

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Complaint Against Kansas)
Gas Service by Scott A. Wogomon.) Docket No. 16-KGSG-139-COM

ORDER ADOPTING LEGAL MEMORANDUM

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined Litigation Staff's Memorandum submitted in this matter and being duly advised in the premises, the Commission finds as follows

1. On September 10, 2015, Scott A. Wogomon (Complainant) filed a formal complaint (Complaint) against Kansas Gas Service (KGS) with the Commission stemming from the discontinuation of gas service to Complainant's home.¹ The Formal Complaint is attached hereto as Attachment A.

2. Also on September 10, 2015, Litigation Staff for the Commission prepared a Memorandum analyzing the Formal Complaint for compliance with Commission regulations.² Staff notes that the Complainant does not specifically cite to any violation of law, rule, or order in support of its contentions, and, therefore, is not in compliance with K.A.R. 82-1-220(b)(1).³ However, Litigation Staff recommends the Commission waive K.A.R. 82-1-220(b)(1) for good cause.⁴ Litigation Staff's Legal Memorandum is attached hereto as Attachment B.

¹ Formal Complaint (September 10, 2015).

² Legal Staff's Memorandum, September 2, 2015 (Legal Memorandum).

³ Legal Memorandum, p. 2.

⁴ *Id.*

3. Upon review of Litigation Staff's Legal Memorandum, the Commission is satisfied that jurisdiction to conduct the requested investigation exists pursuant to K.S.A. 66-1,201 *et seq.* Specifically, the Commission is authorized to investigate formal complaints regarding rates, rules, regulations, or practices of natural gas public utilities.⁵

4. Furthermore, the Commission agrees with Litigation Staff's analysis and recommendations and finds that Litigation Staff's Memorandum dated September 10, 2015, should be adopted and incorporated by reference. Specifically, the Commission finds the Formal Complaint substantially complies with the procedural requirements of K.A.R. 82-1-220, and establishes a *prima facie* case for Commission action.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- (A) K.A.R. 82-1-220(b)(1) is waved for good cause.
- (B) The Formal Compliant shall be served upon KGS for an Answer.
- (C) Staff is directed to investigate this matter and submit a Report and Recommendation to the Commission.
- (D) The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein.⁶
- (E) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

⁵ *Id.*

⁶ K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: SEP 15 2015

Amy L. Gilbert
ORDER MAILED SEP 16 2015
Amy L. Gilbert
Secretary to the Commission

AS

ATTACHMENT "A"

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION

Formal Complaint
February 2015

FORMAL COMPLAINT

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

IN THE MATTER OF THE COMPLAINT AGAINST

KANSAS GAS SERVICE

(Respondent, name of utility company)

For Commission
use only

DOCKET NO.

16-KGSG-139-com

by

Scott A. WOGOMON

(Complainant, your name)

Please provide complainant (your) contact information:

Full Name(s): Scott A WOGOMON Shela R WOGOMON
Address: 800 N Hickory Dr Tonganoxie KS 66086
Daytime Phone: 913 449 7698 913 449 3114
E-mail Address (optional): sawogomon@gmail.com

FORMAL COMPLAINT

Scott A WOGOMON

(Your name)

states that the above named respondent is a public utility providing service in Kansas and is subject to the jurisdiction of the State Corporation Commission.

The facts and circumstances surrounding the complaint are set out in detail below:
(Be specific and as brief as possible. If necessary, attach additional sheets.)

SEE ATTACHED

(Continued on the other side)

Formal Complaint *continued*

Complainant requests that the respondent utility be required to provide an answer to the complaint and requests the following action be ordered by the Commission. *(State action or result desired.)*

and for such further order or orders as the Commission may deem necessary.

VERIFICATION: I do solemnly, sincerely, and truly declare and affirm that the statements made in this complaint form are true and accurate to the best of my knowledge, and I do so under the pains and penalties of perjury.

Sgt AW
 Complainant's (your) signature

9/10/15
 Date signed

FILING INSTRUCTIONS

This form may be filed in person at the Kansas Corporation Commission's Office or by mail. All formal complaints, whether filed by mail or delivered in person must be directed to:

Secretary
 Kansas Corporation Commission
 1500 SW Arrowhead Road
 Topeka, KS 66604

For more information about the formal complaint process please refer to the instructions provided with this form or visit the KCC website: <http://kcc.ks.gov/>, Consumer Assistance, Filing a Complaint. You may also contact our Consumer Assistance staff toll-free at 1-800-662-0027 or by e-mail at public.affairs@kcc.ks.gov.



Sheila Wogomon <shewog@gmail.com>

Informal Complaint - Kansas Gas Service

Sheila Wogomon <shewog@gmail.com>

Tue, Sep 8, 2015 at 10:44 AM

To: public.affairs@kcc.ks.gov

Cc: sawogomon@gmail.com, l.haynos@kcc.ks.gov

- Scott & Sheila Wogomon
- 800 Hickory Dr, Tonganoxie KS 66086
- 913-449-7698, sawogomon@gmail.com, shewog@gmail.com
- Kansas Gas Service
- Account number 510676630 2012899 45
- On 8/18/15 KGS was contacted due to the smell of gas near our meter. The service tech who responded fixed a leak at the meter then detected additional gas in the soil around the home. Numerous actions were taken at that point, including drilling nearly 20 holes in our driveway, tunneling under our driveway two separate times, and various testing of the gas and gas pipes to determine the gas was not "pipeline" gas. We were displaced eight different nights due to these actions. Gas has never been detected in our home, or in the atmosphere around our home. KDHE is now testing to determine the cause and potential resolution to the "unknown" gas. KGS refuses to turn our gas back on regardless of the fact that no gas has ever been detected inside our home and the extensive testing they have done has ensured the quality of their pipeline in our neighborhood. Additionally, they have not responded to inquiries on specifically what is required to turn the gas back on. It is now 9/8/15 and we still do not have gas service. There are two other homes in our neighborhood that have been identified to have gas in the soil, one of which was near the foundation and the family was displaced for two nights. These houses continue to have gas service while ours does not.
- We would like our gas turned back on.

Thanks,
Scott & Sheila Wogomon

A handwritten signature in black ink that reads "Scott A. Wogomon". The signature is written in a cursive, flowing style.

ATTACHMENT "B"

MEMORANDUM

To: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

From: Amber Smith, Chief Litigation Counsel

Date: September 10, 2015

Re: 16-KGSG-139-COM
In the Matter of the Complaint Against Kansas Gas Service by Scott Wogomon

EXECUTIVE SUMMARY

Scott Wogomon (Complainant) filed a Formal Complaint¹ wherein Complainant expresses dissatisfaction with Kansas Gas Service (KGS) for not restoring gas service to Complainant's home following a report of gas odor made on August 18, 2015. Litigation Staff recommends the Commission accept the Formal Complaint, serve the Formal Complaint on KGS for an Answer, and direct Commission Staff to investigate the matter.

BACKGROUND

On September 10, 2015, Complainant filed a Formal Complaint against KGS. In the Formal Complaint, Mr. Wogomon states gas odor was reported to KGS on August 18, 2015, which resulted in a leak at Complainant's meter being identified and repaired. At this time, additional gas was detected in the soil around Complainant's home, and further tests by KGS and Kansas Department of Health and Environment have been and are being performed. Since that time, Complainant's gas service has been shut off. Complainant requests the gas service to his home be restored.

ANALYSIS

Upon the filing of a formal complaint, the Commission must determine, "whether or not the allegations, if true, would establish a [prima] facie case for action by the commission and whether or not the formal complaint conforms to the commission's regulations."² If

¹ Complaint Against Kansas Gas Service by Scott Wogomon, September 10, 2015 (Formal Complaint).

² K.A.R. 82-1-220(c).

the Commission determines these conditions are satisfied, the Complaint is served on the subject utility for an Answer.³

K.A.R. 82-1-220(b) requires formal complaints to satisfy three procedural requirements:

- (1) Fully and completely advise each respondent and the commission as to the provisions of law or the regulations or orders of the commission that have been or are being violated by the acts or omissions complained of, or that will be violated by the continuance of acts or omissions;
- (2) set forth concisely in plain language the facts claimed by the complainant to constitute the violation; and
- (3) state the relief sought by the complainant.

Mr. Wogomon's Formal Complaint plainly describes the facts and circumstances giving rise to the complaint.⁴ Further, the Complainant seeks specific relief by asking that gas service be restored.⁵ However, the Formal Complaint does not expressly cite the provisions of law or the regulations or orders of the Commission that have been or are being violated by the acts or omissions of the utility. Therefore, the Formal Complaint does not comply with procedural requirements of K.A.R. 82-1-220(b); specifically, subsection (1) as noted above. Nevertheless, the Commission has the discretion to waive its regulations for good cause if it is in the public interest to do so, unless otherwise required by law.⁶

The Commission has been given full power, authority and jurisdiction to supervise and control natural gas public utilities doing business in Kansas.⁷ The Commission is also charged with ensuring all natural gas public utilities provide efficient and sufficient service at just and reasonable rates and establish just and reasonable rules and regulations.⁸ Moreover, the Commission is granted authority over each natural gas public utility to investigate, upon written complaint, whether service performed or to be performed the utility is unduly insufficient or cannot be obtained.⁹ Litigation Staff believes that the Formal Complaint provides sufficient detail to notify KGS and the Commission that the Complainant is asking the Commission to exercise its authority and make determinations with regard to KGS's service obligations under Kansas law as well as the utility's Commission-approved tariffs.

The detailed requirements of K.A.R. 82-1-220 are more restrictive than those required by the Kansas Public Utilities Act and Kansas courts.¹⁰ Further, the public interest is not

³ *Id.*

⁴ Formal Complaint, p. 3.

⁵ *Id.*

⁶ K.A.R. 82-1-202.

⁷ K.S.A. 66-1,201.

⁸ K.S.A. 66-1,202.

⁹ K.S.A. 66-1,205.

¹⁰ *See*, K.S.A. 66-1,205 (the specific language of the statute allows for a complaint based solely on an unreasonable practice, K.A.R. 82-1-220(b) places the additional burden of alleging a specific violation of law, tariff or order which is not required by statute and may place an undue burden on complainants not represented by legal counsel); *See also*, *Boydston v. Bd. of Regents for State of Kan.*, 242 Kan. 94, 99, 744

served by dismissing the complaints of customers not represented by legal counsel for deficiencies related to stringent procedural requirements.¹¹ Therefore, because the Formal Complaint substantially complies with the procedural requirements of K.A.R. 82-1-220, Litigation Staff recommends the Commission waive the requirements of K.A.R. 82-1-220(b)(1) for good cause.

RECOMMENDATION

Litigation Staff recommends the Commission find:

- The Formal Complaint substantially complies with the procedural requirements of K.A.R. 82-1-220;
- K.A.R. 82-1-220(b)(1) should be waived for good cause;
- The Formal Complaint establishes a *prima facie* case for Commission action;
- The Formal Complaint should be served upon KGS for an Answer; and
- Staff should be directed to investigate this matter and submit a Report and Recommendation to the Commission.

P.2d 806, 811 (1987) (as long as the opponent is apprised of the facts that entitle the plaintiff to relief, it is not necessary to spell out a legal theory of relief in the pleadings).

¹¹ K.S.A. 66-155 obligates “the attorney of the corporation commission” to prosecute suits on behalf of parties complaining of unjust discriminations by a public utility or other violations of the Public Utility Act. Litigation Staff believes full representation of the Complainant in this case would be an unnecessary use of Commission resources and is evidence of further good cause for the Commission to waive the requirements of K.A.R. 82-1-220(b)(1).

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
AMBER SMITH, CHIEF LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
DAVID N. DITTEMORE, MANAGER OF RATES & ANALYSIS KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC. 7421 W 129TH ST OVERLAND PARK, KS 66213-2634		
WALKER HENDRIX, COMPLAINTS KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC. 7421 W 129TH ST OVERLAND PARK, KS 66213-2634		
SCOTT A. WOGOMON 800 N HICKORY DRIVE TONGANOXIE, KS 66086		

Order Mailed Date **SEP 17 2015**

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.