

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

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

**ANSWER AND MOTION TO DISMISS  
PUBLIC REDACTED**

Kansas Gas Service, a division of ONE Gas, Inc. (“Kansas Gas Service” or “Company”), pursuant to K.A.R. 82-1-220 and K.S.A. 60-212, respectfully files its Answer and Motion to Dismiss in the above-captioned Formal Complaint filed by David L. Johnson. In support thereof, Kansas Gas Service states the following to the State Corporation Commission of the State of Kansas (“Commission”):

**I. ANSWER**

1. On February 29, 2024, David L. Johnson filed a Formal Complaint against Kansas Gas Service.
2. On March 12, 2024, the Commission issued its *Order Making Prima Facie Determination*, wherein the Commission found Mr. Johnson alleged Kansas Gas Service:
  - a. Over-billed him by exaggerating his monthly gas usage; and
  - b. Falsely claimed to have investigated his complaints.

**A. General and Specific Denials**

3. Unless explicitly stated herein, Kansas Gas Service generally denies Mr. Johnson’s allegations.
4. Mr. Johnson alleges the price Kansas Gas Service charges for natural gas fluctuates. Kansas Gas Service agrees the price of natural gas fluctuates month-to-month. Kansas Gas Service’s Cost of Gas Rider adjusts monthly to accurately bill customers for the cost of natural gas delivered to their premises.

5. Mr. Johnson alleges Kansas Gas Service's bills indicate Mr. Johnson's natural gas usage fluctuates. Kansas Gas Service agrees Mr. Johnson's usage fluctuates. Like a typical residential customer, Mr. Johnson's natural gas usage fluctuates month-to-month and season-to-season.

### **B. Response to Complaint**

6. Mr. Johnson alleges a reverse audit will prove Kansas Gas Service over-billed his account, and then conducts this analysis in his Complaint. Mr. Johnson miscalculates the amount Kansas Gas Service has billed, which he then incorrectly interprets as a positive balance on his account. A copy of Mr. Johnson's transactions with Kansas Gas Service between August 2021 through March 2024 is attached hereto as CONFIDENTIAL EXHIBIT A and hereby adopted by reference. This information details: (1) the amounts Kansas Gas Service has billed, (2) the payments Kansas Gas Service has received, and (3) the current amount owed from Mr. Johnson. This information demonstrates Kansas Gas Service has not over-billed Mr. Johnson.

7. Mr. Johnson alleges Kansas Gas Service has incorrectly calculated Mr. Johnson's usage. A copy of Mr. Johnson's usage history between August 2021 through March 2024 is attached hereto as CONFIDENTIAL EXHIBIT B and hereby adopted by reference. This information confirms the metered volume of natural gas consumption matches the volume of natural gas billed. Likewise, a copy of relevant service orders is attached hereto as CONFIDENTIAL EXHIBIT C and hereby adopted by reference. Kansas Gas Service performed two separate inspections at Mr. Johnson's premises (February 2023 and January 2024). No issues were identified with any equipment belonging to Kansas Gas Service or Mr. Johnson. This information demonstrates Kansas Gas Service has correctly calculated Mr. Johnson's usage.

8. Mr. Johnson alleges no investigations of his account or concerns have been performed. A copy of Mr. Johnson's account notes is attached hereto as CONFIDENTIAL EXHIBIT D and hereby adopted by reference. Kansas Gas Service has repeatedly reviewed and investigated Mr. Johnson's concerns. In fact, during an inspection Kansas Gas Service discovered Mr. Johnson had his thermostat set at 75°F.<sup>1</sup> This information demonstrates Kansas Gas Service has properly investigated Mr. Johnson's concerns.

9. Mr. Johnson alleges Kansas Gas Service has never explained two franchise fees included on his bill. As shown on the account notes provided in CONFIDENTIAL EXHIBIT D, Kansas Gas Service has spoken to Mr. Johnson about franchise fees on three separate occasions. Kansas Gas Service pays franchise fees to use municipal public right-of-way. These pass-through fees are set by the municipality where the customer takes service and can vary in amount and scope from one city to the next. Due to certain payment priority requirements, Kansas Gas Service calculates the amount of franchise fees and taxes owed on its Winter Event Security Cost Recovery rider ("WESCR") separately. Every customer who is subject to the WESCR has their franchise fees and taxes calculated this way – once for the WESCR and again for the bill's other components. CONFIDENTIAL EXHIBIT E contains thirteen (13) months of Mr. Johnson's Kansas Gas Service bills, which demonstrate how these charges are presented. This information demonstrates Kansas Gas Service has attempted to explain franchise fees to Mr. Johnson.

10. Mr. Johnson alleges Kansas Gas Service improperly charged an Insufficient Funds Service fee in September 2021, and his bank records will indicate such. Mr. Johnson has not presented this evidence to Kansas Gas Service. Notwithstanding, the transaction report contained

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<sup>1</sup> For reference, the United States Department of Energy recommends setting thermostats between 68°F and 70°F to save energy.

in CONFIDENTIAL EXHIBIT A and the account notes contained in CONFIDENTIAL EXHIBIT D demonstrate Kansas Gas Service evaluated and addressed Mr. Johnson's concern.

11. Mr. Johnson alleges he never agreed to be placed on Kansas Gas Service's Average Payment Plan. Kansas Gas Service has reviewed its recorded phone conversations with Mr. Johnson. These recordings confirm Mr. Johnson sought to make uniform payments to Kansas Gas Service and consented to enrolling in the Average Pay Plan.

### **C. Motion to Dismiss**

12. Kansas Gas Service moves the Commission to dismiss Mr. Johnson's Complaint for failure to state a claim upon which relief can be granted.

13. An answer to a petition (in this instance, Mr. Johnson's Complaint), is a pleading. K.S.A. 60-207(a)(2). A written instrument attached to a pleading is a part of the pleading for all purposes. K.S.A. 60-210(c). Kansas Gas Service's exhibits are not matters outside the pleadings. Kansas Gas Service's Motion to Dismiss should not be treated as one for summary judgment. K.S.A. 60-212(d); *Sperry v. McKune*, 305 Kan. 469, 481, 384 P.3d 1003, 1011 (2016).

14. Mr. Johnson's allegations against Kansas Gas Service either: (1) do not present a claim for which relief can be granted, or (2) do not present facts or evidence sufficient to support the allegations against Kansas Gas Service.

15. Mr. Johnson's allegation that the price of natural gas fluctuates, and Kansas Gas Service adjusts its charges accordingly, is not a violation of law, Commission order, or tariff.

16. Mr. Johnson's allegation that Kansas Gas Service charges customers for natural gas consumption, and that consumption can fluctuate from one billing cycle to another, is not a violation of law, Commission order, or tariff.

17. Mr. Johnson has not presented facts or evidence sufficient to allege Kansas Gas Service exaggerated his natural gas consumption, resulting in an overbilling. Kansas Gas Service has presented facts and evidence it accurately recorded and billed Mr. Johnson for his natural gas consumption.

18. Mr. Johnson has not presented facts or evidence sufficient to allege Kansas Gas Service failed to investigate his complaint. Kansas Gas Service has presented facts and evidence it repeatedly investigated Mr. Johnson's concerns.

19. Mr. Johnson's allegation that Kansas Gas Service has not explained franchise fees to his satisfaction is not a violation of law, Commission order, or tariff. Notwithstanding, Kansas Gas Service has presented facts and evidence it has attempted to explain franchise fees to Mr. Johnson.

20. Mr. Johnson has not provided facts or evidence sufficient to show Kansas Gas Service improperly assessed an Insufficient Funds fee. Notwithstanding, Kansas Gas Service has presented facts and evidence indicating this concern was resolved and the issue is moot.

21. Mr. Johnson has not presented facts or evidence sufficient to allege Kansas Gas Service improperly placed him on an Average Payment Plan. Kansas Gas Service has presented facts and evidence Mr. Johnson consented to being placed on the Average Payment Plan.

WHEREFORE, Kansas Gas Service having fully responded to the Complaint respectfully moves the Commission to dismiss the Complaint for failing to state a claim upon which relief can be granted, and for such further relief as the Commission deems just and reasonable.

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Respectfully submitted,

/s/ Robert Elliott Vincent  
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PUBLIC REDACTED  
EXHIBITS  
A-E

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 to Dismiss* 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 3/21/23.

  
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 to Dismiss* was forwarded this 22nd day of March, 2024, addressed to:

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