY: That explains the whole

1 thing.

2 THE ATTORNEY EXAMINER: Well, we have the
3 exhibits, Exhibit 3. So again what you're telling me
4 you moved into this new location, Fox Sedge Way. You
5 did receive bills from Duke/Cinergy, now Duke, for a
6 time, and then you're saying there was a period of
7 time there were no bills at all sent to you.

8 MS. MALLOY: But I was still in contact
9 with them because I wanted to pay a bill so I would
10 pay whatever they told me.

11 THE ATTORNEY EXAMINER: You would call
12 them and say, "I didn't get a bill lately. What's
13 going on?"

14 MS. MALLOY: Yes.

15 THE ATTORNEY EXAMINER: That period of
16 time began approximately when, ma'am; do you recall?

17 MS. MALLOY: In '08 when this all started
18 happening.

19 THE ATTORNEY EXAMINER: Approximately
20 2008. And you indicated in April 2008 bills appeared
21 in the mail again and they were saying I owed --

22 MS. MALLOY: Got four at all at one time.

23 THE ATTORNEY EXAMINER: Four all at one
24 time. And this was indicating usage at the Fox Sedge
25 and Lakes Edge.

1 MS. MALLOY: Fox Sedge and Lakes Edge.
2 She said that they picked up, that woman.

3 THE ATTORNEY EXAMINER: You're referring
4 to the person that wrote the letter about how you
5 left the Lakes Edge address.

6 MS. MALLOY: She said that it was bought
7 out by another company, and they didn't even have me
8 listed as a resident there because things got so
9 messed up. The property was bad. I had so many
10 problems in that apartment; that's why I moved.

11 MR. McMAHON: Objection, move to strike
12 the testimony. The comments were made by some
13 unidentified person as hearsay when she said "she
14 said."

15 THE ATTORNEY EXAMINER: We will strike
16 that.

17 Ms. Malloy, you're indicating you
18 received in April of 2008 four bills and you owed
19 them --

20 MS. MALLOY: But they were from both
21 accounts.

22 THE ATTORNEY EXAMINER: Okay, both
23 addresses you mean.

24 MS. MALLOY: Right. And each time I
25 would call Duke, I would be treated so poorly and so

1 disrespectful, it was awful trying, so I just started
2 paying the bills.

3 THE ATTORNEY EXAMINER: You said this was
4 in April 2008 the bills reappeared after a gap of
5 time when they were not there.

6 MS. MALLOY: Yes, sir.

7 THE ATTORNEY EXAMINER: That was two
8 years ago. I assume since they aren't with you
9 today, you don't have copies of them.

10 MS. MALLOY: No.

11 THE ATTORNEY EXAMINER: And you're
12 claiming when the bills reappeared again, you did
13 begin to make payments to Duke.

14 MS. MALLOY: (Witness nods head.)

15 THE ATTORNEY EXAMINER: Okay. Is it
16 your -- and are you stating that you believe after
17 the bills resumed and you began the payments, that
18 your payments were current when you left Fox Sedge?
19 How do you feel about --

20 MS. MALLOY: Well, when I left Fox Sedge
21 is when I contacted PUCO.

22 THE ATTORNEY EXAMINER: Okay.

23 MS. MALLOY: And I was under the
24 understanding that as long as it was under dispute,
25 that until it was -- you know, until we had this

1 hearing, that I didn't have to resume payment until
2 it was resolved. So I haven't -- according to them,
3 I still owed -- on top of that I still owed almost
4 \$500. There's no way.

5 THE ATTORNEY EXAMINER: All right.

6 MS. MALLOY: So that's why I'm here.
7 That's why.

8 THE ATTORNEY EXAMINER: Off the record
9 for a minute.

10 (Discussion off record.).

11 THE ATTORNEY EXAMINER: So Ms. Malloy, is
12 it your belief that when you moved out of Fox
13 Sedge --

14 MS. MALLOY: That I was paid up? Yeah,
15 well overpaid up.

16 THE ATTORNEY EXAMINER: You feel you were
17 overpaid up.

18 MS. MALLOY: According to them they are
19 saying I still owed \$490 and when I called
20 Mr. McMahon recently to try to work this out, he said
21 it was far more than \$500 I owed.

22 MR. McMAHON: Object to any comments
23 involved with settlement negotiations or anything
24 like that.

25 THE ATTORNEY EXAMINER: Anything about

1 negotiations prior to now are not part of the record,
2 so we will strike that.

3 MS. MALLOY: He said they were way more
4 than that.

5 THE ATTORNEY EXAMINER: Ms. Malloy, your
6 belief is by the time you moved out of the Fox Sedge
7 address that you --

8 MS. MALLOY: I wasn't current because I
9 stopped paying because they said in the paperwork
10 when I filed a complaint with PUCO, as long as it was
11 under investigation --

12 THE ATTORNEY EXAMINER: You don't feel
13 you were fully paid up; you were current because you
14 had disputed --

15 MS. MALLOY: Yes, I was current according
16 to me but not according to them.

17 THE ATTORNEY EXAMINER: Okay. And you
18 also believe at the time you moved out of the Fox
19 Sedge address, am I correct that you believe you had
20 paid whatever you did owe? You seem to indicate you
21 feel you overpaid.

22 MS. MALLOY: Yes. I was just trying to
23 satisfy them because that's what I was told. This
24 happened to several of my friends and they make a lot
25 more money than I do, and they have a better job than

1 I have, and they can afford to pay people who say
2 they owe more money than they really do.

3 MR. McMAHON: Objection, relevance.

4 THE ATTORNEY EXAMINER: The comments of
5 other folks, we will strike that.

6 MS. MALLOY: I'm sorry.

7 THE ATTORNEY EXAMINER: Okay. Thank you
8 for your testimony.

9 Mr. McMahon, I'm sure you have questions
10 for the witness.

11 MR. McMAHON: I have questions but I have
12 admissibility objections first about the exhibits.
13 Would you like those first?

14 THE ATTORNEY EXAMINER: Yes. Why don't
15 you give those.

16 Well, Ms. Malloy, since you introduced
17 these as exhibits, I'm sure you want them to have
18 included as part of the official record.

19 MS. MALLOY: Yes.

20 THE ATTORNEY EXAMINER: Mr. McMahon, what
21 are your objections to these? Do you want to see
22 them?

23 MR. McMAHON: No. I will just go through
24 them for the record. For the record, I have no
25 objection to Malloy Exhibit 1.

1 THE ATTORNEY EXAMINER: That's basically
2 the copies of bills and such from Duke.

3 MR. McMAHON: Correct.

4 Malloy Exhibit 2, Duke Energy objects to
5 the second page, the letter from the Fifth/Third Bank
6 dated February 17, 2010 as inadmissible hearsay.
7 It's an out-of-court statement trying to prove the
8 truth of a matter of some payment allegedly made from
9 her account. A canceled check would be appropriate
10 but not some unauthenticated letter from Fifth/Third
11 Bank.

12 THE ATTORNEY EXAMINER: Okay. Exhibit 3.

13 MR. McMAHON: Exhibit 3 we object to both
14 pages as inadmissible hearsay and relevance.
15 Ms. Malloy is allowed to testify about the time she
16 lived at various addresses, but these documents shed
17 no light and they are out-of-court statements offered
18 purportedly to prove when she lived at one or both
19 addresses, so both documents are hearsay.

20 THE ATTORNEY EXAMINER: I'm sorry, you
21 stated because she was permitted to say --

22 MR. McMAHON: I said she's allowed to
23 testify, but these documents in Exhibit 3 are hearsay
24 documents, documents from out-of-court witnesses,
25 from alleged management companies that purportedly

1 she is trying to introduce as evidence when she did
2 live or didn't live at certain properties.

3 THE ATTORNEY EXAMINER: You have
4 objections to Malloy Exhibit 4?

5 MR. McMAHON: Yes, hearsay and no
6 foundation for the evidence. Ms. Malloy can provide
7 direct testimony, but she's not allowed to write
8 documents, write testimony without any backup or
9 support from the information set forth in that
10 document.

11 THE ATTORNEY EXAMINER: And Exhibit 5.

12 MR. McMAHON: Exhibit 5 I'm not concerned
13 about. Even though it's an incomplete document, we
14 have the record.

15 THE ATTORNEY EXAMINER: Thank you. I'll
16 make a note of your objections, Mr. McMahan. I
17 believe Ms. Malloy has relied on the information she
18 had and we will give -- the Commission will give the
19 appropriate weight to these exhibits when a decision
20 is made, so we will overrule your objections, but we
21 understand what your comments are, and therefore,
22 they will be admitted into evidence.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 MR. McMAHON: Thank you.

25 MS. MALLOY: Do you have a copy of the

overpayments?

THE ATTORNEY EXAMINER: Are you referring to this, Malloy Exhibit 5?

MR. McMAHON: Yes, we do. Thank you.

THE ATTORNEY EXAMINER: Thank you, Mr. McMahon. You said you had a few questions for her.

MR. McMAHON: I do.

- - -

CROSS-EXAMINATION

By Mr. McMahon:

Q. Ms. Malloy, I just need to confirm, I had trouble following when you lived at each address.

A. Okay.

Q. When did you live at Lakes Edge Drive?

A. I only lived there for nine months.

Q. So from approximately April or May of '03 until the end of January of '04?

A. No. I moved in Lakes Edge in November of '03.

Q. You moved into Lakes Edge in November.

A. Of '03.

Q. And you moved out nine months later.

A. Nine months later.

Q. Okay. And you lived a 2455 Fox Sedge,

1 Apartment B from when?

2 A. From 1/31/04 until April 15, 2010.

3 Q. Okay. Just to be clear, there's a little
4 bit of inconsistency there. You said you moved into
5 Lakes Edge Drive in November of '03 and moved out
6 nine months later.

7 A. I did.

8 Q. But if you moved into Fox Sedge Drive in
9 January '04, that would only have been three months
10 later?

11 A. I don't know.

12 Q. Okay.

13 A. Maybe it was '02. It was '02 maybe. No,
14 I was only there nine months.

15 Q. Okay. So it would have been earlier in
16 '03, not November.

17 A. No, it was in November. I moved in
18 November. November 4.

19 Q. Okay.

20 A. No, it was '02. It was '02.

21 Q. So you moved in Lakes Edge Drive --

22 A. November 4th of 2002 I moved in the Lakes
23 Edge address, and I moved out of there on January 28
24 or 29 because I moved back into the Fox Sedge Way
25 address on 31st. We had a snowstorm in between

1 there.

2 Q. Okay.

3 A. We had a snowstorm, a huge snowstorm, and
4 that's why I stayed with some friends.

5 Q. So you were in Lakes Edge Drive from
6 November '02 to the end of January '04, and then
7 moved into Fox Sedge, Apartment B in January 31, '04
8 until April 15, 2010.

9 A. Till April 15, 2010.

10 Q. Okay. Thank you. Before I get into some
11 of the bills actually today, you have no evidence
12 today as to kilowatts --

13 A. Excuse me, I cannot prove anything with
14 any bills from '02 until '08 because I was in a
15 different apartment. When you go back and
16 specifically ask about specific payments on specific
17 days and specific years, I have been through so much
18 because of what your coordinating supervisor has put
19 me through, and I don't think you understand the
20 validity of that.

21 Q. Ma'am, I'm just trying to follow up with
22 some questions from your testimony.

23 MS. MALLOY: I can't answer their
24 questions if they're going to go back to specific
25 billings on specific years.

1 THE ATTORNEY EXAMINER: If you can't,
2 just indicate you don't remember back that far, you
3 don't have the information; but Mr. McMahon can ask
4 to clarify things in his mind.

5 Q. My question before you started is simply
6 this: You don't have any evidence here this morning
7 as to the kilowatts you claim to have actually used
8 at the Fox Sedge address, Apartment B, correct?

9 A. Just the one I have from those bills.

10 Q. You have the bills from Duke Energy,
11 correct?

12 A. Uh-huh.

13 Q. You need to say it out loud?

14 A. I don't know if I have them with me.

15 Q. Other than Duke Energy --

16 MS. MALLOY: Except what I showed you.

17 THE ATTORNEY EXAMINER: Okay. I think,
18 Ms. Malloy, you are referring to this Malloy
19 Exhibit 5 with the little bar graph. That's the bill
20 that was due May 3, 2006.

21 A. That's what I was trying to say. I don't
22 have that with me, so when you're coming at with me
23 that information, I have no answer for you because I
24 can't answer truthfully or honestly, and I can't
25 defend myself against your allegations if I don't

1 have the information.

2 THE ATTORNEY EXAMINER: Mr. McMahon, if
3 in you have a question you want to finish.

4 Q. I'm just trying, Ms. Malloy, to
5 confirm --

6 THE ATTORNEY EXAMINER: Honestly if you
7 don't know, just say whatever the appropriate answer
8 would be.

9 Q. Other than the information set forth on
10 Duke Energy's bills, you don't have any other
11 information as to the kilowatts of electricity that
12 you claim to have actually used at your apartment,
13 correct?

14 A. No. Except for I did not use my air
15 conditioning, my heating. I had a refrigerator and a
16 TV and a small lamp.

17 Q. Okay. As to how many kilowatts --

18 A. I have no idea, sir, no.

19 Q. Fair enough. And you also don't have any
20 evidence about the value of any food that was
21 allegedly lost when your service was disconnected,
22 correct?

23 A. I was given -- given three \$50 gift
24 certificates from the St. Vincent de Paul Society
25 from St. Maximilian Kolbe Church, who helped me with

1 the food, and I each time my electricity was
2 disconnected, I based it on that amount because that
3 is -- I would buy food and the next day I would have
4 no electric.

5 And I went without electric, sir, for a
6 month and a half at one time. So I was still
7 receiving bills with usage during those times that my
8 electric was disconnected.

9 Q. Okay. And do you have those bills today?

10 A. No. You don't understand, sir, I have
11 been forced to move several times because of this
12 issue, and it's very difficult because I have people
13 who at this current moment aren't respecting me very
14 much because of the situation that I'm in. It's very
15 difficult.

16 Q. And I understand that, ma'am. I'm just
17 trying to get the information.

18 A. So they take my things and they just
19 discard them. So I had everything that I needed and
20 they were just tossed in a storage unit, and you try
21 to go through a mess.

22 Q. Okay.

23 A. And this is done because -- and I know
24 there's no one here to defend that, so I know what I
25 say is not going to be taken seriously, but because

1 it's because of my ex-husband's relationship with me
2 and it's my daughters, and they feel like I'm here to
3 get him in trouble and I'm not. I'm just trying to
4 prove to you that it's because of this issue --

5 THE ATTORNEY EXAMINER: We can go off the
6 record for a minute.

7 (Recess taken.)

8 Mr. McMahon any other questions?

9 MR. McMAHON: Yes.

10 Q. (By Mr. McMahon) You made the claim that
11 you were billed twice for two different apartments,
12 for usage at two different apartments, yet you don't
13 have any of that evidence here today, correct?

14 A. Well, I do have evidence. There's the
15 two different accounts on one address.

16 Q. You are referring to the exhibits you
17 offered into evidence.

18 A. But then when we had the initial hearing
19 for this, that's when it was brought up by my -- I
20 wish she was here. I wish I had somebody on my side
21 to help me to defend myself because I feel like I'm
22 being ambushed. Here it is.

23 THE ATTORNEY EXAMINER: Okay. Let's look
24 at this for a minute.

25 MS. MALLOY: This is the account for the

1 Lakes Edge account but it has Fox Sedge address.

2 THE ATTORNEY EXAMINER: Off the record
3 for a minute.

4 (Discussion off record.)

5 THE ATTORNEY EXAMINER: I will mention
6 that she's referring to Malloy Exhibit 1, the page
7 that has a due date December 3, 2009, and the account
8 number ends in 10-1; and then the bill that has a due
9 date May 5, 2010, and that has an account number
10 ending in 15-2.

11 Ms. Malloy, the point you were trying to
12 make with those was --

13 MS. MALLOY: The 15-2 account has the
14 billing address of Fox Sedge Way, which was my
15 current address. And then you also have the correct
16 account number for Fox Sedge, but you have the same
17 address on each account.

18 Q. Are you aware, though, ma'am, that all of
19 these bills in your Exhibit 1 relate to the same
20 address, 2455 --

21 A. That's what I'm saying. One account is
22 for Lakes Edge. That account should not exist. That
23 account was paid up.

24 Q. Actually, what I'm trying to confirm.
25 Are you aware that all four of these bills relate to;

1 2455 Fox Sedge; none of this is for Lakes Edge?

2 A. No; that's because they changed the
3 address but they didn't change the account number.

4 MR. McMAHON: Ms. Jones can explain that.

5 THE ATTORNEY EXAMINER: Okay. You can do
6 that with your witness' testimony.

7 Thank you, Ms. Malloy.

8 Q. In your Exhibit 2 you offered some
9 evidence about a \$153 payment from a money order. Do
10 you recall that?

11 A. Yes.

12 MR. McMAHON: May I step up? It might be
13 easier.

14 THE ATTORNEY EXAMINER: That's fine.

15 MR. McMAHON: What I'm showing Ms. Malloy
16 is the Duke Exhibit A, which is Ms. Jones' testimony,
17 and if you look into Exhibit AJ-3, it's the 2006
18 bills. That's what I trying to show Ms. Malloy.

19 Q. If you look here, ma'am, on the bill from
20 Duke Energy for the Fox Sedge account, due date
21 July 3, 2006, do you see you got credit for the \$153
22 payment you made in May 2006?

23 A. Okay, that's fine.

24 Q. So we all agree you got credit for that
25 payment.

1 A. (Witness nods head.)

2 Q. I just wanted to make sure you weren't
3 saying that you did not.

4 MR. McMAHON: May I step back up again?

5 THE ATTORNEY EXAMINER: Yes.

6 MS. MALLOY: Do you want me to step down?

7 THE ATTORNEY EXAMINER: You can stay
8 where you are.

9 Q. Ms. Malloy, I'm showing you a bill from
10 Duke Energy, due date April 6, 2004. That's part of
11 Exhibit AJ-1 to Duke-Ohio Exhibit A.

12 A. Again, that was from the Lakes Edge
13 address.

14 Q. Actually, ma'am, I show you its your
15 account for 2455 Fox Sedge, correct?

16 A. Uh-huh.

17 Q. Do you see where a balance of \$185.21 was
18 transferred from your old account number from Lakes
19 Edge?

20 A. That shouldn't have been there. That's
21 what I was disputing at the time that I moved in
22 there.

23 Q. Right. You say that someone paid that,
24 but you don't have any evidence of that today.

25 A. I don't have any evidence of that today

1 because it was almost seven years ago.

2 Q. I understand.

3 A. So how can you -- how can you do that?
4 It was paid up by a very generous woman.

5 Q. Isn't it true that you only made one
6 payment to Duke Energy in all of 2008?

7 A. That is not true.

8 Q. Ma'am, I'm happy to hand you your 2008
9 bills if you want to look at them.

10 A. That is not true.

11 Q. Do you have evidence of any other
12 payments?

13 A. Like I said, I have two adult children
14 who are very angry with me at the moment because they
15 think I am here to get my ex-husband in trouble. I
16 am not. I am trying to keep myself out of trouble
17 with this issue.

18 Q. Okay.

19 A. They are very angry that I am here. They
20 took all my records and just threw them. So I have
21 no way of retrieving those records to defend myself
22 against this.

23 Q. And --

24 A. And I don't have the resources to retain
25 an attorney to help me with this.

1 Q. I understand. I don't want to get in an
2 argument at all about anyone who was rude to you or
3 anything of that nature. Isn't it true, though, that
4 you entered into two separate payment plans with Duke
5 Energy?

6 A. That is not true. Every agreement that I
7 made with Duke concerning this amount of money I
8 immediately made a payment. My parents made two
9 payments for the \$262 agreement, a \$262 agreement of
10 which they each paid \$100 for. I paid the remaining
11 balance.

12 And I don't know if I have that with me
13 or not. It's on that -- it was through PayPal. I
14 made the payment through PayPal. And, again, I do
15 not have that receipt that I got with my checking
16 statement because it was tossed into a storage unit.

17 Each payment agreement that I made with
18 Duke, I have kept. If I could not keep it, that's
19 when I got the PUCO involved. I called them, and it
20 was explained to me that as long as it was being
21 disputed through the Public Utilities Commission that
22 I did not have to pay any more money until I got an
23 answer for it.

24 Q. Ma'am, are you aware that Duke Energy has
25 credited you for the \$262 payment that you made in

1 early February, 2010?

2 A. That's what I'm saying, that I made those
3 payments.

4 Q. Right. We are not disputing that.

5 A. I'm disputing those amounts because
6 there's no way. I was making -- like I said in the
7 beginning, I was going along with your payment plan
8 so that I wouldn't lose my electric. There is no
9 way, sir, that I had that huge amount of bill to
10 begin with. I was just going along with you so I
11 could keep my electric on.

12 And then I got into some financial
13 difficulties because of it. And now, I lost my
14 apartment at Fox Sedge. I just now got another
15 apartment that I haven't moved into yet. I've living
16 still in a hotel. I have gone a month and a half at
17 a time for three times without electric because, like
18 I said, those were huge bills.

19 They were not my bills. But I elected to
20 pay them to keep me out of trouble, to keep me from
21 being disconnected, to keep me from having to deal
22 with the rudeness of your employees and having to
23 deal with my ex-husband. So I was trying to make the
24 payments so that I could keep myself out of trouble
25 and then I couldn't, and I lost my apartment because

1 of it.

2 MR. McMAHON: I guess I'm happy to go
3 through every bill to show usage and payment and how
4 the balance accrued over time. It sounds like it
5 might be a pointless exercise.

6 MS. MALLOY: Yeah.

7 MR. McMAHON: I don't want to waste the
8 Court's time and appear that I am arguing with
9 Ms. Malloy.

10 THE ATTORNEY EXAMINER: I understand.
11 Whatever point Duke is trying to make could be done
12 through an introduction of its exhibits --

13 MR. McMAHON: Okay. That might be
14 easier.

15 THE ATTORNEY EXAMINER: -- that you have
16 right there. But thank you for the questions you do
17 have.

18 Do you have any remaining questions?

19 MR. McMAHON: I don't. Thank you.

20 - - -

21 EXAMINATION

22 By The Attorney Examiner:

23 Q. Ms. Malloy, to be clear in my own mind --
24 these might be questions I asked you had earlier --
25 if I'm understanding your statement correctly, you

1 believe whatever payment plans you entered into with
2 Duke, you abided by them. You stayed current and so
3 forth.

4 A. But that was based on what they were
5 telling me I owed, which I felt was an overpayment to
6 begin with but I was just trying --

7 Q. And you're saying you did go along with
8 whatever payment plan was set up.

9 A. Yes; to keep my electric on and keep me
10 out of trouble and keep me from dealing with --
11 dealing with --

12 Q. The difficulties you had and so on.

13 A. Right. Because I had two other friends
14 that had the same problems, and they had the means to
15 pay the money. I didn't have the means.

16 Q. And your contention is also that it
17 was -- you feel the amounts of the bills were much
18 higher than the amount of electricity you ever would
19 have used apparently at either address --

20 A. Yes, sir.

21 Q. -- on Fox Sedge on Lakes Edge. And that
22 when you left the Fox Sedge location, you had paid --
23 you believe you had paid what was more than
24 appropriate.

25 A. Yes. Yes.

1 THE ATTORNEY EXAMINER: Okay. Thank you.

2 Mr. McMahon, thank you for your
3 questions. We will admit into evidence then Malloy
4 Exhibits 1, 2, 3, 4 and 5 over Mr. McMahon's
5 objections. The Court understands them, but we will
6 give them the appropriate weight at later date, so we
7 will admit them into evidence. Thank you.

8 We will go off the record for a moment.

9 (Discussion off the record.)

10 THE ATTORNEY EXAMINER: Mr. McMahon, you
11 may call your witness.

12 MR. McMAHON: Yes, your Honor. Before
13 doing that, Duke Energy Ohio, Inc. would move for a
14 directed verdict on the Complainant's claim. The
15 Complainant has admitted under oath she does not have
16 any evidence of payments made. She has not testified
17 as to what payments made on or any particular
18 amounts. She admitted she doesn't have any evidence
19 about any alleged duplicate bills.

20 Ms. Malloy further admitted she does not
21 have any evidence at all of the actual kilowatts
22 used, nor has she presented any evidence about a
23 defective meter at her apartment or anything of that
24 nature that her actual usage was different then her
25 bill usage.

1 THE ATTORNEY EXAMINER: Mr. McMahon,
2 we'll overrule that. We are here to listen to what
3 both sides fully have to say.

4 MR. McMAHON: I understand.

5 THE ATTORNEY EXAMINER: I understand your
6 point, but we are hear to hear full evidence from
7 both sides, whatever evidence that may have.

8 With that you may call your witness.

9 MR. McMAHON: Duke Energy calls Alicia
10 Jones.

11 For the record I'm handing Ms. Malloy a
12 copy of Ms. Jones' testimony so she can follow along.

13 THE ATTORNEY EXAMINER: This is Duke
14 Exhibit A?

15 MR. McMAHON: Yes, sir.

16 THE ATTORNEY EXAMINER: Duke Energy
17 Exhibit A.

18 - - -

19 ALICIA JONES

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. McMahon:

24 Q. Please state your name for the record.

25 A. Alicia Jones.

1 Q. And you're employed by -- tell the Court
2 who you are employed by?

3 A. Employed by Duke Energy.

4 Q. And what is your position with Duke
5 Energy?

6 A. Customer relationship specialist.

7 Q. You have there in front of you what has
8 been previously marked as your direct testimony for
9 these proceedings as Duke Energy Ohio Exhibit A,
10 correct?

11 A. Correct.

12 Q. And were you involved in the preparation
13 of your testimony?

14 A. Yes.

15 Q. And you helped prepare it and reviewed it
16 in advance of its filing with the Commission?

17 A. Yes.

18 Q. And is your testimony in Exhibit A true
19 and accurate to the best of your knowledge and
20 information?

21 A. Yes.

22 Q. And attached to Exhibit A as Exhibits
23 AJ-1 through 9, are those copies of documents
24 generated and maintained by Duke Energy in its
25 ordinary course of business?

1 A. Yes.

2 Q. And are those true and accurate copies of
3 those records which had been attached as Exhibits 1
4 through 9 of your testimony?

5 A. Yes.

6 Q. And is this information in those exhibits
7 true and accurate?

8 A. Yes.

9 Q. At this time -- I will have questions to
10 supplement -- I would offer Ms. Jones' testimony
11 marked as Duke Energy Ohio Exhibit A into evidence.

12 THE ATTORNEY EXAMINER: Okay.

13 Ms. Malloy, prior to this hearing today,
14 did you receive a copy of this exhibit in the mail?

15 MS. MALLOY: No.

16 THE ATTORNEY EXAMINER: Do you want a few
17 minutes to look through it?

18 MS. MALLOY: No.

19 THE ATTORNEY EXAMINER: Not at all?

20 MS. MALLOY: No.

21 THE ATTORNEY EXAMINER: In that case, do
22 you have an objection to admitting it into evidence?

23 MS. MALLOY: Do I have any objection?

24 I'm sorry. I have trouble hearing in my left ear.

25 THE ATTORNEY EXAMINER: Off the record.

1 (Discussion off record.)

2 THE ATTORNEY EXAMINER: Do you have any
3 objections to admitting this into evidence?

4 MS. MALLOY: I do have an objection to
5 them because their evidence is totally different than
6 my evidence, and I object.

7 THE ATTORNEY EXAMINER: Okay. I'll
8 overrule that. I believe Duke also, like you, is
9 relying on information that they have.

10 MS. MALLOY: I would like an
11 opportunity --

12 THE ATTORNEY EXAMINER: We will give both
13 sides full opportunity then.

14 MS. MALLOY: That's fine.

15 THE ATTORNEY EXAMINER: We will admit
16 that into evidence as Duke Energy Exhibit A, the
17 testimony of Alicia Jones and the attached copies of
18 bills for Ms. Malloy.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 MR. McMAHON: Thank you.

21 I'm not going to repeat what has already
22 been admitted as evidence, but I do have questions
23 for Ms. Jones to follow up and possibly explain some
24 things that Ms. Malloy testified to.

25 THE ATTORNEY EXAMINER: Okay.

1 Q. (By Mr. McMahon) Ms. Jones, obviously you
2 were just here for Ms. Malloy's testimony, correct?

3 A. Correct.

4 Q. Can you explain to the Court how, just
5 generally speaking, how Duke Energy handled
6 Ms. Malloy's account from her prior address at Lakes
7 Edge Drive to her second address at 2455 Fox Sedge,
8 Apartment B?

9 A. Sure. Ms. Malloy had service starting in
10 May of 2003 for Lakes Edge, Apartment 16. Each month
11 she was billed for usage, and the amount of the usage
12 is low, which verifies you said you weren't using a
13 lot of utility because the bills are very minimal.

14 But the payments weren't consistent, and
15 because of that, when you left that address, there
16 was a remaining balance of \$182.47 that went unpaid
17 that generated on the final bill.

18 Q. And ultimately that was because of a late
19 payment charge or finance charge, whatever you call
20 it, that was \$185.21.

21 A. Correct.

22 Q. That was the amount moved to Ms. Malloy's
23 second account at the 2455 Fox Sedge.

24 A. Correct.

25 Q. And that's consistent with PUCO

1 regulations and Duke Energy's tariffs?

2 A. Correct.

3 Q. And, as your testimony has already
4 demonstrated that's been submitted into the record,
5 from 2004 through all of 2006 Ms. Malloy essentially
6 remained current, may have fallen behind a little
7 bit, but was current with her payments?

8 A. Yes. She was able to maintain the
9 service fairly well.

10 Q. And she started falling behind in 2007,
11 correct?

12 A. Yes. The payments started to get a
13 little bit lax right around 2007.

14 Q. And as you already testified in the
15 record, a past due balance rolled over into 2008.

16 A. Right.

17 Q. And for all of 2008 Duke Energy only
18 received one payment from Ms. Malloy, correct?

19 A. Correct.

20 Q. That was a \$200 payment in May of 2008;
21 is that right?

22 A. Correct. Uh-huh.

23 Q. Okay. And then can you explain this
24 whole issue about payment plans and how that works,
25 including on Duke Energy's bills? Because I think

1 there is some confusion there.

2 A. Right around the time that Ms. Malloy
3 started having problems, she called in and entered
4 into payment plans. And the way payment plans work
5 with Duke Energy is that we'll take the total balance
6 and credit it to the account. It looks like a
7 credit.

8 But what we're doing is allowing the
9 customer to pay it off in installments instead of all
10 at one time. They may pay an installment towards the
11 arrears plus the current usage, and this can go on
12 for several months to give the customer an
13 opportunity to pay the bill off without, you know,
14 disconnect notices and late charges.

15 But if the customer is unable to keep the
16 arrangement, the first time the installment payment
17 is missed, even if they pay the current charges, if
18 they don't pay the current charges and the
19 installment, it causes the total plan to default.
20 Everything will become due, and the customer will
21 receive a disconnect notice.

22 Q. And is that payment plan arrangement that
23 you just discussed, is that consistent with PUCO
24 regulations and Duke Energy's tariffs on file with
25 the Commission?

1 A. Yes. We are required to give our
2 customers an opportunity to be able to maintain their
3 services.

4 Q. And that's what Duke Energy did with
5 Ms. Malloy, correct?

6 A. Correct.

7 Q. And in particular, as you testified to,
8 in June of 2009 the amount of \$1,038.26 was
9 essentially backed out of the current balance owed by
10 Ms. Malloy, correct?

11 A. Correct; and placed on a payment plan.

12 Q. And as long as she remained current on
13 this payment plan and paid her current charges, her
14 service would have been uninterpreted, correct?

15 A. Correct.

16 Q. But Ms. Malloy defaulted on that payment
17 plan, correct?

18 A. Yes, she wasn't able to keep it.

19 Q. And all of that information is set forth
20 in the bills attached to your testimony.

21 A. Correct.

22 Q. And there was also a second payment plan
23 that she entered into, correct?

24 A. Correct.

25 Q. And again, the same policies and

1 procedures were followed, right?

2 A. Yes.

3 Q. And so this was another opportunity that
4 Duke Energy gave to Ms. Malloy to maintain her
5 service without interruption.

6 A. Correct.

7 Q. And she also defaulted on this payment
8 plan?

9 A. Yes.

10 Q. Are you aware of any complaints by
11 Ms. Malloy that her meter was defective and it wasn't
12 properly calculating her usage?

13 A. Not that I'm aware of.

14 Q. Do know if the bills attached to your
15 testimony marked as Exhibits 1 through 8 accurately
16 set forth all payments and credits on Ms. Malloy's
17 accounts with Duke Energy?

18 A. Correct.

19 Q. I think there's also possibly been a
20 little bit of confusion about this whole concept of
21 duplicate bills. Once Ms. Malloy moved out of
22 2455 Fox Sedge Drive, Apartment B, she received a
23 final bill, correct?

24 A. Correct.

25 Q. And then for the couple months

1 thereafter, she would receive what one might consider
2 to be like a statement, a reminder.

3 A. Right.

4 Q. She didn't continue to get billed for
5 usage in an apartment she wasn't using, correct?

6 A. Correct.

7 Q. She was just getting billed for the past
8 due balance that had already accrued.

9 A. Correct.

10 Q. Okay. And as we sit here today, the
11 total amount owed by Ms. Malloy for both her prior
12 account at Fox Sedge and the most recent account at
13 2455 -- I'm sorry -- Lakes Edge and then Fox Sedge,
14 is \$733.20 on page 8 of your testimony? Page 8,
15 line 8.

16 A. Correct. I want to make sure we deducted
17 the \$200-some payment that we received.

18 Q. That was received on February 4, 2010?

19 A. Okay, yes.

20 Q. And you're not aware of any payments
21 since February 4, 2010, correct?

22 A. Correct.

23 MR. McMAHON: I have nothing further.

24 THE ATTORNEY EXAMINER: Okay. Off the
25 record for a moment.

1 (Discussion off record.)

2 THE ATTORNEY EXAMINER: Ms. Malloy, did
3 you have any questions for Ms. Jones?

4 MS. MALLOY: I already said what I needed
5 to say. It will just be repeating what I already
6 said, so no.

7 THE ATTORNEY EXAMINER: Thank you.

8 - - -

9 EXAMINATION

10 By The Attorney Examiner:

11 Q. Ms. Jones, I have a few questions. If
12 you go to page 7 of your testimony, please.

13 A. Yes, sir.

14 Q. You indicated in line 6 there was a -- in
15 the first paragraph in lines 3 and lines 6 there had
16 been a disconnection sometime in 2009. Could you
17 help me on when that occurred, exactly?

18 A. Yes.

19 MS. MALLOY: It was August 1, I believe.

20 A. It was July 13, 2009.

21 Q. So that's when the first disconnection
22 occurred at the Fox Sedge Drive.

23 A. Yes, sir.

24 Q. Okay. Then later on that same page,
25 page 7 of your testimony, you indicated there was

another disconnection July 20, 2010.

MS. MALLOY: July 20, 2010? I wasn't there.

Q. That's the indication.

A. What line is that, sir?

Q. Line 16, page 7 of your testimony.

MR. McMAHON: It says January 20.

THE ATTORNEY EXAMINER: I'm sorry, my mistake, January 20, 2010.

Q. What I wanted to get clear in my own mind, that there were two disconnections at the Fox Sedge location.

A. Yes, sir. May I say something else, too?

Q. Sure.

A. That may need clarification. When the service was disconnected January 20, 2010, at the apartment complex where she lived, they don't want the service off, so the Preserve placed the service in their name.

Q. Preserve?

A. That's the name of the apartment complex.

MS. MALLOY: Objection, Your Honor. I'd like the object to that because my electric was disconnected. I froze. My property manager turned off my water because of that issue, and she did not

1 pay the bill. She did not pay the bill.

2 Q. Ms. Jones, if you could state what you
3 said again. I lost track.

4 MR. McMAHON: I think it might help if
5 you look at Malloy Exhibit 1. If I can ask a few
6 follow-up questions, it may help explain it.

7 THE ATTORNEY EXAMINER: Okay.

8 MR. McMAHON: Ms. Jones doesn't have a
9 copy so may I approach?

10 THE ATTORNEY EXAMINER: That's fine.
11 Yes.

12 MS. MALLOY: If that is true, why would I
13 owe so much if she paid it?

14 - - -

15 REDIRECT EXAMINATION

16 By Mr. McMahon:

17 Q. Look at Malloy Exhibit 1. There are a
18 couple of account numbers on the documents; one ends
19 in 10-1 and one ends in 15-2. Can you explain what
20 appear to be different account?

21 A. Yes. Both of the account numbers apply
22 to the same address. When the service was
23 disconnected on January 20, 2010, the Preserve, which
24 is the apartment complex, they came in later and
25 turned the service on in their name. They didn't pay

1 her bill. They just turned the service on in their
2 name because they wanted the service on.

3 MS. MALLOY: Objection. My property
4 manager was demanding that I pay her for my electric.
5 That's what happened.

6 THE WITNESS: Okay. I'm trying to
7 explain.

8 THE ATTORNEY EXAMINER: We will let
9 Ms. Jones continue. I'll overrule that and let her
10 continue.

11 MS. MALLOY: I know that's hearsay
12 because she's not here.

13 THE ATTORNEY EXAMINER: Well, Ms. Malloy,
14 any additional comments you have you can make after
15 Ms. Jones testifies. You're still under oath.

16 Miss Jones, please go ahead.

17 A. When the apartment complex placed the
18 account in their name for the same address, the
19 account number changed.

20 Q. So is the account that ends in -15-2 just
21 the account at the exact same property address but
22 that was put in the apartment complex's name?

23 A. That account number generated after we
24 placed the service back in Ms. Malloy's name because
25 the apartment complex was unhappy with having to

1 place the service in their name, so we put the
2 service back on in Ms. Malloy's name, which generated
3 a new account number that ends in 15. That's why
4 there are two different account numbers for the same
5 address.

6 Q. Okay. Bottom line, are all the documents
7 in Malloy Exhibit 1 relating to Ms. Malloy's
8 apartment at Fox Sedge when she lived there?

9 A. Correct.

10 MR. McMAHON: Okay.

11 - - -

12 FURTHER EXAMINATION

13 By the Attorney Examiner:

14 Q. Ms. Jones, I'm sure you provided a good
15 explanation, but I think I am kind of confused what
16 was going on. Could you explain again why there are
17 two account numbers?

18 A. Sure. The service was in Ms. Malloy's
19 name, and it was disconnected on January 20.

20 Q. 2010?

21 A. It was disconnected January 20, 2010.

22 Q. Right.

23 A. The apartment complex was aware of that.
24 It was in the wintertime so they were concerned about
25 the heating in their unit so they called and placed

1 the service in their name.

2 Q. All right.

3 A. Which generated a final bill for
4 Ms. Malloy and started a new service for the
5 apartment complex. This all applies to the same
6 address.

7 There was an issue with eviction, and I
8 spoke with the apartment complex, and we made the
9 decision to place the service back in Ms. Malloy's
10 name in an effort to assist her.

11 Q. And so you're saying there was a
12 disconnection that occurred and that the service, at
13 least for a brief time, was placed in the name of the
14 apartment complex for that unit?

15 A. And restored.

16 Q. And it was turned back on, okay.

17 A. Uh-huh.

18 Q. And then you're saying -- please
19 elaborate. You're saying at some point the decision
20 was made to put that service back after it was turned
21 back on, back in Ms. Malloy's name.

22 A. Yes, without a payment. And that
23 generated another account number.

24 MS. MALLOY: She was demanding that I pay
25 her instead of you.

1 THE WITNESS: When it was in their name?

2 MS. MALLOY: Yes.

3 THE WITNESS: Okay.

4 MR. McMAHON: Just to be clear, again,
5 the Malloy Exhibit 1 to the extent the account number
6 that ends in -10-1 was Ms. Malloy's, what we might
7 call her first account number at 2455 Fox Sedge,
8 Apartment B, correct?

9 THE WITNESS: Correct.

10 MR. McMAHON: And the account number that
11 ends in -15-2 is what we would call Ms. Malloy's
12 second account number at the exact same address.

13 THE WITNESS: Correct.

14 MS. MALLOY: No.

15 MR. McMAHON: Again, this was for usage
16 billed to Ms. Malloy while she lived in the premises.

17 THE WITNESS: Correct.

18 MS. MALLOY: No.

19 Q. (The Attorney Examiner) So, Ms. Jones,
20 your explanation, there was a disconnection
21 January 20, 2010. At this point in time what was the
22 account number?

23 A. It was 6180-2171-10-0.

24 Q. 10-1 maybe?

25 A. Correct.

1 Q. So that was the account number up to the
2 point in time when the disconnection occurred.

3 A. Yes.

4 Q. Then you're saying after some discussion
5 with the apartment owners, the owner/management,
6 services resumed, and there -- when service was
7 resumed to that unit, there was a new account number
8 generated.

9 A. Well, the apartment complex called and
10 placed the service in their name.

11 Q. In their name, okay.

12 A. To keep their unit heated.

13 Q. Okay.

14 MS. MALLOY: But my unit wasn't kept
15 heated and I called.

16 THE ATTORNEY EXAMINER: Just a minute.
17 We will let Ms. Jones finish.

18 Q. They placed the service in their name to
19 keep the service operating.

20 MS. MALLOY: She turned off my water.

21 THE ATTORNEY EXAMINER: Just a minute,
22 Ms. Malloy, please.

23 Q. Then the apartment placed it in their
24 name. Service was restored, and what occurred after
25 that, at some point it went back to Ms. Malloy's

1 name, correct?

2 A. Yes. At some point after the service had
3 been restored in the apartment complex, it was up and
4 going, there was a conversation with apartment
5 management, and the impression was given that they
6 were not happy having the service in their name with
7 her in the unit.

8 Q. All right.

9 A. And based on that information, we made a
10 decision, a conscious decision, to restore the
11 service in Ms. Malloy's name, which generated the
12 second account number ending in 15.

13 Q. 15-2.

14 A. Correct.

15 THE ATTORNEY EXAMINER: I don't have any
16 more questions at this time.

17 Thank you.

18 We have already admitted Duke Energy
19 Exhibit A into evidence.

20 MR. McMAHON: That's correct.

21 THE ATTORNEY EXAMINER: You can take your
22 seat, Ms. Jones.

23 THE WITNESS: Thank you.

24 THE ATTORNEY EXAMINER: Ms. Malloy, you
25 had some comments. You're still under oath, so if

1 you have some comments in relation to what Ms. Jones
2 had to say, so if you would like, you can state
3 those.

4 - - -

5 REDIRECT TESTIMONY

6 MS. MALLOY: I continued to be billed.
7 She said she put the account in her name.

8 THE ATTORNEY EXAMINER: In the name of
9 the apartment complex.

10 MS. MALLOY: To keep the electric going,
11 but she didn't keep the electric going. And when I
12 called to verify that information, whoever I spoke
13 to, I don't remember if it was you or not, told me
14 that that was not true, that they did not call and
15 put the apartment's name on the bill so the electric
16 could keep running. That is not true because I
17 called to verify that, and I continued to be billed
18 for it.

19 Like I stated earlier, the only reason I
20 continued to make payments was because they insisted
21 that I owed that amount, and I don't feel that I owe
22 that amount.

23 THE ATTORNEY EXAMINER: So, Ms. Malloy,
24 you're stating there was a disconnection in
25 January 2010.

1 A. Yeah. She cut off my water, too.

2 Q. Just a minute. You're saying there was a
3 disconnection --

4 A. So if she elected to keep the electric
5 going, she sure didn't because she turned off my
6 water on top of it because she was afraid that my
7 pipes would burst.

8 Q. You saying there was a disconnection
9 January 20, 2010 and that service was not restored
10 apparently for some time.

11 A. A month and a half.

12 Q. A month and a half?

13 A. I was without electric and almost water
14 because she was afraid my pipes were going to burst.

15 THE ATTORNEY EXAMINER: Ms. Jones, we can
16 go back to you, and you still under oath as well.
17 You're indicating it was disconnected but service was
18 restored, and from what you are saying, you're giving
19 me the impression service was restored within a very
20 short period of time or?

21 MS. JONES: Service was disconnected
22 January 20, 2010, and the was restored to the
23 apartment complex name an February 5, 2010.

24 MS. MALLOY: When I called to verify that
25 it was put in her name, because Sandy was demanding

1 that I pay her on top of what they were telling me to
2 pay, which I felt was unfair to begin with. And I
3 called Duke to verify it was taken out of my name,
4 and they said no, it's not taken out of your name.
5 It's not in their name, so.

6 MS. JONES: We placed that in your name a
7 few days after that February 5. We placed it in your
8 name on February 11. It is possible when you called
9 it was not in their name. It was in their name a
10 very brief time.

11 MS. MALLOY: Because they were demanding
12 payment. Sandy was demanding payment.

13 THE ATTORNEY EXAMINER: That's your
14 landlord?

15 MS. MALLOY: Right, Sandy Nash. She got
16 very violent with me.

17 THE ATTORNEY EXAMINER: So, Ms. Jones,
18 you're saying there was a period of time where that
19 unit actually did not have electric service then.

20 MS. JONES: Correct.

21 THE ATTORNEY EXAMINER: Those days were
22 from January 20 to approximately when?

23 MS. JONES: February 5, 2010.

24 THE ATTORNEY EXAMINER: At that point in
25 time, February 5, was it still in the apartment

1 complex's name? Or back in Ms. Malloy's name?

2 MS. JONES: On February 5 -- it was
3 turned off for nonpayment January 20, and then they
4 called in in February and wanted the service back on.

5 THE ATTORNEY EXAMINER: Oh, I see.

6 MS. JONES: Then a few days later because
7 they were unhappy it being in their name, we went
8 ahead and put it back in her name.

9 THE ATTORNEY EXAMINER: All right.

10 MS. MALLOY: She was still demanding I
11 pay her.

12 THE ATTORNEY EXAMINER: You're referring
13 to your landlord?

14 MS. MALLOY: And they were saying that
15 didn't happen, that she did not put her name on the
16 account so I was confused. As I stated several times
17 before, this was a disputed amount to begin with, and
18 I made every effort I could to make payment.

19 THE ATTORNEY EXAMINER: All right. Thank
20 you.

21 I don't have any further questions.
22 Thank you, Ms. Malloy.

23 Mr. McMahon, do you have any further
24 questions?

25 MR. MCMAHON: I don't.

1 THE ATTORNEY EXAMINER: I want to thank
2 everyone for coming. I have no further questions
3 myself, and we will close the proceedings for today.
4 Thank you.

5 (The hearing adjourned at 11:55 a.m.)

6 - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, October 19, 2010, and carefully compared with my original stenographic notes.

Rosemary Foster Anderson,
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires April 5, 2014.
(RFA-8529)

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