

**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)
KCP&L by Toby L. Boschert.) Docket No. 16-KCPE-109-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 as follows

1. On August 31, 2015, Toby L. Boschert (Complainant) filed a formal complaint (Complaint) against Kansas City Power & Light Co. (KCP&L) with the Commission in relation to a service irregularity on or about October 24th through October 26th, 2014, which resulted in damage to Complainant's electronic equipment.¹ The Formal Complaint is attached hereto as Attachment A.

2. On September 2, 2015, Litigation Staff for the Commission prepared a Memorandum analyzing the Formal Complaint for compliance with Commission regulations.² Staff notes that the Complainant does not specifically cite to any violation of law, rule, or order in support of its contentions, and, therefore, is not in compliance with K.A.R. 82-1-220(b)(1).³

¹ Formal Complaint (August 31, 2015).

² Legal Staff's Memorandum, September 2, 2015 (Legal Memorandum)

³ Legal Memorandum, p. 2.

However, Litigation Staff recommends the Commission waive K.A.R. 82-1-200(b)(1) for good cause.⁴ Litigation Staff's Legal Memorandum is attached hereto as Attachment B.

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

4. Furthermore, the Commission agrees with Litigation Staff's analysis and recommendations and finds that Litigation Staff's Memorandum dated September 2, 2015, 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.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) K.A.R. 82-1-220(b)(1) is waved for good cause.

(B) The Formal Complaint shall be served upon KCP&L for an Answer.

(C) Staff is directed to investigate this matter and submit a Report and Recommendation to the Commission.

(D) 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.⁶

(E) 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.

⁴ Legal Memorandum, p. 3.

⁵ Legal Memorandum, p. 3.

⁶ K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: SEP 10 2015

Amy L. Gilbert

Order Mailed Date SEP 11 2015

Amy L. Gilbert
Secretary to the Commission

AS

ATTACHMENT "A"

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION

Formal Complaint
February 2015

FORMAL COMPLAINT

BEFORE THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

IN THE MATTER OF THE COMPLAINT AGAINST

KCP+L
(Respondent, name of utility company)

by

Toby L. Boschert
(Complainant, your name)

2015.08.31 10:54:39
Kansas Corporation Commission
For Commission
use only
DOCKET NO.
16-KCPE-109-COM
Received
on

AUG 31 2015

Please provide complainant (your) contact information:

by
State Corporation Commission
of Kansas

Full Name(s): Toby L. Boschert

Address: - , Leawood KS 66209

Daytime Phone: _____

E-mail Address (optional): _____

FORMAL COMPLAINT

Toby L. Boschert
(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.)

Due to a power supply issue, I sustained direct
losses totalling \$2,273.95 as detailed in letter I sent
to the KCC - Public Affairs and Consumer Protection (attached next.
Back-up documentation of losses and expert opinions
on the cause of my losses are also 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.*)

Pay restitution to Toby L. Boschert totalling \$2,273.95

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.

Toby L. Boschert
Complainant's (your) signature

8/28/15
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:

Acting Executive Secretary
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.

STATE
CORPORATION
COMMISSION

AUG 31 2015

PUBLIC AFFAIRS

KCC-Public Affairs and Consumer Protection
1500 SW Arrowhead Road
Topeka, KS 66604

I am writing in regards to an incident at my home that occurred sometime between the dates of October 24-26, 2014. We were out of town and returned to a house that had blinking clocks, breakers that were thrown out, a crashed computer, a mother board on the upstairs furnace that was burned out, and a Time-Warner router on another computer that was completely fried. According to the Customer Service reps that I spoke with at KCPL, we had had our electric meter replaced at about that time.

After getting our systems back on line (all that I was capable of repairing), I called Midwest Heating and Cooling, INS Professionals, and Time Warner to fix the destroyed furnace board, my computer, and our router. Each of these professionals stated that power problems caused my losses (please see attached documentation).

I called KCPL again and spoke to at and was told that it was possible that there was a power issue, but due to some specific tariffs that KCPL was not responsible for any damages. When I told her about the circumstances of the changing of the meter and the fact that the weather at that time was very mild with no wind or precipitation, she reiterated her points about the tariffs. I just recently contacted at supervisor, who basically confirmed the points again.

We have been a customer of KCPL since 1984 and have been very pleased with their service as well as the professionalism of each of their representatives in dealing with this matter. However I believe that the circumstances and sheer scope of damages at one time during a period of mild weather and no other neighbor experiencing issues seems to me that KCPL quite probably was at fault and should reimburse me \$2,273.95 for my losses.

Thank you for your help, and I have included supporting materials as detailed:

Letter from KCPL

KCPL Damage Claim Form (2 Pages)

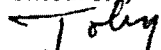
My KCPL Account Info

Letter from Midwest Heating and Cooling (3 Pages)

INS Professionals (3 pages)

Receipt from Time Warner for new router (2 pages)

Sincerely,


Toby Boschert

Leawood, KS 66209
KCPL

I can be reached on my cell at

Steve
KCC



November 7, 2014

Mr. Toby Boschert

Leawood, KS 66209-1630

Dear Mr. Boschert:

Enclosed is a KCP&L Property Damage Claim form, as per your request. Although KCP&L works diligently to maintain its electrical distribution system, please be advised that KCP&L is not responsible for damages caused by normal equipment failure or an act of nature, such as a storm. **Please be advised that by sending this claim form, KCP&L does not automatically assume any fault or responsibility.**

If you still feel you have a claim, complete the entire form and return the original with copies of any supporting documentation you may have. Please return to KCPL, Claims Dept. 801D, P.O. Box 418679, Kansas City, MO 64141. **Please be sure to fill out the total on the back and sign the form.** Failure to fully complete the form may result in a delay in processing your claim.

Once we have received your completed claim form, we will investigate, and let you know our findings.

Sincerely,

KCP&L
Claims Department

Encls.



Property Damage Claim Form

Because of your recent property damage, KCP&L wants to serve you in the quickest and most responsive manner possible. In order for us to accomplish this, we need you to review and provide the following information:

- ✓ Please complete both sides of this form. Failure to fully complete and sign the form could delay processing of your claim.
- ✓ Claims must be filed with us within 90 days of occurring damage (non-compliance with this requirement may disqualify your claim)
- ✓ Mail clear, legible copies of the repair estimates and receipts or, if repair is not economically feasible, provide a copy of purchase receipts for damaged items (not the replacements), if possible, with original claim form. Mail completed ORIGINAL claim form and receipt copies to: Kansas City Power & Light, Claims Department 801-D, P.O. Box 418679, Kansas City, MO 64141, (816) 654-1562.
- ✓ Actual cash value (replacement cost less depreciation) is the basis for settlement on items not economically repairable.
- ✓ Damaged part(s) must remain available for inspection by KCP&L until the claim is finalized.; call us with any concerns/issues on this point.
- ✓ Write your KCP&L account number here: _____

Claimant's name:

First: Toby MI: L Last: Boscher

Exact address where damage occurred:

Street address: _____

City: Leawood State: KC ZIP: 66209

Phone number: _____ Daytime phone or cell: _____

When did damage occur? Date: 10/24-26/14 Time: ? ☐ a.m. ☐ p.m.

Claimant's mailing address: (if different from above) We went out of town on Friday 10/24 a few hours after our new meter was installed.

Street address: _____

City: _____ State: _____ ZIP: _____

Provide a brief description, as you understand it, of what caused the damage: _____

Opinions of representatives from Time Warner Cable, Midwest Heating & Cooling, and INS Information Technology said that damages were caused by a power surge

Description of property damage: _____

Complete loss of computer
Board on furnace unit burned up
Router was "fried"

Have you contacted your insurance agency? ☐ Yes ☒ No If yes,

Insurance carrier's name: _____

Are there any other supporting facts or witnesses that can be contacted? _____

Letters attached have contact information if additional information is required

Original Appliance Damage Information

Actual Damaged Appliance Description (not replacement info):

Appliance Type: <u>Heating unit</u>	Purch. date: <u>1/1/14</u>	Purch. price: \$ _____
Brand: _____	Model number: _____	
Damage description: <u>Board rendered unusable</u>		
Repairable?: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Labor: \$ _____	Replacement parts: \$ _____ Total: \$ <u>368.00</u>

Appliance Type: <u>Computer</u>	Purch. date: <u>1/1/14</u>	Purch. price: \$ _____
Brand: <u>Lenovo</u>	Model number: <u>540P</u>	
Damage description: <u>Complete disk and system destruction</u>		
Repairable?: <input type="checkbox"/> Yes <input type="checkbox"/> No	Labor: \$ <u>603.98</u>	Replacement parts: \$ <u>1,301.97</u> Total: \$ <u>1,905.95</u>

Appliance Type: <u>Router</u>	Purch. date: <u>1/1/14</u>	Purch. price: \$ _____
Brand: <u>Time Warner-Cisco</u>	Model number: _____	
Damage description: <u>Router</u>		
Repairable?: <input type="checkbox"/> Yes <input type="checkbox"/> No	Labor: \$ <u>0</u>	Replacement parts: \$ <u>0</u> Total: \$ <u>0</u>

Appliance Type: _____	Purch. date: _____	Purch. price: \$ _____
Brand: _____	Model number: _____	
Damage description: _____		
Repairable?: <input type="checkbox"/> Yes <input type="checkbox"/> No	Labor: \$ _____	Replacement parts: \$ _____ Total: \$ _____

Additional comments? We also had our microwave light burn out, 2 breakers flipped off on our system, All clocks and thermostats were blinking & needed to be reset.

Total amount for which you are filing this claim: \$ 2,273.95

Your signature: Toby L. Roschke Date: 11/20/14

For your protection, the law requires you to be advised of the following: It is a criminal act to make a false or fraudulent claim, or to assist in the preparation or presentation of a false or fraudulent claim. Violators of this provision may be subject to criminal prosecution.



For billing and service information : 816-471-5275 (816-471-KCPL)
or toll-free : 1-888-471-5275 (1-888-471-KCPL)
For emergencies or lights out : 1-888-544-4852 (1-888-LIGHT-KC)

Customer Name : TOBY L BOSCHERT
Account Number :
Service Address :

Due upon receipt : \$ 282.74

Page 1 of 2
Billing Date: 11/04/2014

Message Board

Would you like a consistent monthly bill? KCP&L's Budget Billing option allows you to make consistent monthly bill payments based on an average of your bills from the last 12 months. For more information, visit www.kcpl.com/budgetbilling. To enroll, pay the Budget Billing amount shown on this bill.

Looking for new gift ideas? KCP&L's Energy Gift is a thoughtful way to help a friend or family member in need. You can make an anonymous, one-time donation toward their energy bill. Learn more at www.kcpl.com/energygift.

Keeping the holidays bright. If you're hanging outdoor lights this year, make sure to stay safe. Don't overload sockets and discard any lights with broken or frayed cords. Learn more holiday safety tips at www.kcpl.com/holidaysafety.

Account Summary

for service from 10/01/2014 to 10/30/2014

Previously Billed	\$ 165.62
Late Payment Charge - 10/31/2014.....	3.55
Current Charges (details on back)	
12725 WENONGA LN	113.57
Due upon receipt	\$ 282.74
Late charge if received after December 01, 2014.....	2.45
Amount due with late charge	\$ 285.19

Additional customer names : TRACY J BOSCHERT

0022124

11/04/2014



-13228 Holmes Road
Kansas City, MO 64145
New Const. 816-943-8400
Service/Pip. 816-943-8787
Fax: 816-943-8510

FAX COVER SHEET

Date: 11.20.14

To: Toby Boschert

Fax # _____

From: _____

Comments: Board Replacement

Page 1 of 2

If you do not receive all of this transmission, please call our office at:
(816) 943-8400 New Construction
(816) 943-8787 Service/Plumbing

Thank you,



13228 Holmes Road
Kansas City, MO 64145
New Const. 816-943-8400
Service/Ptg. 816-943-8787
Fax: 816-943-8510

Toby Boschert

LEAWOOD, KS 66209

Mr. Boschert,

John was out and found the board bad on the system, due to power problems, the most common cause for the board to fail would be due to inconsistent power going to the unit. If you have any further questions or need to reach our Service Manager please give our Service Department a call at 816-943-8787.

We appreciate your Business

Thank you,

**Assistant Service Manager
Midwest Heating, Cooling and Plumbing
816-943-8787**

13726 Mainway Road
Kennesaw, GA 30144
New Client: 770-424-0000
Service: 770-424-0000
Fax: 770-424-0000

HVAC SALES

SERVICE

Technician Tracy Bostwick		Job Status New <input type="checkbox"/> Repair <input checked="" type="checkbox"/> Service <input type="checkbox"/>	
Customer Board		Work Performed RTR Board Cycle test 200 operations OK all this time	
Address 10560 Board		City/State/Zip 30400	
Phone 770-424-0000		Payment Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit <input type="checkbox"/>	
Technician Tracy Bostwick		Job Status New <input type="checkbox"/> Repair <input checked="" type="checkbox"/> Service <input type="checkbox"/>	
Customer Board		Work Performed RTR Board Cycle test 200 operations OK all this time	
Address 10560 Board		City/State/Zip 30400	
Phone 770-424-0000		Payment Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit <input type="checkbox"/>	
Technician Tracy Bostwick		Job Status New <input type="checkbox"/> Repair <input checked="" type="checkbox"/> Service <input type="checkbox"/>	
Customer Board		Work Performed RTR Board Cycle test 200 operations OK all this time	
Address 10560 Board		City/State/Zip 30400	
Phone 770-424-0000		Payment Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit <input type="checkbox"/>	

INS :: InformationTechnology :: Network :: Systems :: Professional Consulting

16479 West 132nd Circle
Olathe, KS 66062
Phone 913.908.8908

November 18, 2014

Boschert & Partners Marketing,LLP
12725 Wenonga Lane
Leawood, KS 66209
913-327-1708

Toby:

The following are the results of a professional assessment of the Lenovo ThinkPad W700 2757
Part Number: 2757CTO, Serial Number R9-14X5B.

Upon inspection of the laptop computer I have found that the laptop has been permanently damaged and the data cannot be recovered. Upon further inspection, disassembly of components, and inspection of hard drive, I have determined that damage to the computer is consistent with a power surge or voltage above (or below) the laptops normal operating voltage, causing an arc of electrical current damaging the electronic circuit boards and other electrical components. The laptop is not to be used for further business operations.

The attached invoice (Invoice #1410271) is associated with the assessment and attempted data recovery from the event.

Please let me know if you require further information and best regards,



Principal Consultant



INVOICE

From **INS Professionals L.L.C.**
16479 West 132nd Circle, Ste 222
Olathe, KS 66062

Invoice For **Boschert & Partners
Marketing, LLP**
Leawood, KS 66209

Invoice ID
Issue Date 11/18/2014
Due Date 11/18/2014 (upon receipt)

Subject **Lenovo ThinkPad W700 2757 SN R9-14X5B assessment, recovery**

Type	Description	Quantity	Unit Price	Amount
Service	Professional Services: Consulting (10/27/2014 - 10/27/2014) Lenovo ThinkPad W700 2757 SN R9-14X5B assessment, recovery tasks, consulting, travel one-way, disassembly of components, and inspection	4.50	\$125.00	\$562.50

Subtotal	\$562.50
Discount (0.00%)	\$0.00
Tax (7.375%)	\$41.48
Amount Due	\$603.98

Notes

Micro Center
9294 Metcalf Avenue
Overland Park, KS 66212
General Manager Susan Hall
(913) 652-6000

Reference:
Date: 10/27/14 11:33 AM
Customer: Micro Center
CSR: ROBERT H.

SALES RECEIPT SALES RECEIPT

1 339978 LENOVO DIR 1540P 4200M/4G/500/15 919.99
Sales ID: D. YORK
ORIG PRICE EACH: 949.99
YOUR SAVINGS: 30.00
S/N: 8R9038L6F
Manager Discretion
1 498006 ESET NOD32 A/V 2015 3-YEAR OEM 79.99
Sales ID: D. YORK
1 016055 TUG TUG-2YR CARRYIN EXT NB/18 199.99
Sales ID: D. YORK
PC PER KIMBACH

SUBTOTAL: 1,199.97
TAX: 102.00
TOTAL: 1,301.97

XXXXXXXX7265 VISA: 1,301.97

***** YOUR TOTAL SAVINGS: 30.00**

NOTEBOOK/LAPTOP COMPUTERS, DESKTOP COMPUTERS, TABLETS,
PROCESSORS, MOTHERBOARDS, DIGITAL CAMERAS, CAMCORDER,
PROJECTORS AND CD/DVD DUPLICATORS MAY BE RETURNED WITHIN
15 DAYS OF PURCHASE. THE FOLLOWING SKUS APPLY: 339978

OPENED SOFTWARE, DVDS, CDS AND CONSOLE GAME
CARTRIDGES/CDS MAY BE EXCHANGED ONLY FOR THE IDENTICAL
PRODUCT, AND ONLY WITHIN 30 DAYS OF PURCHASE. THE
FOLLOWING SKUS APPLY: 498006

UNLESS STATED ABOVE YOUR PURCHASE MAY BE RETURNED WITHIN
30 DAYS OF PURCHASE.

I AGREE TO PAY ABOVE CREDIT CARD TOTAL(S) ACCORDING TO
CARD ISSUER AGREEMENT (MERCHANT AGREEMENT IF CREDIT
VOUCHER).

****PROTECTION PLAN ACKNOWLEDGEMENT****

Replacement
Router from
Time Warner

LEAWOOD
RECEIPT NBR..

PAGE 1

OFFICE INFORMATION

DATE..... 10/29/14 TIME..... 11:04 AM
OPERATOR... KACCANDACE
WS ID..... QPADEV
RETURN TECH NBR 08445

ACCOUNT INFORMATION

TORY I ROSCHERT

LEAWOOD, KS 66209-1630

CONVERTER INFORMATION

SERIAL NBR	ITEM NBR	ISSUED	REMOTE Y/N
SACDCQWFQ	CI8742S	3/15/13	___
ESEBUA69K5659DG1670A		10/29/14	___
S6B506027	SM3262S	10/24/11	___
S7D168140	SM3362S	10/17/14	___
ESVBPP69M5919DG1670A		RETURNED	___

THANK YOU FOR CHOOSING TIME WARNER CABLE

CUSTOMER SIGNATURE

PAGE 1

/LE

No
Charge

LEAWOOD
RECEIPT NBR.. 3060723

PAGE 1

OFFICE INFORMATION

DATE..... 10/29/14 TIME..... 11:04 AM
OPERATOR.. KACCANDACE
WS ID..... QPADEV
RETURN TECH NBR 08445

ACCOUNT INFORMATION

TOBY L BOSCHERT

LEAWOOD, KS 66209-1630

CONVERTER INFORMATION

SERIAL NBR	ITEM NBR	ISSUED	REMOTE Y/N
SACDCQWFQ	CI8742S	3/15/13	___
E5EBUA69K5659DG1670A		10/29/14	___
S6B506027	SM3262S	10/24/11	___
S7D168140	SM3362S	10/17/14	___
E5YBPP69M5919DG1670A		RETURNED	___

THANK YOU FOR CHOOSING TIME WARNER CABLE

CUSTOMER SIGNATURE _____

PAGE

1/LE

1

ATTACHMENT “B”

MEMORANDUM

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

From: Amber Smith, Chief Litigation Counsel

Date: September 2, 2015

Re: 16-KCPE-109-COM
In the Matter of the Complaint Against KCP&L by Toby L. Boschert

EXECUTIVE SUMMARY

Toby L. Boschert (Complainant) filed a Formal Complaint¹ wherein Complainant alleges Kansas City Power & Light Co. (KCP&L) is responsible for property damage stemming from a “power supply issue” (inconsistent power, power outage, or power surge). Litigation Staff recommends the Commission accept the Formal Complaint, serve the Formal Complaint on KCP&L for an Answer, and direct Commission Staff to investigate the matter.

BACKGROUND

On August 31, 2015, Complainant filed a Formal Complaint against KCP&L. In the Formal Complaint, Mr. Boschert identified a period of time wherein a suspected “power supply issue” occurred, alleging damage to electronic equipment as a result. Total damages asserted by Mr. Boschert sum to \$2,273.95.

ANALYSIS

Upon the filing of a formal 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 formal complaint conforms to the commission’s regulations.”² If

¹ Complaint Against Kansas City Power & Light Co. by Toby L. Boschert, August 31, 2015 (Formal Complaint).

² K.A.R. 82-1-220(c).

the Commission determines these conditions are satisfied, the Complaint is served on the subject utility for an Answer.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 are being violated by the acts or omissions complained of, or that will be violated by the continuance of acts or omissions;
- (2) set forth concisely in plain language the facts claimed by the complainant to constitute the violation; and
- (3) state the relief sought by the complainant.

Mr. Boschert's Formal Complaint plainly describes the facts and circumstances giving rise to the complaint and alleges property damage.⁴ Further, the Complainant seeks specific relief in the form of compensation for property damage.⁵ However, the Formal Complaint does not expressly cite the provisions of law or the regulations or orders of the Commission that have been or are being violated by the acts or omissions of the utility. Therefore, the Formal Complaint does not comply with procedural requirements of K.A.R. 82-1-220(b); specifically, subsection (1) as noted above. Nevertheless, the Commission has the discretion to waive its regulations for good cause if it is in the public interest to do so, unless otherwise required by law.⁶

The Commission has been given full power, authority and jurisdiction to supervise and control the electric public utilities doing business in Kansas.⁷ 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.⁸ Moreover, 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 violations of the laws of this state by any electric public utility.⁹

In this instance, KCP&L's General Rules and Regulations Applying to Electric Service, 7.12 Liability of Company limit the utility's liability against claims of loss or damage in specified circumstances. While the Formal Complaint does not specifically identify the applicability of this provision, Litigation Staff believes that based on the totality of Mr. Boschert's complaint, the Formal Complaint provides sufficient detail to notify KCP&L and the Commission that the Complainant is asking the Commission to exercise its authority and make determinations with regard to KCP&L's service obligations under Kansas law as well as the utility's Commission-approved tariffs.

³ *Id.*

⁴ Formal Complaint, pp. 1, 3, 5-6.

⁵ Formal Complaint, p. 1.

⁶ K.A.R. 82-1-202.

⁷ K.S.A. 66-101.

⁸ K.S.A. 66-101b.

⁹ K.S.A. 66-101h.

The detailed requirements of the K.A.R. 82-1-220 are more restrictive than those required by the Kansas Public Utilities Act and Kansas courts.¹⁰ Further, the public interest is not served by dismissing the complaints of customers not represented by legal counsel for deficiencies related to stringent procedural requirements.¹¹ 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 requirements of K.A.R. 82-1-220(b)(1) for good cause.

RECOMMENDATION

Litigation Staff recommends the Commission find:

- The Formal Complaint substantially complies with the procedural requirements of K.A.R. 82-1-220;
- K.A.R. 82-1-220(b)(1) should be waived for good cause;
- The Formal Complaint establishes a *prima facie* case for Commission action;
- The Formal Complaint should be served upon Westar for an Answer; and
- Staff should be directed to investigate this matter and submit a Report and Recommendation to the Commission.

¹⁰ 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).

¹¹ K.S.A. 66-155 obligates "the attorney of the corporation commission" to prosecute suits on behalf of parties complaining of unjust discriminations by a public utility or other violations of the Public Utility Act. Litigation 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 the requirements of K.A.R. 82-1-220(b)(1).

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROGER W. STEINER, CORPORATE COUNSEL KANSAS CITY POWER & LIGHT COMPANY ONE KANSAS CITY PL, 1200 MAIN ST (64105) PO BOX 418679 KANSAS CITY, MO 64141-9679		
MARY TURNER, COMPLAINTS KANSAS CITY POWER & LIGHT COMPANY ONE KANSAS CITY PL, 1200 MAIN ST (64105) PO BOX 418679 KANSAS CITY, MO 64141-9679		
AMBER SMITH, CHIEF LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
TOBY L. BOSCHERT 12725 WENONGA LANE LEAWOOD, KS 66209		

Order Mailed Date **SEP 11 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.