

**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 by Shawnsa Christy) Docket No. 19-WSEE-121-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 September 26, 2018, Shawnsa Christy filed a Formal Complaint against Westar Energy, Inc., (“Westar”) alleging Westar is inaccurately and unjustly charging her for electricity in violation of K.S.A. 66-109, 66-101(b), and 66-101(c).¹ Ms. Christy owns a commercial building at 4301 SW Huntoon Street in Topeka, Kansas.² Ms. Christy reports that, since 2016, three of the four dental practices housed in the building moved and their offices have since remained vacant.³ Ms. Christy reports that she turned off the breaker switches to more than 17,000 square feet of the 20,025 square foot building, adjusted the thermostat to 85 degrees in the vacant areas, and turned off all exterior lights, and two of the three air handlers.⁴ Ms. Christy states that her Westar bill has not decreased to reflect the reported decrease in power usage.⁵ The Formal Complaint is attached hereto as Exhibit A.

¹ See Formal Complaint at 2 and Exhibit A (Sept. 28, 2018).

² See *id.*

³ See *id.*

⁴ See Formal Complaint at 3.

⁵ See *id.*

2. On October 1, 2018, Litigation Staff for the Commission prepared a memorandum analyzing the Complaint for compliance with Commission regulation. Litigation Staff notes the Formal Complaint satisfies the Commission's rules of practice and procedure set forth in K.A.R. 82-1-220.⁶ Litigation Staff's Legal Memorandum is attached hereto as Exhibit B.

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.⁷ In this instance, the Commission is authorized to conduct an investigation into the alleged tariff and statute violations detailed in the Formal Complaint.

4. The Commission agrees with Litigation Staff's analysis and recommendations and finds that Litigation Staff's Memorandum dated October 1, 2018, should be adopted and incorporated by reference. Specifically, the Commission finds the Formal Complaint complies with the procedural requirements of K.A.R. 82-1-220, and establishes a *prima facie* case for Commission action.

5. Accordingly, the Commission finds and concludes the Formal Complaint shall be served upon Westar for an Answer.

THEREFORE, THE COMMISSION ORDERS THAT:

A. Ms. Christy's Formal Complaint complies with the procedural requirements of K.A.R. 82-1-220 and shall be accepted.

B. The Formal Complaint shall be served upon Westar for an Answer.

⁶ Litigation Staff's Memorandum (Oct. 1, 2018).

⁷ *Id.* at 2.

C. 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.⁸

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: 10/09/2018



Lynn M. Retz
Secretary to the Commission

CRM

⁸ See K.S.A. 66-118b; K.S.A. 77-529(a)(1).

ATTACHMENT “A”

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

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**

For Commission
use only

DOCKET NO.

IN THE MATTER OF THE COMPLAINT AGAINST

NESTAR ENERGY
(Respondent, name of utility company)

by

Shawna Christy
(Complainant, your name)

Please provide complainant (your) contact information:

Full Name(s): Shawna Christy
Address: 1272 SW McAlister Ave Topeka KS 66604
Daytime Phone: 785-817-9846
E-mail Address (optional): cshawna@gmail.com

FORMAL COMPLAINT

Shawna Christy
(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 PAGES

(Continued on the other side)

Facts and Circumstances surrounding the complaint

I own a property located at 4301 SW Huntoon in Topeka, Kansas. This is a property that currently houses offices for members of the dental profession. This building is supplied electricity by Westar Energy, Inc. (Westar) and Westar bills me for the same. For the reasons below, I am filing this complaint against Westar under K.S.A. 66-101(e) because I believe that Westar is inaccurately and unjustly charging me for electricity in violation of K.S.A. 66-109, 66-101(b) and 66-101(c), during the period from at least q 2017 to the present.

In 2016 as many as four dental practices were located in the building. This number dropped to 2 in 2017 and the first 4 months of 2018. Since May of 2018 there has been only 1 dental office in the building. Thus, three out of four of those offices are no longer occupied. Importantly, dental offices require substantial electricity in order to operate x-ray equipment and other appliances and to provide air-conditioning and lights. Common sense would indicate that since the number of dentist offices in the building that were occupied have been reduced by 75%, then electric bills in the building should likewise be substantially reduced.

Moreover, as the number of dentists declined I have made numerous efforts to close off certain sections of the building in order to reduce the electrical usage, these efforts include b.

Despite my attempts to reduce the electrical usage my monthly bills continue to show a very similar usage each month from 2016 forward. Indeed, the electric bills for the building have not materially decreased since 2016. I do not see how the failure of the electric usage to decrease during the above period is possible given the efforts I have made.

Therefore, I believe that my energy usage is either being over-estimated by Westar or in the alternative there have been and continue to be incorrect readings of my meter at the above address. As a result of the incorrect or over-estimated readings of my meter, and Westar requiring me to pay the same, Westar has engaged and is engaging in the collection of unjust and unlawful rates in excess of those rates which are approved by the Commission and published pursuant to Kansas law. This practice is in violation of K.S.A. 66-109, 66-101(b) and 66-101(c), prohibiting unreasonable, unjust, unlawful and unfair rates.

I have contacted Westar Energy about my concerns and they replaced my older meter with a Smart Meter in June of 2018, but the readings continue to show greater usage than I feel is possible. I have received no satisfactory answers to my concerns.

Requests of the Commission

I request that the Commission exercise its authority under Kansas Statutes Annotated 66-101(e) to: fully investigate this matter, require Westar to adequately explain how and why my energy usage continues to remain level in view of my efforts to reduce the usage, and order Westar to reimburse me for any overages that have been charged improperly to my account.

a. January 2017 to present. January 2017 I had two dentist and both condos leased. By May 2018 I was down to 1 tenant. I made several inquiries to Westar energy from 2017 to September 2018.

Westar agreed to meet with at 4301 S W Huntoon St. to test meter. I was going to turn off all power to building. Instead without my knowledge June 15 2018 Westar installed a new meter. That's when I was told ,we could no longer test new meter by turning off power .On 8/30/18 I talked to Thomas ,Westar employ, who said I was using on average 500 less KW.

b. Turned off breaker switches to more than 17000sq. ft. of the 20025 sq. ft. building .All thermostats set to 85. All exterior lights, security cameras, and two of the three air handlers turned off.

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b. Turned off breaker switches to more than 17000sq. ft. of the 20025 sq. ft. building .All thermostats set to 85. All exterior lights, security cameras, and two of the three air handlers turned off.

ATTACHMENT “B”

STATE OF KANSAS



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
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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: Shari Feist Albrecht, Chair
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Carly R. Masenthin, Litigation Counsel

DATE: October 1, 2018

SUBJECT: Docket No. 19-WSEE-121-COM
In the Matter of the Complaint Against Westar Energy by Shawnsa Christy

EXECUTIVE SUMMARY:

On September 26, 2018, Shawnsa Christy filed a Formal Complaint against Westar Energy ("Westar") pursuant to K.A.R. 82-1-220.¹ In her Formal Complaint, Ms. Christy alleges Westar is inaccurately and unjustly charging her for energy usage in violation of K.S.A. 66-109, 66-101b and 66-101c.² Legal Staff recommends the Commission accept Ms. Christy's Formal Complaint and serve it upon Westar for an Answer.

BACKGROUND & ANALYSIS:

On September 26, 2018, Shawna Christy filed a Formal Complaint against Westar, alleging inaccurate and unjust rate charges. Ms. Christy owns a commercial building; since 2016, three out of four tenants vacated the building.³ As a result, only about 3000 square feet of the 20,025 square foot building is currently in use.⁴ Ms. Christy attempted to decrease the energy usage of her building by turning off breaker switches, setting thermostats to higher temperatures, and turning off exterior lights, and two of three air handlers.⁵ Despite this effort, Ms. Christy states that her decreased energy use has not reflected decreased billing.⁶ Ms. Christy attempted to inquire as to why her bill continued to reflect full-building energy usage; in response, Westar installed a new meter in June of 2018.⁷ The installation has been unsuccessful in resolving Ms. Christy's concerns.

¹ Complaint of Shawnsa Christy Against Westar Energy, Inc. (Sept. 26, 2018) (Formal Complaint).

² *Id.* at 2.

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.*

⁶ Formal Complaint at 3.

⁷ *Id.*

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.⁸

Under K.S.A. 66-101b, public utilities are "required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered...." Here, if the above claims are accepted as true, the meters used to document Ms. Christy's energy use may not be providing sufficient service to accurately calculate her monthly bill, resulting in higher charges.

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.

A review of the Formal Complaint indicates these procedural requirements have been met. Ms. Christy cites to provisions of law, tariff, regulation, or statute, specifically K.S.A. 66-109, 66-101(b), (c), and (e). Ms. Christy's Formal Complaint complies with procedural requirement (1).

Ms. Christy sets forth facts in plain language giving rise to her Formal Complaint. Ms. Christy's Formal Complaint complies with procedural requirement (2).

Ms. Christy requests that the Commission investigate this matter, require Westar to adequately explain why the energy usage continues to remain the same in light of her efforts to reduce the usage, and, if necessary, order Westar to reimburse Ms. Christy for any overages that have been charged to her account.

The Commission has been given full power, authority, and jurisdiction to supervise and control electric public utilities doing business in Kansas.⁹ 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.¹⁰ 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.¹¹

Legal Staff believes Ms. Christy has established a *prima facie* case of action. No recommendation regarding the validity or truthfulness of Ms. Christy's claim is made, nor should such in any way be assumed or concluded with the filing of this memorandum. The only recommendations made within this memorandum are that the Commission should find: the Formal Complaint satisfies the procedural

⁸ K.A.R. 82-1-220(c).

⁹ K.S.A. 66-101.

¹⁰ K.S.A. 66-101b.

¹¹ K.S.A. 66-101h.

requirements of K.A.R. 82-1-220, a determination of *prima facie* has been established and Ms. Christy's Formal Complaint should be served upon Westar for an Answer.

RECOMENDATION:

Litigation Staff recommends the Commission finds Ms. Christy's Formal Complaint satisfies the procedural requirements of the Commission's rules of practice and procedure, establishes a *prima facie* cause of action and the Commission serve the Formal Complaint upon Westar for an Answer.

CERTIFICATE OF SERVICE

19-WSEE-121-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 and electronic service on 10/09/2018.

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