

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

In the Matter of the Complaint Against)	
Kansas Gas Service, a Division of ONE Gas, Inc.)	
Respondent,)	
)	
For an Order for Adjustment and Refund of)	
Unfair, Unreasonable and Unjust billings based on)	
false and erroneous charges for)	
General Sales Service by Kansas Gas)	Docket No.24-KGSG-252-COM
Service of natural gas improperly premised on)	
recovery of extraordinary costs purportedly incurred)	
related to a Winter Storm Uri in February 2021.)	
)	
By Pinebrooke Condominium Subdivision)	
Association, Inc. and its member residents.)	
Complainants)	

AMENDED COMPLAINT

Respondent, Complaints and Jurisdiction

1. Respondent Kansas Gas Service is a Division of ONE Gas Inc. (hereafter “KGS) an Oklahoma Corporation authorized to do business in Kansas and operating as a natural gas public utility as defined by K.S.A. §§ 66-104 and 66-1,200.
2. Complainant is the Pinebrooke Condominium Subdivision Association, Inc., a Kansas non-profit corporation. (Hereafter “Pinebrooke”). The constituent members of Pinebrooke are residents of the Pinebrooke Condominiums in Overland Park, Kansas who were transportation customers of KGS during the winter storm URI in February 2021.

3. The Kansas Corporation Commission (“the Commission”) is authorized by law to exercise jurisdiction to do those things necessary and convenient for the exercise of its authority to supervise and control natural gas utilities pursuant to K.S.A. § 66-1,201.
4. If it is found that any regulation, practice or act, relating to any service of a natural gas utility is in any respect unreasonable, unjust, or unfair the Commission may substitute therefor such other regulations, practice, service or act as it determines to be just reasonable and necessary. K.S.A. 66-1-206(a). “[U]njust” means “[c]ontrary to justice; not fair or reasonable”; and unfair means “[n]ot honest impartial or candid; unjust.” *Hanson v. Kan. Corp. Comm’n*, 58 Kan. App. 2d at 95, aff’d, 313 Kan 752 (2021).
5. In February 2021, a significant portion of United States experienced sub-zero temperatures and increased demand for electricity and natural gas caused by an event commonly termed the “Winter Storm Uri”, causing wholesale natural gas prices to increase 10 to 100 times higher than normal.
6. Pinebrooke was a retail gas customer of Symmetry Energy Solutions, L.L.C (“Symmetry”) in February 2021 and thereafter received an invoice from Symmetry for February 2021 usage of natural gas in the amount of \$280,600.78 which Symmetry attributed to the Winter Storm Uri. By agreement dated June 18, 2021, Pinebrooke resolved its obligations for Symmetry’s February invoice by payment of \$215,500.85.
7. During February 2021, Pinebrooke was a transportation customer of KGS but not a retail customer. Subsequent to February 2021, Pinebrooke became a retail customer of KGS. Thereafter, KGS began charging Pinebrooke rates premised on extraordinary costs incurred during the Winter Storm Uri. Pinebrooke was not a retail customer of

KGS during the Winter Storm Uri. Thus, KGS incurred no costs, extraordinary or otherwise, related to gas sales to Pinebrooke in February 2021.

8. This Complaint seeks an order from the Commission holding that practice of KGS invoicing and billing Pinebrooke for amounts purported to be justified by extraordinary costs incurred during the Winter Storm Uri in February 2021 are duplicative, unjust, unreasonably discriminatory, and unduly preferential, thus unlawful and void pursuant to K.S.A. § 66-1,203 and K.S.A. § 66-1-206.

SPECIFIC FACTUAL ALLEGATIONS

Pinebrooke's payment of extraordinary charges for the Winter Storm Uri.

9. Prior to and during February 2021, Pinebrooke and its residents purchased natural gas as a retail customer pursuant to a Natural Gas Sales Contract with Symmetry Energy Solutions, LLC.
10. The monthly Symmetry invoices for Pinebrooke for the year preceding the Winter Storm URI averaged \$4,589. The invoice submitted to Pinebrooke by Symmetry for gas usage during February 2021 was \$280,600.78 for a volume of 4,035.000 mmbtu's.
11. Symmetry attributed the dramatic increase in the February 2021 invoice "to the lack of physical natural gas supply and restrictions on natural gas transportation, natural gas prices incurred for your supply were considerably higher than normal during this period. Those higher natural gas costs will be reflected on your February invoice."
12. Following negotiation, Pinebrooke and Symmetry entered a "Discount Plan Settlement Agreement" dated June 18, 2021 whereby Pinebrooke received a one-time credit of

\$65,099.93 leaving a remaining balance of \$215,500.85 which was paid by Pinebrooke as “full payment of the Symmetry February 2021 invoice.”

13. By virtue of Pinebrooke’s payment to Symmetry, Pinebrooke has paid Symmetry. Pinebrooke’s retail supplier in February 2021, in full for any extraordinary costs incurred by Symmetry attributable to the February 2021 Winter Storm URI.

Pinebrooke’s Gas General Sales Service Agreement with KGS

14. In September 2021, Pinebrooke, which at all times prior thereto had been a transportation customer of KGS, approached KGS about becoming a General Sales Customer of KGS. During discussions with KGS, Pinebrooke advised KGS that it had paid Symmetry for the charges incurred for gas purchased by Pinebrooke during the February 2021 Winter Storm Uri. KGS informed Pinebrooke it would waive any charges KGS would otherwise include on customer bills for the Winter Storm Uri since Pinebrooke had previously paid Symmetry.
15. The representations made to Pinebrooke by KGS that it waive charges for the Winter Storm URI is consistent with positions taken by KGS in dealing with other customers.
16. Relying on KGS’s promise to waive charges for the Winter Storm URI, Pinebrooke became a General Sales Service customer of KGS on November 1, 2021. Contrary to its representations made to induce Pinebrooke to become a General Sales Service customer, KGS, began invoicing Pinebrooke in December 2022, for Winter Storm Securitization Charge and continues to do so.

Winter Storm Securitization Charge

17. On April 22, 2021, the Kansas Legislature passed the Utility Financing and Securitization Act. (K.S.A. 2021 Supp. 66-1,240 through 66-1,253). The Securitization Act passed by the 2021 Legislature, provided KCC jurisdictional utilities with a financing option to pay for energy transition costs and qualified extraordinary costs. “Kansas Gas Service chose to recover [its] extraordinary **winter weather costs** using securitization.” (Emphasis Added) *Kansas Corporation Commission 2023/Utilities Common Carriers Report*.
18. The Securitization Act, K.S.A 66-1,241 which authorized a financing order incorporated the standards generally applicable to the Commission by detailing the elements of an approved financing order including the requirement that securitized utility tariff costs described in the application are just and reasonable. (B)(11)(e)(2)
19. Pursuant to the Securitization Act, KGS submitted a Plan for Recovery of Extraordinary Costs to the Commission in Docket 21-332 on July 30, 2021. (hereafter “Plan”). The Plan submitted by KGS specifically defined the costs which it sought to recover as extraordinary costs experienced by the Company “as a result of the Winter Event”. *Plan*, ¶64.
20. KGS further represented to the Commission that the Plan would require *retail sales customers* to pay for costs included in a settlement with the Commission “that were incurred by KGS “In order to maintain service to those sales customers during the Winter Event.” ¶118, *KGS Post Hearing Brief*, Docket 21-KGSG-332GIG, January 5, 2022. Pinebrooke was not a retail sales customer of KGS during the Winter Event.

21. Thereafter, KGS and the Staff of the Commission, along with the Citizens' Utility Ratepayer Board ("CURB") entered a Settlement Agreement regarding Kansas Gas Services' Financial Plan which was submitted to the Commission for approval. The Commission issued an Order Approving Unanimous Settlement Agreement on Kansas Gas Services' Financial Plan on February 8, 2022. The Settlement Agreement approved specifically stated:

"17. Provided that such would be allowed under the Act, the Joint Movants agree that the Securitized Utility Tariff Charge will not be charged to transportation customers because those transportation customers are not considered retail customers as that term is used in the Act."

Order Approving Unanimous Settlement Agreement on Kansas Gas Services' Financial Plan, Docket No. 21-KGSG-332-GIG, February 8, 2022; Settlement Agreement attached to Order as Exhibit A.

22. The Financing Order issued pursuant to the Settlement Agreement specified the nature and amount of Extraordinary Costs which could be recovered under the authority of the Securitization Act which defined the "Qualified Extraordinary Costs" which KGS was entitled to recover as follows:

The Act was enacted, in part, in response to the extraordinary costs experienced by Kan Gas Service and other gas utilities due to the Winter Event. The Act refers to these costs "Qualified Extraordinary Costs," and defines them to include,

costs the public utility has incurred before, on or after the effective date of this act of an extraordinary nature that would cause extreme customer rate impacts if recovered through customary rate-making, including, but not limited to, purchases of gas supplies, transportation costs, fuel and power costs, including carrying charges incurred during anomalous weather events.

Financing Order, Docket 22-KGSG-466-TAR, August 18, 2022.

23. KGS' practice of charging and billing Pinebrooke, which was a transportation customer of KGS during the Winter Storm URI, is not consistent with the terms and definitions of the Financing Order thus holding KGS practices to be unfair unjust and unreasonable is not violative of K.S.A. 66-1,252(a)(4).
24. Pinebrooke was a transportation customer of KGS but not a member of any customer class of KGS which purchased natural gas during February 2021 or incurred costs attributable to purchases from KGS during the Winter Event.
25. On August 18, 2022, the Commission entered an "*Order Approving Unanimous Settlement*" in Docket No. 22-KGSG-466-TAR. The Order specified that the Financing Order approved in the Settlement Agreement sought "permission to issue Securitized Bonds to finance the Qualified Extraordinary Costs **incurred due to the Winter Storm Uri.** (emphasis added)." *Order* at ¶4.
26. The *Order* approving the Settlement in Docket 22-466-TAR was premised, *inter alia* on creating benefits to customers which would "reduce the rate impact of Winter Storm Uri to its customers."
27. Pursuant to the *Order*, the KCC adopted and authorized a "WESCR Winter Event Securitized Cost Recovery Rider" See 22-KGSG-466-TAR ("WESCR Tariff").
28. Pinebrooke was not a gas service customer of KGS during the Winter Storm Uri nor did it incur any impact of rates based on the Winter Storm Uri as a customer of KGS. Pinebrooke was a Transportation customer of KGS during the Winter Storm URI.

29. KGS has consistently billed Pinebrooke as though it were a residential customer during the Winter Storm URI thereby unilaterally determining that Pinebrooke was subject to the Winter Event Securitized Cost Recovery Rider Tariff. Such charges are estimated to result in more than \$ 173,844 over a ten year period.
30. Pinebrooke has paid all Extraordinary Costs associated with the Winter Storm Uri to Symmetry in the amount of \$212,800.85.
31. The massive duplication of charges for any costs incurred by KGS to Pinebrooke premised on the Winter Storm Uri is unconscionable. It would require Pinebrooke and its members, largely retired condominium owners, to pay twice for costs incurred in the Winter Storm URI and create a windfall for other KGS sales customers unrelated to any costs incurred due to the Winter Storm Uri.
32. The practice of billing Pinebrooke specifically violates the representations made to Pinebrooke by KGS and also violates the terms of the Settlement Agreement which as noted above provided in paragraph 17 that a “Securitized Utility Tariff Charge will not be charged to transportation customers because those transportation customers are not considered retail customers as that term is used in the Act.”
33. KGS has not only violated the representations previously made to the Commission that it would not charge transportation customers but has again represented that transportation customers were not retail customers. It reiterated its promise in a recent proceeding:

The Company agrees that the Securitized Utility Tariff Charge should not be assessed to transportation customers **as those types of customers are not considered retail customers as that term is used in the Utility Financing and**

Securitization Act passed by the Kansas Legislature in 2021 ("Act"). (emphasis added).

Public Application for the Transfer and Sale of Public Utility Certificates and Assets,

Docket 24-KGSG-284-ACQ, ¶15, p. 7.

34. The Commission has also approved Settlement Agreements reflecting the fair and honest way to treat transportation customers who become sales customers and were not a sales customer during the Winter Storm URI.

Any current Black Hills' transportation customer who becomes a sales customer during the five-year surcharge period shall be entitled to a waiver of the surcharge, provided the transportation customer can provide sufficient evidence that it was not a sales customer during Winter Storm Uri and that it had fully paid its gas costs relating to Winter Storm Uri.

Order Approving Unanimous Settlement Agreement, Docket No. 21-BHCG-334-GIG, January 27, 2022

35. The billings and charges assessed by KGS against Pinebrooke are not charges justified by the enabling statute, the Financing Order or any other legally binding provision which would prevent the Commission from properly exercising its authority to enforce fair and honest practices by a public utility. At the risk of being redundant, it must be emphasized that KGS did not incur extraordinary expenses which are putatively authorized by the Commission's Financing Order because Pinebrooke's status as a transportation customer during the Winter Storm URI does not bring it under the rubric of the financing and securitization plan approved by the Commission.
36. In order to properly preserve its rights in the event of a subsequent judicial review, Pinebrooke also asserts that that KGS's billings which purport to be justified as qualified expenses to be recovered through charges and tariffs would deprive it of

vested rights under its service contract with Symmetry would subjected it to an illegal retroactive violation of a judicial function and deprives Pinebrooke of due process of law.

PRAYER FOR RELIEF

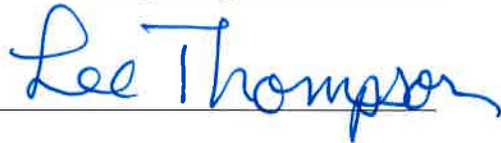
Complainants respectfully ask the Commission to enter an order in the exercise of its statutory mandate:

- A. Determining KGS's practice of charging and billing Pinebrooke for Winter Storm URI costs is a practice and act of a natural gas utility that is unreasonable, unjust, and unfair.
- B. Holding that the Commission is fully authorized and mandated by law and is permitted to substitute therefor such other regulations, practice, service or act as it determines to be just reasonable and necessary.
- C. Determining and declaring that KGS' practice and unilateral determination to impose a General Service Charge on Pinebrooke for February 2021 is unfair, unjust and unduly discriminatory in violation of K.S.A. § 66-1,203;
- D. Determining and declaring that KGS' practice of billing Pinebrooke for a Winter Storm URI as a retail customer violates its representations and promises made in its Settlement Agreement submitted to the Commission for Approval is unjust, unreasonable and unfair;
- E. Declaring that KGS' practice of billing Pinebrooke for Winter Storm URI costs is not authorized by the Financing Order issued by the Commission inasmuch as

the KGS' billings to Pinebrooke do not seek to recover Qualified Extraordinary Costs as defined by the Financing Order or the Securitization Act;

- F. Exercising its authority to substitute therefore such other regulations, practice, service or act as it determines to be just reasonable and necessary in order to remediate the wrong perpetrated upon the Complainants by compensating and returning any amounts which the Commission concludes were the result of unfair, unjust practices.

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By Lee Thompson, #08361
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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Lee Thompson, of lawful age, being first duly sworn upon his oath states that he is one of the attorneys for the Complainants named herein and states that he prepared the foregoing Amended Complaint and declares that the statements made therein are true and correct to best of his knowledge and belief.



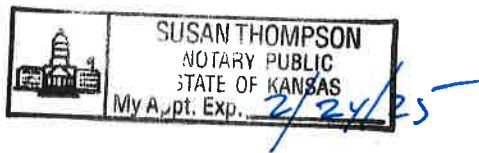
LEE THOMPSON

SUBSCRIBED AND SWORN to before me this 20th day of November 2023.



Notary Public

My Appointment Expires:



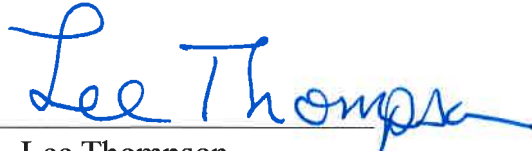
CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2023, an original of the above and foregoing Amended Complaint filed electronically with the Kansas Corporation Commission by the E Filing Express, and copies served by email to:

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Lee Thompson