

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

In the Matter of the Investigation of J & J Lawn )  
Care, LLC of Wichita, Kansas, Regarding )  
Violation(s) of the Kansas Underground Utility )  
Damage Prevention Act (KUUDPA) (K.S.A. ) Docket No. 20-DPAX-322-PEN  
66-1801, et seq., and K.A.R. 82-14-1 through )  
82-14-6), and the Commission's Authority to )  
Impose Penalties and/or Sanctions (K.S.A. 66- )  
1,151). )

**MOTION FOR LEAVE TO FILE RESPONSE OUT-OF-TIME**

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission" respectively) respectfully files its Motion for Leave to File Response Out-of-Time. In support of its Motion, Staff states the following:

1. On February 4, 2020, the Commission issued a Penalty Order against J&J Lawn Care LLC for violation of the Kansas Underground Utility Damage Prevention Act (KUUDPA) discovered during an investigation conducted on August 14, 2019.<sup>1</sup>
2. On February 24, 2020, J&J Lawn Care LLC filed a Letter Requesting Hearing dated February 20, 2020, but did not serve Staff the Request for Hearing.<sup>2</sup>
3. On March 11, 2020, Litigation Staff became aware of J&J Lawn Care LLC's request for hearing.
4. Commission regulations require responsive pleadings be submitted within 10 days after service.<sup>3</sup> However, the Commission may waive its regulations if good cause is shown and if it is in the public interest do so.<sup>4</sup> The Letter Requesting Hearing submitted by J&J Lawn Care LLC was filed in the Docket but was not served on Staff. Because the nature of the penalty

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<sup>1</sup>Penalty Order Docket No. 20-DPAX-322-PEN (Feb. 4, 2020).

<sup>2</sup> J&J Lawn Care LLC Letter Requesting Hearing (Feb. 20, 2020).

<sup>3</sup> See K.A.R. 82-1-218(d).

<sup>4</sup> See K.A.R. 82-1-202(a).

docket is monetary and J&J Lawn Care LLC can continue its business while this issue gets resolved, the due process rights of J&J Lawn Care LLC have not been harmed by the delay. For that reason, Staff asserts good cause exists and it is in the public interest to accept Staff's Out-of-Time Response to J&J Lawn Care LLC Letter Requesting Hearing.

WHEREFORE, the reasons stated above, Staff respectfully requests the Commission accept the Staff's Response out-of-time and for any other relief the Commission deems just and reasonable.

Respectfully submitted,

/s/ Cole Bailey  
Cole Bailey, #27586  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604  
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For Commission Staff

STATE OF KANSAS                     )  
  ) ss.  
COUNTY OF SHAWNEE             )

**VERIFICATION**

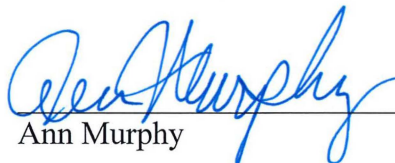
Cole Bailey, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the Kansas Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Motion For Leave To File Response Out-Of-Time*, and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.



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Cole Bailey  
Litigation Counsel  
State Corporation Commission of the  
State of Kansas

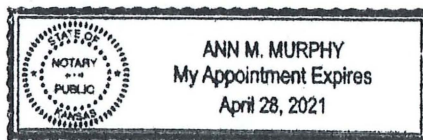
Subscribed and sworn to before me this 18th day of March, 2020.



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Ann Murphy

My Appointment Expires: 4-28-21



## **CERTIFICATE OF SERVICE**

20-DPAX-322-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion For Leave To File Response Out-Of-Time was served via electronic service this 18th day of March, 2020, to the following:

JEFFREY M. KRIER, MANAGING MEMBER  
J & J LAWN CARE, LLC  
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Ann Murphy