

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

Before the Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the Matter of the Complaint Against)
Westar Energy Inc. by Andrea Gates.) Docket No. 19-WSEE-010-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 and concludes as follows:

I. BACKGROUND

1. On July 12, 2018, Andrea Gates (Complainant) filed a Formal Complaint (Complaint) against Westar Energy Inc. (Westar) with the Commission asserting that Westar had been improperly billing Complainant's residence for over two years which caused an improper disconnection on April 2, 2018.¹ The Complaint is attached hereto as Attachment A.

2. On July 31, 2018, Litigation Staff for the Commission prepared a Memorandum analyzing the Complaint for compliance with Commission regulations.² Litigation Staff notes that the Complainant does not specifically cite to any provision(s) of law, tariff, regulations, Commission order or statute that have been violated by the acts or omissions of the utility, and therefore, is not in compliance with K.A.R. 82-1-220(1).³ However, Litigation Staff recommends the Commission waive K.A.R. 82-1-220(1) for good cause.⁴ Litigation Staff's Legal Memorandum is attached hereto as Attachment B.

¹ Formal Complaint, at 1-4 (July 12, 2018).

² Legal Staff's Memorandum (July 31, 2018) (Legal Memorandum).

³ Legal Memorandum, at 2.

⁴ Id. at 3.

II. FINDINGS AND CONCLUSIONS

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. 66-101 *et seq.* Specifically, the Commission is authorized to investigate formal complaints regarding rates, rules regulations, or practices of gas and electric public utilities.⁵ In this instance, the Commission is authorized to conduct an investigation into the issue of possible improper billing and disconnection detailed in the Formal Complaint. However, the Commission is not authorized to investigate the purported issue involving negligence and incidental damages.

Negligence and Incidental Damages

4. The Commission agrees with Litigation Staff's analysis and recommendations regarding Complainant's contention of negligence and request for incidental damages for spoiled groceries and a hotel bill.⁶ Specifically, the Commission lacks the jurisdiction to issue rulings pertaining to Complainant's assertion of Westar's negligence and incidental damages.⁷

Tariffs Implicated

5. The Commission agrees with Litigation Staff's analysis and recommendations and finds that Litigation Staff's Memorandum dated July 31, 2018, 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.⁸

⁵ Id. at 2-3.

⁶ Id. at 2.

⁷ *Grindsted Products, Inc. v. Kansas City Power & Light Co.*, 21 Kan.App. 2d 435, 447, 901 P.2d 20, 28 (1995) (KCC does not have the power to determine negligence issues and cannot award damages for issues which are in essence judicial). *See also, Hamilton v. United Telephone Co. of Kan.*, 6 Kan.App. 2d 885, 887, 636 P.2d 202, 204 (1981).

⁸ *See*, K.S.A. 66-101e (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);

6. Accordingly, the Commission finds and concludes the Complaint shall be served upon Westar for an Answer and an investigation into the Complaint shall be undertaken.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The Complainant's assertion of negligence and request for incidental damages for spoiled groceries and a hotel bill is dismissed for lack of jurisdiction.

(B) The Complainant's improper billing and disconnection argument substantially complies with the procedural requirements of K.A.R. 82-1-220.

(C) K.A.R. 82-1-220(1) is waived for good cause.

(D) The Formal Complaint shall be served upon Westar for an Answer.

(E) Parties have 15 days, plus three 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 K.S.A. 77-542.

(F) 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: 08/07/2018



Lynn M. Retz
Secretary of the Commission

CAB

See also, Boydston v. Bd. Of Regents for State of Kan., 242 Kan. 94, 99, 744 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).

ATTACHMENT “A”

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION
FORMAL COMPLAINT

Exhibit 1

Note: Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information you provide in the complaint or other documents related to the complaint, including, but not limited to, your name, address, city, state, zip code, telephone number, email address, and the facts of your case may be available online for public viewing.

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

IN THE MATTER OF THE COMPLAINT AGAINST

Westar Energy
(Respondent, name of utility company)

by

Andrea Gates
(Complainant, your name)

For Commission
use only

DOCKET NO.

19-WSEE-010-COM

Please provide complainant (your) contact information:

Full Name(s): Andrea Renee Gates

★ Address: 8419 East Harry Street Unit 701 Wichita, Kansas 67207

Daytime Phone: (316) 207-3456

E-mail Address (optional): agates@shockers.wichita.edu

FORMAL COMPLAINT

Andrea Gates
(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.)

On 4/2/18, power to unit listed under address field above ★ was cut off. The neighbors in unit 703, also at 8419 East Harry in Wichita, moved out that day and called Westar to cut off their power. Exhibit C confirms the Jorges' family dates of residency at Cedar Lakes Condos.

On December of 2018, Mrs. Joyce Jorges authorized Westar

(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.)

to install an electric ^{digital} meter reader in replacement of an analogue meter. A so-called technician from Westar came to my door stating she needed access to my property (all 3 meters for building #7 are on my residential west wall). Since only 3 units exist for building #7 ~~exist~~ (units 701, 702, & 703), I turned her away. This property has had equipment stolen from it before, so I thought she was so unqualified that she must be a fraud attempting to case our residence for future thefts.

I called Westar later that day in December and asked a representative to confirm the so-called technician's information

and for such further order or orders as the Commission may deem necessary. (See attached) →

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 this under the pains and penalties of perjury.

I understand that Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information provided in the complaint or other documents related to the complaint, including, but not limited to, my name, address, city, state, zip code, telephone number, email address, and the facts of the case may be available online for public viewing.

Complainant's (your) signature

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 to the Commission
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.

Exhibit ①

The representative confirmed they had sent a technician out to our property (#701) to install an electric, digital meter authorized by the new resident moving in at #703. This unit had been vacant for months prior to this, so I was ~~pre~~viously unaware a new owner existed. I authorized Westar to send a qualified technician out to my property to carry out the request of Mr. Joyce Jacques in unit #703.

In early February of 2016, I noticed our electric bill had quite suddenly doubled when compared with previous years' activity. There was no change in use to our property, so I called Westar to tell them to double check the meters to make sure they ~~we~~ weren't reversed (unit 701 to 703). Unit 703 is bigger than unit 701, and the Jacques had 6 residents whereas we, the Gates, have 3. Westar claimed to send out a technician who stated nothing was amiss. This process would repeat itself both in my calls and letters to Westar month over month until there were 4-6 complaints filed internally between myself and this utility. They vehemently denied any error and treated me like I was crazy.

The nightmare continued the 1st week of April as I came home pregnant with a toddler that first Monday in April of 2018. My husband was out of town; we were on our own. I called to report the outage, but Westar again insisted I was wrong, while I could see a unit #703 with many lights on and an old dark house without electricity. The rep. on the phone insisted I didn't know what I was talking about; the husband wasn't in. I didn't know what I was talking about; the husband wasn't in. The low that night was #200 so I checked us into the Red Roof Inn (Exhibit E) so that my family wouldn't freeze overnight. Over the next day and 12 both my

husband and I would continue to contact Westar 3 more times before they stated we needed to send an electrician to fix "an" problem because they had sent out 3 of their technicians that week and none had found anything to be the matter.

A Certified Electrician from EZ Electric was sent by my husband, Adam Gates, to inspect the meter hookups on the west wall of our unit 701. Exhibit B shows this outside technician could immediately see the lines to meters for units 701 and 703 were crossed. It took ~~us~~ him so little time to find the problem that he didn't even ask us to pay him.

He called Westar, and they reversed the lines ~~to~~ again so that unit 701 read unit 701 and unit 703 read unit 703. Finally, the lights on unit 703 went out and our power came back on.

On Sunday, 4/1/18, I had purchased groceries which had become a pretty pathetic mess. Please see exhibit 7 for the Dillons receipt relating to the most recent grocery purchase prior to the days long outage inflicted on us by Westar's incompetence. Westar offered to replace only the perishable portion of the groceries and the Red Roof Hotel stay. They completely ignored my statement that other items were in the fridge and freezer that were purchased in previous weeks; the fridge and freezer weren't completely bare prior to the 4/1/18 purchase. In order to pay even this too low amount of \$335.90, they required me to sign a final settlement with a hold harmless agreement (Exhibit 8). Since they double charged me from 12/15 to 5/18, it was immoral on their part to make this requirement. I have not signed this so they paid me \$0.

(cont.)

After filing an informal complaint with the KS Corporation Commission, Westar produced a spreadsheet (Exhibit D) and subsequently issued a \$573.95 credit to my account #2303905386 (Exhibit G). However, this credit only included a 1 year lookback (ignoring the other 2 years) and it included a miracle of nature.

Contrary to the laws of physics, on 4/25/18 the meter for #703 (wired to #701~~8~~ for reading purposes) simultaneously was at kWh 206 and kWh 617. Really though, the accounting department is as incompetent as the field "technicians." ~~For~~ In June of 2018, I brought this to Westar's attention in writing with my last written complaint. Surprise, surprise, they did absolutely nothing.

Since 5/18/18, they should have fixed this problem by fully and accurately responding to the complaints. Since 4/18, ~~since~~ they became aware of the problem via notice from the certified electrician from EE Electric; they have willingly and knowingly withheld funds owed to us. They admitted ~~their~~ fault in Exhibit H. When a business is in this situation yet refused to issue cash or some form of equitable compensation within a reasonable ~~to~~ period of time, they become guilty of committing fraud against the other party.

Exhibit A shows lifetime kWh readings I took pictures of for reference in 4/2018. Our unit's meter was installed about 1 year before unit 703's in 12/2015. There was no material change in our bills in 2017. ASI stated, Westar still owes us over \$1,000 for switching the meters from 2015 through 2017, as well as the erroneous reading given by them ~~on~~ for 4/25/2018.

For the outage crisis Westar created through their negligence, Westar owes us the sum of ~~interior~~ receipts:
 Exhibit E: Rued Roof Inl \$80.22
 Exhibit F: Pillars + \$308.76
 Sum to: \$388.98

To summarize, Westar owes us for \$388.98 for the outage caused by their error on 4/2/18. They owe us for the difference in meters from the time the Jacques family moved in on 12/2015 through the time they moved out and Westar acted on their shut-off request on 4/2/18. Again, this building is located at 8419 E. Hasty St, Wichita, KS 67207.

Your prompt attention to this matter is most appreciated.

Yours Sincerely,

Andee Cates
 (316) 207-3456

Exhibit (A)

Consumer Complaint Form against Westar

Gates, Andrea

8419 E. Hwy St. 4/2018;
Today, 11:13 AM Wichita, KS
public.affairs@kcc.ks.gov

unit for electric meter reading;
(Installed prior to 12/2015)

18,958 kWh

~~unit for electric meter reading (Installed 12/2015);~~
27,343 kWh

Dear Clerk,

(Both are lifetime readings from ^{digital} meter installation)

Please send me the formal complaint form for Westar. I have followed the informal complaint procederes as well as contacting them multiple times, yet they have responded with incomplete, innacurate information. They still owe us more than \$1,000, and have left me with no other choice.

Sincerely,

Andrea Gates

Exhibit (B)

EZ ELECTRIC INC
4710 S Emporia
Wichita, Kansas 67216
Phone: (316) 269- 1492
Fax: (316) 269-3358

Proposal

Proposal Submitted TO: Adam Gates	Phone: 1-520-390-7062 Fax:	Date: 4-26-18
Street: 8201 E Harry Unit 701	Job Name:	
City, State & Zip Code:	Job Location:	
Architect:	Date Of Plans:	Job Phone:

We hereby submit specifications and estimates for:

#1- Was called out to a unit that had no power and then I started to do some checking and found that unit 701 and unit 703 whoever installed electric meters had meters and units mixed up. The person in unit 703 moved out when they asked Westar to shut power off end up shutting off unit 701 instead. I called Westar to get this corrected and they end up sending someone out to correct the matter.

Please call with any questions.
Thanks Jeremy with EZ Electric

We propose to hereby furnish material & labor-complete in accordance with the above specifications for the sum of:

Payment to be made as follows:

All materials are guaranteed to be as specified. All work is to be completed in a workmanlike manner according to standard practices. Any alterations or deviations from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance. Authorized Signature: _____

Note: This proposal may be withdrawn by our company if not accepted within 45 days.

Acceptance of Proposal: The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____ Date Of Acceptance: _____



Exhibit ①

Confirmation of Residency

1 message

Theresa Gobel <Theresa@SIMONPALMERPROPERTIES.COM>
To: agates2114@yahoo.com

Tue, May 22, 2018 at 2:06 PM

As the management company and representative of Cedar Lakes Village Condominium Association, this email serves as formal notice of the occupancy of the unit at 8419 E. Harry, #703. Ms. Joyce Jacques occupied the referenced unit from December, 2015 through approximately May 14, 2018 (based on date of sale of unit).

Theresa Gobel, Office Manager

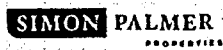
PO Box 781815

Wichita, KS, 67278

(316) 687-9797 office

(316) 687-9995 fax

theresa@simonpalmerproperties.com



 **image001.jpg**
3 KB



Exh. b. 16

Red Roof Inn Wichita East

7335 E. Kellogg Dr
Wichita, KS 67207 US

Phone: 316-685-1281

Fax: 316-691-8844

Email: I0588@REDROOF.COM

Printed: 4/3/2018 7:29:36 AM

Folio (Detailed)

Name: GATES, ANDREA

Conf #: 588-771510

Address: 8419 E. Harry Street, #701
Wichita, KS 67207 US

Room: 202 Room Type: NS1K, NON-SMOKING STANDARD 1 KING BED

Nights: 1 Guests: 1/0

Rate Plan: BAR

Daily Rate: \$69.00 + \$11.22 Tax

GTD: 913 - VISA

Arrival: 4/2/2018 (Mon)

Departure: 4/3/2018 (Tue)

XXXX XXXX XXXX 9962

Room Rate:

4/2/2018 (Mon) - 4/2/2018 (Mon) \$69.00 + \$11.22 Tax per night.

Date	Code	Description	Amount	Balance
4/2/2018	913	VISA (9962) 211560 272593753	(\$180.22)	(\$180.22)
4/2/2018	100	ROOM CHARGES	\$69.00	(\$111.22)
4/2/2018	150	STATE TAX	\$4.49	(\$106.73)
4/2/2018	152	CITY TAX	\$4.14	(\$102.59)
4/2/2018	156	TOURISM FEE	\$1.90	(\$100.69)
4/2/2018	151	COUNTY TAX	\$0.69	(\$100.00)
4/3/2018	913	VISA (9962)	\$100.00	\$0.00

Summary

Room	Tax	F&B	Other	CC	Cash	DB
\$69.00	\$11.22	\$0.00	\$0.00	(\$80.22)	\$0.00	\$0.00

4/8/18 18:22

Receipt Details 4/1/18

Page 1 of 6

Division	Store	Cashier	Register #	Trans Date	Trans Time	Trans #	SKU or UPC	SKU Desc	Extended Amount	Trans Disc Amt	Tender Amount	Record Code	Customer	Trans Status	Trans Type
Dillons	20	751	163	4/1/18	200000	151			\$ 0.00	\$ 0.00	\$ 0.00	Loyalty Card	48102804746	COMPLETE	SALE
Exhibit (F)							1111140784	DOVE MEN CLN CMFRT BAR	\$ 4.49	\$ 0.00	\$ 0.00	Regular			
							64420941103	DUNHNS SGN LEMON CAKE MIX	\$ 2.29	\$ 0.00	\$ 0.00	Regular			
							10000022313	*** DESC UNKNOWN-COD		(\$ 1.29)		Loyalty Card			
							4470002458	OSCM LNCHABL HAM&CHEDDAR	\$ 1.79	\$ 0.00	\$ 0.00	Regular			
							4416	PEARS ANJOU	\$ 6.69	\$ 0.00	\$ 0.00	Regular			
							3400066624	REESES REESTER BUNNIES	\$ 3.99	\$ 0.00	\$ 0.00	Regular			
							10000014472	*** DESC UNKNOWN-COD		(\$ 0.99)		Loyalty Card			
							3400066624	REESES REESTER BUNNIES	\$ 3.99	\$ 0.00	\$ 0.00	Regular			
							10000014472	*** DESC UNKNOWN-COD		(\$ 0.99)		Loyalty Card			
							7118000804	RRAY NUTR CKBR RCNG/FRT	\$ 9.99	\$ 0.00	\$ 0.00	Regular			
							4227200085	AMYS ENCHILADA VERDE MEAL	\$ 4.29	\$ 0.00	\$ 0.00	Regular			
							4227200051	AMYS BLKBN ENCHLDA WHL ML	\$ 4.29	\$ 0.00	\$ 0.00	Regular			
							3100018454	BANQ B&S MPL SG LNKS 10CT	\$ 2.19	\$ 0.00	\$ 0.00	Regular			
							10000010064	*** DESC UNKNOWN-COD		(\$ 0.69)		Loyalty Card			
							3338324026	BLACKBERRIES	\$ 3.99	\$ 0.00	\$ 0.00	Regular			
							10000016807	*** DESC UNKNOWN-COD		(\$ 3.00)		Loyalty Card			
							7590000528	BOBEVN ORG MASHD POTATOES	\$ 3.49	\$ 0.00	\$ 0.00	Regular			
							10000020006	*** DESC UNKNOWN-COD		(\$ 0.49)		Loyalty Card			
							3940001612	BUSH ORIGINAL BAKED BEANS	\$ 1.87	\$ 0.00	\$ 0.00	Regular			
							5100001031	CAMP CREAM OF CHICKEN	\$ 1.39	\$ 0.00	\$ 0.00	Regular			
							10000016800	*** DESC UNKNOWN-COD		(\$ 0.40)		Loyalty Card			
							63671190310	CASC ICE MXBRY SPRK WTR	\$ 1.25	\$ 0.00	\$ 0.00	Regular			
							10000012947	*** DESC UNKNOWN-COD		(\$ 0.37)		Loyalty Card			
							4112907700	CLSC FR RST TM GRL PST SC	\$ 3.47	\$ 0.00	\$ 0.00	Regular			

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Receipt Details 4/1/18

Page 2 of 3

Division	Store	Cashier	Register #	Trans Date	Trans Time	Trans #	SKU or UPC	SKU Desc	Extended Amount	Trans Disc Amt	Tender Amount	Record Code	Customer	Trans Status	Trans Type
Dillons	20	751	163	4/1/18	200000	151	10000020802	*** DESC UNKNOWN-COD		(\$ 0.48)		Loyalty Card	48102804748	COMPLETE	SALE
							3500051087	COLG BK SD PRX WHT TPASTE	\$ 1.89	\$ 0.00	\$ 0.00	Regular			
							10000018746	*** DESC UNKNOWN-COD		(\$ 0.10)		Loyalty Card			
							4062	CUCUMBERS RPC	\$ 0.59	\$ 0.00	\$ 0.00	Regular			
							4062	CUCUMBERS RPC	\$ 0.59	\$ 0.00	\$ 0.00	Regular			
							7342000011	DAISY SOUR CREAM	\$ 2.29	\$ 0.00	\$ 0.00	Regular			
							10000018243	*** DESC UNKNOWN-COD		(\$ 0.30)		Loyalty Card			
							1111080811	DLLN GRD AA LRG EGGS RPC	\$ 1.89	\$ 0.00	\$ 0.00	Regular			
							1111041747	DLLN WHOLE MILK	\$ 2.09	\$ 0.00	\$ 0.00	Regular			
							1000001822	*** DESC UNKNOWN-COD		(\$ 0.20)		Loyalty Card			
							1111041747	DLLN WHOLE MILK	\$ 2.09	\$ 0.00	\$ 0.00	Regular			
							1000001822	*** DESC UNKNOWN-COD		(\$ 0.20)		Loyalty Card			
							3890000143	DOLE 100%JCE SLC PNEAPPLE	\$ 1.59	\$ 0.00	\$ 0.00	Regular			
							10000021485	*** DESC UNKNOWN-COD		(\$ 0.34)		Loyalty Card			
							2840000289	FRITO LAY FLAVOR MIX 20CT	\$ 6.99	\$ 0.00	\$ 0.00	Regular			
							1258778554	GLAD OS DS FR TL KT 13GAL	\$ 17.99	\$ 0.00	\$ 0.00	Regular			
							10000014748	*** DESC UNKNOWN-COD		(\$ 1.60)		Loyalty Card			
							2000010473	GRNGNT WHL KRNL SWT CORN	\$ 1.29	\$ 0.00	\$ 0.00	Regular			
							10000016673	*** DESC UNKNOWN-COD		(\$ 0.30)		Loyalty Card			
							71752477838	DELM SALSA HATCH CHILE	\$ 4.49	\$ 0.00	\$ 0.00	Regular			
							21077300000	HF CHICKEN DRUMS VP	\$ 8.37	\$ 0.00	\$ 0.00	Regular			
							7110000403	HD VLY RANCH DIP MIX	\$ 1.99	\$ 0.00	\$ 0.00	Regular			
							10000018765	*** DESC UNKNOWN-COD		(\$ 0.20)		Loyalty Card			
							88491201427	POST HNY BNCH OAT W/ALMND	\$ 4.29	\$ 0.00	\$ 0.00	Regular			
							10000016871	*** DESC UNKNOWN-COD		(\$ 1.80)		Loyalty Card			
							8047841001	JRTO MANDARINA SODA	\$ 0.79	\$ 0.00	\$ 0.00	Regular			

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Receipt Details 4/1/18

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Division	Store	Cashier	Register #	Trans Date	Trans Time	Trans #	SKU or UPC	SKU Desc	Extended Amount	Trans Disc Amt	Tender Amount	Record Code	Customer	Trans Status	Trans Type
Dillons	20	751	163	4/1/18	200000	151	3600025883	KLNK LTN FACIAL TISSUE	\$ 7.59	\$ 0.00	\$ 0.00	Regular	48102804746	COMPLETE	SALE
							10000021534	*** DESC UNKNOWN-COD		(\$ 2.10)		Loyalty Card			
							1111071977	KRO AUJUS GRAVY MIX	\$ 0.49	\$ 0.00	\$ 0.00	Regular			
							1111089202	KRO CREAM CHS BAR	\$ 1.19	\$ 0.00	\$ 0.00	Regular			
							1111081079	KRO TWSTED GARLIC BRD STK	\$ 1.69	\$ 0.00	\$ 0.00	Regular			
							1111089875	KRO LONG GRAIN WHITE RICE	\$ 1.39	\$ 0.00	\$ 0.00	Regular			
							1111086693	KRO MARASCHINO CHERRY	\$ 1.19	\$ 0.00	\$ 0.00	Regular			
							1111097260	KRO MILD ITALIAN SAUSAGE	\$ 3.99	\$ 0.00	\$ 0.00	Regular			
							10000019053	*** DESC UNKNOWN-COD		(\$ 1.00)		Loyalty Card			
							1111058733	KRO SHRP CHDR CHEESE BAR	\$ 3.49	\$ 0.00	\$ 0.00	Regular			
							1111081654	KRO TOMATO SAUCE	\$ 0.34	\$ 0.00	\$ 0.00	Regular			
							1111081654	KRO TOMATO SAUCE	\$ 0.33	\$ 0.00	\$ 0.00	Regular			
							1111081654	KRO TOMATO SAUCE	\$ 0.33	\$ 0.00	\$ 0.00	Regular			
							1111089305	KRO UNSLTD BTR STKS 4CT	\$ 2.79	\$ 0.00	\$ 0.00	Regular			
							4144800110	KRSTZ BTTRMILK PANCAKE MX	\$ 3.19	\$ 0.00	\$ 0.00	Regular			
							10000020907	*** DESC UNKNOWN-COD		(\$ 0.69)		Loyalty Card			
							7152418007	LA PREF DCD MLD GRN CHLS	\$ 0.89	\$ 0.00	\$ 0.00	Regular			
							10000015685	*** DESC UNKNOWN-COD		(\$ 0.20)		Loyalty Card			
							5280048234	LBRDRM ADVNC THRPY LOTION	\$ 6.49	\$ 0.00	\$ 0.00	Regular			
							10000021925	*** DESC UNKNOWN-COD		(\$ 0.20)		Loyalty Card			
							4470002458	OSCM LUNCHABLE HAM&CHEDDAR	\$ 1.79	\$ 0.00	\$ 0.00	Regular			
							4470002455	OSCM LUNCHABLES TRKY&CHDR	\$ 1.79	\$ 0.00	\$ 0.00	Regular			
							5210009150	MCCO CHILI SEASON MIX	\$ 1.00	\$ 0.00	\$ 0.00	Regular			
							7373100291	MSSN SPINCH HERB WRAP 6CT	\$ 3.99	\$ 0.00	\$ 0.00	Regular			

Exhibit f

4/6/18 16:22

Receipt Details 4/1/18

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Division	Store	Cashier	Register #	Trans Date	Trans Time	Trans #	SKU or UPC	SKU Desc	Extended Amount	Trans Disc Amt	Tender Amount	Record Code	Customer	Trans Status	Trans Type
Dillions	20	751	163	4/1/18	200000	151	1600045724	NTVL PRTN ALMND DK CH 5CT	\$ 4.29	\$ 0.00	\$ 0.00	Regular	48102804746	COMPLETE	SALE
							10000019788	*** DESC UNKNOWN-COD		(\$ 1.50)		Loyalty Card			
							1600045723	NTVL PRTN PNB DRK CHO 5CT	\$ 4.29	\$ 0.00	\$ 0.00	Regular			
							10000019788	*** DESC UNKNOWN-COD		(\$ 1.50)		Loyalty Card			
							3100087001	PFCHNG BEEF BROCCOLI	\$ 9.19	\$ 0.00	\$ 0.00	Regular			
							3100087000	PFCHNG MONGOLIAN STYLE	\$ 9.19	\$ 0.00	\$ 0.00	Regular			
							4709	PEPPERS SERRANO RPC	\$ 0.22	\$ 0.00	\$ 0.00	Regular			
							1200080994	PEPSI 12PK	\$ 4.99	\$ 0.00	\$ 0.00	Regular			
							3800017651	KELL POPTRT STWBRY MLKSHK	\$ 2.19	\$ 0.00	\$ 0.00	Regular			
							10000021476	*** DESC UNKNOWN-COD		(\$ 0.52)		Loyalty Card			
							1111081821	PRSL GDA DRK ROB TST SYRP	\$ 5.99	\$ 0.00	\$ 0.00	Regular			
							1111000197	PRSL 100% WHL WHEAT BREAD	\$ 1.88	\$ 0.00	\$ 0.00	Regular			
							22573700000	PRSL BLACK FOREST HAM	\$ 8.23	\$ 0.00	\$ 0.00	Regular			
							10000017252	*** DESC UNKNOWN-COD		(\$ 1.03)		Loyalty Card			
							1111091870	RADISHES RED	\$ 1.59	\$ 0.00	\$ 0.00	Regular			
							1600027503	GM REESES PNTBTR PUFFS	\$ 3.39	\$ 0.00	\$ 0.00	Regular			
							6414428243	ROTEL DCD GRN CHL TOMATO	\$ 1.00	\$ 0.00	\$ 0.00	Regular			
							5400011971	SCOTT BATH TISSUE	\$ 7.99	\$ 0.00	\$ 0.00	Regular			
							10000021553	*** DESC UNKNOWN-COD		(\$ 2.50)		Loyalty Card			
							1111091128	STO BABY SPINACH	\$ 3.49	\$ 0.00	\$ 0.00	Regular			
							10000017583	*** DESC UNKNOWN-COD		(\$ 0.49)		Loyalty Card			
							1111091131	STO BABY SPRING MIX	\$ 3.49	\$ 0.00	\$ 0.00	Regular			
							10000017583	*** DESC UNKNOWN-COD		(\$ 0.49)		Loyalty Card			
							1111018438	ST RSTD REDPEP HUMMUS ORG	\$ 3.99	\$ 0.00	\$ 0.00	Regular			
							10000012886	*** DESC UNKNOWN-COD		(\$ 1.49)		Loyalty Card			
							1111042850	STO WHOLE MILK	\$ 3.29	\$ 0.00	\$ 0.00	Regular			

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Division	Store	Cashier	Register #	Trans Date	Trans Time	Trans #	SKU or UPC	SKU Desc	Extended Amount	Trans Disc Amt	Tender Amount	Record Code	Customer	Trans Status	Trans Type
Dillons	20	751	163	4/1/18	200000	151	76211183448	STRBCK PIKE PLC WB COFFEE	\$ 10.29	\$ 0.00	\$ 0.00	Regular	48102804746	COMPLETE	SALE
							10000017194	*** DESC UNKNOWN-COD		(\$ 4.30)		Loyalty Card			
							5100012114	SWNS 99% FF CHICKEN BROTH	\$ 2.99	\$ 0.00	\$ 0.00	Regular			
							1340951520	SWTBR SWT VDLIA ON BBQ SC	\$ 2.69	\$ 0.00	\$ 0.00	Regular			
							10000016725	*** DESC UNKNOWN-COD		(\$ 1.20)		Loyalty Card			
							3651514383	MINNEOLAS RPC	\$ 0.99	\$ 0.00	\$ 0.00	Regular			
							3651514383	MINNEOLAS RPC	\$ 0.99	\$ 0.00	\$ 0.00	Regular			
							3651514383	MINNEOLAS RPC	\$ 0.99	\$ 0.00	\$ 0.00	Regular			
							3651514383	MINNEOLAS RPC	\$ 0.99	\$ 0.00	\$ 0.00	Regular			
							3651514383	MINNEOLAS RPC	\$ 0.99	\$ 0.00	\$ 0.00	Regular			
							4664	TOMATOES RED OTV RPC	\$ 1.10	\$ 0.00	\$ 0.00	Regular			
							4280000382	TTNO PEPP PIZZA ROLL 90CT	\$ 8.19	\$ 0.00	\$ 0.00	Regular			
							10000021672	*** DESC UNKNOWN-COD		(\$ 2.20)		Loyalty Card			
							3338370177	PEPPER BELL TRI-COLOR RPC	\$ 4.99	\$ 0.00	\$ 0.00	Regular			
							10000020808	*** DESC UNKNOWN-COD		(\$ 1.50)		Loyalty Card			
							7990000321	WYMN STRW BLBRY CHRY KALE	\$ 11.99	\$ 0.00	\$ 0.00	Regular			
							10000018038	*** DESC UNKNOWN-COD		(\$ 0.80)		Loyalty Card			
							23108	IN STORE PICKUP	\$ 4.95	\$ 0.00	\$ 0.00	Non Merch			
							800000029710	*** DESC UNKNOWN-COD		(\$ 5.00)		Loyalty Card			
							800000028377	*** DESC UNKNOWN-COD		(\$ 1.87)		Loyalty Card			
							800000027729	*** DESC UNKNOWN-COD		(\$ 2.00)		Loyalty Card			
							800000016641	*** DESC UNKNOWN-COD	\$ 0.00	\$ 0.00	\$ 2.00	MFR Coupon			
							800000012188	*** DESC UNKNOWN-COD	\$ 0.00	\$ 0.00	\$ 3.00	MFR Coupon			
							800000012456	*** DESC UNKNOWN-COD		(\$ 1.00)		Loyalty Card			
							800000013285	*** DESC UNKNOWN-COD		(\$ 0.75)		Loyalty Card			
							800000015698	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			

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Division	Store	Cashier	Register #	Trans Date	Trans Time	Trans #	SKU or UPC	SKU Desc	Extended Amount	Trans Disc Amt	Tender Amount	Record Code	Customer	Trans Status	Trans Type
Dillons	20	751	163	4/1/18	200000	151	800000010760	*** DESC UNKNOWN-COD	\$ 0.00	\$ 0.00	\$ 0.50	MFR Coupon	48102804746	COMPLETE	SALE
							800000024908	*** DESC UNKNOWN-COD	\$ 0.00	\$ 0.00	\$ 0.50	MFR Coupon			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							10000009288	*** DESC UNKNOWN-COD		(\$ 0.50)		Loyalty Card			
							7119000804	RRAY NUTR CK/BR RC/VG/FRT	\$ 11.99	\$ 0.00	\$ 0.00	Regular			
							10000013919	*** DESC UNKNOWN-COD		(\$ 1.00)		Loyalty Card			
							7119000804	RRAY NUTR CK/BR RC/VG/FRT	(\$ 11.99)	\$ 0.00	\$ 0.00	Regular			
							10000013919	*** DESC UNKNOWN-COD		\$ 1.00		Loyalty Card			
							7119000804	RRAY NUTR CK/BR RC/VG/FRT	\$ 0.00	\$ 0.00	\$ 0.00	Regular			
							64420941103	DUNHNS SQN LEMON CAKE MIX	(\$ 2.29)	\$ 0.00	\$ 0.00	Regular			
							10000022313	*** DESC UNKNOWN-COD		\$ 1.29		Loyalty Card			
									\$ 0.00	\$ 0.00	\$ 249.68	Other			
									\$ 0.00	\$ 0.00	\$ 0.00	Loyalty Card			
									\$ 0.00	\$ 0.00	\$ 0.00	Used Targeted			
									\$ 17.49			Tax			
Total for Trans #									\$ 308.76		\$ 255.68				
Report Totals									\$ 308.76		\$ 255.68				

ATTACHMENT “B”

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: Cole Andrew Bailey, Litigation Counsel

DATE: July 31, 2018

SUBJECT: 19-WSEE-010-COM
In the Matter of the Complaint Against Westar Energy by Andrea Gates

EXECUTIVE SUMMARY:

Andrea Gates ("Complainant") filed a Formal Complaint against Westar Energy, Inc. ("Westar") alleging that Westar failed to properly install a new meter which caused (1) Complainant to be incorrectly billed; (2) Complainant's power to be improperly disconnected; and (3) Complainant to incur incidental damages.¹ The Commission lacks jurisdiction to rule on issues which are private disputes. Therefore, Legal Staff recommends the Commission dismiss the Formal Complaint as it relates to the Complainant's incidental damages claims. However, Legal Staff recommends the Commission accept the Formal Complaint as it relates to improper billing and disconnection, and serve the Formal Complaint on Westar for an Answer.

BACKGROUND:

On July 12, 2018, Complainant filed a Formal Complaint against Westar. In the Formal Complaint, Complainant details events that began in December of 2015. The Formal Complaint alleges that Westar has incorrectly billed Complainant's residence for over two years.² Complainant speculates the error occurred when Westar installed a new meter on the Complainant's neighbor's residence.³ As a result of this error, Complainant alleges power to its residence was improperly shut off on April 2, 2018.⁴ The Complainant also details incidental damages involving spoiled groceries and a hotel bill that were incurred due to Westar's alleged negligence.⁵

¹ See Compliant against Westar Energy, Inc. by Andrea Gates (July 12, 2018) (Formal Complaint).

² Id. at 4.

³ Id. at 1.

⁴ Id.

⁵ Id. at 3-6.

ANALYSIS:

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.⁶

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 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.

The Formal Complaint details the facts and circumstances in plain language explaining the events giving rise to the Formal Complaint and alleged violations.⁷ This description of the facts is sufficient to meet procedural requirement (2). The Formal Complaint also states the relief sought. Complainant seeks compensation for incidental damages of \$388.98 and for the difference between Complainant's electric bill and their neighbor's electric bill from December 2015 through May 2018. Therefore, Complainant has complied with procedural requirement (3).⁸

Negligence and Incidental Damages

The Formal Complaint asserts, due to Westar's alleged negligence, Complainant incurred \$388.98 in incidental damages.⁹ The Commission does not have jurisdiction over a dispute that is private.¹⁰ Litigation Staff recommends the Commission dismiss Complainant's negligence argument centered on spoiled groceries and a bill for a hotel room detailed in the Formal Complaint.¹¹

Tariffs Implicated

The Formal Complaint does not expressly cite to any provision(s) of law, tariff, regulations, Commission order or statute that have been violated by the acts or omissions of the utility. Therefore, the Formal Complaint does not comply with the procedural requirement of K.A.R. 82-1-220(b)(1). However, Legal Staff recommends, in this instance, the Commission waive this requirement.

⁶ K.A.R. 82-1-220(c).

⁷ Formal Complaint, at 2-4.

⁸ Id. at 4.

⁹ Formal Complaint p. 5.

¹⁰ *Grindsted Products, Inc. v. Kansas City Power & Light Co.*, 21 Kan.App. 2d 435, 447, 901 P.2d 20, 28 (1995) (KCC does not have the power to determine negligence issues and cannot award damages for issues which are in essence judicial). *See also, Hamilton v. United Telephone Co. of Kan.*, 6 Kan.App. 2d 885, 887, 636 P.2d 202, 204 (1981).

¹¹ Formal Complaint at 5-6.

The Formal Complaint clearly implicates several Westar tariffs. These include but are not limited to Sections 5 and 9 of Westar's General Terms and Conditions. While the Formal Complaint does not specifically identify the applicable tariffs, Litigation Staff believes, viewing the Formal Complaint in its entirety, the Formal Complaint provides sufficient detail to notify Westar and the Commission the Complainant is asking the Commission to exercise its authority and make determinations with regard to Westar's service obligations under Kansas law, as well as determine the utility's compliance with tariffs.

The Commission has been given full power, authority and jurisdiction to supervise and control electric public utilities doing business in Kansas.¹² The Commission is also charged with ensuring utilities provide efficient and sufficient service at just and reasonable rates and establish just and reasonable rules and regulations.¹³ Additionally, the Commission is granted authority over each electric public utility's equipment, manner of conduct, and management to protect public safety; and shall inquire into any neglect or violation of the laws of this state by any electric public utility.¹⁴

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.¹⁵ The public interest is not served by dismissing complaints of customers not represented by legal counsel for insufficiencies related to strict procedural requirements.¹⁶ 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 requirement of K.A.R. 82-1-220(b)(1) for good cause. No recommendation regarding the validity or truthfulness of the Complainant's claim(s) is made, nor should they in any way be assumed or concluded with the filing of this memorandum.

RECOMMENDATION:

Litigation Staff Recommends the Commission find:

- The issues regarding negligence and incidental damages for spoiled groceries and a hotel room bill should be dismissed for lack of jurisdiction;
- The Formal Complaint's improper billing and disconnection argument substantially complies with the procedural requirements of K.A.R. 82-1-220;
- K.A.R. 82-1-220(b)(1) should be waved for good cause;
- The Formal Complaint establishes a *prima facie* case for Commission action; and
- The Formal Complaint should be served upon Westar for an Answer.

¹² K.S.A. 66-101.

¹³ K.S.A. 66-101b.

¹⁴ K.S.A. 66-101h.

¹⁵ See, K.S.A. 66-101e (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 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).

¹⁶ K.S.A. 66-155 obligates Commission attorneys to prosecute suits on behalf of parties complaining of unjust discriminations by a public utility or other violations of the public utility act. Legal 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 K.A.R. 82-1-220(b)(1).

CERTIFICATE OF SERVICE

19-WSEE-010-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 08/08/2018.

ANDREA GATES
8419 EAST HARRY STREET UNIT 701
WICHITA, KS 67207
agates@shockers wichita edu

COLE BAILEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax 785-271-3354
c.bailey@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

CATHRYN J DINGES, SENIOR CORPORATE COUNSEL
WESTAR ENERGY, INC
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
Fax 785-575-8136
cathy.dinges@westarenergy.com

/S/ DeeAnn Shupe

DeeAnn Shupe