

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

In the Matter of the Complaint Against Kansas)
Gas Service by Town & Country Estates Homes) Docket No. 26-KGSG-100-COM
Association.)

ANSWER AND MOTION FOR SUMMARY JUDGMENT

Kansas Gas Service, a division of ONE Gas, Inc., (“Kansas Gas Service”), pursuant to K.A.R. 82-1-220 and K.S.A. 60-212, respectfully files its Answer and Motion for Summary Judgment to the Formal Complaint filed by Town & Country Estates Homes Association (“Complainant”). In support thereof, Kansas Gas Service states the following to the State Corporation Commission of the State of Kansas (“Commission”):

This case is about whether 22 ornamental natural gas lanterns should be separately metered and billed at a nonresidential (i.e., commercial) rate. They should. Kansas Gas Service’s tariffs, context, and history show *General Sales Service Small* is the correct rate for service to the lanterns, and the metered readings cannot be combined for billing purposes. Therefore, Kansas Gas Service has correctly billed the Complainant and is entitled to judgment as a matter of law.

I. ANSWER

1. Unless explicitly stated, Kansas Gas Service denies the Complainant’s allegations.
2. Kansas Gas Service admits serving the Complainant’s 22 natural gas lanterns.
3. Kansas Gas Service admits metering and billing each natural gas lantern separately.
4. Kansas Gas Service admits billing the natural gas lanterns using the *General Sales Service Small* rate.
5. Kansas Gas Service denies separately metering and billing the Complainant’s 22 natural gas lanterns using the *General Sales Service Small* rate is improper or unreasonable.

A. Kansas Gas Service Billed the Complainant the Correct Rate

6. Kansas Gas Service is correctly billing the Complainant's natural gas lanterns using the *General Sales Service Small* rate because the Complainant is a Nonresidential Customer as defined in Kansas Gas Service's General Terms and Conditions for Gas Service ("GT&Cs"). Kansas Gas Service cannot charge the Complainant using the *Residential Sales Service* rate because neither the Complainant nor the lanterns meet the definition of a Residential Customer.

7. Kansas Gas Service has two categories of customers: Residential and Nonresidential.¹ A Residential Customer is:

A Customer receiving natural gas Sales Service at a Single Location, principally for the maintenance or improvement of the quality of life in a household, home, or place of dwelling having separate kitchen, sleeping and living facilities and permanent provisions for sanitation, or at a detached garage on the same premises as customer's home. The primary use of utility service shall be limited to comfort space conditioning, water heating, food preparation, and other non-profit household uses. Uses shall also include:

(1) Premises, served through one meter, that have been converted from one to no more than five single-family dwelling units, each having separate kitchen facilities, and

(2) Premises in which four or fewer sleeping rooms are rented or available for rent.²

8. The Complainant is not a residential customer. The Complainant does not receive service at a single location principally for maintaining or improving the quality of life in a home. The Complainant does not use utility service primarily for comfort space conditioning, water heating, food preparation or other non-profit (i.e., non-commercial) uses. While the Complainant may be a non-profit organization, ornamental neighborhood lighting is not a non-profit household use. In short, the Complainant is not a Residential Customer.

¹ Kansas Gas Service's General Terms and Conditions for Gas Service ("GT&Cs"), Section 1.11.01; 1.11.02.

² Kansas Gas Service GT&C Section 1.11.01 (emphasis added).

9. Rather, the service provided to the Complainant falls squarely within the definition of a Nonresidential Customer. A Nonresidential Customer is:

A Customer served at a single location for which the primary activity cannot be defined as residential. Nonresidential customers may include, but shall not necessarily be limited to, those using service for wholesale and retail trade, professional and miscellaneous business services; hotels and other lodging places; garages located on property not contiguous to the customer's residential dwelling; clubs; single-metered apartment houses; commercial office buildings; warehouses; theaters and auditoriums; water pumping plants; laundries; greenhouses; public buildings; universities, colleges and schools; hospitals, institutions for the care or detention of persons; and airfields, military and naval posts. Nonresidential customers may also include those using service to change raw or unfinished materials into other forms or products. Meters serving the common use of multiple customers or units, whether Residential or Nonresidential, shall be considered Nonresidential.³

10. Since the Complainant is not a Residential Customer, they must be a Nonresidential Customer. But even if the Complainant was a Residential Customer, the meters serving the ornamental gas lanterns are for a common use. Much like lighting in a communal area or clubhouse is a common use, so too is beautification lighting at the entrance of a neighborhood. When a meter serves a common use, it "shall be considered Nonresidential." While the lanterns may be located on the corner of a residential lot, they nevertheless serve a common use to the neighborhood as a whole. As such, the Complainant's ornamental lanterns should be classified as a Nonresidential Customer.

11. Since Kansas Gas Service's *Residential Sales Service* is only available to Residential Customers, and since neither the Complainant nor its lanterns meet the definition of a Residential Customer, service under this rate is unavailable. As a Nonresidential Customer, the best rate available to the Complainant and its ornamental lanterns is *General Sales Service Small*.

³ GT&C Section 1.11.02.

B. Kansas Gas Service Cannot Combine Metered Readings for Billing Purposes

12. Kansas Gas Service is correctly metering and billing the Complainant's 22 ornamental gas lanterns separately. Section 4.03.03 of Kansas Gas Service's GT&Cs requires Kansas Gas Service to meter and bill the lanterns separately:

Meter Readings Not Combined: Each class of service at each separate location supplied will be metered and billed separately. When more than one meter or metering facility is set at one premise for customer's convenience, or when customer has service at different premises, the readings of the separate meters will not be combined for billing purposes unless the applicable rate schedule provides otherwise.

13. Each of the Complainant's ornamental natural gas lanterns is at a separate location. Therefore, each of the lanterns must be billed and metered separately. Likewise, the readings from these separate meters cannot be combined for billing purposes unless the applicable rate schedule allows so. Neither Kansas Gas Service's *General Sales Service Small* rate nor its *Residential Sales Service* rate allows separate meter readings to be combined for billing purposes. Therefore, the lanterns must be metered and billed separately with each receiving its own service and delivery charges, taxes, and fees. To be sure, customers may combine the payment for several meters, which is the master bill the Complainant receives each month. This convenience option allows customers to submit one payment rather than individual payments for each meter serving them. Still, the amount due reflects the separately metered and billed amounts for each individual meter.

II. MOTION FOR SUMMARY JUDGEMENT

14. Kansas Gas Service moves the Commission to dismiss the Formal Complaint because no disputed material facts show the separate metering and billing of natural gas lanterns violates any law, order, or tariff. Kansas Gas Service is entitled to judgment as a matter of law.

A. Summary Judgment Standard

13. “Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. The trial court is required to resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. When opposing a motion for summary judgment, an adverse party must come forward with evidence to establish a dispute as to a material fact. In order to preclude summary judgment, the facts subject to the dispute must be material to the conclusive issues in the case.” *Robbins v. City of Wichita*, 285 Kan. 455, 460, 172 P.3d 1187, 1192 (2007).

14. “Where the facts of a case are susceptible to only one conclusion, the question is one of law and may be properly subject to summary judgment.” *Edwards ex rel. Fryover v. Anderson Eng'g, Inc.*, 45 Kan. App. 2d 735, 739, 251 P.3d 660, 663 (2011). “Although the party opposing summary judgment need not prove its case, it does have an affirmative duty to come forward with facts to support its claim.” *Acord v. Porter*, 58 Kan. App. 2d 747, 757, 475 P.3d 665, 676 (2020) (internal quotation omitted). The party opposing a statement of uncontroverted fact in a motion for summary judgment is required to come forth with a concise summary of “conflicting testimony or evidence and any additional genuine issues of material fact that preclude summary judgment.” KS R DIST CT Rule 141(b)(1)(C)(i). In this docket, there are no disputed material facts.

B. Kansas Gas Service Properly Billed the Complainant

15. There are no material facts in dispute. Kansas Gas Service provides natural gas

service to the Complainant's 22 ornamental natural gas lanterns, and meters and bills these lanterns using the *General Sales Service Small* rate. The only issue is whether Kansas Gas Service's interpretation of its tariff is correct, which the Commission has jurisdiction to decide.⁴ Interpretation of a tariff is a question of law subject to standard rules of statutory construction.⁵

The most fundamental rule of statutory construction is that the intent of the Legislature governs if that intent can be ascertained. In ascertaining this intent, we begin with the plain language of the statute, giving common words their ordinary meaning. When a statute is plain and unambiguous, an appellate court should not speculate about the legislative intent behind that clear language, and it should refrain from reading something into the statute that is not readily found in its words. But if a statute's language is ambiguous, [a court] will consult [its] canons of construction to resolve the ambiguity.⁶

16. Kansas Gas Service's tariffs are plain and unambiguous. First, the Complainant does not meet the definition of a Residential Customer. Even if the Complainant did, the individually metered lanterns serve a common use. Meters serving a common use are considered Nonresidential Customers. As a result, Kansas Gas Service has appropriately classified the Complainant as a Nonresidential Customer. Second, Kansas Gas Service cannot combine the separate meters serving the Complainant's ornamental natural gas lanterns for billing purposes. Kansas Gas Service's tariffs and rate schedules do not allow for this type of consolidation.

17. Based on the undisputed material facts, and plain and unambiguous language of Kansas Gas Service's tariffs, Kansas Gas Service is correctly billing the Complainant using its *General Sales Service Small* rate. As such, the Commission should grant Kansas Gas Service's Motion for Summary Judgment and dismiss this Formal Complaint.

⁴ See *Grindsted Prods., Inc. v. Kansas City Power & Light Co.*, 21 Kan. App. 2d 435, 445, 901 P.2d 20, 26 (1995).

⁵ *Grindsted Prods., Inc. v. Kansas City Power & Light Co.*, 21 Kan. App. 2d 435, 444, 901 P.2d 20, 26 (1995) citing *Southwestern Bell Tel. Co. v. Kansas Corporation Commission*, 233 Kan. 375, 664 P.2d 798 (1983).

⁶ *State v. Gomez*, 320 Kan. 3, 13, 561 P.3d 908, 916 (2025) citing *State v. Eckert*, 317 Kan. 21, 27, 522 P.3d 796 (2023).

WHEREFORE, Kansas Gas Service having fully responded to the allegations respectfully moves the Commission for summary judgment in Kansas Gas Service's favor, to dismiss the Formal Complaint, and for such further relief as the Commission deems just and reasonable.

Respectfully submitted,

/s/ Robert Elliott Vincent

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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 for Summary Judgment* 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 10/26/25.


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 for Summary Judgment* was forwarded this 20th day of October, 2025, addressed to:

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