

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

Before Commissioners: Shari Feist Albrecht, Chairwoman
Jay S. Emler
Dwight D. Keen

In the Matter of the Complaint Against Kansas)
City Power & Light by Craig and Heidi Pardue.) Docket No. 19-KCPE-103-COM

ORDER DISMISSING FORMAL COMPLAINT WITH LEAVE TO AMEND

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined the pleadings submitted and being duly advised in the premises, the Commission finds as follows:

I. BACKGROUND

1. On September 12, 2018, Craig and Heidi Pardue (Complainants) filed a formal complaint (Formal Complaint) against Kansas City Power & Light (KCP&L) with the Commission.¹ The Formal Complaint alleged that KCP&L improperly and erroneously overcharged the Complainants for electric service.²

2. On September 17, 2018, Litigation Staff for the Commission prepared a Memorandum analyzing the Formal Complaint for Compliance with Commission regulations.³

3. Litigation Staff reviewed the underlying facts and allegations in the Formal Complaint. While making no recommendation regarding the *validity or truthfulness* of Complainants' claims, Litigation Staff believes the Complainants have not satisfied the procedural

¹ Formal Complaint Against Kansas City Power & Light, Docket No. 19-KCPE-103-COM (September 12, 2018) (Formal Complaint).

² *Id.*

³ Legal Staff's Memorandum, (September 17, 2018) (Legal Memorandum).

requirements of the Commission's rules of practice and procedure regarding submission of Formal Complaints.⁴

4. The Formal Complaint fails to: (1) advise the Commission on which provisions of law, regulations, or orders KCP&L violated, and (2) set forth concisely the facts claimed to constitute a specific violation.

5. Litigation Staff recommends the Commission find the Formal Complaint does not satisfy the procedural requirements of K.A.R. 82-1-220. Litigation Staff further recommends the Commission grant Complainants thirty (30) days to correct the procedural deficiencies identified above. If the Complainants fail to amend their Formal Complaint within thirty (30) days, Litigation Staff further recommends the Complaint be dismissed without prejudice.

II. FINDINGS AND CONCLUSIONS

6. K.S.A. 66-101 *et seq.*⁵ grants the Commission jurisdiction to investigate Formal Complaints regarding rates, rules, regulations, or practices of gas and electric public utilities.⁶

7. Litigation Staff's Memorandum dated September 17, 2018, attached hereto, is hereby adopted and incorporated by reference.

8. The Commission finds the Complainants have not satisfied the procedural requirements required for the filing of Formal Complaints as detailed in K.A.R. 82-1-220.

⁴ *Id.*

⁵ Specifically, the Commission is granted broad authority to review formal complaints. See K.S.A. 66-101e ("Upon a complaint in writing made against any electric public utility governed by this act that any of the rates or rules and regulations of such electric public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such electric public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such electric public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission may proceed, with or without notice, to make such investigation as it deems necessary."); see also K.S.A. 66-1,205(a).

⁶ See K.S.A. 66-101d, 101g; K.S.A. 66-1,201, 204, 207

9. The Commission finds the Complainants shall be granted thirty (30) days to amend their Formal Complaint to correct the procedural deficiencies identified above.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The Formal Complaint filed by Craig and Heidi Pardue is dismissed with leave to amend pursuant to K.A.R. 82-1-220(c).

(B) The Complainants shall have thirty (30) days from the date of this order to file an Amended Formal Complaint that addresses the procedural deficiencies identified above. Should the Complainants fail to amend their Formal Complaint within thirty (30) days, the Formal Complaint shall be dismissed without prejudice.

(C) Parties have fifteen (15) days, plus three (3) days if service is by mail, from the date of service of this order to petition the Commission for reconsideration or request a hearing, as provided in 77-542.⁷

(D) 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.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 09/25/2018



Lynn M. Retz
Secretary to the Commission

CRM

⁷ K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(l).

STATE OF KANSAS



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

MEMORANDUM LEGAL DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Carly Masenthin, Litigation Counsel

DATE: September 17, 2018

SUBJECT: Docket No. 19-KCPE-103-COM
In the Matter of the Complaint Against Kansas City Power & Light, Respondent,
by Craig and Heidi Pardue

EXECUTIVE SUMMARY:

Craig and Heidi Pardue (Complainants) filed a Formal Complaint¹ against Kansas City Power & Light Company (KCP&L). The Formal Complaint does not satisfy the procedural requirements of the State Corporation Commission of the State of Kansas' (Commission's) rules of practice and procedure. Legal Staff recommends the Commission reject the Formal Complaint, and provide Complainants with an opportunity to amend their Formal Complaint.

BACKGROUND & ANALYSIS:

On September 12, 2018, Complainants filed a Formal Complaint against KCP&L, alleging KCP&L has improperly and erroneously overcharged them for electric service.² Upon the filing of a Formal Complaint, the Commission must determine whether the allegations, if true, would establish a *prima facie* case for action by the Commission and whether the Formal Complaint conforms to the Commission's regulations.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

¹ Formal Complaint Against Kansas City Power & Light, Docket No. 19-KCPE-103-COM (September 12, 2018) (Formal Complaint).

² See *id.*

³ K.A.R. 82-1-220(c).

are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts or omissions;

(2) set forth concisely and in plain language the facts claimed by the Complainant to constitute the violations; and

(3) state the relief sought by the Complainant.

A review of the Formal Complaint shows that the first two procedural requirements have not been met. The Complainants do not cite to any provision of law, tariff, regulation, or statute and thus do not comply with procedural requirement (1). The Complainants do not cite to any specific tariff, regulation, or statute violated by KCP&L, therefore, it is not possible to determine if the factual statement is sufficient to meet procedural requirement (2). The Formal Complaint does list the relief sought and therefore complies with procedural requirement (3).

Due to the Complainants' failure to meet the procedural requirements, a determination of *prima facie* is not possible at this time.

No recommendation regarding the validity or truthfulness of the Complainants' claim(s) is made, nor should they in any way be assumed or concluded with the filing of this memorandum. The only recommendations made within this memorandum are the Commission should find: the Formal Complaint does not satisfy the procedural requirements of K.A.R. 82-1-220, and a determination of *prima facie* is not yet possible. K.A.R. 82-1-220(c) allows a Complainant to amend its Formal Complaint if it fails to meet the procedural requirements or allege sufficient facts for a *prima facie* determination.

RECOMMENDATION:

Litigation Staff recommends the Commission find the Formal Complaint does not satisfy the procedural requirements of the Commission's rules of practice and procedure. Likewise, Legal Staff recommends the Commission deny the Formal Complaint, and grant the Complainants thirty (30) days from such denial to amend their Formal Complaint. Finally, if the Complainants fail to correct the procedural deficiencies discussed herein Legal Staff recommends that the Formal Complaint be dismissed without prejudice and the docket be closed.

CERTIFICATE OF SERVICE

19-KCPE-103-COM

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 09/26/2018.

CRAIG AND HEIDI PARDUE
13936 NOLAND ST
OVERLAND PARK, KS 66221
hlpardue@gmail.com

LOIS LIECHTI, DIRECTOR REGULATORY AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19TH FLOOR (64105
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2110
regulatory.affairs@kcpl.com

ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19TH FLOOR (64105
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
roger.steiner@kcpl.com

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
c.masenthin@kcc.ks.gov

ROBERT VINCENT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
r.vincent@kcc.ks.gov

/s/ DeeAnn Shupe
DeeAnn Shupe