

STATE OF KANSAS



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ORDER

19-DPAX-018-PEN

July 31, 2018

Bryan Maskus
Atmos Energy Corporation
25090 W 110th Terr
Olathe, Kansas 66061

This is a notice of penalty assessment for violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) discovered during an investigation conducted on various, by Kansas Corporation Commission Staff. For a full description of the violation(s) and penalty please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$2,000 penalty. You have twenty (20) days from the date of service of the Penalty Order to pay the fine amount. Checks should be payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and shall include a reference to the docket number of this proceeding.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. Requests for hearings must be made in writing, setting forth the specific grounds upon which relief is sought. The company may electronically file its request for hearing within fifteen (15) days from the date of service of this Penalty Order, and e-mail or mail a copy of the request for hearing to the Litigation Counsel listed below. If the company does not have access to the internet, it must submit an original and seven copies of the request for hearing to the Commission's Secretary at 1500 SW Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Penalty Order, and provide a copy to the Litigation Counsel listed below.

IF YOU FAIL TO ACT:

Pursuant to K.A.R. 82-14-6(j), failure to submit a written request for a hearing within fifteen (15) days or, in the alternative, to pay the civil assessment in twenty (20) days from date of service of this Penalty Order will be considered an admission of noncompliance and result in this Penalty Order becoming a Final Order where after the Commission may order further sanctions.

Respectfully,

A blue ink signature of Cole Bailey, consisting of stylized initials and a surname.

Cole Bailey, S. Ct. No. 27586
Litigation Counsel
(785)271-3186
c.bailey@kcc.ks.gov

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Investigation of Atmos)	
Energy Corporation of Olathe, Kansas,)	
Regarding Violation(s) of the Kansas)	
Underground Utility Damage Prevention Act)	Docket No. 19-DPAX-018-PEN
(KUUDPA) (K.S.A. 66-1801, <i>et seq.</i> , and)	
K.A.R. 82-14-1, <i>et seq.</i> , and the)	
Commission's Authority to Impose Penalties)	
and/or Sanctions (K.S.A. 66-1,151).)	

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, being duly advised in the premises, and after having examined its files and records, finds and concludes as follows:

I. JURISDICTION AND BACKGROUND

1. The Commission has jurisdiction and authority to administer and enforce the Kansas Underground Utility Damage Prevention Act (KUUDPA), as provided in K.S.A. 66-1801 *et seq.* Likewise, K.S.A. 66-1815 grants the Commission full power and authority to adopt all necessary rules and regulations for carrying out the provisions of K.S.A. 66-1801 through 66-1814, *et seq.*

2. In its enforcement of KUUDPA, pursuant to K.A.R. 82-14-6, as amended, the Commission may investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

3. The Commission shall impose civil penalties and injunctive actions against any person or entity subject to and found in violation of the provisions of KUUDPA, or any rule and regulation, or any order of the Commission. Each violation is subject to a penalty, not to exceed \$25,000, for each day the violation persists, with a maximum civil penalty of \$1,000,000 for any related series of violations. *See* K.S.A. 66-1812, 66-1,151 and amendments thereto; and, K.A.R. 82-14-6.

II. ALLEGATIONS OF NONCOMPLIANCE

4. Pursuant to the above authority, between March 1, 2018, and June 30, 2018, Commission Staff (Staff) investigated the activities and operations of Atmos Energy Corporation (Respondent). *See* Report and Recommendation of Staff dated July 16, 2018, a copy of which is attached hereto as Attachment “A” and is hereby incorporated by reference. As a result of this investigation, Staff reports the following:

- a. On April 19, 2018, Staff performed an onsite inspection at Larsen Street and West 173rd Terrace in Overland Park, Kansas. Staff’s investigation discovered locates were not provided by Respondent after being requested. Because Respondent did not provide locates, damage to a plastic natural gas road crossing at the aforementioned address occurred. No injuries or additional property damage occurred. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on April 26, 2018 (*see* Attachment “B”), citing the violation of K.S.A. 66-1806(a) as follows:

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the

tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

Staff's Notice of Probable Noncompliance notified Respondent of the investigation results. The letter instructed Respondent to respond within thirty (30) days and to indicate whether it accepted or disagreed with the findings of Staff's investigation. The notice also requested Respondent to provide written explanation of the actions taken by it to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why it disagreed with the findings, including identification of any errors in the Notice of Probable Noncompliance. Respondent responded to the Notice of Probable Noncompliance (Attachment "B"). Respondent stated it agreed with the information contained in the Notice of Probable Noncompliance and as a result, also agreed with Staff's finding of fault. Staff recommends a fine of \$500 for this violation.

- b. On April 20, 2018, Staff performed an onsite inspection at 10405 West 172nd Street in Overland Park, Kansas. Staff's investigation discovered locates were not provided by Respondent after being requested. Because Respondent did not provide locates, damage to a plastic natural gas road crossing at the aforementioned address occurred. No injuries or additional property damage occurred. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on April 26, 2018 (*see* Attachment "C"), citing the violation of K.S.A. 66-1806(a) as follows:

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

Staff's Notice of Probable Noncompliance notified Respondent of the investigation results. The letter instructed Respondent to respond within thirty (30) days and to indicate whether it accepted or disagreed with the findings of Staff's investigation. The notice also requested Respondent to provide written explanation of the actions taken by it to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why it disagreed with the findings, including identification of any errors in the Notice of Probable Noncompliance. Respondent responded to the Notice of Probable Noncompliance (Attachment "C"). Respondent stated it agreed with the information contained in the Notice of Probable Noncompliance and as a result, also agreed with Staff's finding of fault. Staff recommends a fine of \$500 for this violation.

- c. On May 16, 2018, Staff performed an onsite inspection at 10909 West 100th Street in Overland Park, Kansas. Staff's investigation discovered locates were not provided by Respondent after being requested. Because Respondent did not provide locates, damage to a plastic natural gas service line at the aforementioned address occurred. No injuries or additional

property damage occurred. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on May 22, 2018 (*see* Attachment “D”), citing the violation of K.S.A. 66-1806(a) as follows:

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

Staff’s Notice of Probable Noncompliance notified Respondent of the investigation results. The letter instructed Respondent to respond within thirty (30) days and to indicate whether it accepted or disagreed with the findings of Staff’s investigation. The notice also requested Respondent to provide written explanation of the actions taken by it to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why it disagreed with the findings, including identification of any errors in the Notice of Probable Noncompliance. Respondent responded to the Notice of Probable Noncompliance (Attachment “D”). Respondent stated it agreed with the information contained in the Notice of Probable Noncompliance and as a result, also agreed with Staff’s finding of fault. Staff recommends a fine of \$500 for this violation.

- d. On June 1, 2018, Staff performed an onsite inspection at 1000 West Elm Street in Olathe, Kansas. Staff’s investigation discovered locates were not

provided by Respondent after being requested. Because Respondent did not provide locates, damage to a 2" diameter natural gas main at the aforementioned address occurred. No injuries or additional property damage occurred. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on June 7, 2018 (*see* Attachment "E"), citing the violation of K.S.A. 66-1806(a) as follows:

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

Staff's Notice of Probable Noncompliance notified Respondent of the investigation results. The letter instructed Respondent to respond within thirty (30) days and to indicate whether it accepted or disagreed with the findings of Staff's investigation. The notice also requested Respondent to provide written explanation of the actions taken by it to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why it disagreed with the findings, including identification of any errors in the Notice of Probable Noncompliance. Respondent responded to the Notice of Probable Noncompliance (Attachment "E"). Respondent stated it agreed with the information contained in the Notice of Probable Noncompliance and as a result, also

agreed with Staff's finding of fault. Staff recommends a fine of \$500 for this violation.

5. KUUDPA requires all operators to inform the excavator of the location of the operator's underground facilities at a given excavation site within a 48-inch tolerance zone. A locate is required to be completed within two working days after the day on which the excavator provided notice of its intent to excavate. Although KUUDPA allows an excavator to dig without locates being completed if the required marking time has expired, most excavators will wait for locates rather than take the risk of damaging underground facilities or endangering life and property. Postponing excavation because of the failure of utilities to complete locates for excavators can result in costly downtime and scheduling problems, including but not limited to, cancellation of contracts.

6. Staff recommends the Commission issue a total civil penalty of \$2,000 for the above-described violation(s) of the Kansas Underground Utility Damage Prevention Act as alleged.

III. CONCLUSIONS OF LAW

7. The Commission finds it has jurisdiction over Atmos Energy Corporation because it is an entity subject to the requirements of the Kansas Underground Utility Damage Prevention Act, which the Commission is required to administer and enforce pursuant to K.S.A. 66-1813. Specifically, the Commission finds Respondent to be acting as an operator who operates Tier 1 facilities as defined in K.S.A. 66-1802.

8. The Commission finds Respondent violated Kansas law governing underground utilities, including various provisions of the Kansas Underground Utility Damage Prevention Act, as described above, and is therefore subject to sanctions or fines imposed by the

Commission. Specifically, the Commission finds Respondent failed to comply with K.S.A. 66-1806(a) for the above listed incident(s).

9. The Commission finds a civil penalty is warranted due to Respondent's violation(s) of the Kansas Underground Utility Damage Prevention Act. Accordingly, pursuant to K.S.A. 66-1812 and K.S.A. 66-1,151, the Commission concludes the Respondent shall be assessed a \$2,000 penalty for violation(s) of the Kansas Underground Utility Damage Prevention Act.

10. The Commission finds and concludes Respondent shall be afforded an opportunity to request a hearing on the assessment of this civil penalty. Pursuant to K.A.R. 82-14-6(j), the Commission finds and concludes Respondent shall have 15 days from the date of service of this Penalty Order to request a hearing on the matter. Pursuant to K.A.R. 82-14-6(i), and (j), the Commission finds and concludes Respondent's failure to pay the assessed civil penalty within 20 days or request a hearing within 15 days from the date of service of this Penalty Order shall be considered an admission of noncompliance. To ensure uniformity and consistency among Commission proceedings, the Commission finds and concludes any hearing on this matter before the Commission shall be conducted in a manner consistent with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

THE COMMISSION THEREFORE ORDERS THAT:

A. Atmos Energy Corporation, is hereby assessed a \$2,000 civil penalty for the violation(s) of the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et seq.*

B. Pursuant to K.A.R. 82-14-6(j) and amendments thereto, any party may request a hearing by electronically filing its request for hearing within fifteen (15) days from the date of service of this Penalty Order, and e-mail or mail a copy of the request for hearing to the

Litigation Counsel listed on the Notice of Penalty Assessment. If the company does not have access to the internet, it must submit an original and seven copies of the request for hearing to the Secretary for Commission at 1500 SW Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Penalty Order, and provide a copy to Litigation Counsel. Hearings will be scheduled only upon written request. Failure to timely request a hearing shall be considered an admission of noncompliance and result in a waiver of Respondent's right to a hearing. Furthermore, this Penalty Order will become a Final Order assessing a \$2,000 civil penalty against Respondent. Any hearing on this matter before the Commission shall be conducted in a manner consistent with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

C. On July 31, 2018, this Penalty Order was mailed via certified mail, return receipt number 70161970000105745315. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. *See* K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

E. Pursuant to K.A.R. 82-14-6, if you do not request a hearing, the payment of the civil penalty is due in twenty (20) days from the date of service of this Order. A check shall be made payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. The payment shall include a reference to the docket number of this proceeding.

F. Unless a hearing is requested, failure to pay the \$2,000 civil penalty within twenty (20) days from the date of service of this Penalty Order will result in enforcement action against Respondent, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/31/2018



Lynn M. Retz
Secretary to the Commission

CB/vj

ATTACHMENT “A”

STATE OF KANSAS



CORPORATION COMMISSION
UTILITIES DIVISION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3220
FAX: 785-271-3357
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Christie Knight, Damage Prevention Special Investigator
Leo Haynos, Chief of Pipeline Safety
Jeff McClanahan, Director of Utilities

DATE: July 16, 2018

SUBJECT: **Docket Number:** 19-DPAX-019-PEN
In the Matter of the Investigation of Atmos Energy, Regarding Violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-5), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151).

EXECUTIVE SUMMARY:

Staff is recommending a civil penalty be issued to Atmos Energy (Atmos) in the amount of \$2,000 for four violations of KUUDPA that occurred between March 1 and June 30, 2018. The penalty is based on results of Staff investigations following four damages to Atmos natural gas service and main lines in Johnson County, Kansas. Failure to provide the excavator with the location of the tolerance zone of the buried facility before excavation begins is a violation of K.S.A. 66-1806 (a).

BACKGROUND:

Atmos' failure to provide accurate locates resulted in damages to its natural gas facilities and lost work time for the excavators that damaged the lines. No injuries or property damage occurred as a result of these damages. The following table provides the date of each pipeline damage; the type of facility damaged; the address where the damage occurred; and Staff's assertion of the cause of the damage along with Staff's recommended penalty amount for each of the damages.

Date of Damage	Type of Facility Affected	Address Damage Occurred	Root Cause	Amount of Fine
4/19/2018	Plastic Natural Gas Road Crossing	Larsen St & W 173rd Ter., Overland Park	Not Marked	\$500
4/20/2018	Plastic Natural Gas Road Crossing	10405 W 172nd St., Overland Park	Not Marked	\$500
5/16/2018	Plastic Natural Gas Service	10909 W 100th St., Overland Park	Not Marked	\$500
6/1/2018	2" Diameter Plastic Natural Gas Main	1000 W Elm St., Olathe	Not Marked	\$500
TOTAL				\$2,000

Notices of Probable Noncompliance (PNC) were issued to Atmos on April 26, 2018; May 22, 2018; and June 7, 2018. Atmos has responded to all PNCs as required by K.A.R. 82-14-6(c) and agrees with Staff's allegations as to the cause of each damage. Atmos' response for each PNC is included in this memorandum as Attachment I.

ANALYSIS:

Rationale for Penalties:

A. Gravity of noncompliance:

Once an excavator notifies underground utility operators of a planned excavation, each operator, with facilities buried at that site, must provide surface markings that indicate where the utilities are located. These surface markings must be within 24 inches of either side of the position of the buried facility. This 48 inch corridor is defined as the "tolerance zone". Regarding these PNCs, Atmos has stated the buried gas services that were damaged were either not located or mis-located due to operator error or inaccurate maps.

B. Culpability:

Atmos is directly responsible for its actions in failing to provide accurate locates as Kansas law requires.

C. History of noncompliance:

Staff has issued a total of 37 KUUDPA PNCs to Atmos since 2016. These violations were for similar no locate or inaccurate locate issues.

D. Response of the utility operator regarding noncompliance(s):

Atmos agreed with Staff's findings described in the PNCs. The gas lines in question were not correctly marked due either to oversights by the locators or to mapping issues.

In response to Staff's Notices of Probable Noncompliance, Atmos has re-trained its locating personnel on how to read facility maps and how to use a tracer wire, if it is available. Atmos has also updated their maps with new measurements to assist in locating these facilities in the future

E. Aggravating/Mitigating Circumstances:

Staff has not determined any circumstances that would cause us to modify the recommended penalty amount of \$2,000.

RECOMMENDATION:

Staff recommends a civil penalty be issued to Atmos Energy, Olathe, in the amount of \$2,000 for violation(s) of KUUDPA K.S.A. 66-1806

Attachment

Attachment I

CK-18-UN-1132 NOPV Response

KCC Description:

On 4/19/2018, Staff conducted a ticket audit at Larsen St. & W. 173rd Ter. in Overland Park, Kansas. The Atmos road crossing had not been marked at the time the ticket was due on 4/18/2018. This facility was within the scope of the ticket.

Operator Response received 06/07/18:

Atmos “determined that this facility was locatable via wire, but did not get located by our technician due to a gap in electronic mapping updates. We held a coaching session with the technician and his supervisor, as well as a mapping update for our entire operations to ensure mapping accuracy.”

CK-18-OC-1052 NOPV Response

KCC Description:

Atmos did not fully mark the scope of the ticket leaving one 3/4" PE gas road crossing unmarked at 10405 W. 172nd St. in Overland Park, Kansas. On 4/20/2018, Curtis Large Backhoe Service damaged the Atmos gas road crossing while installing a new water service line. There was a valid One-Call ticket with a due date of 4/20/2018.

Operator Response receive 5/04/18:

Atmos “determined that this facility was locatable via wire, but did not get located by our technician. We held a meeting with the technician and his supervisor to discuss how this damage occurred. During the conversation, our technician identified that he needed to pay more attention to detail at individual locates.”

CK-18-OC-1066 NOPV Response

KCC Description:

On 5/16/2018, Atmos did not fully mark the scope of the ticket leaving one 1/2" PE gas service line unmarked at 10909 W. 100th St. in Overland Park, Kansas. JV-Cable LLC damaged an Atmos gas service line with a shovel while installing CATV main replacement. There was a valid One-Call ticket with a due date of 5/12/2018.

Operator Response receive 6/04/18:

Atmos performed an internal audit and "determined that this facility was locatable via wire, but did not get located by our technician. We held an onsite coaching session with the technician involved to ensure future locate accuracy."

CK-18-UN-1187 NOPV Response

KCC Description:

On 6/1/2018, Staff conducted a ticket audit and found the Atmos 2" PE gas main at 1000 W. Elm St. in Olathe, Kansas, was not marked at the time the ticket was due on 5/17/2018. This facility was within the scope of the ticket.

Operator Response receive 6/15/18:

Atmos performed an internal audit and "determined that this facility is locatable via wire, however our technician misread the marking instructions leaving a section of this locate incomplete. We have discussed this oversight with the technician involved."

ATTACHMENT “B”

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



785-271-3220
785-271-3357
<http://kcc.ks.gov>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

**Bryan Maskus
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061**

April 26, 2018

KCC Investigation #: CK-18-UN-1132

Subject: Pipeline Investigation

Dear Bryan Maskus:

Pursuant to K.S.A. 66-1801, et. Seq. the Kansas Corporation Commission (KCC) has jurisdiction and authority to investigate and to issue civil penalties for violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA).

On April 19, 2018, the Kansas Corporation Commission's Pipeline Safety Staff conducted an investigation into excavation activities which are believed to involve your company. As a result of this investigation, Staff has identified possible violations committed by Atmos Energy. The findings of this investigation are described on the attached form(s).

Kansas law, K.A.R. 82-14-6(c), requires the recipient of this notice to provide a written response to any Notice of Probable Noncompliance. After reviewing the findings, please respond in at least one of the following ways:

- 1) Submit written explanation, a statement of general denial, or other materials contesting the allegations;
- 2) Submit a signed acknowledgement of Commission Staff's findings of noncompliance; or,
- 3) Submit a signed proposal for the completion of any remedial action that addresses the Commission Staff's findings of noncompliance.

Pursuant to K.A.R. 82-14-6(e), failure to respond within 30 days to this Notice of Probable Noncompliance shall constitute an admission to all factual allegations made by the Commission Staff and may be used against the respondent in future proceedings

Please return the evaluation form(s) with any supporting documentation within thirty (30) days of receipt of this report to the address or email below. Any response submitted by email must include an electronic signature and date.

**Kansas Corporation Commission
Pipeline Safety Section
1500 SW Arrowhead Road
Topeka, KS 66604-4027
kccsafetyresponse@kcc.ks.gov**

Please feel free to contact me directly if you have questions or concerns.

Sincerely,

**Leo Haynos /s/
Chief Engineer
(785) 271-3278
l.haynos@kcc.ks.gov**

PROBABLE NONCOMPLIANCE

Investigation: CK-18-UN-1132

Company: Atmos Energy

Division: One Call

Regulation:

66-1806 (a) Identification of location of facilities; duties of operator;

66-1806 Identification of location of facilities; duties of operator;

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 4/19/2018, Staff conducted an audit on ticket #18149737 and found the Atmos road crossing at Larsen St & W 173rd Ter in Overland Park, Kansas had not been marked at the time the ticket was due on 4/18/2018. This facility was within the scope of the ticket and was not marked.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____

Raym Mustus

Date: 6/05/18

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Compliance Inspection

Date Inspected: 04/19/2018

Inspected By: CK



Leo Haynos
Chief of Pipeline Safety
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-UN-1132 that was a result of incomplete markings of Atmos Energy gas facilities. After an internal audit was performed we determined that this facility was locatable via wire, but did not get located by our technician due to a gap in electronic mapping updates. We held a coaching session with the technician and his supervisor, as well as a mapping update for our entire operations to ensure mapping accuracy.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,
Operations Supervisor

ATTACHMENT “C”

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



785-271-3220
785-271-3357
<http://kcc.ks.gov>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

**Bryan Maskus
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061**

April 26, 2018

KCC Investigation #: CK-18-OC-1052

Subject: Pipeline Investigation

Dear Bryan Maskus:

Pursuant to K.S.A. 66-1801, et. Seq. the Kansas Corporation Commission (KCC) has jurisdiction and authority to investigate and to issue civil penalties for violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA).

On April 20, 2018, the Kansas Corporation Commission's Pipeline Safety Staff conducted an investigation into excavation activities which are believed to involve your company. As a result of this investigation, Staff has identified possible violations committed by Atmos Energy. The findings of this investigation are described on the attached form(s).

Kansas law, K.A.R. 82-14-6(c), requires the recipient of this notice to provide a written response to any Notice of Probable Noncompliance. After reviewing the findings, please respond in at least one of the following ways:

- 1) Submit written explanation, a statement of general denial, or other materials contesting the allegations;
- 2) Submit a signed acknowledgement of Commission Staff's findings of noncompliance; or,
- 3) Submit a signed proposal for the completion of any remedial action that addresses the Commission Staff's findings of noncompliance.

Pursuant to K.A.R. 82-14-6(e), failure to respond within 30 days to this Notice of Probable Noncompliance shall constitute an admission to all factual allegations made by the Commission Staff and may be used against the respondent in future proceedings

Please return the evaluation form(s) with any supporting documentation within thirty (30) days of receipt of this report to the address or email below. Any response submitted by email must include an electronic signature and date.

**Kansas Corporation Commission
Pipeline Safety Section
1500 SW Arrowhead Road
Topeka, KS 66604-4027
kccsafetyresponse@kcc.ks.gov**

Please feel free to contact me directly if you have questions or concerns.

Sincerely,

**Leo Haynos /s/
Chief Engineer
(785) 271-3278
l.haynos@kcc.ks.gov**

PROBABLE NONCOMPLIANCE

Investigation: CK-18-OC-1052

Company: Atmos Energy

Division: One Call

Regulation:

66-1806 (a) Identification of location of facilities; duties of operator;

66-1806 Identification of location of facilities; duties of operator;

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 4/20/2018, Atmos did not fully mark the scope of the ticket leaving one gas road crossing not being marked at 10405 W 172nd St in Overland Park, Kansas. Curtis Large Backhoe Service damaged an Atmos 3/4" PE gas road crossing while installing a new water service line. There was a valid One-Call ticket #18157200 with a due date of 4/20/2018. Locate marks were present on the 2" PE main line; however there were no marks on the 3/4" PE gas road crossing.

OPERATOR'S RESPONSE: (Attach verification if needed)Operator's Authorized Signature: Raym Masters Date: 4/27/18**PIPELINE SAFETY USE ONLY:**Date reviewed: _____ Date reviewed: _____
Chief: _____ Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 04/20/2018

Inspected By: CK



Leo Haynos
Chief of Pipeline Safety
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-OC-1052 that was a result of incomplete markings of Atmos Energy gas facilities. After an internal audit was performed we determined that this facility was locatable via wire, but did not get located by our technician. We held a meeting with the technician and his supervisor to discuss how this damage occurred. During the conversation our technician identified that he needed to pay more attention to detail at individual locates.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,
Operations Supervisor

ATTACHMENT “D”

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



785-271-3220
785-271-3357
<http://kcc.ks.gov>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

Bryan Maskus
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

May 22, 2018

KCC Investigation #: CK-18-OC-1066

Subject: Pipeline Investigation

Dear Bryan Maskus:

Pursuant to K.S.A. 66-1801, et. Seq. the Kansas Corporation Commission (KCC) has jurisdiction and authority to investigate and to issue civil penalties for violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA).

On May 16, 2018, the Kansas Corporation Commission's Pipeline Safety Staff conducted an investigation into excavation activities which are believed to involve your company. As a result of this investigation, Staff has identified possible violations committed by Atmos Energy. The findings of this investigation are described on the attached form(s).

Kansas law, K.A.R. 82-14-6(c), requires the recipient of this notice to provide a written response to any Notice of Probable Noncompliance. After reviewing the findings, please respond in at least one of the following ways:

- 1) Submit written explanation, a statement of general denial, or other materials contesting the allegations;
- 2) Submit a signed acknowledgement of Commission Staff's findings of noncompliance; or,
- 3) Submit a signed proposal for the completion of any remedial action that addresses the Commission Staff's findings of noncompliance.

Pursuant to K.A.R. 82-14-6(e), failure to respond within 30 days to this Notice of Probable Noncompliance shall constitute an admission to all factual allegations made by the Commission Staff and may be used against the respondent in future proceedings

Please return the evaluation form(s) with any supporting documentation within thirty (30) days of receipt of this report to the address or email below. Any response submitted by email must include an electronic signature and date.

Kansas Corporation Commission
Pipeline Safety Section
1500 SW Arrowhead Road
Topeka, KS 66604-4027
kccsafetyresponse@kcc.ks.gov

Please feel free to contact me directly if you have questions or concerns.

Sincerely,

Leo Haynos /s/
Chief Engineer
(785) 271-3278
l.haynos@kcc.ks.gov

PROBABLE NONCOMPLIANCE

Investigation: CK-18-OC-1066

Company: Atmos Energy

Division: One Call

Regulation:

66-1806 (a) Identification of location of facilities; duties of operator;

66-1806 Identification of location of facilities; duties of operator;

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 5/16/2018, Atmos did not fully mark the scope of the ticket leaving one gas service line not being marked at 10909 W 100th St in Overland Park, Kansas. JV-Cable LLC damaged an Atmos 1/2" PE gas service line with a shovel while installing CATV main replacement for Time Warner. There was a valid One-Call ticket #18201358 with a due date of 5/12/2018. Locate marks were present on the main line; however there were no marks on this service to 10917 W 100th St.

OPERATOR'S RESPONSE: (Attach verification if needed)Operator's Authorized Signature: Raym Mustang Date: 5/31/18**PIPELINE SAFETY USE ONLY:**Date reviewed: _____ Date reviewed: _____
Chief: _____ Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 05/16/2018

Inspected By: CK



Leo Haynos
Chief of Pipeline Safety
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-OC-1066 that was a result of incomplete markings of Atmos Energy gas facilities. After an internal audit was performed -we determined that this facility was locatable via wire, but did not get located by our technician. We held an onsite coaching session with the technician involved to ensure future locate accuracy.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,
Operations Supervisor

ATTACHMENT “E”

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



785-271-3220
785-271-3357
<http://kcc.ks.gov>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

Bryan Maskus
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

June 07, 2018

KCC Investigation #: CK-18-UN-1187

Subject: Pipeline Investigation

Dear Bryan Maskus:

Pursuant to K.S.A. 66-1801, et. Seq. the Kansas Corporation Commission (KCC) has jurisdiction and authority to investigate and to issue civil penalties for violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA).

On June 1, 2018, the Kansas Corporation Commission's Pipeline Safety Staff conducted an investigation into excavation activities which are believed to involve your company. As a result of this investigation, Staff has identified possible violations committed by Atmos Energy. The findings of this investigation are described on the attached form(s).

Kansas law, K.A.R. 82-14-6(c), requires the recipient of this notice to provide a written response to any Notice of Probable Noncompliance. After reviewing the findings, please respond in at least one of the following ways:

- 1) Submit written explanation, a statement of general denial, or other materials contesting the allegations;
- 2) Submit a signed acknowledgement of Commission Staff's findings of noncompliance; or,
- 3) Submit a signed proposal for the completion of any remedial action that addresses the Commission Staff's findings of noncompliance.

Pursuant to K.A.R. 82-14-6(e), failure to respond within 30 days to this Notice of Probable Noncompliance shall constitute an admission to all factual allegations made by the Commission Staff and may be used against the respondent in future proceedings

Please return the evaluation form(s) with any supporting documentation within thirty (30) days of receipt of this report to the address or email below. Any response submitted by email must include an electronic signature and date.

Kansas Corporation Commission
Pipeline Safety Section
1500 SW Arrowhead Road
Topeka, KS 66604-4027
kccsafetyresponse@kcc.ks.gov

Please feel free to contact me directly if you have questions or concerns.

Sincerely,

Leo Haynos /s/
Chief Engineer
(785) 271-3278
l.haynos@kcc.ks.gov

PROBABLE NONCOMPLIANCE

Investigation: CK-18-UN-1187

Company: Atmos Energy

Division: One Call

Regulation:

66-1806 (a) Identification of location of facilities; duties of operator;

66-1806 Identification of location of facilities; duties of operator;

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 6/1/2018, Staff conducted an audit on ticket #18209006 and found the Atmos 2" PE gas main at 1000 W Elm St in Olathe, Kansas had not been marked at the time the ticket was due on 5/17/2018. This facility was within the scope of the ticket and was not marked.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: Raym Mustas Date: 6/11/18

PIPELINE SAFETY USE ONLY:

Date reviewed: _____ Date reviewed: _____
Chief: _____ Inspector: _____

Inspection Type: One Call Compliance Inspection

Date Inspected: 06/01/2018

Inspected By: CK



Leo Haynos
Chief of Pipeline Safety
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-UN-1187 that was a result of incomplete markings of Atmos Energy gas facilities. After an internal audit was performed we determined that this facility is locatable via wire, however our technician misread the marking instructions leaving a section of the locate incomplete. We have discussed this oversight with the technician involved.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,
Operations Supervisor

CERTIFICATE OF SERVICE

19-DPAX-018-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 08/01/2018.

BRYAN MASKUS
ATMOS ENERGY
25090 W 110TH TERR
OLATHE, KS 66061

COLE BAILEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
c.bailey@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe