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ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.
COLUMBIA, SOUTH CAROLINA

November 3, 2016

VIA ELECTRONIC FILING & HAND DELIVERED
CONFIDENTIAL VERSION

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Ms. Jocelyn Boyd, Chief Clerk/Administrator
Public Service Commission of South Carolina
Synergy Business Park, Saluda Building
101 Executive Center Drive
Columbia, SC 29210

Re: Tammy Bible v. Duke Energy Carolinas, LLC - Docket No. 2016-369-E

Dear Ms. Boyd:

Enclosed for filing please find Duke Energy Carolinas, LLC's verified Motion to Dismiss the Bible Complaint and Request to Hold Filing Deadlines and Hearing Date in Abeyance Pending Resolution of the Motion. The Company moves that Exhibit 1 of the enclosed motion be treated and maintained as confidential pursuant to Order No. 2005-226, Order Requiring Designation of Confidential Materials.

Exhibit 1 contains confidential customer information, including account number and electricity usage data personal to Tammy Bible that must be maintained as confidential in accordance with the Company's Privacy Policy. Therefore, we request that the Commission grant the request for confidential treatment pursuant to 26 SC Regs. 103-804(S)(2). Exhibit 1 is filed in a separate envelope and marked confidential.

By copy of this letter we are serving the Office of Regulatory Staff with the Confidential Version via hand delivery and the other parties of record in this proceeding with the same via U.S. Mail. If you have any questions, please contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.


Bonnie D. Shealy

/tch

Enclosures

cc/enc: Josh Minges, Hearing Examiner (via email)
Tammy Bible (via US Mail)
Jenny R. Pittman, ORS Staff Counsel (via email and hand delivery)
Heather S. Smith, Deputy General Counsel (via email)
Kim H. Smith, Regulatory Affairs Manager (via email)
Rebecca J. Dulin, Senior Counsel (via email)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

Docket No. 2016-369-E

In re:)	
)	
Tammy Bible,)	
Complainant/Petitioner,)	DUKE ENERGY CAROLINAS, LLC'S
)	MOTION TO DISMISS
v.)	
)	
Duke Energy Carolinas, LLC)	
Defendant/Respondent.)	
<hr/>)	

Pursuant to 10 S.C. Code Ann. Regs. 103-829, Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and applicable South Carolina law, Respondent, Duke Energy Carolinas, LLC (“DEC” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the merits because it fails to state a claim upon which relief can be granted. The Company also requests that the filing deadlines and the hearing date be held in abeyance until this Motion is resolved. In support of this motion, Duke Energy Carolinas show as follows:

BACKGROUND

Complainant Tammy Bible has been a customer of Duke Energy Carolinas at 6526 White Horse Road, Apartment 16A, Greenville, South Carolina since September 8, 2014. Service was established for Ms. Bible on Rate Schedule RE. Ms. Bible’s complaint indicates that she was not offered an extension of her current arrangement and she seeks to renegotiate her future deferred payment arrangements.

DEC’s records indicate that the Company received a service call from a tenant at 6526 White Horse Road, Apartment 3D, Greenville, South Carolina on September 8, 2014. This is the

same apartment complex where Ms. Bible resides. A DEC technician discovered that DEC Meter Number 083265182 was missing for Apartment 3D so the technician installed a new meter.

Ms. Bible entered into a deferred payment arrangement with DEC on December 15, 2014. On February 3, 2015, Ms. Bible's service was disconnected due to non-payment of the deferred payment arrangement and the balance due of her account was charged off.

DEC received an anonymous tip that resulted in a DEC Energy Protection Investigator visiting the premises on October 9, 2015. The DEC investigator found the unauthorized DEC Meter Number 083265182 connected to Apartment 16A where Ms. Bible resided. The unauthorized DEC Meter was removed and Ms. Bible returned the meter of record for Apartment 16A. Ms. Bible made no payments on her DEC account from February 2015 through October 9, 2015.

On December 5, 2015, with the help of several local assistance agencies, Ms. Bible reestablished service for Apartment 16A. On April 14, 2016, DEC established a deferred payment arrangement with Ms. Bible for usage from February 2015 through October 2015 and for December 2015 through April 14, 2016. On July 25, 2016, Ms. Bible was given additional time to make a payment due on her account. DEC working with the South Carolina Office of Regulatory Staff ("ORS") also agreed to revise her deferred payment arrangement at that time.

Ms. Bible has been billed each month pursuant to the Company's Rate Schedule RE and in accordance with the Commission's Rules and Regulations. A review of the entire billing and payment history shows a consistent pattern of delinquency. See **Confidential Billing and Payment History** attached as **Exhibit 1**.

DEC's records show that Ms. Bible has had difficulty paying her bills since she began service with DEC. She has received funds from several local assistance agencies. DEC has

entered into numerous payment agreements with Ms. Bible. DEC has worked diligently to assist Ms. Bible with payment arrangements, but she continues to carry a past due balance that has grown despite financial assistance from local agencies. The Company would urge Ms. Bible to seek assistance in paying her outstanding bill.

S.C Code Ann Regs. 103-352 requires utilities to offer a payment plan of up to six months that will allow customers to bring their account current. As indicated above, the Company has made numerous deferred payment plans with Ms. Bible. The objective of such plans is to bring the account current so that the customer can maintain a current status going forward. Even with the deferred payment agreements, Ms. Bible has not been able to keep her account current.

Ms. Bible filed a complaint with the South Carolina Office of Regulatory Staff (“ORS”) on August 19, 2016, after receiving notice that her service was going to be disconnected for nonpayment if DEC did not receive \$1,037.01 by August 19, 2016. The total balance on Ms. Bible’s account at that time was \$1,701. ORS contacted DEC who offered to modify the deferred payment arrangements to give Ms. Bible additional time to make the upcoming payments due. She declined two different proposed modifications by DEC. ORS sent Ms. Bible a letter confirming that it had been unable to resolve the matter and notified her that she had fifteen days from the date of the letter to file a complaint with the Commission. The fifteen days deadline was September 29, 2016. *See Exhibit 2*, ORS Letter to Ms. Bible dated September 14, 2016.

DEC received notice that Ms. Bible filed a formal complaint with the Commission on September 29, 2016. As of October 28, 2016, the balance due on her account is \$2,091.90. Ms. Bible’s billing history illustrates that she has made only three nominal payments on her account in 2016. The last payment was made on August 2, 2016.

In her complaint, Ms. Bible indicates that she would like to have a payment arrangement that she can afford. The Commission's regulations require that the Company offer an agreement for up to six months which the company has done. 10 S.C. Code Regs. 103-352. However, even with substantial assistance from local agencies she has been unable to comply with any of the deferred payment arrangements made to date.

ARGUMENT

Duke Energy Carolinas respectfully requests that the Complaint be dismissed pursuant to Rule 12(b)(6), SCRCRCP, for failure to state facts sufficient to constitute a claim. Ms. Bible fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Carolinas' billing or handling of her account. Ms. Bible's billing records show that the Company is charging the appropriate tariff rate approved by the Commission for the registered usage. ORS investigated the complaint and confirmed that DEC could proceed with service termination pursuant to the Commission's rules and regulations. Ms. Bible has failed to conform to the terms and conditions of the deferred payment plan as required by S.C. Code Ann. Regs. 103-352(c).

S.C. Code Regs. 103-352 outlines the procedures for terminating electric service due to nonpayment. Section 103-352 provides that not less than ten days prior to termination, the electric utility shall mail a notice of termination to the affected customer that includes the total amount owed, and the date by which the customer must either pay in full the amount outstanding or make satisfactory arrangements for payment by installments. Additionally not more than three business days prior to termination of service, the electrical utility shall notify the customer by mail that he is subject to termination of service for non-payment. As outlined above, DEC has

worked with Ms. Bible on numerous deferred payment plans and has complied with the notice requirements for disconnection.

Duke Energy Carolinas respectfully requests that the Complaint be dismissed pursuant to Rule 12(b)(6), SCRCF, for failure to state facts sufficient to constitute a claim. The complaint fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Carolinas' handling of Ms. Bible's account.

CONCLUSION

There is no allegation that Duke Energy Carolinas violated any applicable statute or regulation in its charges or the termination of Ms. Bible's account. Therefore, this matter should be dismissed.

WHEREFORE, Duke Energy Carolinas moves the Commission to dismiss the Complaint with prejudice, hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion, and requests such other relief as the Commission deems just and proper.

Dated this 3rd day of November, 2016.

Heather Shirley Smith, Deputy General Counsel
Rebecca J. Dulin, Senior Counsel
Duke Energy Carolinas, LLC
40 West Broad St, Suite 690
Greenville, SC 29601
Telephone 864.370.5045
heather.smith@duke-energy.com
Rebecca.dulin@duke-energy.com

and

Robinson, McFadden & Moore, P.C.

s/Bonnie D. Shealy
Bonnie D. Shealy, Bar No. 11125
Post Office Box 944
Columbia, South Carolina 29202
Phone: 803-779-8900
Fax: 803-252-0724
Email: bshealy@robinsonlaw.com

Attorneys for Duke Energy Carolinas, LLC

VERIFICATION

I, Kim H. Smith, am Regulatory Affairs Manager for Duke Energy Carolinas, LLC. I am responsible for responding to customer inquiries including those directed to the South Carolina Office of Regulatory Staff ("ORS"). I have reviewed the documents received and maintained in the ordinary course of business by Duke Energy Carolinas. I am familiar with the records of Duke Energy Carolinas that pertain to Ms. Bible's electric service account.

I have personally knowledgeable as to the records and information discussed in the attached motion to dismiss, I know them to be true of my own knowledge or I have gained knowledge of them from the records of Duke Energy Carolinas, which are maintained in the ordinary course of business by Duke Energy Carolinas.

I, Kim H. Smith, first being duly sworn upon oath, depose and say that I am authorized to represent Duke Energy Carolinas, that I have read the above motion to dismiss and know the contents; that the contents are true and correct to the best of my knowledge and belief.

Duke Energy Carolinas, LLC



Kim H. Smith, Regulatory Affairs Manager

Subscribed and sworn to before me this

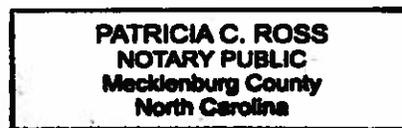
3 day of November, 2016

Patricia C. Ross

Print Notary Name: Patricia C. Ross

Notary Public for Mecklenburg County

My Commission Expires: 10-17-2019



**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2016-369-E

In Re:)
)
Tammy Bible,)
)
)
Complainant)
)
v.)
)
Duke Energy Carolinas, LLC)
)
Respondent.)

EXHIBIT 1

BILLING AND PAYMENT HISTORY

CONFIDENTIAL, CUSTOMER INFORMATION

FILED UNDER SEAL

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2016-369-E

In Re:)
)
Tammy Bible,)
)
)
Complainant)
)
v.)
)
Duke Energy Carolinas, LLC)
)
Respondent.)

EXHIBIT 2

ORS LETTER TO MS. BIBLE

DATED SEPTEMBER 14, 2016

C. DENNIS SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



NANETTE S. EDWARDS
DEPUTY EXECUTIVE DIRECTOR

Toll Free 1-800-952-1551
www.regulatorystaff.sc.gov

April B. Sharpe
Manager of Consumer Services

September 14, 2016

Tammy Bible
6526 White Horse Rd 16A
Greenville, SC 29611

Re: File No. 2016-E-1207

Dear Ms. Bible:

This letter provides the results of the South Carolina Office of Regulatory Staff's ("ORS") investigation of the complaint you filed on August 19, 2016, against Duke Energy Carolinas ("Duke" or "Company"). Your complaint is in reference to a request for payment arrangements to avoid termination of service. In your complaint you advised the ORS that your account is noticed for disconnection for non-payment and requires payment of \$1037.01 by August 19, 2016. You requested to pay \$500 on September 1, 2016.

The ORS contacted Duke and advised the company of your request. Duke advised that the balance on your account is \$1701. The account was noticed for service disconnection for non-payment of \$1037.01 due August 19, 2016. The company did not offer an extension to your current arrangement but offered \$500 on August 23, 2016, \$401 on September 16, 2016 and \$200 plus bill for 4 months. You declined the offer. The company and since offered \$700 on September 19, 2016 and \$500 plus bill for 5 months. According to the company the last payment on this account was \$100.00 on August 2, 2016.

The ORS staff has been unable to obtain a satisfactory resolution between you and the Company for payment arrangements to avoid service disconnection.

Please be advised, you have the right to file a petition and request a hearing before the PSC if you are unable to resolve your complaint by working with the utility or the ORS. To file your complaint with the PSC, complete the Complaint Form, found on the PSC's website at www.psc.sc.gov.

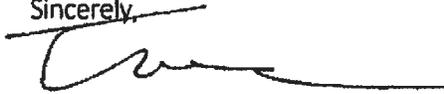
In addition, please be advised that PSC regulation 103-345 (B) regarding complaints states,

“B. When the ORS has notified the electrical utility that a complaint has been received concerning a specific account, the electrical utility shall refrain from discontinuing the service of that account until the ORS’s investigation is completed and the results have been received by the electrical utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission within fifteen days of the ORS mailing the results of the ORS investigation, along with a copy of regulation 103-345, to the complainant. If the complainant does not file the complaint with the commission within fifteen (15) days, service can be discontinued.”

Fifteen days from the date of this letter is Sept 29, 2016. Please be advised, if a request for a hearing is not filed with the PSC, or payment of \$1700.97 is not paid to Duke or a satisfactory payment arrangement is not setup by the above date; the utility may proceed with service termination under the PSC regulations governing utility providers.

If you have any questions, please contact me at 1-800-922-1531 ext. 75267, or via e-mail at twaller@regstaff.sc.gov .

Sincerely,



Takisha Waller, Investigator
Consumer Services
Office of Regulatory Staff

Cc. Duke Energy Carolinas (via e-mail)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

Docket No. 2016-369-E

In re:)	
)	
Tammy Bible,)	
Complainant/Petitioner)	
)	CERTIFICATE OF SERVICE
v.)	
)	
Duke Energy Carolinas, LLC,)	
Defendant/Respondent)	
<hr/>)	

This is to certify that I, Toni C. Hawkins, a Paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Duke Energy Carolinas, LLC's Motion to Dismiss** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Tammy Bible
6526 Whitehorse Road, Apt. 16A
Greenville, SC 29611

Jenny R. Pittman, Staff Counsel,
SC Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Dated at Columbia, South Carolina this 3rd day of November, 2016.



Toni C. Hawkins