

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 Westar)
Energy by Richard L. Schulze) Docket No. 15-WSEE-384-COM

**ORDER ACCEPTING FORMAL COMPLAINT
AND ADOPTING LITIGATION STAFF'S 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:

I. BACKGROUND

1. On March 2, 2015, Richard Schulze (Complainant) filed a formal complaint against Westar Energy, Inc. (Westar) with the Commission.¹ The Complaint, among other things, alleges that Westar is attempting to utilize a revert to owner agreement, to collect for service utilized by a different customer nearly 14 years after the Complainant had sold the property and notified Westar by phone to terminate the revert to owner agreement.

2. On April 1, 2015, Litigation Staff for the Commission prepared a Memorandum analyzing the Complaint for compliance with Commission regulations. It recommended the Commission find that the Complaint does not satisfy the procedural requirements of K.A.R. 82-1-220. It further recommended the Commission grant the Complainant 30 days to correct the procedural deficiencies by filing an amended complaint. An order was issued by the Commission to this regard on April 14, 2015.

¹ Formal Complaint (Complaint) Mar. 2, 2015

3. On April 20, 2015, the Complainant filed an Amended Complaint² with the Commission. The Amended Complaint is attached hereto as Attachment "A".

4. Litigation Staff reviewed the Amended Complaint's underlying facts and allegations, and while making no recommendation regarding the *validity or truthfulness* of the Complainant's claims, believes that the Amended Complaint has satisfied the procedural requirements of the Commission's rules and practice and procedure. The Amended Complaint clearly identifies the relief sought and the Commission has jurisdiction to grant such relief.

5. Litigation Staff recommends the Commission find that the Amended Complaint satisfies the procedural requirements of K.A.R. 82-1-220. Litigation Staff further recommends that Staff should proceed with forwarding the Complaint to Westar for them to file an Answer, and for Staff to further investigate the matter and submit a Report and Recommendation.

II. FINDINGS AND CONCLUSIONS

6. The Commission may investigate formal complaints regarding rates, rules, regulations, or practices of gas and electric public utilities.³ The Commission finds it has the jurisdiction to conduct the requested investigation into Westar tariffs.

7. The Commission finds that Litigation Staff's Memorandum dated August 10, 2015, attached hereto as "Attachment B", is hereby adopted and incorporated by reference.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

² Amended Formal Complaint (Amended Complaint) Apr. 20, 2015.

³ 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 regulations, 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). *See* K.S.A. 660191d, 101g; K.S.A. 6601,201, 204, 207.

(A) The Amended Complaint complies with the procedural requirements of the Commission's rules of K.A.R. 82-1-220.

(B) The Amended Complaint establishes a *prima facie* case for action by the Commission.

(C) The Amended Complaint is to be served on Westar.

(D) Staff shall investigate this matter and submit a Report and Recommendation to the Commission.

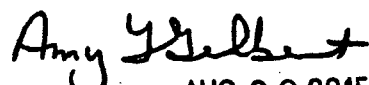
(E) The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529(a)(1).

(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; Apple, Commissioner

Dated: **AUG 25 2015**


ORDER MAILED AUG 26 2015

Amy L. Gilbert
Secretary to the Commission

SRF/vj

ATTACHMENT "A"

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION

2015.04.20 11:46:12
Formal Complaint
Kansas Corporation Commission
APR 20 2015

FORMAL COMPLAINT

Received
on

APR 20 2015

**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

Richard L. Schulze
(Complainant, your name)

by
State Corporation Commission
For Commission
use only

DOCKET NO.

15-WSEE-384-com

Please provide complainant (your) contact information:

Full Name(s): Richard L. Schulze

Address: 5444 W 152 Terr Leawood KS 66224

Daytime Phone: 913/402-6967

E-mail address (optional): _____

FORMAL COMPLAINT

Richard L. Schulze
(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.)

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 this under the pains and penalties of perjury.


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:

Executive Director
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 go the KCC website: <http://kcc.ks.gov/>, Consumer Assistance, Filing a Complaint. You may also contact our Consumer Assistance staff toll-free number at 1.800.662.0027 or by e-mail at public.affairs@kcc.ks.gov.

Attachment to Kansas Corporation Commission AMENDED FORMAL COMPLAINT.

On 10/23/2000 I sold the property at 205 Ridgeview Rd, Olathe, KS 66061. (Documents attached) Sometime before this date, I don't recall exactly when, I called Kansas Power & Light and told a person in customer service that I no longer owned this property and wanted the revert to owner agreement taken off the record. I was told that it would be taken off. There was no mention of a written notice requirement.

In October 2014 I received a past due bill from Westar Energy for electricity usage at 205 Ridgeview Rd for September and October 2014.

I called Westar Energy customer service to ask what was going on. I explained to the customer service representative that I have not owned this property for 14 years. The representative ask that I hold while she looked into it. The representative came back on the phone and said that I had a revert to owner agreement on file and that was the reason for the charges. I asked that the agreement be deleted from the file since I no longer was the owner of the property in question. The representative said she would delete the agreement from the record. Again, there was no request for written documentation from the customer service representative. I then ask to be referred to someone who could excuse these charges. The individual I was referred to offered no help.

In January 2015, I became aware of Kansas Corporation Commission. I started an informal complaint with Steven. Steven heard my case and told me he would have it reviewed. Within a few days Steven reported back that the revert to owners agreement stated that written notice is required.

I then called Westar Energy customer service and asked the representative to look at my account and tell me if I had a revert to owner agreement in effect for the address in question. She reported that the revert to owner agreement was deleted from the record on October 28, 2014, the day I requested that it be deleted from the record.

It appears that there are inconsistencies in KP&L/Westar Energy protocols. If a verbal request to delete a revert to owner agreement worked on October 28, 2014, why did it not work in October 2000?

In both instances , October 2000 & October 2014, my verbal notice to delete the revert to owner agreement was accepted without notice in writing and without a conformation number given by the customer service agent. For some unknown reason, my notice in October 2000 did not get filed properly. This resulted in service charges in September and October of 2014, 14 years after notice given, billed to me.

I am claiming that, according to West Star Energy rates and regulations, general terms and conditions, section 2, 2.06B/(2), the company has not properly followed protocol in both of the above stated situations. I, therefore ask that the charges billed to me of \$68.02 for service in September & October of 2014 be dropped.

 4/18/15

ATTACHED:

Received
on

APR 20 2015

by
State Corporation Commission
of Kansas

**AMENDED FORMAL COMPLAINT In the Matter of
the complaint against Westar Energy by Richard Schulze.**

Docket No. 15-WSEE-384-COM

ATTACHMENT "B"

**MEMORANDUM
LEGAL DIVISION**

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

FROM: Samuel Feather, Litigation Counsel

DATE: August 10, 2015

SUBJECT: 15-WSEE-384-COM
In the Matter of the Complaint Against Westar by Richard L. Schulze.

EXECUTIVE SUMMARY:

Richard L. Schulze (Complainant) has filed an Amended Formal Complaint¹ against Westar Energy (Westar). The Amended Formal Complaint satisfies the procedural requirements of the State Corporation Commission of the State of Kansas' (Commission's) rules of practice and procedure. Further, the Formal Complaint establishes a prima facie case for action by the Commission.

BACKGROUND & ANALYSIS:

On April 20, 2015, the Complainant filed an Amended Formal Complaint against Westar alleging that Westar is attempting to utilize a revert to owner agreement, to collect for service utilized by a different customer nearly 14 years after the Complainant had sold the property and notified Westar by phone to terminate the revert to owner agreement. Complainant alleges that according to Westar Energy rates and regulations, general terms and conditions, section 2, 2.06B/(2) the company has not properly followed protocol in charging Complainant \$68.02 for services in September and October of 2014 and that those charges should be dropped.

Upon the filing of an amended 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 amended complaint conforms to [the Commission's] regulations."²

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

¹ Complaint Against Westar Energy (Mar. 2, 2015) (Amended Complaint)

² K.A.R. 82-1-220(c)

- (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 Amended Complaint shows that these procedural requirements have been met. The Complainant does cite to provision of law, tariff, regulation, or statute and thus does comply with procedural requirement (1). The Complainant does set forth plain language of facts and thus does comply with procedural requirement (2). The Complainant does specifically state the relief sought, thus does comply with procedural requirement (3).

Due to the fact that the Amended Complaint meets the procedural requirements, a determination of prima facie is established.

RECOMMENDATION:

Litigation Staff recommends the Commission find the Amended Complaint satisfies the procedural requirements of the Commission's rules of practice and procedure, to forward the Amended Complaint to Westar and direct Commission Staff to investigate this matter further and submit a Report and Recommendation to the Commission.

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
SAMUEL FEATHER, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
RICHARD L. SCHULZE 5444 W 152 TERR LEAWOOD, KS 66224		
CATHRYN J. DINGES, SENIOR CORPORATE COUNSEL WESTAR ENERGY, INC. 818 S KANSAS AVE PO BOX 889 TOPEKA, KS 66601-0889		
JEFFREY L. MARTIN, VICE PRESIDENT, REGULATORY AFFAIRS WESTAR ENERGY, INC. 818 S KANSAS AVE PO BOX 889 TOPEKA, KS 66601-0889		

ORDER MAILED AUG 26 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.