

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Complaint Against)
Kansas Gas Service by David L. Johnson.) Docket No. 24-KGSG-603-COM

ORDER GRANTING KGS' MOTION TO DISMISS WITH PREJUDICE

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its pleadings and records, the Commission concludes the following:

1. On February 29, 2024, David L. Johnson filed a Formal Complaint against Kansas Gas Service (KGS), alleging that KGS is overbilling him by exaggerating his monthly gas usage and falsely claiming that it investigated his complaints. He seeks audio records of his February 5, 2024 phone call with a KGS customer service representative and an audit of his account.
2. On March 12, 2024, the Commission found that Johnson's Formal Complaint established a prima facie case and directed it to be served upon KGS for an answer within 10 days.¹
3. On March 22, 2024, KGS filed its Answer and Motion to Dismiss, claiming Mr. Johnson miscalculates the amount it billed, interpreting as a positive balance on his account.² KGS asserts Mr. Johnson's usage history between August 2021 through March 2024 (attached as CONFIDENTIAL EXHIBIT B to its Answer and Motion to Dismiss) confirms the metered volume of natural gas consumption matches the volume of natural gas billed.³ Likewise, KGS claims service orders (attached as CONFIDENTIAL EXHIBIT C to its Answer and Motion to Dismiss)

¹ Order Making Prima Facie Determination, Mar. 12, 2024, ¶ 3.

² Answer and Motion to Dismiss Public Redacted, Mar. 22, 2024, ¶ 6.

³ *Id.*, ¶ 7.

show that two separate inspections at Mr. Johnson’s premises (February 2023 and January 2024) revealed no issues with any equipment belonging to either KGS or Mr. Johnson.⁴

4. KGS advises the CONFIDENTIAL EXHIBIT D to its Answer and Motion to Dismiss disproves Mr. Johnson’s claims that KGS has not investigated his concerns,⁵ and has never explained two franchise fees included on his bill.⁶

5. KGS also contends that Mr. Johnson has not provided any documentation to it in support of his allegation that KGS improperly charged him an Insufficient Funds Service fee in September 2021.⁷ Lastly, KGS states that it has recorded phone conversations with Mr. Johnson demonstrating that he sought to make uniform payments to KGS and consented to enrolling in the Average Pay Plan.⁸ For all these reasons, KGS moves to dismiss Mr. Johnson’s Complaint for failure to state a claim upon which relief can be granted.⁹

6. Mr. Johnson has not responded to KGS’ Motion to Dismiss.

7. On July 8, 2024, Commission Staff (Staff) filed a Report and Recommendation, explaining that after a thorough investigation of Mr. Johnson’s account details, Staff is unable to conclude that KGS has made any mistakes, violated any tariff, law, or Commission Order.¹⁰ Thus, Staff recommends the Commission dismiss the Complaint in its entirety.¹¹

8. In response to Mr. Johnson’s claims that his December 2022 and January 2023 bills were inaccurate, Staff notes Mr. Johnson’s gas usage varied with changing weather and his usage patterns do not suggest anything abnormal with how KGS is billing Mr. Johnson.¹² Similarly,

⁴ *Id.*

⁵ *Id.*, ¶ 8.

⁶ *Id.*, ¶ 9.

⁷ *Id.*, ¶ 10.

⁸ *Id.*, ¶ 11.

⁹ *Id.*, ¶ 12.

¹⁰ Staff Report and Recommendation, June 21, 2024, p. 1.

¹¹ *Id.*

¹² *Id.* p. 2.

Staff reports the information provided by Mr. Johnson shows that his amounts billed matched the amounts of natural gas he used.¹³

9. In response to Mr. Johnson's claim that KGS never investigated his complaints, Staff determines that KGS performed two investigations, one on February 7, 2023, and a second on January 23, 2024.¹⁴ In response to Mr. Johnson's claim that KGS never explained the franchise fees, Staff discovered several instances where KGS explained the franchise fees to Mr. Johnson: (1) in a call on November 17, 2023; (2) by a customer service representative on December 19, 2023; (3) in a December 21, 2023 email; and (4) during a phone call on January 24, 2024.¹⁵

10. In response to Mr. Johnson's claim that KGS enrolled him in a payment plan without his consent, Staff heard telephone calls between Mr. Johnson and KGS, which set up payment plans and confirmed the payment plan was ending.¹⁶

11. In response to Mr. Johnson's claim that KGS did not apply payments he made to his account, Staff explains payments are applied to the oldest balance on the account.¹⁷ Here, it appears new charges are accumulating as payments are applied to the oldest charges. Staff discovered no errors or aberrations in the line item billing of Mr. Johnson's account.¹⁸

12. Lastly, while KGS did assess an insufficient funds charge to Mr. Johnson in 2021, it subsequently reversed the charge.¹⁹ Accordingly, Staff considers this claim moot.²⁰

13. Mr. Johnson has not responded to Staff's Report and Recommendation.

¹³ *Id.*

¹⁴ *Id.*, p. 3.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*, p. 4.

¹⁸ *Id.*

¹⁹ *Id.*, p. 3.

²⁰ *Id.*

14. The Commission finds that not only has Mr. Johnson failed to present facts or evidence sufficient to allege he was overbilled by KGS, but also KGS' undisputed documentation demonstrates it accurately billed Mr. Johnson for his natural gas consumption. Likewise, the Commission finds Mr. Johnson has not presented facts or evidence sufficient to allege KGS failed to investigate his complaint. To the contrary, Staff's review of KGS' undisputed documentation demonstrates KGS investigated Mr. Johnson's concerns.

15. The Commission finds Mr. Johnson's allegation that KGS has not explained franchise fees to his satisfaction, even if true is not a violation of law, Commission order, or tariff. Therefore, it is not an actionable complaint.

16. CONFIDENTIAL EXHIBIT A to KGS' Answer and Motion to Dismiss reflects that on February 9, 2024, KGS refunded the Insufficient Funds fee charged to Mr. Johnson on September 17, 2021. Therefore, the issue of the Insufficient Funds fee appears to be resolved.

17. Lastly, the Commission finds no evidence to support Mr. Johnson's allegation that KGS improperly placed him on an Average Payment Plan. Mr. Johnson does not dispute Staff's finding that there were multiple phone calls between him and KGS on the payment plans, including a call which enrolled him in a payment plan, and another confirming the payment plan was ending.

THEREFORE, THE COMMISSION ORDERS:

- A. KGS' Motion to Dismiss is granted. Mr. Johnson's formal complaint is denied.
- B. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.²¹

²¹ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 09/12/2024



Lynn M. Retz
Executive Director

BGF

CERTIFICATE OF SERVICE

24-KGSG-603-COM

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 09/12/2024.

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