

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Formal) Application No. FC-1357
Complaint of Marilyn M. Reeser,)
Grand Island v. NorthWestern)
Energy, Sioux Falls, South)
Dakota, alleging unfair gas) ORDER DISMISSING COMPLAINT
usage charges.)
)
) Entered: April 12, 2011

BY THE COMMISSION:

On February 24, 2011, the Nebraska Public Service Commission (Commission) received a Formal Complaint from Marilyn M. Reeser, (Complainant) Grand Island, Nebraska, against North-Western Energy (Respondent), Sioux Falls, South Dakota, alleging unfair gas usage charges.

An Answer and Affirmative Defense was timely filed by the Respondent. On April 5, 2011, the Respondent filed a Motion to Dismiss the above-captioned complaint on grounds the Complaint failed to state a claim upon which relief could be granted.

O P I N I O N A N D F I N D I N G S

After review of the pleadings filed in the above-captioned complaint the Commission finds the Formal Complaint is deficient on its face and does not contain the required elements to sustain a Formal Complaint. Title 291 NAC Ch. 1, § 005.05 states:

A formal complaint shall contain the name of the complainant, defendant, a clear and concise allegation of each offense, and be signed by the complainant.¹

The Formal Complaint contains no allegations that the Respondent has committed any offense by violating Nebraska law, Commission rule or regulation, or Commission order. The Complainant alleges no damage, loss, or harm due to the action or inaction of the Respondent. Further, the Formal Complaint requests no relief nor seeks any remedy from the Commission.

The Complainant disputes the gas usage recorded by the gas meter installed in her home and the charges contained in her bills from the Respondent for natural gas service. However, the Complainant makes no allegation the meter is malfunctioning or otherwise inaccurately reflecting her gas usage or that the rates applied to her usage by the Respondent were in error.

¹ Title 291 NAC Ch. 1 § 005.05 (1992).

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In the affidavit submitted by the Respondent with its Motion to Dismiss, the Respondent indicates that it conducted an investigation into the Complainant's meter and found the meter is operating correctly and accurately reflecting the gas usage of the Complainant. Further, the bills issued to the Complainant were issued pursuant to the Respondent's duly filed tariff with the Commission containing Commission approved rates and charges.

We find the Formal Complaint filed in the above-captioned proceeding fails to comply with Commission rules and regulations, fails to state a claim upon which relief may be granted and provides no basis for the allegations made against the Respondent. Therefore, being fully informed, we find the Formal Complaint should be dismissed with prejudice.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission, based on the above findings and conclusions, that Formal Complaint No. FC-1357, be, and is hereby, dismissed with prejudice.

MADE AND ENTERED at Lincoln, Nebraska, this 12th day of April, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Frank E. Landis

Tim Schram

Gerald E. Vep

//s// Frank E. Landis

//s// Tim Schram

Tim Schram

Chairman:

ATTEST:

Shirley D. [Signature]

Executive Director