

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

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the Matter of a General Investigation )  
Regarding Whether Electric Utilities Should be )  
Considered an “Operator” of Private ) Docket No. 17-GIME-565-GIV  
Underground Lines Under the Provisions of )  
the Kansas Underground Utility Damage )  
Prevention Act. )

**ORDER OPENING GENERAL INVESTIGATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

**I. Background**

1. On January 10, 2017, the Commission issued its *Final Order* in Docket No. 15-KCPE-544-COM (15-544 Docket), directing Commission Utilities Staff (Staff) to “make a Report and Recommendation (R&R) preliminary to the Commission opening a general investigation to determine whether electric utilities should be considered an ‘operator’ of private underground lines under [the Kansas Underground Utility Damage Prevention Act] KUUDPA.”<sup>1</sup> The *Final Order* also required Staff’s R&R to “include a description as to how other Kansas electric utilities handle the marking of private underground lines and provide a brief survey of how other states address the issue.”<sup>2</sup> The Commission wanted “to ensure the uniform application of KUUDPA and to invite broad participation on this issue.”<sup>3</sup>

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<sup>1</sup> *Final Order*, Ordering Clause A (Jan. 10, 2017).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*, ¶ 14.

2. On May 24, 2017, Staff submitted its R&R to the Commission, which is attached hereto and incorporated herein by reference. In addition to providing a detailed background and analysis of this issue, Staff recommended that “the Commission open a General Investigation into this matter and receive comments from operators of underground utilities, excavators, and commercial customers that explore the rights, liabilities and obligations that should be expected of the parties regarding providing locates and excavating over underground electric service lines.”<sup>4</sup> Staff also provided a list of specific questions to guide the comments of interested parties.<sup>5</sup> Furthermore, Staff recommended the Commission establish a procedural schedule within 90 days of opening this docket.<sup>6</sup>

## **II. Jurisdiction**

3. K.S.A. 66-101d authorizes the Commission to initiate general investigations and requires hearings to be held in accordance with the provisions of the Kansas Administrative Procedure Act (KAPA), unless the Commission orders otherwise for good cause.

## **III. Findings and Conclusions**

4. The Commission finds it appropriate at this time to open a general investigation for the purpose of developing an adequate record of locates practices for customer-owned underground electric service lines, determining the definition of the term “operator” found in KUUDPA,<sup>7</sup> and ensuring the uniform application of KUUDPA when it comes to the obligation of Kansas electric utilities to provide utility locates for underground electric lines that were installed and owned by the customer, but are upstream of the utility company’s meter facilities.

5. The Commission desires broad participation from operators of underground utilities, excavators and commercial customers that explores the rights, obligations and liabilities

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<sup>4</sup> R&R, p. 2.

<sup>5</sup> R&R, pp. 2-3, 7-8.

<sup>6</sup> R&R, p. 7.

<sup>7</sup> See K.S.A. 66-1802(j).

to be expected of the parties regarding the provision of locates and excavation over underground electric service lines. Therefore, the Commission seeks comment from interested parties on the following questions from Staff's R&R:

- A. Regarding underground electric service lines, how should the Commission interpret the term "operator" at K.S.A. 66-1802(j)?
- B. Should the utility service provider be required to provide locates for residential underground electric service up to the location of the customer meter or the building wall of the residence, whichever is further downstream?
  - a. What is the risk to the customer of not providing locates under this scenario?
  - b. What is the risk/cost to the utility of being required to provide locates under this scenario?
- C. For commercial customers, should the utility service provider be required to provide locates up to the building wall, the current transformer cabinet, or the customer meter, whichever is further downstream?
  - a. What is the risk to the customer of not providing locates under this scenario?
  - b. What is the risk/cost to the utility of being required to provide locates under this scenario?
- D. If it is required to locate customer-owned facilities, should the utility service provider only be required to locate those facilities to the boundaries of the common utility easement?
- E. What is the liability of an operator in providing locates for customer installed/owned facilities?
- F. If an operator is not required to provide locates of customer installed/owned facilities, should the operator be required to alert the customer to the fact that locating customer-owned facilities is the customer's obligation?
- G. What are the best practices that may be employed by an excavator to avoid damaging customer-owned facilities when no locate marks are present or the provided locate marks are of questionable accuracy?

6. The Commission finds that a procedural schedule shall be established within 90 days of the issuance of this Order.

**THEREFORE, THE COMMISSION ORDERS:**

A. A general investigation shall be opened to explore the rights, obligations and liabilities that should be expected of the parties regarding the provision of locates and excavation

over underground electric service lines and to develop policy positions that will ensure the uniform application of KUUDPA.

B. A procedural schedule shall be established within 90 days of the issuance of this Order.

C. Hearings shall be conducted in accordance with the KAPA.<sup>8</sup>

D. A person or entity shall be made a party to this proceeding by entering its appearance.

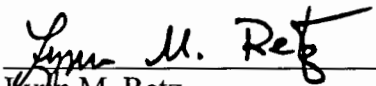
E. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.<sup>9</sup>

F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JUL 27 2017

  
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Lynn M. Retz  
Secretary to the Commission

MJD

Order Mailed Date

JUL 28 2017

<sup>8</sup> K.S.A. 66-101d.

<sup>9</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chairman Pat Apple  
Commissioner Shari Feist Albrecht  
Commissioner Jay Scott Emler

**FROM:** Leo Haynos, Chief Engineer  
Jeff McClanahan, Director of Utilities

**DATE:** May 24, 2017

**SUBJECT:** Recommendation to Initiate a General Investigation Regarding Whether Electric Utilities Should be Considered an "Operator" of Private Underground Lines under the Provisions of the Kansas Underground Utility Damage Prevention Act

**EXECUTIVE SUMMARY:**

In Docket No. 15-KCPE-544-COM (15-544 Docket), Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and Kansas City Power & Light (KCPL) requested a decision from the Commission regarding the statutory definition of the term "operator" found in the Kansas Underground Utility Damage Prevention Act (KUUDPA).<sup>1</sup> Specifically, Staff and KCPL desired a decision as to the obligation of Kansas electric utilities to provide utility locates for underground electric lines that were installed and owned by the customer, but upstream of the company's meter facilities.

The Commission's Order in the 15-544 Docket noted that the issue of whether a utility company is responsible for marking privately owned facilities under KUUDPA is a matter of first impression. Because a Commission decision on this definition may affect all electric utilities in the state, the Commission's Order in the 15-544 Docket directed Staff to prepare a Report and Recommendation (R&R) regarding opening a General Investigation into this matter to ensure the uniform application of KUUDPA and to invite broad participation on this issue. The Order also requested Staff to include in its R&R a description of practices used by Kansas electric utilities in providing locates of private underground lines and to provide a brief survey of how other states address the issue.

Out of 19 states that responded to Staff's survey request, most states' statutes define an operator required to provide locates as the entity that "owns or operates" buried facilities, similar to KUUDPA. However, responses from utility commission staffs vary on how the phrase "owns or operates" is interpreted by their state. Five states use the statutory language to require utilities to locate buried underground facilities up to the building wall or the meter of their customers, irrespective of ownership. Fourteen states require utilities to only locate facilities owned by the utility. It should be cautioned that other states' precise statutory schemes differ, in varying

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<sup>1</sup> K.S.A. 66-1802 (j).

degrees, from KUUDPA. Staff's Legal Brief in the 15-544 Docket also discusses the interpretation of the term "operator" in other states.<sup>2</sup>

Regarding the survey of Kansas electric utilities' locating practices of electric service lines, Staff's survey results did not indicate a standard locating practice. In general, all Kansas electric utilities provide locates of underground facilities up to the company defined demarcation point of service. However, the location of the customer point of service varies widely by location and by class of customer. Each utility's designated point of service appears to have been developed based on the individual company's operating practices.

The primary intent of KUUDPA is to minimize the risks associated with digging near underground facilities. The law accomplishes this goal by establishing standard rules for communication between excavators and utility operators. Part of the standardization process is the promulgation of definitions that describe the type of operator that is obliged to provide locates for certain types of facilities. Excavating over energized electric conductors represents a significant safety and reliability risk to both excavators and the public. In the case of excavating over underground electric service lines,<sup>3</sup> it is in the public interest to clearly define the endpoints of underground electric service lines that are required to be located by KUUDPA.

Therefore, Staff recommends the Commission open a General Investigation into this matter and receive comments from operators of underground utilities, excavators, and commercial customers that explore the rights, liabilities and obligations that should be expected of the parties regarding providing locates and excavating over underground electric service lines. Because the proposed docket will be developing policy positions, Staff recommends the comments of interested parties be limited to the following list of topics. Furthermore, Staff recommends a procedural schedule be established within 90 days of opening the docket in order to move this proceeding to a timely resolution. The proposed list of topics (as they relate to KUUDPA) is as follows:

1. Regarding underground electric service lines, how should the Commission interpret the term "operator" at K.S.A. 66-1802(j)?
2. Should the utility service provider be required to provide locates for residential underground electric service up to the location of the customer meter or the building wall of the residence, whichever is further downstream?
  - a. What is the risk to the customer of not providing locates under this scenario?
  - b. What is the risk/cost to the utility of being required to provide locates under this scenario?
3. For commercial customers, should the utility service provider be required to provide locates up to the building wall, the current transformer cabinet, or the customer meter, whichever is further downstream?
  - a. What is the risk to the customer of not providing locates under this

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<sup>2</sup> Docket No. 15-KCPE-544-COM, Commission Staff's Post-Hearing Legal Brief, October 5, 2016, ¶¶ 24-27.

<sup>3</sup> For purposes of this R&R, electric service lines are defined as the secondary conductor beginning at the transformer and extending radially to a connection with a customer's facility.

- scenario?
- b. What is the risk/cost to the utility of being required to provide locates under this scenario?
4. If it is required to locate customer-owned facilities, should the utility service provider only be required to locate those facilities to the boundaries of the common utility easement?
  5. What is the liability of an operator in providing locates for customer installed/owned facilities?
  6. If an operator is not required to provide locates of customer installed/owned facilities, should the operator be required to alert the customer to the fact that locating customer-owned facilities is the customer's obligation?
  7. Best practices that may be employed by an excavator to avoid damaging customer-owned facilities when no locate marks are present or the provided locate marks are of questionable accuracy.

## **BACKGROUND**

### **Application of KUUDPA to underground electric service lines:**

Underground electric service lines provide electric service from the utility's distribution system to the customer load center. A schematic of a typical electric service installation, taken from Westar Energy's service standards, is shown in Exhibit 1. Under KUUDPA, an operator is required to provide locates of underground electric facilities that it owns or operates. There is one exception to this definition: If the buried facility only serves one entity and it is buried on property owned by that entity, then that entity is not an operator under KUUDPA. Based on Staff's survey, discussed later in this R&R, each utility defines the demarcation point where ownership of the electric conductors passes from the utility to the customer. Our survey suggests that, for all Kansas residential customers, the utilities maintain ownership of the service line up to the meter where custody of the electric energy is transferred from the utility to the customer. However, in some cases, the conductors between the transformer and the meter are owned by the customer. This scenario appears to be applicable to commercial customers for KCPL and some municipal utilities. A third scenario found mostly in rural residential settings has the meter installed at a remote location. In those cases, Kansas utilities consider the underground conductors between the meter and the house to be customer-owned and operated. In most cases, the utility or building electric codes require a disconnect switch to be installed immediately downstream of the meter.

### **Definitions from KUUDPA relevant to this matter are as follows:**

K.S.A. 66-1802 (j) "Operator" means any person who owns or operates an underground tier 1 or tier 2 facility, except for any person who is the owner of real property wherein is located underground facilities for the purpose of furnishing services or materials only to such person or occupants of such property.

K.S.A. 66-1802 (p) "Tier 1 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids.

K.S.A. 66-1802 (f) "Locatable facility" means facilities for which the tolerance zone can be determined by the operator using generally accepted practices such as as-built construction drawings, system maps, probes, locator devices or any other type of proven technology for locating.

K.S.A. 66-1802(s) "Tolerance zone" means the area not less than 24 inches of the outside dimensions in all horizontal directions of an underground facility, except that a larger tolerance zone for a tier 1, 2, or 3 facility may be established by rules and regulations adopted under K.S.A. 2007 Supp. 66-1815, and amendments thereto.

As shown above, KUUDPA defines "operator" as an entity that owns *or* operates underground electric conductors. In the 15-544 Docket, Staff argued the ordinary meaning of the term "operate" is to control the functioning of (a machine, process, or system). Under this meaning, electric utilities would be considered the "operator" of a customer's service line upstream of the meter regardless of ownership because the utility controls the functioning of the service line. Staff further argued this control is evidenced by the Company's use of the facilities to provide electric service, its control over the design of the facilities, and its legal rights of control over the facilities established in its tariffs. For example, the customer is not able to de-energize the service line conductors for maintenance without the assistance of the utility, and any unauthorized work done to the metering components could be considered tampering by the utility. Based on Staff's survey results of Kansas electric utilities, all of the respondents acknowledged the utility does not allow the customer to access the utility's meter or any facility upstream of the meter without at least notifying the utility or scheduling the utility to disconnect the service.

Survey of state laws conducted by Staff in response to the Commission's Order:

At the request of the Commission's Order in the 15-544 Docket, Staff reviewed damage prevention laws in other states and conducted a survey of state utility commission staff regarding their interpretation of their respective state's law as it pertains to locating electric service lines. The results of the survey are included as Exhibit 2 to this R&R. In this survey, utility commission staff from nineteen states responded and provided their interpretation of their state's requirements (Column 2 of Exhibit 2). Exhibit 2 also includes Staff's research of the definition of "operator" from the 19 responding states, as well as the states adjacent to Kansas. The survey indicates that five states<sup>4</sup> require the electric utility to locate up to the meter or the building wall, whichever is further downstream. In 13 states<sup>5</sup> that responded to the survey, the utility is not responsible for locating conductors that belong to the customer. In Michigan, the utility is required to locate the customer's facilities but only to the edge of the utility easement.

Staff also reviewed the statutes from the states that responded to the survey, as well as those states adjacent to Kansas. Column 3 of Exhibit 2 provides a synopsis of Staff's research for each state. It appears that laws for 15 states<sup>6</sup> include the phrase "own or operate" (or language to that

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<sup>4</sup> AR, NC, OR, VA, WY.

<sup>5</sup> DE, IL, IA, MA, MD, ME, MT, NV, NY, RI, SC, SD.

<sup>6</sup> AR, IA, ME, MI, MO, NV, NC, ND, NE, OK, OR, RI, SC, SD, VA.



effect) in their definition of the entity required to perform locates. Seven states<sup>7</sup> appear to define an operator as the entity that “owns” the facilities as the party responsible for locates. It is important to remember that while these statutes have some similarities to corresponding provisions in KUUDPA, each statute also differs from KUUDPA in certain ways. For instance, certain states may not have a “private use” exception similar to KUUDPA’s. Therefore, provisions cannot always be directly compared to one another without a review of each state’s comprehensive statutory scheme.

#### Survey of Kansas Electric Utilities’ Practices Regarding Electric Service Line Locates:

Staff received survey responses from 16 electric utilities. Although this number represents only 10% of the 164 companies that have underground electric facilities registered with Kansas One Call, it includes the utilities that serve 76% of the electric customers in Kansas. Exhibit 3 provides Staff’s summary of the survey results. As noted earlier, all Kansas electric utilities provide locates of underground facilities up to at least the company defined point of service. Of the 12 survey respondents that provide residential electric service, 10 consider the customer meter to be the demarcation point between company and customer facilities. Under this scenario, when a meter is installed on an electric pole with underground service to the home, the underground portion of the service would be considered customer facilities. When a meter is installed remote to the home, Kansas utilities require a service disconnect to be installed directly below the meter in most cases. If a service disconnect is not available to the customer, all survey respondents serving residential customers indicate they will either allow the customer’s electrician to disconnect the meter or will provide utility personnel to disconnect the meter when required. With regard to providing locates of underground service to residential customers, all respondents except one provide this service to the building wall when the meter is installed on the wall. If a section of the underground service is customer-owned, the respondents indicate they generally do not provide a locating service for customer-owned facilities. However, a required service disconnect directly below the meter should provide a reasonable level of safety for the customer. For residential customers, the two largest utilities in Kansas, Westar Energy (Westar) and KCPL, consider the meter to be the point of service and provide locates of underground facilities as required up to that point.

For commercial customers, the survey results suggest to Staff the customer point of service will be based on negotiations with the customer and the type of service (i.e. voltage requirements). In general, the survey respondents were evenly split on the location of the customer/utility facility demarcation point. Nine survey respondents indicate the customer meter is considered the customer point of service, while the remaining respondents considered other company-owned equipment, such as the secondary taps on a transformer or a current transformer cabinet, to be the customer/utility demarcation point. As with residential customers, all utilities provide locates at least up to their defined point of service. Roughly 40% of the survey respondents provide locates of customer-owned facilities downstream of the point of service.

In the case of commercial customers, Westar and KCPL have significantly different definitions of their commercial customer point of service. Similar to its residential customers, Westar defines the meter to be the customer point of service for commercial accounts and provides locates as required to that point.<sup>8</sup> KCPL, on the other hand, considers the transformer to be the

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<sup>7</sup> CO, DE, IL, MA, MD, NY, WY.

<sup>8</sup> Westar tariff and construction standards.

customer point of service for commercial accounts with all conductors between the transformer and the meter to be the property of the customer.<sup>9</sup> KCPL does provide locates for the conductor between the transformer and the meter. In the 544 Docket, KCPL described this service as a courtesy they provide their customers.<sup>10</sup>

## ANALYSIS

As noted earlier, KUUDPA establishes standard rules for communication between excavators and utility operators in order to minimize the risk of damage to life and property. On the part of the excavator, the minimum KUUDPA obligations are to notify the facility operator of the planned excavation and to dig with care around the marked facilities. KUUDPA requires the facility operator to provide locate marks within the planned excavation area indicating where facilities that it “owns or operates” are buried. As noted above, a property owner is specifically exempted these responsibilities when the underground facilities on his or her property are used for the purpose of furnishing services or materials only to such person or occupants of such property.

As demonstrated by the industry surveys, all Kansas utilities provide locates for buried electric facilities that are owned *and* operated by the utility. That is, facilities that are upstream of the customer/utility point of service. The point of service is unilaterally defined by the utility, and according to Staff’s survey, varies between Kansas utilities. In the case of the customer owning facilities upstream of the meter, Staff views the customer as owning the conductor while the company owns the energy flowing in the conductor. As stated in the 15-544 Docket, Staff believes the utility in this case also operates the customer’s line because the utility maintains functional control of the facility.<sup>11</sup> For this scenario, the KUUDPA phrase, “owns or operates” indicates both parties, the utility (as owner of the energy and operator of the conductor) and the customer (as owner of the conductor) could be considered to meet the definition of operator found in KUUDPA. However, in nearly every case, the customer will not be considered an “operator” because of the statutory private use exception. This leaves the utility as the only entity that could be considered the operator responsible for locating the underground facilities.

As a matter of public safety, Staff believes the utility should be considered to be the operator because it is the entity most capable of providing locates for buried electric lines. In addition, the utility has control over the energy in the lines and has the ability to shut off power while performing locates or allowing the excavator to work over the line. Also, as noted above, because private utility customers are not operators, the only remaining entity that can be responsible, under KUUDPA, for locating these facilities is the electric utility.

On the other hand, the utility more than likely did not construct the customer-owned conductor and may be unable to provide precise locates without consulting construction records. A requirement to provide locates without having all records available for consultation may increase the utility’s liability from inaccurate locates. As noted above, Staff’s survey of other states’ damage prevention laws found many references to the phrase “owns or operates” when defining

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<sup>9</sup> KCPL tariff and construction standards.

<sup>10</sup> Para. 2, KCPL Legal Brief filed August 22, 2016.

<sup>11</sup> See also Commission Staff’s Post-Hearing Legal Brief, ¶¶ 13-20.

the term operator in the states' respective laws. Many states' laws also include an exemption similar to KUUDPA for property owners being considered as operators

Varying interpretations of the phrase "owns or operates" by different utility companies have resulted in a variety of locate practices within Kansas for electric service lines that are owned by the customer but are upstream of the meter. The inconsistency in locating practices results in confusion for excavators and potentially causes a public safety risk. For that reason, Staff believes an interpretation of this phrase by the Commission is in the public interest.

### **RECOMMENDATION**

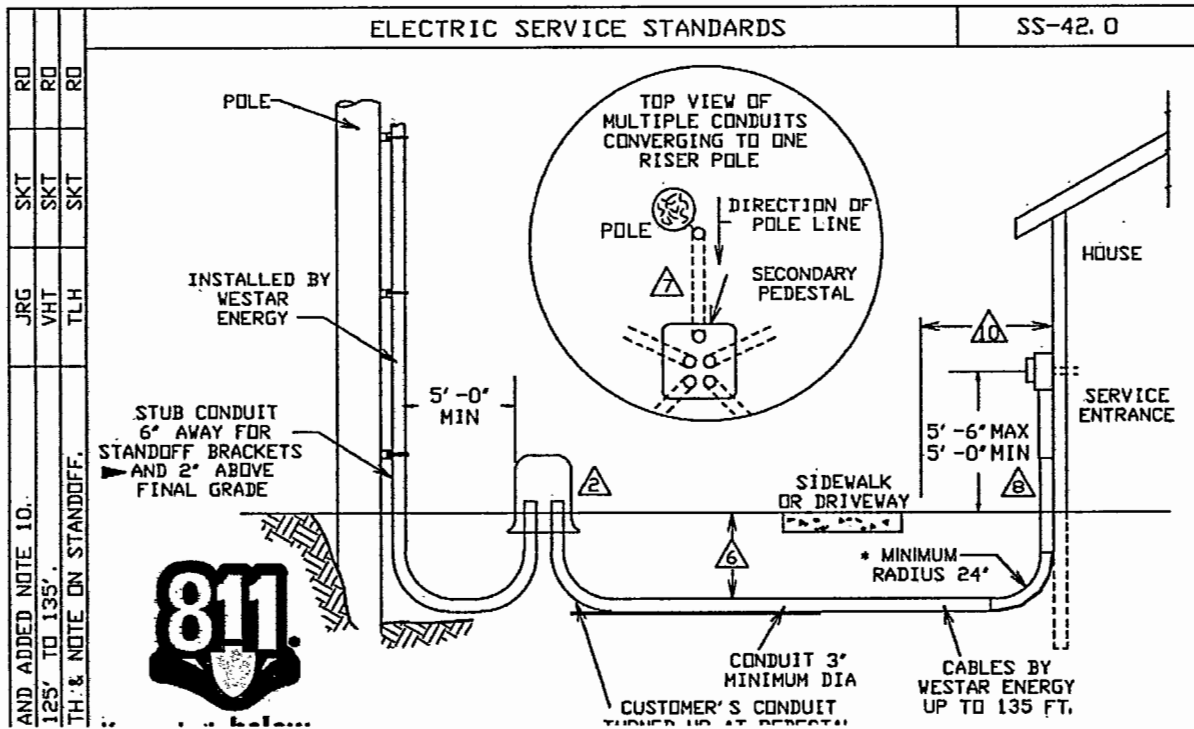
In order to develop an adequate record of locating practices for customer-owned underground electric service lines, Staff recommends the Commission open a general investigation into this matter that requests input from Kansas retail electric utility suppliers and from excavators. Because the proposed docket will be developing policy positions, Staff recommends the comments of interested parties be limited to the following list of topics. Furthermore, Staff recommends a procedural schedule be established within 90 days of opening the docket in order to move this proceeding to a timely resolution. The proposed list of topics (as they relate to KUUDPA) is as follows:

1. Regarding underground electric service lines, how should the Commission interpret the term "operator" at K.S.A. 66-1802(j)?
2. Should the utility service provider be required to provide locates for residential underground electric service up to the location of the customer meter or the building wall of the residence, whichever is further downstream?
  - a. What is the risk to the customer of not providing locates under this scenario?
  - b. What is the risk/cost to the utility of being required to provide locates under this scenario?
3. For commercial customers, should the utility service provider be required to provide locates up to the building wall, the current transformer cabinet, or the customer meter, whichever is further downstream?
  - a. What is the risk to the customer of not providing locates under this scenario?
  - b. What is the risk/cost to the utility of being required to provide locates under this scenario?
4. If it is required to locate customer-owned facilities, should the utility service provider only be required to locate those facilities to the boundaries of the common utility easement?.
5. What is the liability of an operator in providing locates for customer installed/owned facilities?

6. If an operator is not required to provide locates of customer installed/owned facilities, should the operator be required to alert the customer to the fact that locating customer-owned facilities is the customer's obligation?
7. Best practices that may be employed by an excavator to avoid damaging customer-owned facilities when no locate marks are present or the provided locate marks are of questionable accuracy.

# EXHIBIT 1

## Schematic of a Typical Underground Electric Service Installation Copied from Westar Energy's Service Standards



**EXHIBIT 2**  
**Review of Locate Requirements for Various States**

State	Electric Service Line Locates Required*	Provisions of State Law**
Arkansas	Utility locates upstream of meter	14-271-102 (7) "Operator" means any public utility as defined in §23-1-101, which owns or operates an underground facility; all municipally owned ... electric utilities; ...
Delaware	Commercial Customers are responsible to mark their own facilities.	(8) "Operator" shall mean any person who furnishes or transports materials or services by means of a utility line. (11) "Utility line" shall mean any item of personal property which shall be buried or placed below ground ...for use in connection with the ... conveyance of ...electric energy... and shall include...those portions of poles... below ground...
Illinois	Commercial Customers are responsible to mark their own facilities.	"Underground utility facilities" or "facilities" means and includes wires, ducts, fiber optic cable, conduits, pipes, sewers, and cables and their connected appurtenances installed beneath the surface of the ground by: (1) a public utility as defined in the Public Utilities Act; (2) a municipally owned or mutually owned utility providing a similar utility service; (8) an electric cooperative as defined in the Public Utilities Act.
Iowa	Iowa law also says "owning or operating" but in total context has not been taken to say a customer's line on customer property is the utility's responsibility to mark.	"Operator" means a person owning or operating an underground facility...10. "Underground facility" means an item of personal property owned or leased by the operator which is buried...for use in connection with the ...conveyance of...electric energy...
Maine	In Maine most underground electric services are not utility owned, are considered private, and the responsibility for marking them is with	3360-A F. "Underground facility operator" means the owner or operator of any underground facility...used in furnishing electric... service.

State	Electric Service Line Locates Required*	Provisions of State Law**
	their owner (usually the property owner)	
Maryland	Privately owned facilities are the responsibility of the building owner.	12-101 (j) (1) "Owner" means a person that: (i) owns or operates an underground facility; and (ii) has the right to bury an underground facility.
Massachusetts	Customer required to be a member of one call and locate their own lines	"Company"... public utility company, ... and municipal utility company or department that supply...electricity, ...Facility shall mean something that is built, constructed, installed...to perform some particular function or to serve or facilitate some particular end.
Michigan	Require locates for that portion of the service line in the utility easement or ROW	460.723 (p) "Facility operator" means a person that controls the operation of a facility. (q) "Facility owner" means a person that owns a facility.
Montana	Customer required to be a member of one call and locate their own lines	Law refers to "owners" but does not define the term
Nevada	Commercial Customers are responsible to mark their own facilities.	"Operator" means any person who owns, operates or maintains a subsurface installation "Subsurface installation" means a ... conductor, conduit, cable, duct, wire,...or other structure that is located underground
New York	All customers are responsible to mark facilities they own.	Operator: Any person who operates an underground facility to ... electricity... Underground facility: A facility and its attachments located underground and installed by an operator to furnish its services or materials...
North Carolina	Utility responsible to provide locates up to the meter	Operator. – Any person, public utility, ...municipality, electrical utility, or electric ..cooperative that owns or operates a facility... (12) Facility. – Any underground line...used for ...distributing...electricity...
North Dakota	All customers are responsible to mark facilities they own.	"Operator" means a person who owns or operates an underground facility, "Underground facility" means an underground ... cable..and its

State	Electric Service Line Locates Required*	Provisions of State Law**
		appurtenances used to ...distribute ...electricity... Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.
Oregon	Utilities provide locates to meter or building wall.	ORS 757.542 (5) Operator means any person, public utility, municipal corporation, political subdivision of the state, or other person with control over underground facilities.
Rhode Island	The electric utility does not have to mark it out because they do not own it	(10) "Public utility" means the owner or operator of underground facilities for furnishing electric...service as defined in section 39-1-2(20);
South Carolina	Utility only locates what they have installed;	(17) "Operator" means any person, public utility... municipality, electrical utility, electric... cooperatives ...who owns or operates a facility for commercial purposes in the State of South Carolina
South Dakota	South Dakota law does not require utilities to provide locates of buried electric lines to a building, when those facilities are not owned by the utility—except for water and sewer.	"Operator," any person who operates an underground facility; "Underground facility," any item ... placed below ground for use in connection with the ...conveyance of ... electric energy...
Virginia	Mark up to the meter	"Operator" means any person who owns, furnishes or ...services by means of a utility line. "Utility line" means any item of public or private property which is buried...for use in connection with the ...conveyance of ...electric energy...
Wyoming	Utility locates upstream of meter; require disconnect if meter remote to building.	37-12-301 (vii) any .. public utilities, municipal corporations..or other persons having the legal authority to bury, operate, maintain, repair and replace underground facilities "Underground facility" means any item of personal property buried.. for use in connection with the ...conveyance of ...electric energy
Colorado		"Operator" or "owner" means any person... having the right to bury



State	Electric Service Line Locates Required*	Provisions of State Law**
		underground facilities in or near a public road, street, alley, right-of-way, or utility easement.
Missouri		"Underground facility owner", any person who owns or operates underground facilities;
Nebraska		76-2313. Operator, defined. Operator shall mean a person who manages or controls the functions of an underground facility but shall not include a person who is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on the real property.
Oklahoma		"Operator" means a person that operates an underground facility. EXEMPTIONS. ..(3) an underground facility that serves only the owner of the underground facility or the owner's property;

\* Comments are considered to be interpretations of the respective state's utility commission staff that are summarized from email responses.

\*\* Applicable definition of operator paraphrased from the respective state's statutes that are relevant to the requirement to provide locates for underground electric utilities.

		<b>Exhibit 3: Kansas Utility Survey Results</b>						
		<b>COMMERCIAL CUSTOMERS</b>						
<b>Estimated Customers</b>	<b>Utility</b>	<b>Point of Service is the customer meter</b>	<b>Point of Service is the building wall if the meter is located remote from the building</b>	<b>Point of Service is the transformer's secondary taps</b>	<b>Point of Service is the CT cabinet or other utility owned equipment.</b>	<b>Point of Service is Other (please describe)</b>	<b>Is commercial customer able to disconnect the point of service without company intervention</b>	<b>company require disconnects at meter if meter remote to structure</b>
700000	Westar	X					No	Yes
250000	KCP&L			X			No	No
49612	Midwest Energy			X			No	No
14684	Free State Electric Cooperative	X	X	X	X		No	Yes
8644	McPherson BPU	X					Yes in city	Yes in city
7666	City of Gardner	X					No	Yes
6521	Western Electric Cooperative	X			X		No	Yes
6000	City of Winfield		X			X: Special agreement	No	Yes in city
4036	Alfalfa Electric Cooperative	X					No	Yes
2912	Caney Valley Electric Cooperative	X		X	X		Yes	Yes
2431	Nemaha Marshall	X					No	Yes
1200	City of Holton			X			No	No
1000	City of Ellinwood	X	X				No	Yes if instrument rated
700	City of Stockton			X			No	Yes
450	City of Troy				X		No	Yes
<b>1,055,856</b>	<b>Totals</b>	<b>8</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>1</b>		

**Exhibit 3: Kansas Utility Survey Results**

LOCATING PRACTICES								
Estimated Customers	Utility	utility perform locates for electric service up to point of service	utility perform locates downstream of your point of service	if locate customer facility, utility inform the customer utility does not own service and locates may not be accurate	if locate customer facility, utility charge the customer for locating	if locates NOT provided for customer facility, utility notify the customer of no locates?	Will utility disconnect power to a service upon request from customer	estimated utility cost for disconnect and reconnect
700000	Westar	Yes	No	N/A	N/A	Yes	Yes	\$135 but do not bill
250000	KCP&L	Yes	Yes	No	No	N/A	Yes	\$300-\$1200 but don't bill
49612	Midwest Energy	Yes	Yes	Yes	No	No	Yes	\$150; but do not bill
14684	Free State Electric Cooperative	Yes	No	N/A	N/A	No	Yes	\$150
8644	McPherson BPU	Yes	No	N/A	N/A	Yes	Yes	0
7666	City of Gardner	No	No	No	No	No	Yes	0
6521	Western Electric Cooperative	Yes	No	N/A	N/A	Yes	Yes	0
6000	City of Winfield	Yes	No	No	N/A	Yes ..when possible	Yes	0
4036	Alfalfa Electric Cooperative	Yes	Yes	Yes	Yes	N/A	Yes	\$100; not billed
2912	Caney Valley Electric Cooperative	Yes	Yes	Yes	No	Yes	Yes	\$350 but not billed
2431	Nemaha Marshall	Yes	Yes if time permits	Yes	No	N/A	Yes	0
1200	City of Holton	Yes	No	N/A	N/A	Yes	Yes	0
1000	City of Ellinwood	Yes	Yes	Yes if customer at site	No	Yes if customer at site	Yes	0
700	City of Stockton	Yes	Yes	Yes	No	N/A	Yes	\$100
450	City of Troy	Yes	No	No	no	No	Yes	0
<b>1,055,856</b>	<b>Totals</b>							

**Exhibit 3: Kansas Utility Survey Results**

**RESIDENTIAL CUSTOMERS**

Estimated Customers	Utility	Point of Service is the customer meter	Point of Service is the building wall if the meter is located remote from the house	Point of Service is the transformer's secondary taps	Point of Service Other	Residential customer able to disconnect the point of service without company intervention	company require disconnects at meter if meter remote to structure
700000	Westar	X				No	Yes
250000	KCP&L	X				No	Yes
49612	Midwest Energy	X				No	No
14684	Free State Electric Cooperative	X				No	Yes
8644	McPherson BPU	X				Yes and No.	Yes in city
7666	City of Gardner	X				No	No
6521	Western Electric Cooperative	X				No	Yes
6000	City of Winfield	X				No	Yes in city
4036	Alfalfa Electric Cooperative	X				No	Yes
2912	Caney Valley Electric Cooperative	X				Yes and No.	Yes
2431	Nemaha Marshall	X				No	Yes
1200	City of Holton			X		No	Yes
1000	City of Ellinwood		X			No	Yes
700	City of Stockton	X				No	Yes
450	City of Troy	X				No	Yes
1,055,856	Totals	10	1	1	0		

**CERTIFICATE OF SERVICE**

17-GIME-565-GIV

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 JUL 27 2017.

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