

In the Matter of the Investigation of Charlie Bruner)
Excavating, Inc.) 14-DPAX-564-PEN

STAFF DIRECT TESTIMONY

PREPARED BY

LEO M. HAYNOS

UTILITIES DIVISION

KANSAS CORPORATION COMMISSION

1 **Q. Would you please state your name and business address?**

2 **A. My name is Leo M. Haynos. My business address is 1500 Southwest Arrowhead Road,**
3 Topeka Kansas, 66604.

4 **Q. By whom and in what capacity are you employed?**

5 **A. I am employed by the Kansas Corporation Commission (Commission) as Chief of Energy**
6 Operations and Pipeline Safety.

7 **Q. Please state your educational and employment background.**

8 **A. I received a Bachelor of Science Degree in Petroleum Engineering from New Mexico**
9 Institute of Mining and Technology, Socorro, New Mexico. I have worked in various
10 capacities as an engineer for the past 32 years, primarily in the oil and gas industry. I am
11 licensed as a professional engineer in the State of Kansas. For the past 15 years, I have
12 worked for the Kansas Corporation Commission where I have been responsible for
13 several functions including managing the pipeline safety program and the administration
14 and enforcement of the underground utility damage prevention program.

15 **SUMMARY OF TESTIMONY**

16 **Q. What is the purpose of your testimony?**

17 **A. My testimony will describe the steps taken by Commission Staff in developing our**
18 recommendation to assess a penalty to Charlie Brunker Excavating, Inc. (Brunker). My
19 testimony also responds to Brunker's comments filed in this Docket on June 24, 2014, as
20 a request for hearing in this matter.

1 **Q.** Please describe the event that alerted you to the action taken by Bruner that led to
2 your recommendation to assess a civil penalty.

3 **A.** Staff was notified by Southern Star Central Gas Pipeline (SSCGP) that Bruner was
4 operating a bulldozer over the SSCGP pipeline right-of-way. Staff reviewed the One Call
5 ticket database maintained by Kansas One Call, Inc. and discovered that Bruner had
6 requested locates to excavate in the area. However, Bruner was excavating before
7 SSCGP had time to provide markings indicating the location of its pipeline.

8 **Q.** What action did Staff take based on this investigation?

9 **A.** Staff issued a Probable Noncompliance to Bruner detailing the alleged violation of the
10 Kansas Underground Utility Damage Prevention Act (KUUDPA) and requesting Bruner
11 to respond to the allegation.

12 **Q.** Did Bruner file a response?

13 **A.** Yes. Bruner filed a response dated May 27, 2014, which acknowledges a locate ticket
14 was requested and that excavation was being conducted to improve drainage of terraces.

15 **Q.** Did the response discuss Staff's allegation of excavating before facility locates were
16 provided?

17 **A.** The response does not address the date on which the excavation began nor does it
18 address if utility locates were completed before excavation began. Instead, the Bruner
19 response minimizes the risk of excavating over a high pressure gas transmission line by
20 noting the excavation was very shallow.

21 **Q.** What was the basis for Staff's recommendation to assess a \$500 penalty to Bruner?

22 **A.** KUUDPA requires an excavator to request locates and allow sufficient time for the
23 operator to provide the locates. Bruner made the locate request but did not allow

SSCGP time to answer the request. By not allowing SSCGP sufficient time to provide locates of its facilities, Bruner bypassed the KUUDPA process and placed its personnel and the SSCGP pipeline in unnecessary danger.

Q. Should the Commission take into account Bruner's claim that it was only digging very shallow?

A. No. Bruner did not know the location or the depth of the buried SSCGP facility. Rather, Bruner made an assumption the excavation was not over the pipeline and/or the pipeline was deeper than the planned excavation depth. Unlike typical agricultural tillage equipment (which is exempt from calling for locates), the bulldozer used by Bruner could have easily ruptured the high pressure pipeline if the line had been shallow at that point. Relying on assumptions rather than information from the facility operator is a fundamental and dangerous error made by Bruner.

Q. Should the Commission reconsider the amount of the penalty based on Bruner's response to the recent Order issued in this case?

A. No. Bruner does not challenge the facts stated in the Order. Namely, that excavation occurred before the excavation start date and before the operator had the opportunity to provide locates. As noted in the penalty Order, such action is a violation of KUUDPA and worthy of a penalty.

Q. Does this conclude your testimony?

A. Yes.


CERTIFICATE OF SERVICE

14-DPAX-564-PEN

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff Direct Testimony Prepared by Leo M. Haynos was served by electronic service on this 22nd day of September, 2014, to the following:

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