

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

Before Commissioners: Shari Feist Albrecht, Chair  
Jay Scott Emler  
Pat Apple

In the Matter of the Complaint Against ) Docket No. 15-QWST-388-COM  
CenturyLink by Karine Tyrrell. )

**ORDER DISMISSING FORMAL COMPLAINT WITH LEAVE TO AMEND**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having reviewed its files and records, and being duly advised in the premises, the Commission makes the following findings:

**I. BACKGROUND**

1. On March 4, 2015, Karine Tyrrell (Complainant) filed a Formal Complaint against CenturyLink (CenturyLink) with the Commission. The Formal Complaint alleges the Complainant "paid full price for intermittent Internet service and was forced to add a landline, for \$94.00 per month."
2. On March 6, 2015, Litigation Staff for the Commission prepared a Memorandum analyzing the formal complaint for compliance with Commission regulations.
3. Litigation Staff reviewed the Formal Complaint's underlying facts and allegations, and while making no recommendation regarding the *validity or truthfulness* of the formal Complainant's claims, states that the Complainant has failed to satisfy the procedural requirements of the Commission's rules of practice and procedure to establish a *prima facie* case for action by the Commission.
4. Litigation Staff recommends the Commission find the Formal Complaint fails to satisfy the procedural requirements of the Commission's rules of practice and procedure to

establish a *prima facie* case for action by the Commission. Legal Staff further recommends the Commission dismiss the Formal Complaint with leave to amend.

## **II. FINDINGS AND CONCLUSIONS**

5. The Commission has jurisdiction to conduct investigations prompted by complaint against telecommunications public utilities.<sup>1</sup> However, the Commission has limited jurisdiction over telecommunications providers depending on their regulatory status or the services provided.<sup>2</sup>

6. Litigation Staff's memorandum dated March 6, 2015, attached hereto as Attachment A, is hereby adopted and incorporated by reference.

7. The Commission finds that the Complainant has failed to satisfy the procedural requirements for the filing of Formal Complaints as detailed in K.A.R. 82-1-220.

8. The Commission finds that the Complainant has failed to establish a *prima facie* case to support Commission action and investigation.

9. The Commission finds that the Formal Complaint shall be dismissed with leave to amend, pursuant to K.A.R. 82-1-220(c).

### **IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) The Formal Complaint filed by Karine Tyrrell on March 4, 2015, is dismissed with leave to amend pursuant to K.A.R. 82-1-220(c). The Complainant shall amend the Formal Complaint within (21) days of the issuance of this Order. Should the Complainant fail to amend

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<sup>1</sup>See K.S.A. 66-1,192 ("Upon a complaint in writing made against any telecommunications public utility governed by this act, that any of the rates or joint rates, tolls, charges, rules, regulations, classifications or schedules of such telecommunications public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such telecommunications public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such telecommunications public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission may proceed, with or without notice, to make such investigation as it deems necessary.").

<sup>2</sup>See K.S.A. 66-2005(z) (telecommunications carriers and electing carriers); K.S.A. 66-2011 (Internet service).

the Formal Complaint to satisfy the requirements of K.A.R. 82-1-220, this docket will be dismissed without prejudice.

(B) The Complainant, in amending the Formal Complaint, shall specify the corporate entity being complained of, as the Commission holds varying degrees of jurisdiction over telecommunications providers.


(C) The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529(a)(1).

(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.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair, Emler, Commissioner, Apple, Commissioner

Dated: MAR 12 2015

  
ORDER MAILED MAR 13 2015  
Neysa Thomas  
Acting Secretary

MRN

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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<http://kcc.ks.gov/>

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

## MEMORANDUM LEGAL DIVISION

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

**FROM:** Michael Neeley, Litigation Counsel

**DATE:** March 6, 2015

**SUBJECT:** 15-QWST-388-COM  
In the Matter of the Complaint against CenturyLink by Karine Tyrrell.

### **EXECUTIVE SUMMARY:**

On March 4, 2015, Karine Tyrrell (Complainant) filed a Formal Complaint against CenturyLink (CenturyLink, or Respondent). The Formal Complaint indicated that the complainant was dissatisfied with the Internet service provided by CenturyLink. The Formal Complaint does not satisfy the procedural requirements of the Kansas Corporation Commission's (Commission's) rules of practice and procedure to establish a *prima facie* case for action by the Commission. Legal Staff recommends the Commission dismiss the Formal Complaint with leave to amend.

### **BACKGROUND & ANALYSIS:**

On March 4, 2015, Karine Tyrrell filed a formal complaint against CenturyLink alleging the utility was charging full price for intermittent Internet service and had forced her to add land line service for \$94.00 per month. Upon the filing of a Formal Complaint, the Commission must determine "whether or not the allegations, if true, would establish a *prima facie* case for action by the Commission and whether or not the Formal Complaint conforms to [the Commission's] regulations."<sup>1</sup>

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

- (1) Fully and completely advise each respondent and the commission as to the provisions of 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 violations; and

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<sup>1</sup> K.A.R. 82-1-220(c).

(3) state the relief sought by the complainant.

A review of the Formal Complaint (attached) shows that these procedural requirements have not been met. The Formal Complaint has failed to fully and completely advise each respondent and the Commission of the laws, regulations, or orders of the Commission that are being violated. No laws, regulations, or orders are cited by the Complainant. As such, the Formal Complaint does not set forth concisely and in plain language the facts which constitute the violation. Finally, the Complainant does not state what relief is sought from the Commission.

K.A.R. 82-1-220(c) states that if "the Commission determines that the Formal Complaint does not establish a *prima facie* case for Commission action or does not conform to these regulations, the complainant or the complainant's attorney shall be notified of the defects, and an opportunity shall be given to amend the Formal Complaint within a specific time."

No recommendation regarding the *validity or truthfulness* of the Complainant's claims is made, nor should they in any way be assumed or concluded with the filing of this memorandum. The *only* recommendations made within this memorandum are that the Commission should find: 1) The Formal Complaint does not comply with the procedural requirements of K.A.R. 82-1-220 and 2) The Formal Complaint should be dismissed with leave to amend.

**RECOMMENDATION:**

Legal Staff recommends the Commission find the Formal Complaint does not satisfy the procedural requirements of the Commission's rules of practice and procedure to establish a *prima facie* case for action by the Commission. Legal Staff further recommends the Commission dismiss the Formal Complaint with leave to amend.

2015.03.04 11:09:37

KANSAS CORPORATION COMMISSION  
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION

Kansas Corporation Commission  
April 2011

**FORMAL COMPLAINT**

Kansas Corporation Commission

MAR 5 2015

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

Office of Litigation Counsel

IN THE MATTER OF THE COMPLAINT AGAINST

CenturyLink  
(Respondent, name of utility company)

by

Karine Tyrnell  
(Complainant, your name)

For Commission  
use only

DOCKET NO.

15-QWST-388-com

Received  
on

MAR 4 2015

Please provide complainant (your) contact information:

Full Name(s): Karine Tyrnell

by  
State Corporation Commission  
of Kansas

Address: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_

E-mail address (optional): \_\_\_\_\_

**FORMAL COMPLAINT**

Karine Tyrnell  
(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.)

My previous carrier was AT&T, and I paid \$19.95 per month for reliable Internet connectivity that allowed me to use voice-over-IP. Since June 2013 I paid full price for intermittent Internet service and was forced to add a land line, for \$44.00 per month. After 1.5 years of paying for poor service with no credit for outages - CenturyLink denies problem with infrastructure - I cancelled service. Instead of receiving a refund, the last bill had a \$200.00 early termination fee tacked on. (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.)*

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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.

Karine Tyrell  
Complainant's (Your) signature

March 2, 2015  
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:

Executive Director  
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 go the KCC website: <http://kcc.ks.gov/>, Consumer Assistance, Filing a Complaint. You may also contact our Consumer Assistance staff toll-free number at 1.800.662.0027 or by e-mail at [public.affairs@kcc.ks.gov](mailto:public.affairs@kcc.ks.gov).

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET  
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
KARINE TYRRELL 917 N FOULK DRIVE BELLE PLAINE, KS 67013		
JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL AFFAIRS UNITED TELEPHONE CO. OF KANSAS D/B/A CENTURYLINK 600 NEW CENTURY PARKWAY NEW CENTURY, KS 66031		
TORRY R. SOMERS, GENERAL COUNSEL UNITED TELEPHONE CO. OF KANSAS D/B/A CENTURYLINK 6700 VIA AUSTI PKWY LAS VEGAS, NV 89119		

ORDER MAILED **MAR 13 2015**

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.