

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Complaint Against)
Kansas Gas Service, a Division of ONE Gas,) Docket No. 18-KGSG-460-COM
Inc., by Michael & Jerri Clagg.)

ORDER ON COMPLAINT

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

I. Background

1. On April 23, 2018, Michael and Jerri Clagg (Complainants) filed a Formal Complaint (Complaint) against Kansas Gas Service, a Division of ONE Gas, Inc. (KGS or the Company).¹ According to the Complainants, KGS informed them on April 9, 2018 that the gas meter installed on their property had ceased recording their gas consumption for approximately 16 months - from November 2016 through March 2018.² The Complainants stated that KGS billed them \$449.07 for their estimated gas consumption during that period.³ Essentially, the Complainants argued they should not be required to pay the estimated bill because KGS was responsible for the non-functioning meter and KGS was “responsible for billing us for what we used, not what they think we might have used.”⁴

¹ Complaint Against Kansas Gas Service, a Division of ONE Gas, Inc., by Michael and Jerri Clagg, p. 1 (Apr. 23, 2018).

² Complaint, p. 3.

³ Complaint, p. 3.

⁴ Complaint, p. 3.

2. On June 22, 2018, Commission Legal Staff drafted a Memorandum reviewing the Complainant's allegations and determining that the Complaint satisfied the procedural requirements of the Commission's rules of practice and procedure.⁵ Legal Staff also recommended the Commission accept the Complaint and serve it on KGS for an Answer.⁶

3. On June 28, 2018, the Commission issued its *Order Adopting Staff's Memorandum*, accepting the Complaint and directing KGS to submit an Answer in accordance with K.A.R. 82-1-220.⁷

4. On July 20, 2018, KGS filed a Response to the Complaint.⁸ KGS noted that the Complainants' gas meter failed to register usage since December 2016.⁹ KGS asserted that under Section 9.02.05(2) of its Commission-approved General Terms and Conditions tariff, when a meter is not registering for any period, the Company "shall estimate the utility service used during this period in accordance with Section 4.05.02."¹⁰ According to Section 4.05.02, with a non-registering meter the Company may estimate customer usage through an individualized analysis and bill the consumer for up to 6 months' worth of unregistered gas consumption.¹¹ KGS stated that upon identifying the non-registering meter, the Company estimated a bill for the Complainants for the period of October 2017 through March 2018.¹² The estimate came to an initial total of \$449.07.¹³

⁵ Memorandum, Legal Division, pp. 1-3 (June 22, 2018) (Memorandum).

⁶ Memorandum, p. 3.

⁷ *Order Adopting Staff's Memorandum*, Ordering Clauses A & B (June 28, 2018).

⁸ Response of Kansas Gas Service to Complaint of Michael and Jerri Clagg (July 20, 2018) (Response).

⁹ Response, p. 2.

¹⁰ Response, p. 2.

¹¹ Response, p. 2.

¹² Response, p. 2.

¹³ Response, p. 2.

5. However, KGS further stated that based on the Complainants' request, the Company created an alternative estimate using the Complainants' actual gas usage data from the new meter and found a justification for further reducing the bill by \$196.16, thus presenting a new lower balance of \$252.91.¹⁴

6. On April 25, 2019, Commission Utilities Staff (Staff) filed a Report and Recommendation (R&R), noting that "KGS' tariffs allow the Company to estimate usage on a non-registering meter and bill the customer for up to 6 months, which KGS did in this case."¹⁵ Staff explained KGS's method of estimating the Complainants' gas usage for the six month period of October 2017 through March 2018, which KGS calculated to be \$449.07.¹⁶ Staff ran its own estimate "using the historical usage and weather data provided" and came up with a bill of \$449.16, which differs from KGS's calculation by .02%.¹⁷ Staff noted the aforementioned further reduction to the Complainants' bill down to \$252.91, calculated by KGS, but stated that although the further reduction is "permissible under the terms of its tariffs, KGS' second estimated bill did not follow their standard method of estimating."¹⁸ According to Staff, the initial higher estimate is a more accurate reflection of the Complainants' gas usage than the lower estimate.¹⁹ For this reason, Staff recommended the Commission require KGS to charge the Complainants the higher balance of \$449.07.²⁰ However, "Staff acknowledge[d] the Commission has the option to require KGS to charge the complainants the lower amount of \$252.91 (\$42.15/month)."²¹

¹⁴ Response, pp. 2-3.

¹⁵ R&R, p. 1 (Apr. 25, 2019).

¹⁶ R&R, p. 2.

¹⁷ R&R, p. 2.

¹⁸ R&R, p. 2.

¹⁹ R&R, pp. 2-3.

²⁰ R&R, p. 3.

²¹ R&R, p. 3.

II. Findings and Conclusions

7. Both KGS and Staff agree that when KGS cannot confirm usage due to a non-registering meter, Section 4.05.02 of KGS's Commission-approved tariff allows the Company to estimate customer usage "by an individualized analysis based on information including, but not limited to, weather data, historical usage at the premises, and customer supplied information."²² The tariff does not require KGS to use any specific amount of weather data, nor does it specify the customer supplied information KGS must use when creating a billing estimate. Thus, the Commission finds KGS had discretion under its tariff provisions to look at the Complainants' "actual usage information obtained from the new meter and [find] justification to further reduce Customer's bill" from \$449.07 to \$252.91.²³ The Commission finds Staff's assertion that the \$449.07 charge "results in a more accurate estimate of the Complainant's gas usage" is not dispositive.²⁴ Rather, because KGS's tariff allows for the reduced charge of \$252.91, and because KGS worked with the Complainant to calculate a fair and reasonable estimate,²⁵ the Commission finds the Complainants shall be billed \$252.91, payable in six monthly installments of \$42.15. The Commission also finds this Complaint shall be dismissed in light of the above resolution of the matter.

THEREFORE, THE COMMISSION ORDERS:

A. KGS shall bill the Complainants \$252.91 for their gas usage during the period of October 2017 through March 2018, payable in six monthly installments of \$42.15. In light of this directive, the Complaint is hereby dismissed.

²² See Response, p. 2; R&R, p. 2.

²³ See Response, pp. 2-3. See also R&R, p. 2 (Staff explaining that "[f]or the second estimate, KGS used a single month of historical weather and usage data to estimate six months of customer usage").

²⁴ See R&R, p. 3.

²⁵ Response, p. 3.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).²⁶

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 06/25/2019



Lynn M. Retz
Secretary to the Commission

MJD/zc

²⁶ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

18-KGSG-460-COM

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail and electronic service on 06/25/2019.

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/S/ DeeAnn Shupe

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