

PETITION FOR RECONSIDERATION

Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, KS 66604

Date: 8-17-18

Docket No. 18-WSEE-286-COM

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the Matter of the Complaint Against Westar Energy,
by Douglas Yoder.

MOTION TO RECONSIDER.

Comes now Douglas Yoder and submits this Motion to Reconsider regarding the Commission's Order of 7/31/2018 Adopting Staff's Report and Recommendation.

BACKGROUND

1. Douglas Yoder, (Complainant) filed a complaint on January 8, 2018 related to a power outage that Westar failed to restore in a workmanlike or timely manner. Further, Westar provided unreliable and inconsistent information about the power outage to the customer and to the KCC in Westar's defense of the complaint.
2. KCC staff filed a Legal Memorandum dated 3/12/2018 and recommended that "... the Commission accept Mr. Yoder's Complaint and have it served upon Westar for an Answer." The Certificate of Service for that Memorandum is dated 3/13/2018.
3. The Commission issued an Order Adopting Staff's Memorandum on 4/3/2018. Westar had 10 days to file an answer, or 15 days to petition for reconsideration or request a hearing. Those deadlines were therefore April 13, and April 18, 2018.
4. On May 14, 2018, some 30 days past the deadline Westar filed a Motion to Dismiss, and had provided no other Answer or Petition prior to that.
5. Based on information and discovery, on July 12, 2018 KCC staff filed its Report recommending that the Commission dismiss the complaint and find that Westar complied with the terms and conditions of its tariff.

ANALYSIS

6. Additional information has come to light since the submission of the original complaint. This information shows that potential errors were made, likely based upon faulty explanations provided by Westar.

7. There have been 5 additional power outages at the Complainant's residence during a **six-week** period. These occurred as follows:

- May 25, 2018. Reported to Westar at 4:50 pm.
- June 2, 2018. Reported to Westar at 6:54 a.m.
- June 27, 2018. Reported to Westar at 8:18 pm.
- June 28, 2018. Reported to Westar at 1:45 a.m.
- July 10, 2018. Reported to Westar at 7:25 pm.

8. The five outages in a 45-day period were all related to the same issues (explained below) which are also the cause of the breakdown in the complaint that was filed.

Westar acknowledges that these outages occurred for no apparent reason on sunny days and there have never been storm-damaged cables involved.

9. In total there have been 7 power outages in our neighborhood during the past 12 months. Westar admits that their equipment is faulty, and that they are aware of it. They also admit that 5 outages in a 45-day period does not meet their standards.

On more than one occasion the power was restored, only to go out again a short time later. We've learned that this is not due to storm damage. It's caused by circuits that are not correctly open or closed. This is the same condition that existed in the complaint.

10. Complainant sent a letter to Westar on July 14, 2018 advising them of their failure to deliver reliable service. See Attachment A.

11. Complainant was contacted by two Westar representatives following that letter, and was informed of the following facts; this according to Westar.

- There have been 7 power outages at our location over the past 12 months.
- Having five outages in a 6 week period is not within their accepted standards.
- Most of those outages have been on sunny, clear days.
- The underground cable in our neighborhood is "direct-buried" cable. It is not in conduit. It is an insulated cable and it deteriorates over time.
- When the ground shifts due to wet or dry conditions, it cracks the insulation on the cable. Then moisture can get in and cause a fuse to blow.
- An overhead line provides one of the feeds for our neighborhood. The insulators on that overhead line are also going bad.
- Westar currently has no means to locate a power outage in our area. They are improvising a system to assist with this in the future.
- Westar staff has indicated directly that Westar's grid maps are not accurate and that after repairs are made circuits have been found to be open or closed incorrectly.

12. With this information, staff should reconsider their conclusions and recommendations for the following reasons.

A. In the incident of August 21, 2017 the power was back out again before the repair crew could have been assigned to another job or left the site. It was irresponsible to leave a repair site with an inoperable circuit which had no electrical service.

B. KCC staff indicated that there was a failure in the underground cable which their report says is in conduit.

I don't know where staff got this information, but Westar's Operations Manager for the Lawrence district has indicated that the cable in question is a direct-buried cable, and that the insulation on that cable has become faulty. This caused the 5 outages noted in #7 above which have affected the same area as the event in question; again agreed upon by Westar.

C. According to Westar's defense of the Complaint, they had no reason to expect the cable failure to occur. But more recent acknowledgements now tell a different story.

With 6 more power outages in the same area Westar admits knowing the cable was a problem. Westar has further indicated that they are extremely concerned that additional failures will occur. As validation of that, they are improvising a system to identify those failures as quickly as possible when they happen.

The repair times for the 5 outages noted above have been between 4-11 hours. Westar admits they cannot locate outages in this neighborhood and they are improvising a system to identify outages quicker; yet they still gave a 2-hour indication of repair time based on historical averages when they know full well their system can't meet that expectation in this neighborhood. That constitutes some level of negligence.

D. KCC staff accepted the notion that the cable in question was likely damaged by lightning.

We now know that the cable was faulty due to deterioration and cracks in the insulation, not lightning damage. See Westar staff explanations noted in #11.

E. It appears that staff may have received faulty information in their data requests or may have relied too heavily on Westar's Motion to Dismiss. New information now provided by Westar and the evidence from 5 power outages negates information that staff based some of their recommendations upon and should be reconsidered.

F. Staff contended in their recommendation that Westar's response to outages is dynamic and decisions need to be based on existing conditions.

Complainant agrees, and existing conditions clearly indicated that the circuit in question was not operable. It was irresponsible to leave a repair incomplete that Westar knew was out of service at that very time.

G. Staff observed that information, times, and cause of outages were inconsistent and muddled. But we now have information that clears up those inconsistencies, and it should be taken into consideration.

H. The time-estimate of repairs was irresponsible by Westar, and staff should be given the opportunity to re-think their conclusion that the estimate was reasonable. The estimate in question indicated that repairs would be completed some 3 1/2 hours **before** a crew was even on site to re-start the work. Westar knew there was an outage and that no crew was working on it, yet still gave completely erroneous information.

Westar obviously didn't take into account any of the information at hand and acted negligently in both the repairs and their communication.

13. Westar has indicated to their customers in writing that "Your service will remain reliable." See Attachment B.

14. Earlier in the process when staff recommended that the Commission accept Mr. Yoder's complaint, staff made note in their Legal Memorandum that:

- "The Commission is also charged with ensuring the provision of efficient and sufficient service at just and reasonable rates."

- Further, "... the Commission is expressly granted all incidental powers necessary to carry into effect the provision of the public utility statutes."

Appeal of this Motion: The citizens in our neighborhood have not received efficient nor sufficient service in any way, shape, or form, including the Complainant.

Simply stated, Westar has not met the provisions of the public utility statutes.

15. Westar clearly had a system breakdown and they now acknowledge that they had faulty equipment and systems. Westar knows this faulty equipment is still in place and they are extremely concerned about it. Staff should be given the opportunity to include that information in their analysis.

16. Given the repeated outages and the acknowledgements from Westar, it's clear that Westar did not, and has not, complied with the terms and conditions of its tariff.

Conclusion:

17. If you had 5 power outages at your house in a six-week period I'm confident you would not conclude that Westar met its tariff or was providing efficient and sufficient service.

Please require Westar to be accountable for their systems and their actions.

THEREFORE, Claimant respectfully requests that the Commission consider all of the information now evident regarding Westar's responsibilities and failures thereof and reconsider the Order that was issued.

If this appeal is not the proper next step for the Claimant, or if I should file a whole new complaint relating to the violation of its tariff by Westar please advise at your earliest convenience.

Respectfully Submitted,

Douglas Yoder

A handwritten signature in cursive script, reading "Douglas Yoder", written over a horizontal line.

Mailed to:
Secretary
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka,KS 66604

Electronic copy:

Phoenix Anshutz
Lead Litigation Counsel
Kansas Corporation Commission
p.anshutz@kcc.ks.gov

Cathryn Dinges
Senior Corporate Counsel
Westar Energy, Inc
cathy.dinges@westarenergy.com

July 14, 2018

To: - Westar, Customer Service Supervisor
 - District Manager or Supervisor
 - Regional Manager
 - Vice President over the Lawrence region

From: Douglas Yoder
 2900 Harrison Ave.
 Lawrence, KS 66047

Dear Accounting Dept or Westar Staff,

Please pass this letter on to, or provide a copy to all of the following individuals at Westar:

- Customer Service Supervisor
- District Supervisor or Manager
- Regional Manager
- Vice President over the Lawrence region.

We are paying this bill under protest.

You have not provided continuous or reliable electrical service to our neighborhood, and have failed to uphold your responsibilities as a public utility.

Our electrical power has gone out for no explainable reason on the following dates, all occurring in a matter of less than 6 weeks.

1. May 25, 2018. Reported to Westar at 4:50 pm.
2. June 2, 2018. Reported to Westar at 6:54 a.m.
3. June 27, 2018. Reported to Westar at 8:18 pm.
4. June 28, 2018. Reported to Westar at 1:45 a.m.
5. July 10, 2018. Reported to Westar at 7:25 pm.

This kind of power interruption is completely outrageous.

For the most part these outages have occurred on a clear day with no wind, and no construction in our area. More than once the power has been restored, only to go out again a very short time later.

Westar has a problem; and you've not dealt with it.

By not addressing the problem with your faulty equipment you are imposing a hardship on the customers in this neighborhood. On some of the dates noted, temperatures that day were in the 90 or 100 degree range, making things very uncomfortable.

We are paying the bill under protest, and will start paying normally again when you start delivering reliable electrical service and properly repair or replace your faulty equipment.

In the mean time we'd like to request a full refund of our bills from May, June, and July, 2018.

By means of this letter you are being placed on notice of knowing that your equipment and service are not in proper working order. You knew or should have known that since August 21, 2017 when the first of these outages occurred. There have been 6 outages since that time, and 5 in the last 6 weeks. This is intolerable.

It's inexcusable that you have left faulty equipment in service which has had continuous breakdowns and has repeatedly left people without power for no explainable reason. It's also a negligent practice when you have failed to address and correct the broken down equipment when you knew it was not in proper working order.

On several occasions I drove around the neighborhood to see what area was affected by the outage. On more than one occasion I saw a Westar truck and stopped to ask the workers if they had located the problem. On one of those occasions I was told that the maps were wrong, and the circuits weren't correctly open or closed. On another occasion staff indicated they had not yet identified nor found the problem-- and it was already well past the time that the report line had indicated that power would be restored. In that situation the workers were going from one transformer to another trying to locate the problem because your maps and tracking systems were inaccurate.

Something is drastically wrong with the power delivery to this neighborhood. And you now are aware of it.

Most utility companies have a power grid, and when power is interrupted they can quickly switch the delivery to a different supply line and the outage is momentary at most. Why has this not been done in the outages noted above? In our case the outages have been from 4 to 11 hours. And when repaired, they don't stay repaired. Why has that happened? The only conclusion is broken or faulty equipment that is not in proper working order which has not been repaired or replaced.

We strongly recommend that you immediately replace your methods and equipment for providing electrical service to this neighborhood; because the methods and equipment currently in use aren't working.

We've lived at our current address for 20 years, and had never encountered a problem like this in the past. Something's wrong and nobody at Westar is correcting it.

If you would like to discuss this matter or schedule a meeting I can be reached at 785-865-6760.

You may send the refund of our bills to the address shown at the top of this letter. Thank you.

Pough Goden

SENT IN WITH BILL PAYMENT ON 7-14-18



June 6, 2018

Douglas L. Yoder
2900 Harrison Ave.
Lawrence, KS 66047-3054



Dear Valued Customer,

I'm writing to share an exciting change that will help build a better energy company for you. Westar Energy and KCP&L have merged to create one, stronger regional energy provider.

You may have heard our holding company name has changed to Evergy, Inc. For now, you will continue to communicate with us as Westar. In 2019, our customer operations will change to Evergy, and we will be sure to let you know when that happens and what those changes mean for how you interact with us.

As a Westar customer, here's what stays the same:

- **Your service** will remain reliable.
- **You will pay your bill** the same way you do today, using the same account information.
- **If you pay online**, your log-in information stays the same.
- **You can still reach us** to access your account, report outages or ask questions, either at westarenergy.com or (800) 383-1183.

As a combined company, we will provide you more benefits than we could if KCP&L and Westar remained separate companies.

- **Savings** — We know how hard it is to make ends meet today. We will create cost efficiencies as a larger company, which translates to cost savings for customers, and means we ask for smaller, less frequent rate changes. Additionally, savings generated by this merger will be shared with you through bill credits.
- **Sustainability** — We are focused on delivering clean, safe, reliable sources of energy today and well into the future. So we're embracing alternative energy sources to generate more power with less impact to our environment. Nearly half the power we provide to homes and businesses will now be emissions-free!
- **Solutions** — We are committed to providing our customers with energy solutions that meet their needs. Whether its new ways to connect with us, our electric vehicle charging station network, or the next innovation around the corner, we are a forward-thinking, innovative energy company dedicated to serving you.

Westar and KCP&L have served customers in Kansas and Missouri for more than 100 years. We are determined to keep jobs local, foster local economies and support the communities where we live and work. As separate companies, we have donated more than 35,000 hours and \$4 million to non-profits in our communities and have employees who serve on more than 300 charitable and community boards across the combined service area. This commitment will live on in the combined company.

We will continue to provide updates about the exciting things this merger will mean for you as our customer, and for us as a company. Together, we will continue to provide sustainable, reliable, lower-cost energy now, and in the future.

If you want to learn more, please visit westarenergy.com/merger.

Sincerely,

Terry Bassham, President and CEO