

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION

FORMAL COMPLAINT

20180108142546
Filed Date: 01/08/2018
State Corporation Commission
of Kansas
Formal Complaint
June 2017

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**

IN THE MATTER OF THE COMPLAINT AGAINST

WESTAR ENERGY
(Respondent, name of utility company)

by
DOUGLAS YODER
(Complainant, your name)

For Commission
use only

DOCKET NO.

18-WSEE-286-COM

Please provide complainant (your) contact information:

Full Name(s): DOUGLAS YODER

Address: 2900 HARRISON AVE, LAWRENCE, KS 66047

Daytime Phone: 785-865-6760

E-mail Address (optional): _____

FORMAL COMPLAINT

DOUGLAS YODER
(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.)

POWER OUTAGE THAT WAS NOT REPAIRED IN A TIMELY
FASHION DUE TO A SYSTEM FAILURE AT WESTAR.
SEE ATTACHED EXPLANATION WITH FULL DETAILS AND
DESCRIPTION. SEE ALSO CLAIM SUBMITTED TO WESTAR.

(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.)

APPROVAL OF CLAIM IN THE AMOUNT OF \$ 5,649.33.
VERIFICATION OF THIS CLAIM IS PROVIDED IN
THE ATTACHED EXPLANATIONS.

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.

I understand that Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information provided in the complaint or other documents related to the complaint, including, but not limited to, my name, address, city, state, zip code, telephone number, email address, and the facts of the case may be available online for public viewing.


Complainant's (your) signature

1-2-18
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:

Secretary to the Commission
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.

KCC -- Formal Complaint

RE: Westar Energy. Claim/account number 95 99 162 123

Doug Yoder
2900 Harrison Ave.
Lawrence, KS 66047
Telephone: 785-865-6760

This formal complaint is based on an event that occurred on 8-21-17. A claim was filed with Westar Energy, and then an informal complaint was sent to KCC.

A detailed description of what occurred with specific events and times is attached to this report (Attachment A).

An outline of Westar's responses, and the outcome of the informal complaint are also attached.

The basis of this formal complaint is that Westar Energy did not uphold the tariffs that they are required to meet. Specifically, under the General Terms and Conditions, Section 2, Notice and Due Diligence, Westar failed to meet paragraph 2.06.01. It states in part that the utility is not responsible -- unless it shall be shown affirmatively that the error, delay, or expense has been caused by willful or wanton conduct on the part of the company. To that end we provided proper notice, but Westar did not act with due diligence.

In this case the delay or expense was specifically caused by the wanton conduct on the part of Westar. Evidence of that will be given below.

Further, this event represented a failure to meet several parts of Section 7, specifically paragraph 7.05, Electrical Service Continuity; and paragraph 7.06.03, Emergency Electric Service Policy. It says in part that emergency electric service shall be provided in accordance with the company's electric service standards; which was not provided.

In addition there was a violation of paragraph 7.07 because it was not a reasonable period of time; and 7.08 which identifies limitations, none of which were applicable in this situation.

And further, in section 10 General Clauses, paragraph 10.02, the rules and regulations were not followed in getting proper repairs made timely. And finally, in paragraph 10.04, Waiver, it states in part that the requirements may be waived in individual cases when they would not serve the interests of the customer. In this situation, the customer's interests have not been served.

Complaint:

The errors and inconsistencies in Westar's handling of the power outage, and then in their communication show a failure to meet all the requirements noted above and particularly Section 2, paragraph 2.06.01.

First Westar said the extended outage that caused the problem was weather related. It wasn't. See the notes in Attachment A. It couldn't have been. It was actually a system breakdown and a failure to perform their duties under Notice and Due Diligence.

Then they said it was an equipment failure. If so, it couldn't have been caused by the weather. And the timing of the equipment failure doesn't match what actually occurred.

Westar indicated that a fuse went out and they repaired that fuse. That makes sense. But then they reported that the fuse held for about 2 hours and went out again. Unfortunately that doesn't match up with anything on the actual timeline. This was a mis-communication and a system breakdown by Westar, and a failure to uphold both Section 2 and Section 7 of the Terms and Conditions.

Then they said an underground primary went bad. But the timing of that doesn't connect to anything on the timeline which is provided in the attachments, and conflicts with the report about the fuse going out after it had been repaired. In either case, it constitutes wanton conduct on the part of the company from a breakdown in their system and service.

Westar has mis-communicated and contradicted themselves. They said the repaired fuse held for about 2 hours. It did not. The power went back out 16 minutes after it had been restored; and that information is contained in their own logs.

Westar misrepresented the situation. They said the fuse didn't hold; and they also said an underground primary went bad. Neither matches the timeline. Further, they had ruled that the situation was all storm related. But at the same time they said it wasn't storm related, it was a separate equipment failure. This is a glaring inconsistency on the part of the company which again constitutes wanton conduct.

I received a letter from Westar denying the claim that I had submitted. In that letter it states that I indicated the damages were "as a result of equipment failure." I made no such assertion. I claimed that the extended power outage was not weather related. I had been told that Westar is not responsible for weather related damages, so I verified that this was NOT weather related.

I filed an informal complaint with KCC, and in response Westar sent a second letter indicating that the incident was caused by "Failed Underground Service/Thunderstorm." But the underground service didn't go out during the thunderstorm, nor was it caused by the weather. Then they gave 3 different times that the underground service failed; all of which show a wanton miscommunication on the part of the company.

For these reasons, and those explained in the attachments to this claim Westar has failed to uphold their responsibilities in Sections 2, 7, and 10 of the Terms and Conditions and thereby allowed an undue delay in providing service to its customers that was avoidable.

Conclusion: Westar failed in their duties, has given varying and conflicting judgments about what occurred, and is responsible for their failure to uphold the duties of service they owe the customer.

The customer requests approval of the claim for \$5,649.33.

Westar Energy

ATTACHMENT - A

(4 PAGES)

Account # 95 99 162 123

Re: Doug Yoder
2900 Harrison Ave.
Lawrence, KS 66047

Amended from text sent previously to Westar, Claims Department.

The power outage in question was caused by a system failure at Westar Energy. I contacted their office, and then submitted an informal complaint.

It is important to understand the sequence of events, so I will provide a detailed explanation below.

On 8/21/17 there was a thunderstorm in our vicinity. A lightning strike occurred in our neighborhood and the power immediately went out. You could tell the lightning hit nearby and knocked out the power, not something uncommon or alarming.

We notified Westar immediately by way of cell phone; thereby providing notice and due diligence. This was around 9:30 p.m. and the Westar recording said the power would be restored at 10:30 pm. That established an expectation on our part.

As an interjection: when I talked to a Westar representative, they indicated that Westar isn't responsible for "weather related" incidents. They also shared that the time given for having the power restored is only an estimate.

I fully understand and I agree with that policy. The utility company can't be expected to pay for weather-caused incidents that are out of their control. However, that clearly wasn't the case as this incident unfolded.

Regarding the estimated time of repair: it's improper and misleading if the company is giving estimated times they don't fully believe to be valid.

In our situation, the power was restored around midnight, at which point I turned off the lights that had come back on and looked outside to observe the actual weather conditions in our immediate area. Please note that there was no wind damage, no flooding, and it wasn't raining at that time. Since the power had just been restored, those things were all of interest to me.

Special Note: There was no wind or lightning happening at the time the power was restored, around midnight. The storm had already moved through the area and there was no lightning occurring. That's based on a direct visual observation in real time.

When I talked to the Westar office the next day, they indicated that there was "weather in the area" at the time the power was restored, and that Topeka and Kansas City had outages.

I can't speak for Topeka or Kansas City; but I can speak for our neighborhood in Lawrence because I observed it first-hand. And from 12:00 to 12:30 a.m. there was no lightning, thunder, or excessive wind occurring. Period.

The weather in Topeka or Kansas City had no bearing on what happened here.

The houses that were without power were in a very narrow swath in our specific neighborhood in south-Lawrence. Literally, the houses across the street from us had power. And houses across the street on the block behind us also had power. So it was

obviously a transformer or some kind of mini-station serving this specific block of the grid that was affected, and got fixed. I don't know the exact terminology, but it was an isolated and easily identifiable area. If there was more weather nearby it would have affected more than just this exact same small block of the grid. The point being: the power interruption was from damage in our immediate area, ie. our specific neighborhood, not someplace nearby nor Topeka or Kansas City.

We were told locally the next day that a transformer had gone out that was 3 blocks from our house.

So here's the problem, and here's why it was **not weather related**.

The power came back on around midnight. Everything was repaired and working.

A very short time later, 10-15 minutes THE POWER WENT OUT AGAIN!

There was no rain. No lightning. No thunder. Nothing weather related could have possibly caused it and affected the exact same small area. I observed the weather conditions personally.

There was a problem, but it wasn't caused by the weather. It was a Westar system breakdown.

So we called the report line again, and this time it said the power would be back on at 2:00 a.m.

Again, the neighbors across the street had power etc, and things were exactly as explained above for the first incident... as a repeat occurrence.

Except the first time we saw, and heard the lightning. The second time, there was no lightning, no flooding, no weather incident. The power just went back out for unexplained reasons. And we expected it to be restored at 2:00 a.m.

However it didn't come back on at 2:00 a.m. which resulted in water damage in the basement.

In the morning I called the Westar office (not the report line) and talked to a real person. And here's where the issue lies. They sounded somewhat surprised that the power was out. I explained that it needed immediate attention. AND WITHIN 10 MINUTES OF MY CALL THE POWER WAS BACK ON.

It was obvious that someone hadn't finished the job. Or they thought the job was complete and never bothered to come back and fix it when the power went back off-- 15 minutes after it had been restored the first time. Someone neglected their duties.

It is an impossible coincidence that a repair crew was working on our neighborhood transformer (which had just been repaired and was working) and they got it finished 10 minutes after I called in the morning. In fact, it's obvious that no actual equipment repairs were even made when I called in the morning. Nobody could make a repair in 10 minutes. Somebody left part of the job undone. When I called, it didn't take them long to see it and complete the connections.

So it's clear that the second outage was not a weather-caused occurrence. That had already been fixed. And there was no weather event at the time the power went back out. The second outage was a breakdown in the system, or lack of follow through by an employee.

The first episode was a fairly typical and easily fixed power outage. I'm not arguing about that. The second episode was not. And since making contact with Westar and filing a complaint I've gotten 2 or more different answers about the second outage, which tells me something is amiss.

Had Westar acted responsibly, there were no factors to cause an extended delay in service. And if there was in fact a valid reason for an extended delay, their estimated time of repair would have (or logically should have) indicated so and given a much later estimate.

I realize their "time of repair" is only an estimate. But that also means you expect it to be restored and by making a representation you then translate that expectation to the customer. If it's not what you expect, you should quit saying it. If it is, then I should reasonably be able to rely on the information given... and I did.

If Westar had said: the power will be out until 8:00 a.m. the next morning I would have taken steps to prevent the damage. Expecting the power to be restored at 2:00 I relied on their system which failed.

In conclusion, the circumstances of this claim go beyond the normal sequence of repairs that Westar routinely makes, and are clearly outside of the weather related issue that was addressed and fixed. For this reason, the claim that's been submitted should be approved.

If you need any additional verification or further explanation I would be happy to provide whatever is needed.

Thank you for your assistance.

Summary of the timeline -- from Westar.

Event occurred on 8-21-17. Monday evening.

According to my estimate when reporting this to your office, the power went out around 9:30 pm.

9:34 pm (8-21-17)... Westar staff says they showed a "blip" occurred in the power. However, please note that there was no blip at our house.

9:39 pm... Power out. According to your log (Westar).

12:07 a.m. (8-22-17)... Power restored. Repairs completed. (Westar log).

12:23 a.m... Power OUT again, according to your log... and Unexplained.

8:13 a.m. ... Power back on. Ten minutes after I called your office.

Logical sequence:

There were 2 separate events. The first is understandable. The second is not.

The power went out at 9:39 pm.

It was repaired, and power was restored at 12:07 a.m.

It went out again 15 minutes later. Unexplained.

It was restored the second time at 8:13 a.m., 10 minutes after I called the Westar office and they didn't realize the power was out.

The second outage affected the exact same small area as the first.

continued, next page...

You may say: the second outage was again weather related. It was not. I observed the weather at the time and there was no wind or lightning.

You may say: there was a second lightning strike that knocked out the exact same neighborhood (which Westar said when I called them). There was not. We all know that lightning didn't strike the same transformer a second time.

You may say: well, it was related to the first lightning strike. No, it wasn't. It couldn't have been. That outage was repaired and the power was back on, fully functional at 12:07 a.m.

You may say: well, there was weather in the area so another outage occurred from other weather-damage. No it didn't. The second outage wasn't broader or wider or different. It affected the exact same small area of the grid as the first. And further, there were no other power outages in town.

The second outage and the failure to get it repaired in a timely manner was a system breakdown and a failure on Westar's part, making it a compensable event.

Westar Energy -- damage claim denied -- next steps.

Case statement:

Westar is responsible for damages that should be compensated. They have also misrepresented the events and timeline, giving conflicting answers to this inquiry.

Outline:

I talked to Heidi Mitchell on 8-22-17 and she indicated that Westar is not responsible for weather related incidents.

I gave a detailed description of what had occurred, explained why it was not weather related, and indicated that I wanted to file a claim for damages. She said: you can file a claim, but it will be denied... weather related claims are not covered. Westar can unilaterally decide that such things are out of their control and it's not their negligence. Furthermore, the automated repair line gives a "time of repair" but it's just an estimate.

She indicated to me that the second outage was weather related.

She mailed me a claim form. I filed a claim, giving very clear reasoning why this damage was not weather related. I gave exact times and the sequence of events.

Claim denied.

On 12-1-17 Heidi called to let me know that the claim had been denied.

However, the reason had changed: Westar is not responsible if the outage is weather related **OR** for equipment failure.

Heidi explained that this was equipment failure, not weather related and Westar has no responsibility or obligation for equipment repairs, "unless, they had prior knowledge" that the equipment failed, or they were negligent.

I disagreed, and indicated that she was giving a mixed message from when we first talked.

Inconsistencies and errors:

1. Nothing was said about equipment failure in the first conversation. She had access to their records, and was quoting times and events to me.

Everything she talked about was being weather related, period. She never said one word about equipment failure. Westar apparently realized that it wasn't weather related so they said it was equipment failure.

2. The equipment failure is illogical. The lightning strike knocked out power. It was repaired and fully functional. According to Heidi, there was a completely unrelated "equipment failure" and it coincidentally affected the exact same area and happened 15 minutes after the first outage was repaired.

3. The power was restored at 8:13 a.m. the next morning. It was 10 minutes after I called the Westar office.

- The person in the customer service department was "surprised" to learn that the power was out. It had been out all night and people in customer service were unaware.

- But Heidi indicated that the crews had been working on that exact equipment all night and the power just happened to be restored right after I called. It had nothing to do with my call. She said crews had been working on that outage since it occurred.

4. Heidi said they had other power outages to repair that night, so this one just happened to get finished in the morning.

- If there were all these other outages, or the local crew got sent to other areas, the repair line wouldn't have said it would be fixed at 2:00 a.m. because there would have been no crew working on it. However, Heidi indicated that a crew was in fact working on it all night.

5. The time estimate.

Westar says the time is only an estimate. But the repair line gives a representation. When it says the power will be restored at 2:00 a.m. that's making a representation.

If in fact this occurrence was an equipment failure, totally independent of the first outage, Westar would have known that-- and the repair line would NOT have said it will be fixed at 2:00 a.m.

6. It doesn't add up.

First Westar ruled that it was all weather related, then it was equipment failure. Now after talking to the KCC, Westar has switched back to saying it's weather related.

Westar's second denial letter says the cause was: "failed underground service/thunderstorm."

The thunderstorm didn't affect the underground service. We know this because the power outage that was caused by the storm had been repaired and power had been restored.

KCC Informal Complaint - Brandon Donahue

I filed an informal request and sent the materials to Brandon. He went through the proper channels, and got the following report from Westar. I also got a denial letter from Alison Lee of Westar indicating they ruled the incident to be: "Failed Underground Service/Thunderstorm."

Brandon reported the following information from his discussion with Westar.

1. Westar's conclusion was: "It was all storm related."
2. They indicated that, "A fuse went out, caused by the storm". They re-fused that outage and went on. The outage was corrected by repairing the fuse.
3. They follow a hierarchy for outages, with priority given to police and healthcare.
4. The fuse held for 2 hours and then went out. What he actually said was: "for a few hours". When I challenged that, he re-stated it as: For about 2 hours.

In either case, this is flatly wrong; and even Westar's own records show the power went out again 16 minutes after it was repaired.

5. Then they said an underground primary went bad. But they weren't sure it was from the storm. Brandon reported that the storm weakened the primary cable, but it still worked. Then it finally gave out at 23:33 (quoted from Brandon).

If 23:33 is military time, that would be 11:33 pm. The power was already out at 11:33 p.m. and had been since 9:39 pm, so that's completely off-base.

Observations:

A) The very first indication was that "It was all storm related." But when the primary cable went out, Brandon indicated "they weren't sure it was from the storm."

B) According to the time Brandon gave for the underground primary going out, nothing adds up because the power was already out at that time, and came back on after that, only to go back off again.

C) First they indicated that the repaired fuse held for about 2 hours and then went out. But secondly, Westar indicated that an underground primary went bad. Those are 2 different things, and neither story matches up with the times that the power was actually off or back on.

6. Westar told Brandon that the second outage took longer because there were other outages being repaired. So there was no negligence on their part.
7. Brandon explained that the customer must review the tariffs and show what has been violated or what terms have been broken. Otherwise it's no violation of duties.

Conclusion:

There are a multitude of problems and errors in this report.

Westar has given conflicting responses to what occurred and what was done to correct it. The fact is it was a system breakdown and failure to follow through on their part. This lack of diligence and then mis-communication is their responsibility.

Westar Energy did not uphold the General Terms and Conditions of the Tariffs in Section 2, paragraph 2.06.01 under Notice and Due Diligence, along with various provisions of Section 7 and Section 10. These will be outlined in the formal complaint.



December 18, 2017

Douglas L Yoder
2900 Harrison Ave
Lawrence, KS 66047

Dear Mr. Yoder,

Thank you for contacting Westar Energy concerning your electric service located at 2900 Harrison Ave, Lawrence, KS. As you requested, please find information regarding an interruption in your electric service on August 22, 2017.

Interruption began: 12:23 AM
Electric Service Restored: 8:13 AM
Cause: Failed Underground Service/Thunderstorm

We sincerely regret any inconvenience you experienced due to this interruption in your electric service. Should you need additional details regarding this interruption, please call 1-800-383-1183, ask to speak with our Division Operations Manager for your area.

Sincerely,

Alison Lee
Customer Advisor



November 29, 2017

Douglas Yoder
2900 Harrison Ave.
Lawrence, KS 66047

Re: Our Claim Number: M100226270
Your claim number: --
Date of Incident: 8/21/17
Location of Occurrence: See above
Amount of Claim: \$5,649.33

Dear Mr. Yoder,

Thank you for your response concerning a claim for reimbursement against Westar Energy. You have indicated on August 21, 2017, you suffered damages as a result of equipment failure.

After investigating the incident, please understand that as an electric utility regulated by the Kansas Corporation Commission, we are not liable when property damage results from equipment failure, unless that failure is due to our negligence. Westar had no prior knowledge of an imminent failure to this equipment.

We sincerely regret any inconvenience and loss arising from this incident, but will respectfully decline your claim for reimbursement. Should you have additional questions or concerns, I can be reached at 785-575-6303.

Sincerely,

Heidi Mitchell
Risk Management Analyst

Statement of Claimant

Westar Energy File # 95 99 162123Name YODER DOUGLAS L.
(last) (first) (middle/initial)Home Address 2900 HARRISON AVE. LAWRENCE, KS 66047
(street) (city & state) (zip)Home Phone Number: 785-842-9885 Work Phone Number: _____Cell Number if available: 785-865-6760

Please complete this claim form for property damage and/or personal injury. Failure to complete this form will make it difficult to obtain necessary information to consider your claim. Upon receipt of your completed claim form, our claims representative will complete an investigation. Once our investigation is completed, our response will be mailed to the person listed above.

Date and time of the incident: MONDAY, 8-21-17, AROUND MIDNIGHT.Precise location of the incident: 2900 HARRISON, BASEMENTDamaged Amount Claimed \$5,649.33 (2,035.16 = CLEANUP, 3,614.17 = FLOORING)

Describe in detail **what** happened and **why** the incident occurred, **what** personal property was damaged and/or **who** was injured. A detail list of all property damage and/or personal injuries must be supported by repair bills and/or medical bills which you feel relate to this incident.

- 1) WHAT HAPPEND: POWER OUTAGE... SEE ATTACHED OUTLINE *
THERE WERE ACTUALLY 2 OUTAGES. ONE OCCURRED AT 9:30 PM ON 8-21-17, THE SECOND OCCURRED AT 12:15 A.M. ON 8-22-17. THE FIRST WAS CAUSED BY A LIGHTNING STRIKE. THE SECOND WAS CAUSED BY A SYSTEM FAILURE AND WAS NOT ADDRESSED OR REPAIRED UNTIL THE NEXT MORNING.
- 2) WHY IT OCCURRED: FAILURE TO COMPLETE THE REPAIRS NEEDED.
- 3) WHAT PROPERTY DAMAGED: WATER IN THE BASEMENT. FLOORING HAD TO BE REPLACED. NO INJURIES TO PEOPLE.
- 4) PLEASE SEE DETAILED EXPLANATION ATTACHED. POWER OUTAGE CAUSED BASEMENT FLOODING.

Signed: Douglas YoderDate: 11-25-17

Please mail your completed form with required documents to P.O. Box 889, Topeka, KS 66601-0889

PARADISE CARPET ONE FLOOR/HOME
2108 W. 27TH STREET
SUITE E
LAWRENCE, KS 66047
Telephone: 785-856-8011 Fax: 785-856-8013

FLOORING

Page: 1

TOTAL

CG700714

\$ 3,614.17

Sold To

YODER, DOUG & DENISE
2900 HARRISON AVE.
LAWRENCE, KS 66047

Ship To

YODER, DOUG & DENISE
2900 HARRISON AVE.
LAWRENCE, KS 66047

Order Date

09/26/17

Receipt History

Order Number

CG700714

Receipt Number	Pay Date	Cash	Check	Credit Card	Discount	Total Payment	Finance Charge
3148	09/26/17	0.00	1,794.58	0.00	0.00	1,794.58	0.00
			Check Number: 1578				
3227	11/09/17	0.00	1,819.59	0.00	0.00	1,819.59	0.00
			Check Number: 1607				

CLAIM TOTAL

- 2,035.16 = CLEANUP (BILLS ATTACHED)
- 3,614.17 = FLOORING - RECEIPTS HERE

\$ 5,649.33 = TOTAL CLAIM.

— 11/09/17 —

Sales Representative(s):
ERIN WYATT

5:55PM -

INVOICE TOTAL:	\$3,614.17
Discount:	0.00
Payment(s):	-3,614.17
Finance Charge(s):	0.00
BALANCE DUE:	\$0.00