

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

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

ORDER ADOPTING LEGAL MEMORANDUM

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined Litigation Staff's Memorandum submitted in this matter and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On September 4, 2019, Kevin and Laura Fitzpatrick (Complainants) filed a Formal Complaint against Kansas City Power & Light (KCPL) alleging problems with electric service, such as power outages, flickering lights, and power surges.¹ The Formal Complaint is attached hereto as Attachment A.

2. On September 10, 2019, Litigation Staff for the Commission prepared a memorandum analyzing the Complaint for compliance with Commission regulations. Litigation Staff notes the Formal Complaint substantially complies and satisfies the Commission's rules of practice and procedure set forth in K.A.R. 82-1-220.² Litigation Staff's Memorandum is attached hereto as Attachment B.

¹ Complainants' Formal Complaint Against KCPL (Sep. 4, 2019) ("Formal Complaint").

² Litigation Staff's Memorandum (Sep. 10, 2019).

II. FINDINGS AND CONCLUSIONS

3. Upon review of Litigation Staff's Legal Memorandum, the Commission is satisfied jurisdiction exists to conduct the requested investigation pursuant to K.S.A. 66-101 *et seq.* Specifically, the Commission is authorized to investigate formal complaints regarding rates, rules, regulations, or practices of gas and electric public utilities.³ In this instance, the Commission is authorized to conduct an investigation into the alleged inadequate service violations detailed in the Formal Complaint.

4. The Commission agrees with Litigation Staff's analysis and recommendations and hereby adopts and incorporates into this Order Litigation Staff's Memorandum dated September 10, 2019, by reference.

5. Accordingly, the Commission finds and concludes the Formal Complaint shall be served upon KCPL for an Answer.

THEREFORE, THE COMMISSION ORDERS:

- A. Kevin and Laura Fitzpatrick's Formal Complaint shall be accepted.
- B. The Formal Complaint shall be served upon KCPL for an Answer.
- C. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration.⁴
- D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

³ See K.S.A. 66-101—66-101h.

⁴ See K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 09/17/2019



Lynn M. Retz
Executive Director

CRM

ATTACHMENT "A"

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION
FORMAL COMPLAINT

Note: Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information you provide in the complaint or other documents related to the complaint, including, but not limited to, your name, address, city, state, zip code, telephone number, email address, and the facts of your case may be available online for public viewing.

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

IN THE MATTER OF THE COMPLAINT AGAINST

KCP&L
(Respondent, name of utility company)

by
Kevin and Laura Fitzpatrick
(Complainant, your name)

For Commission
use only

DOCKET NO.

20-KCPE-107-COM

Please provide complainant (your) contact information:

Full Name(s): Kevin & Laura Fitzpatrick
Address: 6431 Norwood St. Mission Hills KS 66208
Daytime Phone: 913-219-6505
E-mail Address (optional): 1kfitzpatrick@me.com

FORMAL COMPLAINT

Laura Fitzpatrick
(Your name)

states that the above-named respondent is a public utility providing service in Kansas and is subject to the jurisdiction of the State Corporation Commission.

The facts and circumstances surrounding the complaint are set out in detail below:
(Be specific and as brief as possible. If necessary, attach additional sheets.)

Not a week goes by summer, fall, winter
spring that we dont loose power at least
once a week | Over the past several year
we have also experienced flickering lights
power surgers that is very hard on all
our appliances. We have called several times

(Continued on the other side)

Formal Complaint *continued*

Complainant requests that the respondent utility be required to provide an answer to the complaint and requests the following action be ordered by the Commission. (*State action or result desired.*)

always told it is in our house we have paid several electricians who tell us it is with K.C.P.L. on Easter we lost partial power to our home, only the major appliances went out - lights all worked. We lost everything in a freezer and 2 refrigerators. Filed a claim and were denied stating KCPL not responsible for their equipment. If they aren't who is??? Something is wrong on our block and we need assistance.

and for such further order or orders as the Commission may deem necessary.

VERIFICATION: I do solemnly, sincerely, and truly declare and affirm that the statements made in this complaint form are true and accurate to the best of my knowledge, and I do this under the pains and penalties of perjury.

I understand that Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information provided in the complaint or other documents related to the complaint, including, but not limited to, my name, address, city, state, zip code, telephone number, email address, and the facts of the case may be available online for public viewing.


Complainant's (your) signature

8-25-2019
Date signed

FILING INSTRUCTIONS

This form may be filed in person at the Kansas Corporation Commission's Office or by mail. All formal complaints, whether filed by mail or delivered in person, must be directed to:

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

For more information about the formal complaint process please refer to the instructions provided with this form or visit the KCC website: <http://kcc.ks.gov/>, Consumer Assistance, Filing a Complaint. You may also contact our Consumer Assistance staff toll-free at 1-800-662-0027 or by e-mail at public.affairs@kcc.ks.gov.



Informal and Formal Utility Complaint Procedure

How to Start

If you have a complaint about your utility bill or services, and speaking with your utility company does not resolve the problem, Kansas law allows you to file a complaint with the Kansas Corporation Commission (KCC), the state agency responsible for regulating public utilities in Kansas.

The KCC has established an informal and formal complaint procedure to assist ratepayers seeking to resolve a utility problem.

This two-step procedure only applies to utilities under our authority. It is important to note that we do not regulate most electric and water cooperatives, municipalities, wireless, or long distance telephone service providers, cable companies, or the Internet. Our website lists the companies we regulate: <https://kcc.ks.gov/about-us/jurisdiction>

Step 1: The Informal Complaint Procedure

Contact the Public Affairs and Consumer Protection Division to start the process. Most of our complaints can be resolved through our informal procedure. Problems such as billing errors, pending disconnection of service, deposit disputes, and other service issues are often informally resolved.

No special form is required, but we will need this basic information to start our investigation:

- Your name as the customer of record;
- Mailing address or service address;
- Home and/or daytime phone numbers (e-mail, optional);
- Name of the utility company;
- Your account number;
- The facts about what the utility did or did not do (include dates, times, location and persons involved); and
- The resolution you expect.

Note: If the informal complaint procedure does not produce a satisfactory resolution, or if you are dissatisfied with the outcome, you have the right to file a formal complaint. (See Step 2)

Step 2: The Formal Complaint Procedure

The formal complaint is different from the informal complaint in that it:

- Requires formal processing and filing under KCC administrative rules;
- Is sent in written form to the utility for response;

- Requires the utility to file a written answer within 10 days;
- Requires the KCC to issue a written order, even if the matter is resolved without a hearing;
- May result in a formal, quasi-judicial evidentiary hearing; and
- Allows either you or the utility to appeal the KCC decision to District Court.

The procedure for filing a formal complaint is found in the Kansas Administrative Regulations. (K.A.R.) 82-1-220. Any proceedings which follow the filing are governed by the KCC's rules of practice and procedures, K.A.R. 82-1-201 et seq.

Your formal complaint must be in writing

You are required to submit your formal complaint in writing with a signed verification. You may use the complaint form provided by the KCC or you may draft your own written complaint providing required information. Please contact the KCC Public Affairs and Consumer Protection Division to obtain the formal complaint form.

How to file it

The formal complaint may be filed in person at the KCC or by mail. When filed by mail, the formal complaint should be mailed to the attention of the Secretary to the Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604. To expedite processing, do not direct your formal complaint to other KCC personnel. At this time, we do not accept formal complaints by email or through our website.

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Informal and Formal Utility Complaint Procedure (Continued)

More About the Formal Complaint Procedure

1. Establishing the Facts: When the complaint is received, it is assigned a docket number for identification purposes and is then reviewed by the KCC legal staff to determine whether the complaint provides the facts needed to establish a complaint against the company. The facts, if true, must amount to a violation for which the Commissioners may order relief. This step is referred to as establishing a prima facie case. If you meet the legal requirements to establish a prima facie case, a copy of the complaint is served on the utility (respondent) by the KCC. If it is determined that you (the complainant) have not established a prima facie case, the complaint will be returned to you and you will be given an opportunity to amend the complaint.
2. The utility, after receiving the complaint, must either answer or satisfy the complainant within 10 days.
3. KCC Staff reviews the complaint and company response and then recommends action to the Commissioners. The parties may reply to the Staff's recommendation within 10 days after service.
4. After reviewing the complaint, company answer, KCC staff recommendations, and other evidence, the Commissioners have the following options:
 - a. Schedule the matter for an evidentiary hearing;
 - b. Issue other orders as appropriate; and
 - c. Issue an order granting, denying or dismissing the complaint.
5. At any time, and with approval of the Commissioners, the parties may enter into a voluntary settlement if: (1) the matter in controversy only affects the parties involved, or (2) the issue has no direct or substantial impact upon the general public.
6. Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Therefore, any information you provide in the complaint or other documents related to the complaint, including, but not limited to, your name, address, city, state, zip code, telephone number, email address, and the facts of your case may be available online for public viewing.

Contact Information

To file an informal complaint or request a formal complaint form, contact the KCC Public Affairs and Consumer Protection Division at:

Kansas Corporation Commission
Public Affairs and Consumer Protection Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027

Phone: (785) 271-3100
Toll Free: (800) 662-0027

Email: public.affairs@kcc.ks.gov
Website: <http://kcc.ks.gov/>

KANSAS CORPORATION COMMISSION
Office Of Public Affairs & Consumer Protection
FORMAL COMPLAINT

Please provide complainant (your) contact information:

Full Name(s): _____
Address: _____
Daytime Phone: _____
E-mail Address (optional): _____

FORMAL COMPLAINT

(Your name) _____

states that the above-named respondent is a public utility providing service in Kansas and is subject to the jurisdiction of the State Corporation Commission.

The facts and circumstances surrounding the complaint are set out in detail below:
(Be specific and as brief as possible. If necessary, attach additional sheets.)

(Continued on the other side)

ATTACHMENT "B"

**MEMORANDUM
LEGAL DIVISION**

To: Chair Dwight D. Keen
Commissioner Shari Feist Albrecht
Commissioner Susan K. Duffy

From: Carly Masenthin, Litigation Counsel

Date: September 10, 2019

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

EXECUTIVE SUMMARY:

Kevin and Laura Fitzpatrick (Complainants) filed a Formal Complaint against Kansas City Power & Light (“KCPL”) on September 4, 2019.¹ The State Corporation Commission of the State of Kansas (Commission) follows designated regulations as a matter of practice and procedure to determine if a Formal Complaint is actionable. This Formal Complaint satisfies the procedural requirements set forth in K.A.R. 82-1-220(b). Legal Staff recommends the Commission accept this Formal Complaint and initiate an investigation into the allegations in the Fitzpatrick’s Complaint.

BACKGROUND & ANALYSIS:

On September 4, 2019, Complainants filed a Formal Complaint against KCPL, alleging that they experience weekly power outages, flickering lights, and power surges at their home and have neither received adequate help from KCPL nor a remedy to the issues they experience.² Complainants assert that the service issues are hard on their appliances, and point to one instance when they lost power to all major appliances and, as a result, lost all perishable food in two freezers and two refrigerators.³ Complainants allege that KCPL responded to their prior informal complaints by claiming it is Complainants’ home that is the problem; or, in the alternative, that KCPL is not responsible for its equipment.⁴ Complainants paid “several” electricians to come to

¹ Formal Complaint Against KCPL, Docket No. 20-KCPE-107-COM (Sep. 4, 2019) (Formal Complaint).

² *Id.* at 1.

³ *Id.* at 2.

⁴ *Id.*

their property and were advised by the electricians that KCPL's service was the issue.⁵ Complainants wish to have efficient and adequate service; they initiated this formal complaint in hopes that an investigation will both determine why they currently are not receiving efficient and adequate service, and who is ultimately responsible for the power issues at the home.

Upon the filing of a Formal Complaint, the Commission must determine whether the allegations, if true, would establish a *prima facie* case for Commission action; part of this determination rests on whether the Formal Complaint conforms to the Commission's regulations.⁶

K.A.R. 82-1-220(b) requires Formal Complaints to satisfy three procedural requirements:

- (1) Fully and completely advise each Respondent and the Commission as to the provisions of the law or the regulations or orders of the Commission that have been or are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts or omissions;
- (2) Set forth concisely and in plain language the facts claimed by the Complainant to constitute the violation(s); and
- (3) State the relief sought by the Complainant.

Legal Staff reviewed the Formal Complaint and found it procedurally sufficient. Admittedly, the Complainant did not cite to any specific statutes, regulations, or orders of the Commission. However, Complainants do allege that they have experienced weekly power outages, flickering lights, and power surges. Complainants offer specific facts (destruction of perishable foods after a power outage) that appear to be a direct correlation to the issues with service of which they allege.⁷ An established principle of utility regulation found in K.S.A. 66-101b states: "Every electric public utility...shall be required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such electric public utility."

The Commission has the authority to waive any requirement set forth in its regulations if there is good cause shown and it is in the public's interest to do so.⁸ While Complainants do not specifically cite to K.S.A. 66-101b, allegations of inefficient or insufficient service are alleged. Given this information, Legal Staff believes that the public interest will be promoted by investigating the claims without a specific citation.

Complainants' allegations in the Formal Complaint set forth concisely and in plain language the facts claimed to have constituted the violation, and they request relief in the form of an investigation to discover who is responsible for their inadequate and inefficient service. Therefore, the second and third procedural requirements were met. Despite Complainant's

⁵ Formal Complaint at 2.

⁶ K.A.R. 82-1-220(c).

⁷ Formal Complaint at 1.

⁸ K.A.R. 82-1-202(a).

failure to state a specific statute, the allegation of inadequate service was heavily implied. It is Legal Staff's opinion that there is enough information in the Formal Complaint to instigate a Commission investigation.

No recommendation regarding the validity or truthfulness of the Complainant's claim is made, nor should any such recommendations be assumed or concluded with the filing of this memorandum. The only recommendations made here are that the Commission should find: 1) the Formal Complaint does satisfy the procedural requirements of K.A.R. 82-1-220; and 2) a determination of whether a *prima facie* action exists is possible.

RECOMMENDATION:

Legal Staff recommends the Commission find the Formal Complaint does satisfy the procedural requirements of the Commission's rules of practice and procedure. Likewise, Legal Staff recommends the Commission accept the Formal Complaint, and initiate an investigation into the issues presented therein.

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
electronic service on 09/17/2019.

DARRIN R. IVES, VICE PRESIDENT, REGULATORY
AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST
19TH FLOOR
KANSAS CITY, MO 64105
Fax: 816-556-2110
darrin.ives@kcpl.com

LAURA FITZPATRICK
KEVIN AND LAURA FITZPATRICK
6431 NORWOOD STREET
MISSION HILLS, KS 66208
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KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
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/S/ DeeAnn Shupe
DeeAnn Shupe
