

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPEAL BY MIKE MULLETT OF THE)
CONSUMER AFFAIRS DIVISION'S)
DECISION IN CASE NO. 122038) CAUSE NO. 45008
CONCERNING THE PROVISION OF)
ELECTRIC SERVICE BY DUKE ENERGY)
INDIANA, LLC)

**DUKE ENERGY INDIANA, LLC REPLY TO PETITION FOR RECONSIDERATION
OR REHEARING OF APPELLANT, MICHAEL A. MULLETT**

Duke Energy Indiana, LLC, by counsel respectfully requests the Indiana Utility Regulatory Commission ("Commission") deny Mr. Michael Mullett's Petition for Reconsideration or Rehearing ("Petition") filed in this docket on April 24, 2018, and in support hereof states as follows:

Mr. Mullett requests the Commission to reconsider its April 4, 2018 Order in this docket, which is an appeal of a Commission Consumer Affairs Division decision on an informal complaint, claiming that the Commission's Order disregarded his request for relief and legal arguments at hearing. However, in his Petition, Mr. Mullett merely restates the request for relief and reasoning already provided to and considered by the Commission. As such, his Petition should be denied.

First, Mr. Mullett complains that the following Commission finding disregards his request for relief:

While service under Duke Energy's net metering tariff may at some point require the differentiation between net metering customers who were grandfathered and those who were not, at this time the service described in the tariff is applicable to all qualified net metering customers. Essentially, Mr. Mullett has identified the potential for a problem in the future. However, CAD's Decision is based on the facts of today. Accordingly, we affirm the CAD Decision.

Order at 3. However, the Commission is correct in that the service and the rates to be provided thereunder are the same for the two sets of grandfathered customers currently eligible for the net metering rider (Standard Contract Rider No. 57) and interconnection rider (Standard Contract Rider No. 80). Under the Senate Enrolled Act 309 (SEA 309), there will come a time when Duke Energy Indiana needs to update the service provided under its net metering rider to take into account the expiration of net metering and the new distributed energy pricing mechanism required by SEA 309.¹ However, that time is not now - thus, the Commission's correct finding that this complaint was premature.

Mr. Mullett's specific request is that the grandfathering periods contained in Ind. Code §§ 8-1-40-14 and -13 be included in the net metering rider. Duke Energy Indiana has already changed its net metering rider to reference Ind. Code 8-1-40 and confirm the Company's compliance with that chapter created by SEA 309, inclusive of the grandfathering provisions noted by Mr. Mullett.

Mr. Mullett seems to want the net metering rider do that which it cannot do, confirm a specific customer's qualification for a specific grandfathering period. That decision has been performed on a case by case basis by utilities in Indiana using SEA 309 and the Commission's General Administrative Order 2017- 2 as guidance. In fact, if Duke Energy Indiana were to use the strict language provided in SEA 309 as the sole determination as to whether a customer would qualify for net metering grandfathering until 2047, many Duke Energy Indiana customers currently grandfathered until 2047 would not have qualified – due to the 2017 year-end deadline created by the statute. Rather, Duke Energy Indiana and other utilities throughout the state have dealt with hundreds of applications that came in at the end of 2017 on a case by case basis, often waiving the year-end requirement due to events outside the customers' control.

¹ See Ind. Code §§8-1-40-10, -11.

In addition to informing the customers of their grandfathered status when new interconnections are approved and providing customers information on their grandfathering status when customers email or call, Duke Energy Indiana has committed to provide a confirmation letter to all customers that we have coded in our system as grandfathered until 2047 of their grandfathered status. Due to delays in IT coding, that letter is currently planned for May 2018. Duke Energy Indiana submits that, to the extent Mr. Mullett seeks written assurance of his own net metering status, it is this confirmation letter that will provide Mr. Mullett the assurances he seeks, not the Duke Energy Indiana net metering rider.

Moreover, any individual customer that believes they should be grandfathered until 2047 and has not been granted that status by Duke Energy Indiana may file a complaint with Duke Energy Indiana and/or the Commission's CAD. The CAD review is not limited to the net metering rider, but reviews other relevant rules and statutes, such as SEA 309. As such, the failure to include the grandfathering language in the rider does not present a concern to the adequate disposition of such complaints. Duke Energy Indiana submits that the process and procedures set by the Commission in its GAO 2017-2 to implement SEA 309 have worked well for Duke Energy Indiana's customers, resulting in only two CAD customer complaints, inclusive of this one.

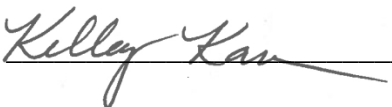
Second, Mr. Mullett claims the Commission's Order disregards his legal argument that SEA 309 must be interpreted within the context of the filed rate doctrine. Mr. Mullett ignores the very specific and prescriptive nature of SEA 309, which proscribed exactly what changes a utility could and could not make to its net metering rider. This specific language of SEA 309 was followed by the Commission in its Order. If the legislature had intended utilities' tariffs to provide specific information on grandfathering status, then it very easily could have provided for that. It did not. Perhaps the legislature did not want to hinder the Commission's ability to adopt

general guidelines that would provide for flexibility in the procedures for determining grandfathered status. Perhaps the legislature did not feel the grandfather status was necessary to include in the rider, but rather better handled by utility notice to specific customers. We can only speculate at the legislature's intent; but what we do know is that SEA 309 provided for limited changes to the net metering rider, and including the grandfathered status was not one of the proscribed changes.

Finally, Mr. Mullett claims the Commission does not provide adequate justification for the conclusions included in its Order. However, the Commission did provide its reasoning, just not the reasoning for which Mr. Mullett advocated. The Commission explained how it followed the dictates of SEA 309 in its approval of Duke Energy Indiana's net metering rider changes and that Mr. Mullett's concern about different sets of grandfathered customers not being recognized in the rider is a concern for another day when the services to be provided by the rider are differentiated by the grandfathered status. Not now, when the same services and rates apply to both sets of grandfathered customers.

For all the foregoing reasons, Duke Energy Indiana respectfully requests the Commission to deny Mr. Mullett's Petition.

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CERTIFICATION

I hereby certify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: Kelley Kan

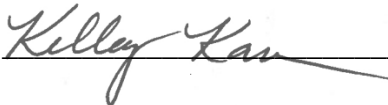
Dated: May 4, 2018

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served by electronic mail
this 4th day of May, 2018, to the following:

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