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June 24, 2014

Kansas Corporation Commission

Robert A. Fox, Senior Litigation Counsel

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

Request for Hearing

Reference 14-DPAX-564-PEN

Mr. Fox,

This letter is to represent the allegations towards Charlie Brunker Excavating, Inc. for the above referenced matter. Charlie Brunker Excavating, Inc. is requesting that the penalty be removed after reviewing our position on the Docket No. 14-DPAX-564-PEN.

Charlie Brunker Excavating, Inc. called into Kansas One Call on March 20, 2014 requesting multiply locate request. One request was for the work done on Mr. Rumford's Farm in which this matter is concerning and the other request was for work done at Mr. Brunker's home address. The first ticket is Ticket no. 14094480 this ticket was in reference to the work that would be completed at 3375 Tennessee Rd Ottawa, KS which was installing fence post along Tennessee Rd.

However the second ticket no. 14094490 was in reference to the work that would be done for Mr. Rumford. this work would consist of cleaning out terrace channels and making sure there was adequate drainage into the waterways. This was explained to the Kansas One Call representatively that the work at the Nebraska Ter. and Osborne Ter. was going to be terrace grading for Mr. Rumford. But this was not relayed to the ticket when it was printed. When an e-mail came from Kansas One Call Mr. Brunker did see the e-mail but didn't review it entirely to see that they had made the same ticket for the work on Nebraska Ter. and Osborne Ter. Mr. Brunker received a phone call from the locators that mark the lines for Kansas One Call but the locators we in the right location based on the ticket. Those made Charlie Brunker Excavating, Inc. and Mr. Brunker believe that the description that was given to Kansas One Call was correct. The locator marks the lines the same way not based on the work that is done on site but SSCGP alleges that this was a problem. Mr. Brunker explained to each locator that the area consisted of the entire property.

The work onsite that was done with the Dozer was grading the worked dirt that Mr. Rumford had just done a few days prior by the use of a tillage tool and tractor in the field. The depth of the dozer wasn't any deeper then the tillage tool that was used on the farm. Fence line markers were located at the edges of the property that shows the gas line is below it as where it crosses the field. (See Attached Photos) The report also says "that the bulldozer operator had placed another utility company's (KGS) flags in the ground where he thought the

pipeline might be instead of waiting the required time for SSCGP to get its own facility located." The fence line markers show where the line is at and any flags set by the bulldozer operator were for his own knowledge of grading for elevation. The used flags are used to recycle flags from previous projects and locates these are only for grading reference. SSCGP interpreted it to mean that the bulldozer operator was locating their facility.

Analysis:

Our business is Excavating and Grading and during the time that the notice of probable Noncompliance was received by Charlie Brunker Excavating, Inc. Mr. Brunker and the only other employee had been working 10 hr plus days to get work completed which delayed the mail getting to be reviewed by Mr. Brunker that is why our letter was late being returned.

Charlie Brunker Excavating, Inc. does not feel that they should be responsible for the miss typed ticket by Kansas One Call and how any effect to the ticket stating "gate and fence work" would have any change of outcome to SSCGP by what work was done on site.

Charlie Brunker Excavating, Inc. feels that there was not any high-risk activity with the potential for significant consequences to public safety. 1. The field markers that were on site at the edge of the property. 2. The depth that grading was taking place was less than the depth that the tillage tool had previously worked the ground. 3. The closest that we worked away from the pipeline was about 50'.

History:

The previous Notice of Probable Noncompliance that has been issued in the past two years was Kansas One Call asked if Charlie Brunker Excavating, Inc. agreed to the Non-Compliance ticket but Charlie Excavating, Inc. was not aware that you could agree to an Non-Compliance ticket and not be in compliance to having locates once they were marked.

Charlie Brunker Excavating, Inc. and Mr. Brunker request the penalty be removed based on the information and statement within this letter. Charlie Brunker Excavating, Inc. didn't have any control over how Kansas One Call typed the ticket up other then what we told the representative. We would appreciate your understanding of our issues and concerns that were not all in our control.

Sincerely,



Charlie Brunker



