

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** October 24, 2019

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of the General Counsel (Simmons) *KS*  
Office of Consumer Assistance and Outreach (Hicks, Plescow) *JSC JTP PH*  
Division of Economics (Coston) *EDP*  
Division of Engineering (Doehling) *JD* *9/24*

**RE:** Docket No. 20190139-EI – Complaint against Duke Energy Florida, LLC d/b/a Duke Energy regarding billing errors and inaccurate meter readings, by Elizabeth Randle.

**AGENDA:** 11/05/19 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Polmann

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

On June 22, 2018, Elizabeth Randle filed an informal complaint with the Public Service Commission (Commission) against Duke Energy Florida, LLC (Duke or Utility).<sup>1</sup> In her complaint, Ms. Randle stated that she was being charged for services not rendered. Several Commission staff members worked with Ms. Randle and Duke to resolve her informal complaint.

By letter dated March 20, 2019, staff advised Ms. Randle that her informal complaint had been reviewed by the Commission's Process Review Team (PRT), in accordance with Rule 25-

<sup>1</sup> Complaint Number 1280970E.

22.032, Florida Administrative Code (F.A.C.), and it appeared that Duke had not violated any applicable statutes, rules, company tariffs, or Commission orders. Staff advised Ms. Randle that if she disagreed with staff's complaint conclusion, she could file a petition for initiation of formal proceedings for relief against Duke.

Ms. Randle filed a formal complaint against Duke on July 10, 2019, pursuant to Rule 25-22.036, F.A.C. In her complaint, Ms. Randle stated that Duke is charging her for services not rendered and her meter is reading inaccurately. She also stated that Duke incorrectly disconnected her services while her informal complaint was pending.

On September 20, 2019, staff sent a letter to Ms. Randle requesting any additional information or documentation that might assist the Commission in addressing her complaint. On September 25, 2019, Ms. Randle told staff she had no additional documentation.

Ms. Randle seeks for the Commission to find that Duke incorrectly billed her account. She also requests an "updated accurate reading" of her meter. This recommendation addresses the appropriate disposition of Ms. Randle's complaint against Duke. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes.

## Discussion of Issues

**Issue 1:** What is the appropriate disposition of Ms. Randle's formal complaint?

**Recommendation:** Ms. Randle's formal complaint should be denied. While it does appear that Duke violated Rule 25-22.032(3), F.A.C., by disconnecting Ms. Randle's electricity while her informal complaint was pending, this violation is not related to the relief sought by Ms. Randle. Duke did not violate any statute, rule, Utility tariff, or order of the Commission applicable in the billing of Ms. Randle's account. (Simmons)

**Staff Analysis:** Pursuant to Rule 25-22.036(2), F.A.C., a complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order. Ms. Randle's petition fails to show that Duke's billing of Ms. Randle violates a statute, rule, or order as required by Rule 25-22.036(2), F.A.C. Therefore, the Commission should deny Ms. Randle's petition for relief.

Ms. Randle enrolled in Duke's Budget Billing (BB) program on January 29, 2018. BB is an optional payment program designed to help residential customers budget for their electric bills. The BB amount is based on the average of a customer's actual bills during the last 12 months. Every three months, the BB amount is recalculated to reflect the average of the last 12 months' actual bills and deferred balance. Ms. Randle's BB amount for the individual months of February, March, and April of 2018 was \$129.00. Her actual usage amount for those months totaled \$635.68. This resulted in a deferred balance of \$248.68 over the three month period.

On April 5, 2018, Ms. Randle received a bill for \$173.96. This included \$129.00 for BB, a \$5.00 late payment charge, and a \$39.96 past due balance. On May 4, 2018, Ms. Randle was billed for \$341.96. This amount included \$163.00 for BB, \$173.96 for a past due balance, and a \$5.00 late payment charge.<sup>2</sup> She made a payment of \$134.00 on May 15, 2018, and \$120.00 on May 25, 2018, which went towards her past due balance of \$173.96, reflecting a line item credit of \$80.04 on her bill.

At the request of Ms. Randle, her account was removed from the BB program on June 4, 2018. When her account was removed, she received a revised May bill for \$289.98. This included a deferred BB balance of \$248.68, a \$5.00 late payment charge, a \$5.00 balance forward, \$111.34 reflecting actual usage from April 5, 2018, to May 4, 2018, and a credit of \$80.04.<sup>3</sup> On June 5, 2018, Ms. Randle received a bill for \$398.36, which included \$108.38 for the current bill and a \$289.98 balance forward.

On June 22, 2018, Ms. Randle filed an informal complaint with the Commission. In her complaint, she alleged that Duke overbilled her. She also stated that they were charging her for services not rendered, that she submitted payment twice in May, and had a credit reflected on her account. Commission staff contacted Duke and requested a detailed report regarding Ms.

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<sup>2</sup> Ms. Randle's BB amount was recalculated for the months of May, June, and July at \$163.00.

<sup>3</sup> The \$5.00 late payment charge was for the first May bill which she did not pay on time. The \$5.00 balance forward was the late payment charge from not paying the April bill on time. The \$254.00 Ms. Randle paid in May went towards her \$173.96 past due balance, reflecting an \$80.04 credit as a line item on her bill.

Randle's concerns. Duke provided information on the BB program and the actions the Utility took in regards to Ms. Randle's billing.

On July 3, 2018, Commission staff requested that the Utility test Ms. Randle's meter. However, when the Utility attempted to test Ms. Randle's meter, she denied the meter technician access. When asked if she would like to reschedule a test, she declined.

Staff conducted an analysis of the information received from both Ms. Randle and Duke. Based on this analysis and discussions with both parties, staff sent a letter to Ms. Randle on August 8, 2018, stating that it appeared she had been billed and credited appropriately. On August 13, 2018, Ms. Randle reiterated to Commission staff that she was being charged for electricity that she did not use. Due to Ms. Randle's dissatisfaction with the disposition of her complaint, her complaint was forwarded to the PRT.

On February 11, 2019, Duke erroneously disconnected Ms. Randle's service. By doing so, it appears that Duke violated Rule 25-22.032(3), F.A.C., by disconnecting Ms. Randle's electricity while her informal complaint was pending. However, the Utility restored Ms. Randle's power within four hours.

After further investigation, the PRT concluded on March 20, 2019, that it appeared Duke had not violated any statutes, rules, Utility tariffs, or Commission orders in regards to her informal complaint that Duke overbilled her account. Ms. Randle did not agree with staff's conclusion and filed a formal complaint on July 10, 2019. In her formal complaint, Ms. Randle reiterated that she was being overbilled. She also stated that her meter was reading inaccurately and that Duke improperly disconnected her service.

In response to Ms. Randle's formal complaint, the Utility, accompanied by Commission staff, conducted a witnessed meter test at Ms. Randle's residence on October 14, 2019. The results of the meter test showed that Ms. Randle's meter was accurately reading her usage.<sup>4</sup> During the month of October, the Utility also offered Ms. Randle a credit adjustment to her account in an attempt to settle the disagreement. However, Ms. Randle declined the Utility's offer.

Staff has conducted a thorough and complete analysis of this matter, including participating in a witnessed meter test. Based on the information and discussions with both the Utility and Ms. Randle, there is no evidence that Duke billed Ms. Randle incorrectly. While Ms. Randle did pay a total of \$254 in May of 2018, that amount went towards her past due balance of \$173.96, shown as an \$80.04 credit on her revised May bill. However, the \$80.04 credit was offset by the deferred balance accrued while participating in the BB program and Ms. Randle's actual usage amount. Commission staff has addressed the apparent violation for the improper disconnection of Ms. Randle's electricity by issuing an apparent infraction<sup>5</sup> against Duke. Based on the foregoing, staff recommends that the Commission deny Ms. Randle's petition as it does not demonstrate that Duke's billing of her account violates any statute, rule, or order.

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<sup>4</sup> Both Commission staff and Duke recorded a weighted average registration of 99.83 percent.

<sup>5</sup> An apparent infraction, annotated by an internal tracking code, indicates a potential Commission rule violation. If staff believes that a company's action, or lack thereof, may be a Commission rule violation, the complaint is assigned an infraction code. All apparent infractions received by a utility are reviewed during rate proceedings.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Simmons)

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.