

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

In the Matter of the Formal Complaint Against)
Kansas Gas Service by Bryan Boldridge.) Docket No. 25-KGSG-044-COM

**ANSWER AND MOTION TO DISMISS
PUBLIC REDACTED**

Kansas Gas Service, a division of ONE Gas, Inc. (“Kansas Gas Service” or “Company”), pursuant to K.A.R. 82-1-220 and K.S.A. 60-212, respectfully files its Answer and Motion to Dismiss in the above-captioned Formal Complaint filed by Bryan Boldridge (“Complainant”). In support thereof, Kansas Gas Service states the following to the State Corporation Commission of the State of Kansas (“Commission”):

I. ANSWER

1. On July 8, 2024, the Complainant filed a Formal Complaint against Kansas Gas Service.
2. On July 16, 2024, the Commission issued its *Order Making Prima Facie Determination*, wherein the Commission found the Formal Complaint met the requirements of K.A.R. 82-1-220 and served the Formal Complaint upon Kansas Gas Service for an answer.
3. According to the Commission’s order, the Complainant alleges Kansas Gas Service provided an incorrect account number resulting in a payment not being applied to an account owned by the Complainant or their wife. In addition, the Complainant alleges Kansas Gas Service wrongfully disconnected service to their premises.
4. The Formal Complaint fails to state a claim upon which relief can be granted and should be dismissed.

A. General and Specific Denials

5. Unless explicitly stated herein, Kansas Gas Service generally denies the allegations.

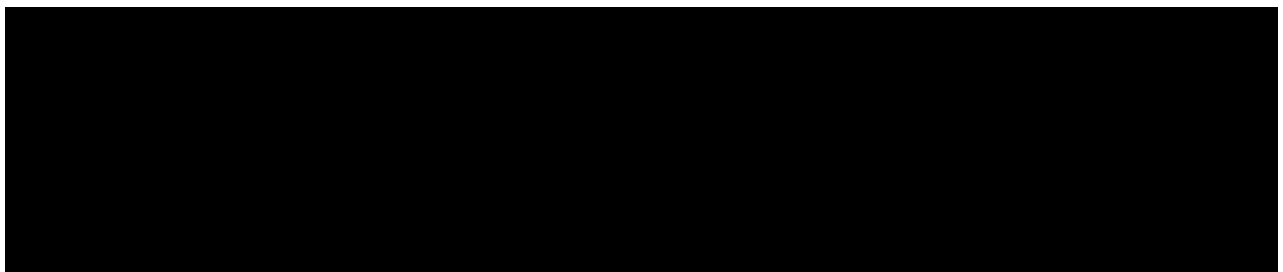
B. Response

6. This Formal Complaint involves a husband and wife who share account addresses and responsibilities. Kansas Gas Service disconnected the Complainant's service for non-payment. Relevant account history and payment records demonstrate Kansas Gas Service properly followed the Commission's Billing Standards and its own disconnection procedures. As such, the Formal Complaint should be dismissed for failure to state a claim upon which relief can be granted.

i. Common Account Ownership

7. Relevant to the Complainant's allegations is their wife's prior account. Between approximately December 2021 through May 2023, Kansas Gas Service provided natural gas service to the Complainant's wife at a residence in Horton, Kansas. The Complainant's wife was listed as the account holder, and the Complainant was listed as an authorized party. Between approximately November 2022 through May 2023, Kansas Gas Service also provided natural gas service to the Complainant's wife at a residence in Atchison, Kansas. The Complainant's wife was listed as the account holder, and the Complainant was listed as an authorized party. In May 2023, the Complainant requested the service provided in Horton, Kansas, be placed in his name only. **Confidential Exhibit A**, attached hereto and adopted by reference herein, provides this account information. Confidential Table 1 – Account Information, summarizes this history:

*****Table 1 – Confidential Account Information*****



ii. Balance Transfer

8. In August 2023, Kansas Gas Service transferred the outstanding balance from the Complainant's wife's Horton, Kansas, account to the Complainant's Horton, Kansas, account. Sections I.E(1) and IV.B(2) of the Commission's Billing Standards, reflected in Sections 2.04 and 5.10 of Kansas Gas Service's General Terms and Conditions, respectively, allow these transfers. Likewise, Section 5.02 of Kansas Gas Service's General Terms and Conditions allows the Company to disconnect service if a customer has prior undisputed and unpaid separate accounts.¹

iii. Payments

9. On or around March 11, 2024, the Complainant contacted Kansas Gas Service to discuss the balances on both the Atchison, and Horton, Kansas, accounts. During this phone call, the Complainant requested both account numbers so payments could be made to both accounts. Kansas Gas Service reviewed the call and can confirm it provided correct account numbers. The financial history associated with both accounts shows payments were received and properly applied. **Confidential Exhibit B**, attached hereto and adopted by reference herein, provides this financial history.

10. On or around April 11, 2024, the Complainant contacted Kansas Gas Service about the account balance for their standalone account in Horton, Kansas. During this call, the Complainant requested the payment they made to the Atchison, Kansas, account be transferred to their standalone Horton, Kansas, account. Kansas Gas Service explained the Complainant would need to provide additional information to justify transferring payments, or dispute balance transfers.

¹ Kansas Gas Service's General Terms and Conditions Section 5.02(9) limits the length of time prior charges can be considered (i.e., five years for written agreements; three years for oral agreements).

iv. Disconnection

11. In June 2024, Kansas Gas Service disconnected service provided to the Complainant in Horton, Kansas, for non-payment. At the time, the Complainant owed a total of [REDACTED] *of which [REDACTED] * had been transferred from service provided to the Complainant's wife at the same address. As noted above, the Commission's Billing Standards and Kansas Gas Service's General Terms and Conditions allow these transfers.

12. The Complainant has not provided Kansas Gas Service evidence they did not live at the Horton, Kansas, premises while the prior balance was accrued. As such, Kansas Gas Service properly transferred account balances from the first Horton, Kansas account (where the Complainant's wife was the account holder and the Complainant was an authorized party), to the second Horton, Kansas account (where the Complainant requested to be listed as the sole account holder).

C. Motion to Dismiss

13. Kansas Gas Service moves the Commission to dismiss the Complainant's Formal Complaint for failure to state a claim upon which relief can be granted.

14. The Complainant requested, and Kansas Gas Service established, service solely in the Complainant's name in Horton, Kansas. Establishing service pursuant to a customer's request is not a violation of Kansas law, Commission order, or tariff.

15. Pursuant to Sections I.E(1) and IV.B(2) of the Commission's Billing Standards, reflected in Sections 2.04 and 5.10 of Kansas Gas Service's General Terms and Conditions, respectively, Kansas Gas Service transferred an account balance from one account to another. This account balance transfer is not a violation of Kansas law, Commission order, or tariff.

16. The Complainant requested, and Kansas Gas Service provided, account numbers so payments could be made on accounts the Complainant was associated with. Providing correct account information is not a violation of Kansas law, Commission order, or tariff.

17. The service at the Complainant's Horton, Kansas, premises was disconnected for non-payment. Disconnecting service for non-payment is not a violation of Kansas law, Commission order, or tariff.

18. When considering a motion to dismiss for failure to state a claim upon which relief may be granted, a court must decide it "from the well-pleaded facts of plaintiff's petition." *Sperry v. McKune*, 305 Kan. 469, 480 (2016). Ordinarily, on a motion to dismiss, if matters outside the pleadings are presented and not excluded, the motion must be treated as one for summary judgment under K.S.A. 60-256. *See* K.S.A. 60-212(d). However, when a complaint refers to an unattached document central to the claim, a defendant may submit an undisputed authentic copy of the document without transforming the motion to dismiss into a motion for summary judgment. *See Crosby v. ESIS Ins.*, 474 P.3d 307 (Kan. Ct. App. 2020) (unpublished opinion), *rev. denied* 314 Kan. 854 (2021). The account history for the Complainant's premises is central to the Complainant's claims and Kansas Gas Service's Answer. Accordingly, this information may be considered by the Commission in deciding Kansas Gas Service's Motion to Dismiss.

WHEREFORE, Kansas Gas Service having fully responded to the allegations respectfully moves the Commission to dismiss the Formal Complaint for failing to state a claim upon which relief can be granted, and for such further relief as the Commission deems just and reasonable.

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Respectfully submitted,

/s/ Robert Elliott Vincent

Robert Elliott Vincent, KS Bar #26028

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Attorney for Kansas Gas Service,

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Confidential Exhibit A

Account Information

(Redacted in Full)

Confidential Exhibit B

Financial Information

(Redacted in Full)

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF JOHNSON)

I, Robert Elliott Vincent, of lawful age, being first duly sworn upon oath, states as follows: I am a Managing Attorney for Kansas Gas Service, a Division of ONE Gas, Inc. I have read the above *Answer and Motion to Dismiss* and all the statements therein are true to the best of my knowledge, information, and belief.



Robert Elliott Vincent

Affiant

SUBSCRIBED AND SWORN to before me on 7/26/24.



Notary public

My Appointment Expires:

6/5/26



CERTIFICATE OF SERVICE

I, Robert Elliott Vincent, hereby certify that a copy of the above and foregoing *Answer and Motion to Dismiss* was forwarded this 26th day of July, 2024, addressed to:

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