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COMPLAINT OF EVERETTH §  
HOLLEY AGAINST AEP TEXAS INC., §  
JUST ENERGY TEXAS, LP, AND CPL §  
RETAIL ENERGY, LP §

PUBLIC UTILITY COMMISSION  
OF TEXAS  
PUBLIC UTILITY COMMISSION  
FILED CLERK

**ORDER**

This Order addresses the complaint of Everetth Holley Against AEP Texas, Inc., Just Energy Texas, LP, and CPL Retail Energy, LP about the electric bills for his home at 520 Jester St., Corpus Christi, Texas. A hearing on the merits was conducted by the State Office of Administrative Hearings (SOAH) on May 2, 2017. The SOAH administrative law judge issued a proposal for decision denying Mr. Holley's complaint. The Commission adopts the proposal for decision with the following modifications.

First, the Commission modifies findings of fact 2, 14, 15, and 22 to correct slight factual discrepancies. Secondly, the Commission adds finding of fact 26A based on data from Mr. Holley's electric bills to address explicitly an underlying fact question in this docket regarding Mr. Holley's usage and his bills. Finally, the Commission makes non-substantive changes to findings of fact and conclusions of law for such matters as capitalization, spelling, punctuation, style, grammar, consistency within the Order, and readability.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

1. AEP Texas Inc. (AEP) is the transmission and distribution utility that serves Everetth Holley's home at 520 Jester St., Corpus Christi, Texas (Property).
2. On June 20, 2016, Mr. Holley submitted an informal complaint to the Customer Protection Division (CPD) of the Public Utility Commission of Texas (Commission). He complained that his electric bills for the Property were excessive because AEP's meters did not accurately measure the net (in kilowatt-hours (kWh)) of energy usage at the Property and energy production by a 1-kilowatt wind turbine (net usage) he had AEP commission there as distributed generation (DG).

3. On July 15, 2016, CPD issued a letter notifying Mr. Holley that CPD had concluded its informal complaint process and he could file a formal complaint.
4. On August 9, 2016, Mr. Holley's formal complaint was filed with the Commission.
5. In a letter filed with the Commission on August 19, 2016, Mr. Holley raised his billing history and clarified that his retail electric provider (REP) for the Property was CPL Retail Energy, LP (CPL) until May 31, 2016, when he switched to Just Energy Texas, LP (Just Energy).
6. In an August 25, 2016 order, a Commission Administrative Law Judge (ALJ) concluded that AEP, CPL, and Just Energy are the respondents in this case.
7. Mr. Holley's formal complaint stated that he had contacted the City of Corpus Christi, which referred him to the Commission. In response to an October 7, 2016 order issued by the Commission ALJ, Mr. Holley filed a letter to him from the City of Corpus Christi stating that it does not have authority to resolve electric service billing disputes and would not consider the complaint.
8. On November 21, 2016, the Commission referred the matter to the State Office of Administrative Hearings (SOAH) to conduct a hearing and issue a proposal for decision, if needed to resolve any issues contested by the parties.
9. On December 6, 2016, SOAH Order No. 1 was issued. The order contains a statement of the legal authority and jurisdiction under which the hearing was to be held.
10. On January 12, 2017, the Commission issued a preliminary order. The preliminary order contains a reference to the particular sections of the statutes and rules involved, and a short, plain statement of the factual matters asserted.
11. In its Preliminary Order, the Commission also determined that CPL and Just Energy are necessary parties because, in complaint cases involving electric bill disputes, the Commission might be unable to order a complete remedy without the REP's participation.
12. On January 24, 2017, SOAH Order No. 2 was issued, stating the time, place, and nature of the hearing.

13. An evidentiary hearing was held on May 2, 2017, before SOAH ALJ Elizabeth Drews. Mr. Holley appeared and represented himself. AEP, CPL, Just Energy, and Commission Staff appeared through their attorneys. The record closed on May 26, 2017.
14. The complaint relates to the period between July 10, 2011, when AEP commissioned the wind turbine at the Property, and February 19, 2016, when AEP installed a replacement meter there (the period at issue).
15. The following timeline shows the dates of the wind turbine's commissioning and the installations and tests of AEP's meters used at the Property:

<b>Date</b>	<b>Event</b>	<b>Meter No.</b>
September 14, 2010	A contractor installed an Advanced Meter Infrastructure (AMI), non-DG meter at the Property.	122400133
July 10, 2011	Mr. Holley had AEP commission a vertical 1-kW wind turbine there.	
July 29, 2011	An AEP meter technician installed a non-AMI, DG meter to accommodate the wind turbine.	428483280
July 18, 2013	An AEP meter technician installed an AMI, DG meter.	122400702
February 19, 2016	An AEP meter technician visited the Property after Mr. Holley expressed concern about whether the meter was accurately measuring delivered and received energy. The technician could not test the meter using the field test equipment, so he removed it.	122400702
	The technician installed a replacement AMI, DG meter, and tested it in the field. That meter is still in place.	134337570
June 23, 2016	The meter removed February 19, 2016, was tested in AEP's central meter shop.	122400702

16. As shown below, all tests of the meters showed they were accurate within +/- 2% (98% to 102% accurate):

Meter No./ Meter Type	Date	Type of Test	Test Result
428483280/ Non-AMI, DG	October 26, 2005	Factory test	100.01 Full Load 100.00 Light Load
122400702/ AMI, DG	May 2, 2013	Factory test	100.02 Full Load 100.02 Light Load
	June 23, 2016	Test in AEP's central meter shop after meter was removed	Forward Flow Meter Test: 99.99 Full Load 99.99 Light Load Reverse Flow Meter Test: 99.99 Full Load 99.99 Light Load
134337570/ AMI, DG	November 12, 2015	Factory test	100.04 Full Load 100.06 Light Load
	February 19, 2016	Field test after meter was installed	100.22 Full Load 100.11 Light Load

17. The netting of energy produced by the turbine and energy consumed at the Property occurs behind the AEP meter. The meter does not show consumption being offset by the turbine's output; it shows only the electricity that passes through it.
18. The AEP meter shows energy generated by the turbine only if it exceeds consumption, resulting in energy being put back onto the grid.
19. On February 19, 2016, AEP's meter technician did not have field testing equipment that could test a meter for both delivered and received energy. After installing the replacement meter that day, he turned off the breakers, interrupting the load, and was able to verify by reading the face of the meter that the turbine was putting power onto the grid.
20. The 15-minute interval data produced by both the meter in place before February 19, 2016, and the meter in place after that date show a few instances in which energy was being put back onto the grid. The energy being put back onto the grid was less than 1 kWh, which is too small to send the reading to the REP because the market rounds usage to whole numbers.

- 21. On February 19, 2016, AEP changed the program identification to allow AEP to more easily operate the service switch within the meter. That change did not affect meter accuracy or the reading of the forward and reverse flow.
- 22. Net usage patterns shown by the meter data are shown below:

<b>Time Period</b>	<b>Average kWh per Day</b>
January 2015	58.0
February 2015	37.1
January 2016	29.8
February 2016	22.4
February 1 to 19, 2016	23.2
February 19 to 29, 2016	20.8
March 2016	19.2
April 2016	16.6
May 2016	10.8
June 2016	8.9
July 2016	9.1

- 23. The average kWh/day began dropping in late 2015 (months before the February 19, 2016 meter replacement). It was much lower in January 2016 than in January 2015 and much lower in February 2016 than in February 2015.
- 24. In February 2016, the average kWh/day was fairly consistent before and after the replacement meter was installed. It was similar in March 2016, did not drop much until April 2016, and kept dropping even during the hot months of May 2016 through July 2016.
- 25. Currently, net usage at the Property is in single digits per day.
- 26. Mr. Holley installed the wind turbine as part of his effort to lower his energy footprint and to reduce his electric bill. He also replaced his hot water heater, washer, dryer, freezer, and refrigerator. Through a combination of these measures, he reduced net energy usage at the Property.
- 26A. The energy charges on Mr. Holley's electric bills decreased as his usage decreased. For example, for the time period of January 29, 2015 through February 27, 2015, the energy

charge on his bill was \$106.62 for 1,077 kWh, but for the time period of March 30, 2016 through April 28, 2016, the energy charge was \$50.13 for 482 kWh.

27. AEP should have tested the meter removed on February 19, 2016, more quickly than June 23, 2016, but the test demonstrated the meter was functioning properly.
28. AEP's meters accurately recorded net usage at the Property during the period at issue.
29. CPL and Just Energy accurately billed Mr. Holley for electricity usage based on the meter data AEP provided to them and the account's rate plan.

## II. Conclusions of Law

1. The Commission has jurisdiction over this matter in accordance with PURA<sup>1</sup> §§ 14.001, 14.051, 15.051, 17.157, 36.004, 38.002, 39.107(b).
2. SOAH has jurisdiction over matters related to the hearing, including preparation of a proposal for decision with findings of fact and conclusions of law under Texas Government Code § 2003.049<sup>2</sup> and PURA § 14.053.
3. Notice of the hearing was provided consistent with the Administrative Procedure Act §§ 2001.051-.052<sup>3</sup> and 16 Texas Administrative Code (TAC) chapter 22.
4. If the charges on a customer's electric bill are higher than authorized, the bill must be corrected for the entire period of the overbilling, including interest if the error is not corrected within three billing cycles of the error under 16 TAC § 25.28(c).
5. The Commission does not have jurisdiction to award a complainant damages in a complaint proceeding such as this. *Complaint of Korr Building Co., LLC against Xcel Energy, Inc. and Southwestern Public Service Company*, SOAH Docket No. 473-16-2414, PUC Docket No. 45494, Preliminary Order at 3 (Mar. 25, 2016); *Complaint of Public Utilities Brokers of Texas and PUB Clients against Starlight Electric, LP and Trieagle Energy, LP*, SOAH

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), §§ 59.001-66.017 (West 2007 & Supp. 2016) (PURA).

<sup>2</sup> Tex. Gov't Code Ann. § 2003.049 (West 2016).

<sup>3</sup> Tex. Gov't Code Ann. §§ 2001.051-.052 (West 2016) (APA).

Docket No. 473-07-0083, PUC Docket No. 32405, Preliminary Order at 4 (Jan. 11, 2007), Order (Jul. 16, 2008), Finding of Fact No. 3.

6. AEP's meters used to measure net usage at the Property during the period at issue met Commission requirements that they be accurate within +/- 2% (98% to 102% accurate) in accordance with 16 TAC §§ 25.121(d)(1), 25.124(b) and (d)(1).
7. Mr. Holley's bills for electric service at the Property during the period at issue were accurate, and he was not overbilled under PURA §§ 17.004(a)(7), 39.101(a)(6) and 16 TAC §§ 25.121(d)(1), 25.124(b) and (d)(1).

### III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The complaint filed by Evereth Holley against AEP, Just Energy, and CPL is denied.
2. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or special relief, if not expressly granted, are denied.

Signed at Austin, Texas the 21<sup>st</sup> day of August 2017.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**KENNETH W. ANDERSON, JR., COMMISSIONER**

  
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**BRANDY MARTY MARQUEZ, COMMISSIONER**



