

**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, a Division of ONE Gas,)
by Pinebrooke Condominium Subdivision) Docket No. 24-KGSG-252-COM
Association, Inc. and its member residents.)

**ORDER GRANTING MOTION TO WITHDRAW PETITION FOR
RECONSIDERATION AND CLOSING THE DOCKET**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On September 13, 2023, Pinebrooke Condominium Subdivision Association, Inc. and its member residents (Pinebrooke) submitted a complaint against Kansas Gas Service, a Division of ONE Gas, Inc. (KGS). Pinebrooke’s Complaint seeks relief from the Winter Event Securitization Cost Recovery Rider (WESCR) Tariff.¹

2. On October 26, 2023, the Commission found that Pinebrooke’s Complaint failed to establish a prima facie case because: (1) its requested relief represents an improper collateral attack on the Commission’s February 8, 2022 Order in the 21-KGSG-332-GIG Docket and August 8, 2022 Order in the 22-KGSG-466-TAR Docket, in which the Commission approved the WESCR Tariff, finding it to be a just and reasonable rate under Kansas law;² and (2) the Commission is legally unable to grant the requested relief under the Utility Financing and Security Act, K.S.A.

¹ Complaint, Sept, 13, 2023, p. 7.

² Order on Prima Facie Determination, Oct. 26, 2023, ¶ 14.

66-1,242(b) and 66-1,252(a)(4).³ However, the Commission gave Pinebrooke 30 days to amend its Complaint.⁴

3. On November 20, 2023, Pinebrooke amended its Complaint, seeking a declaration that KGS' Uri surcharge under the WESCR Tariff is unreasonable, unfair and not authorized by the Commission's Financing Order.⁵

4. On December 28, 2023, the Commission found that Pinebrooke's Amended Complaint still failed to make a prima facie case because: (1) Pinebrooke's claims of detrimental reliance on material misrepresentations of KGS is a tort claim to be resolved in civil court;⁶ and (2) Pinebrooke's claim that as a transportation customer, it should not be responsible for the Uri surcharge is belied by its admission that it was not charged the Uri surcharge until it converted from a transportation to retail customer.⁷ Under the terms of the Financing Order, issued by the Commission on August 18, 2022 in the 22-KGSG-466-TAR Docket, all KGS' Retail Customers are required to pay Securitized Utility Tariff Charges.⁸

5. On January 12, 2024, Pinebrooke filed a Petition for Reconsideration, claiming the Commission's Order on Amended Complaint is arbitrary and capricious, contrary to law, and that the Commission failed to regulate practices that are duplicative, unjust, unreasonably discriminatory, and unduly preferential.⁹ Pinebrooke argues that to the extent the Securitization Act or WESCR Tariff could result in the duplicitous and discriminatory terms of KGS's invoices charging the WESCR Tariff, they deprive Pinebrooke of vested rights under its service contract

³ *Id.*, ¶ 15.

⁴ *Id.*, Ordering Clause B.

⁵ Amended Complaint, Nov. 20, 2023, pp. 10-11.

⁶ Order on Amended Complaint, Dec. 28, 2023, ¶ 8.

⁷ *Id.*, ¶ 9.

⁸ Financing Order, Docket No. 22-KGSG-466-TAR, Aug. 18, 2023, ¶ 130.

⁹ Petition for Reconsideration, Jan. 12, 2024, ¶ 5.

with Symmetry; illegally result in a retroactive violation of a judicial function, deprive Pinebrooke of due process of law and constitute unfair, unjust and discriminatory rates.¹⁰

6. On January 26, 2024, Pinebrooke filed a Motion to Withdraw its Petition for Reconsideration, explaining that the issues raised in its Amended Complaint have been resolved.¹¹ Since the parties have resolved the Amended Complaint, the Commission grants the Motion to Withdraw the Petition for Reconsideration.

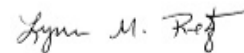
THEREFORE, THE COMMISSION ORDERS:

- A. Pinebrooke's Motion to Withdraw its Petition for Reconsideration is granted.
- B. This Docket is closed.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 02/08/2024



Lynn M. Retz
Executive Director

BGF

¹⁰ *Id.*, ¶ 6.

¹¹ Complainants' Motion to Withdraw Petition for Reconsideration, Jan. 26, 2024, p. 1.

CERTIFICATE OF SERVICE

24-KGSG-252-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 02/08/2024.

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