

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

Before Commissioners: Susan K. Duffy, Chair
Dwight D. Keen
Andrew J. French

In the Matter of the Complaint Against KCPL) Docket No. 20-KCPE-107-COM
by Kevin and Laura Fitzpatrick.)

ORDER SETTING TIME TO FILE

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 and conclusions:

1. On September 4, 2019, Kevin and Laura Fitzpatrick (Complainants) filed a Formal Complaint (Complaint)¹ with the Commission against Kansas City Power & Light Company (Eversource).² Complainants claim they have experienced problems with their electric service, including power outages, flickering lights, and power surges.³

2. On September 17, 2019, the Commission adopted Commission Litigation Staff's Legal Memorandum, finding the Complaint complied with the procedural requirements in K.A.R. 82-1-220 and established a prima facie case for Commission action.⁴

3. On October 18, 2019, Eversource filed a Motion to Dismiss, arguing the Complaint did not meet the requirements of K.A.R. 82-1-220 because Complainants failed to demonstrate Eversource violated any provision of law, regulation, or order.⁵ Eversource further asserts that even if Complainants' allegations are assumed to be true, Complainants do not contend

¹ Formal Complaint of Kevin and Laura Fitzpatrick (Sept. 4, 2019) (The Complaint is written and signed by Laura Fitzpatrick).

² Eversource, Inc. is formerly known as Kansas City Power & Light Company. *See* Docket No. 20-KCPE-122-CCN.

³ *See* Complaint.

⁴ *See* Order Adopting Legal Memorandum (Sept. 17, 2019).

⁵ Motion to Dismiss of Eversource, Inc., ¶¶ 3-7 (Oct. 18, 2019).

Evergy Metro “acted willfully or with gross negligence in a way that caused the alleged damage.”⁶

Evergy Metro argues the Complaint should be dismissed for failure to state a claim.⁷

4. Complainants did not respond to Evergy Metro’s Motion to Dismiss.

5. On June 15, 2020, Commission Staff (Staff) filed its Report and Recommendation (R&R), recommending denial of the Complaint.

6. Complainants did not file a written response to Staff’s R&R, but Ms. Fitzpatrick contacted Commission Litigation Staff.

7. On June 19, 2020, Ms. Fitzpatrick sent an e-mail to the Office of General Counsel stating she needed more time to respond to the R&R. Ms. Fitzpatrick was informed that a request for additional time needed to be filed with the Commission.

8. Complainants have not filed a request for additional time.

9. Complainants have 7 days from service of this Order to file a response to Staff’s R&R or a request for additional time. If Complainants file a request for additional time, the request shall include a specific date Complainants wish to file a response and an explanation as to why more time is necessary. Failure to timely file a response to the R&R or request for additional time will result in a Commission order on the merits of the Complaint.

THEREFORE, THE COMMISSION ORDERS:

A. Complainants have 7 days from service of this Order to timely file a response to Staff’s R&R or request for additional time as stated in paragraph 9 above.


⁶ Motion to Dismiss, ¶ 7.

⁷ See Motion to Dismiss, ¶¶ 18-19.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 08/06/2020



Lynn M. Retz
Executive Director

LEL

CERTIFICATE OF SERVICE

20-KCPE-107-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 08/06/2020.

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/S/ DeeAnn Shupe

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