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Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ORDER
21-DPAX-208-PEN

December 22, 2020

Barton W. Armstrong
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) and pipeline safety regulations adopted by the Kansas Corporation Commission. For a full description of the penalty please refer to the order attached to this notice.

IF YOU ACCEPT THE PENALTY: You have been assessed an \$8,000 penalty. You have twenty (20) days from the date of service of the Penalty Order to pay the fine amount. Checks shall be payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and shall include a reference to the docket number (21-DPAX-208-PEN) of this proceeding.

IF YOU CONTEST THE PENALTY: You have the right to request a hearing. A request for hearings must be made in writing, setting forth the specific grounds upon which relief is sought. You or an authorized representative from your company, may electronically file its request for hearing within fifteen (15) days from the date of service of this Penalty Order. If your company does not have access to the internet, you may request a hearing by submitting one original and seven copies of the request for hearing to the Executive Director at 1500 SW Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Penalty Order. A copy of the request for hearing must be provided to the Litigation Counsel, listed below.

IF YOU FAIL TO ACT: Pursuant to K.A.R. 82-14-6(i) and (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. **Failing to request a hearing or pay the civil assessment may result in further penalties.**

Respectfully,

/s/ Carly R. Masenthin

Carly R. Masenthin, S. Ct. No. 27944
Litigation Counsel
(785)271-3361
c.masenthin@kcc.ks.gov

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

Before Commissioners: Susan K. Duffy, Chair
 Dwight D. Keen
 Andrew J. French

In the Matter of the Investigation of **Atmos**)
Energy Corporation of Olathe, Kansas, In)
the Matter of the Investigation of Atmos)
Energy Corporation, Regarding Violations of)
the Kansas Underground Utility Damage) Docket No. 21-DPAX-208-PEN
Prevention Act and the Commission’s)
Regulations Pertaining to Natural Gas)
Pipeline Safety.)

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. REGULATORY FRAMEWORK

1. The Commission is authorized to enforce multiple frameworks regarding underground utility damage and natural gas pipeline safety.

A. Kansas Underground Utility Damage Prevention Act

2. 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.* 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.

3. Pursuant to K.A.R. 82-14-6, 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.

4. The Commission is authorized to impose civil penalties and injunctive actions against any person or entity subject to and found in violation of KUUDPA, or any rule and regulation, or any order of the Commission. Each violation is subject to a civil 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.¹

B. Natural Gas Pipeline Safety

5. Pursuant to K.S.A. 66-1,150, *et seq.*, the Commission is authorized to adopt rules and regulations as may be necessary to conform with the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 60101, *et seq.*), as amended. The Commission has adopted such regulations.² These rules and regulations are applicable to:

(1) All public utilities and all municipal corporations or quasi-municipal corporations transporting natural gas or rendering gas utility service; (2) all operators of master meter systems, as defined by 49 C.F.R. § 191.3; (3) all operators of privately or publicly owned pipelines providing natural gas service or transportation directly to the ultimate consumer for the purpose of manufacturing goods or generating power; and (4) providers of rural gas service under the provisions of K.S.A. 66-2101 through 66-2106, and amendments thereto.³

6. Pursuant to K.S.A. 66-1,151, the Commission is authorized to impose civil penalties for violations of gas pipeline safety rules and regulations. Each violation is subject to a

¹ See K.S.A. 66-1812, K.S.A. 66-1,151 and amendments thereto; and, K.A.R. 82-14-6.

² For reference, the Commission's adoption of Natural Gas Pipeline Safety regulations may be found at K.A.R. 82-11-1 through K.A.R. 82-11-11. The Commission's Kansas Underground Utility Damage Prevention Act regulations may be found at K.A.R. 82-14-1 through K.A.R. 82-4-16.

³ K.S.A. 66-1,150(a).

civil 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.⁴

7. Pursuant to K.A.R. 82-1-237, the Commission has the authority to investigate a party under its jurisdiction and order a hearing on its own motion when the Commission believes the party is in violation of the law or any order of the Commission. K.A.R. 82-11-6(e) provides a show cause hearing may be held by the Commission when all other reasonable measures have failed to produce operator compliance, or when non-compliance presents an imminent danger to persons or property.

II. JURISDICTION OVER ATMOS ENERGY

8. Atmos Energy Corporation (Atmos Energy) operates as a natural gas public utility pursuant to Commission-issued certificates of convenience and necessity.

9. Atmos Energy is a statutorily defined Operator who owns or leases underground Tier 1 or Tier 2 facilities, as defined in K.S.A. 66-1802(k), (q), and (r), respectively. Pursuant to K.S.A. 66-1813, which authorizes the Commission to administer and enforce KUUDPA, Atmos Energy is subject to the Commission's jurisdiction regarding compliance with KUUDPA's obligations (e.g., K.S.A. 66-1806), and may be subject to penalties issued pursuant to K.S.A. 66-1812.

10. Pursuant to K.S.A. 66-1,150, *et seq.* and K.A.R. 82-11-1, *et seq.*, Atmos Energy's operation as a natural gas public utility renders it subject to the Commission's natural gas pipeline safety regulations.

⁴ K.S.A. 66-1,151.

III. ALLEGATIONS OF NONCOMPLIANCE

11. Commission Staff (Staff) investigated the activities and operations of Atmos Energy from September 2019 through August 2020 regarding its failure to provide timely and accurate locate marks on its underground gas facilities within the time allowed by the state damage prevention laws (2 full business days).⁵

12. Staff found during its investigations that Atmos Energy failed to provide excavators with the location of the tolerance zone of the buried facilities before excavation begins on six (6) separate occasions and on two (2) occasions it provided inaccurate locate marks. This failure resulted in damages to Atmos Energy underground 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 table below outlines the date of damage, facility affected, city of occurrence, root cause and penalty amount.

Date of Damage	Type of Facility Affected	City Damage Occurred	Root Cause	Penalty Amount
9-18-2019	Service line	Edwardsville	Not marked	\$1,000
3-12-2020	Main line	Olathe	Not marked	\$1,000
4-20-2020	Main line	Sedan	Miss marked	\$1,000
5-06-2020	Service line	Lawrence	Not marked	\$1,000
6-15-2020	Main line	De Soto	Inaccurate mark	\$1,000
6-15-2020	Service line	Olathe	Not marked	\$1,000
6-16-2020	Main line	Lenexa	Not marked	\$1,000
8-05-2020	Main line	Olathe	Not marked	\$1,000

13. Staff issued Probable Non-Compliance notices to Atmos Energy on each violation outlined above, copies of which are attached to Staff’s Report and Recommendation, attached hereto as Attachment “A”. Atmos Energy responded to all violations, which responses are included in Attachment “A”.

⁵ See Report and Recommendation of Staff dated October 28, 2020, a copy of which is attached hereto as Attachment “A” and is hereby incorporated by reference.

14. Staff has issued a total of 40 Probable Non-Compliance notices to Atmos Energy from January 2018 to the present for violations of no locate marks or inaccurate locating issues.

IV. DISCUSSION OF ALLEGATIONS OF NONCOMPLIANCE

A. KUUDPA

15. KUUDPA requires operators (*i.e.*, public utilities) to provide excavators a “tolerance zone” of the operator’s underground facilities in the planned excavation area by marking, flagging or other acceptable method.⁶ For natural gas public utilities, the “tolerance zone” is an area not less than 24 inches of the outside dimensions in all horizontal directions of an underground facility.⁷ Within two working days, beginning after the day on which the excavator provided notice of its intent to excavate, an operator must inform an excavator of the tolerance zone.⁸ If an operator has no facilities in the area of proposed excavation, the operator must notify the excavator no facilities are present before the excavation start date.⁹

16. Atmos Energy was in non-compliance of KUUDPA requirements.

B. Recommended Penalty

17. Staff’s Report and Recommendation discussed Staff’s rationale for recommending a penalty against Atmos Energy. While KUUDPA allows an excavator to dig without locates if the required marking time has expired, most excavators will wait rather than risk damaging underground utilities or endangering life and property. Postponing excavation because of a failure to complete locates can result in costly downtime and scheduling problems including cancellation of contracts. Failing to provide accurate or timely locate marks has the potential for significant consequences to public safety. The absence of locate marks may give an excavator a false sense

⁶ See K.S.A. 66-1806(a).

⁷ See K.S.A. 66-1802(t).

⁸ See K.S.A. 66-1806(a).

⁹ See K.S.A. 66-1806(d)(1).

of security. Believing no underground utility facilities are present, the speed and force an excavator utilizes may result in greater damage. Staff's Report and Recommendation further details Atmos Energy's culpability, history of noncompliance, and aggravating or mitigating circumstances. Ultimately, Staff recommended the Commission issue a civil penalty of \$8,000 (\$1,000 for each violation) against Atmos Energy for violating KUUDPA and the Commission's pipeline safety regulations.¹⁰

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. 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 and further subject to the Commission's natural gas pipeline safety regulations. Specifically, the Commission finds Atmos Energy to be acting as an operator who operates Tier 1 facilities as defined in K.S.A. 66-1802.

19. The Commission finds Atmos Energy violated Kansas law governing underground utilities, including provisions of the KUUDPA and the Commission's pipeline safety regulations, as described above, and is therefore subject to sanctions or fines imposed by the Commission. Specifically, the Commission finds Atmos Energy failed to comply with K.S.A. 66-1806(a) for the above listed incident(s).

20. The Commission finds a civil penalty is warranted due to Atmos Energy's violation of KUUDPA and the Commission's pipeline safety regulations. Specifically, the Commission finds Atmos Energy shall be assessed an \$8,000 civil penalty.

¹⁰ See Staff's Report and Recommendation.

21. The Commission finds and concludes Atmos Energy shall be afforded an opportunity to request a hearing on the assessment of this civil penalty. Because the Commission is authorized to impose civil penalties and injunctive actions against any person or entity subject to and found in violation of KUUDPA, or any rule and regulation, or any order of the Commission, the Commission finds the hearing procedure adopted in the Commission's KUUDPA and procedural regulations shall control any subsequent hearings in this matter. Specifically, pursuant to K.A.R. 82-14-6(j), the Commission finds and concludes Atmos Energy shall have 15 days from the date of service of this Penalty Order to request a hearing on the matter. A request for hearing must comply with the provisions of K.A.R. 82-1-232(b). Hearings shall be conducted in accordance with K.A.R. 82-1-230.

22. Pursuant to K.A.R. 82-14-6(i), and (j), the Commission finds and concludes Atmos Energy's failure to pay the assessed civil penalty within 20 days or, in the alternative, request a hearing within 15 days from the date of service of this Penalty Order shall be considered an admission of noncompliance allegations contained herein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Atmos Energy Corporation, is hereby assessed an \$8,000 civil penalty for violating the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801, *et. seq.* and the Commission's natural gas pipeline safety regulations adopted pursuant to K.S.A. 66-1,150, *et seq.*

B. Pursuant to K.A.R. 82-14-6(j), Atmos Energy 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-mailing or mailing a copy of the request for hearing to the Litigation Counsel listed on the Notice of Penalty Assessment. Hearings will be scheduled only upon written request. Failure to timely request a hearing shall be considered an admission of noncompliance allegations

contained herein and result in a waiver of Atmos Energy's right to a hearing. A request for hearing must comply with the provisions of K.A.R. 82-1-232(b). Hearings shall be conducted in accordance with K.A.R. 82-1-230.

C. 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).

D. Pursuant to K.A.R. 82-14-6, if Atmos Energy does not request a hearing, the payment of the civil penalty is due in twenty (20) days from the date of service of this Order. Checks shall be made payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. The payment shall include a reference to the docket number (21-DPAX-208-PEN) of this proceeding.

E. Unless a hearing is requested, failure to pay the \$8,000 civil penalty within twenty (20) days from the date of service of this Penalty Order will result in enforcement action against Atmos Energy, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 12/22/2020



Lynn M. Retz
Executive Director

CRM

ATTACHMENT “A”

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Susan K. Duffy
Commissioner Dwight D. Keen
Commissioner Andrew J. French

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

DATE: October 28, 2020

SUBJECT: Docket Number: _____
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). Staff Case Numbers JW-20-OC-1039, JW-20-OC-1095, JW-20-OC-1101, CK-20-OC-1042

EXECUTIVE SUMMARY:

Staff is recommending a civil penalty be issued to Atmos Energy (Atmos) in the amount of \$8,000 for eight violations of Kansas Underground Utility Damage Prevention Act (KUUDPA) and Kansas pipeline safety regulation that occurred between September 2019 and August 2020. The penalty is based on results of Staff investigations following seven damages to Atmos natural gas lines in the areas of Johnson County and Wyandotte County, Kansas and the cities of Lawrence and Sedan, Kansas.

Failure to provide the excavator with the location of the tolerance zone of the buried facility before excavation begins is a violation of KUUDPA (i.e. K.S.A. 66-1806 (a)). Failure to follow a written procedure as required by pipeline safety regulations is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4. 49 C.F.R. 192.614 requires the operator to carry out its written program to prevent damage to underground pipelines while excavating. Staff asserts Atmos' failure to provide timely and accurate locates demonstrates a failure of Atmos to follow its procedure O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days).

Although each of the eight violations could be viewed as a KUUDPA violation and a pipeline safety violation, Staff has elected to recommend a penalty for only one violation at each investigation site. Staff is focusing on violations of pipeline safety regulations in enforcement proceedings in an attempt to influence natural gas operators to improve the effectiveness of existing procedures and, thereby, minimize future pipeline damages. In the past, Staff has recommended a penalty of \$500 per occurrence for violations of KUUDPA similar to those contained in this recommendation. However, in this case, Staff is recommending the penalty amount be increased to \$1,000 per violation.

For the time period of January of 2017 to the present, Staff has recommended a penalty for 41% of the 64 Notices of Probable Noncompliance (PNCs) that have been issued to Atmos because of ineffective locating practices. From January 2019 to the present, the number of PNCs recommended for a penalty has increased from two in 2019 to ten in 2020. Staff contends the increased number of violations over the past year indicates Atmos' ability to meet the statutory requirements has deteriorated within the last 22 months. For that reason, Staff is recommending a penalty amount of \$1000 per violation. Staff believes an increased penalty amount for each violation will provide a stronger signal to Atmos regarding the Commission's expectations for locate accuracy and timeliness.

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 the pipeline damage, the type of facility damaged, the city where the damage occurred, and Staff's assertion of the cause of the damage.

Case #	Date of Damage	Type of Facility Affected	City Damage Occurred	Root Cause	Code Violated	Penalty Amt.
CK-19-OC-1154	9/18/2019	Service	Edwardsville	Not Marked	192.614(a)	\$1,000
CK-20-OC-1034	3/12/2020	Main	Olathe	Not Marked	192.614(a)	\$1,000
JW-20-OC-1065	4/20/2020	Main	Sedan	Mis Marked	192.614(a)	\$1,000
CK-20-OC-1104	5/6/2020	Service	Lawrence	Not Marked	192.614(a)	\$1,000
CK-20-OC-1143	6/15/2020	Main	De Soto	Inaccurate Maps	192.614(a)	\$1,000
CK-20-OC-1147	6/15/2020	Service	Olathe	Not Marked	192.614(a)	\$1,000
CK-20-OC-1149	6/16/2020	Main	Lenexa	Not Marked	192.614(a)	\$1,000
CK-20-OC-1187	8/5/2020	Main	Olathe	Not Marked	192.614(a)	\$1,000
	TOTAL					\$8,000

Staff issued PNCs to Atmos on October 8, 2019, April 9, 2020, May 5, 2020, May 15, 2020, June 17, 2020 and August 10, 2020 respectively. Atmos has responded to all eight PNC's as required by K.A.R. 82-14-6(c). Responses are included 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”. Locating the buried facilities prior to the work greatly reduces the probability of causing damage to a buried facility and the potential for significant consequences to life, property and public safety. Regarding these PNC’s, Atmos has stated the buried gas services and mains that were damaged were not located at all or the locates that were provided were inaccurate.

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 40 KUUDPA PNC’s to Atmos from January 2018 to the present. These violations were for similar no locating or inaccurate locating issues.

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

Atmos responded to the PNC’s as required by K.A.R. 82-14-6(c) and agreed with Staff’s allegations as to the cause of the damage. Atmos personnel failed to provide accurate locates requested by the excavator. Atmos’ response stated that it reviewed the cause of these damages with the Atmos staff locators. In those meetings, Atmos restated expectations with locator management and personnel to include following procedures and referencing system mapping. Although Atmos continues to reinforce its training program with locators, Staff contends the typical corrective actions taken by Atmos in these situations lacks effectiveness.

E. Aggravating/Mitigating Circumstances:

Staff has not determined any circumstances that would cause modification of the recommended penalty amount of \$8,000.

RECOMMENDATION:

Staff recommends a civil penalty be issued to Atmos Energy in the amount of \$8,000 for eight violations of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

Attachme

Attachment 1

CK-19-OC-1154

KCC Description:

On 9/18/2019, Rylie Equipment Contracting damaged a natural gas service line in the vicinity of 10933 Kaw Dr. in Edwardsville, Kansas. One Call ticket #19432345 had a work to begin date of 9/17/2019. The Atmos facilities were not marked according to the requested area. The ticket indicated as being marked. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-19-OC-1154. After an internal investigation we determined that the damaged line was a service line to an adjacent building that was not reflected in our GIS electronic mapping and was not identified by our technician, resulting in the service line being damaged. While we are currently working on adding service lines to our electronic mapping, this service line was not identified electronically. Our G.I.S department will be adding the service lines in this business park to our mapping in order to prevent recurrence in the future. Our Damage Prevention Specialist has discussed the damage with the technician and reinforced the importance of always verifying services to surrounding buildings.

CK-20-OC-1034

KCC Description:

On 3/12/2019, Alfra Communication LLC damaged a natural gas road crossing line in the vicinity of 23242 W. 126th St. in Olathe, Kansas. One Call ticket #20095584 had a work to begin date of 3/12/2020. The Atmos facilities were not marked according to the requested area. The ticket indicated as being marked. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-20-OC-1034. After an internal investigation, we determined that the technician failed to read the locate instructions. Instead, the technician assumed this was the same work the excavator had called in previously for similar work on the same street using the same address but going the opposite direction. As a result, we did sustain a damage to our facility which could have been avoided if the technician would have thoroughly read the instructions on the locate ticket.

The technician was coached on site about reading all locate tickets thoroughly prior to conducting the locate to ensure the scope of the work is located in its entirety.

JW-20-OC-1065

KCC Description:

On 04/20/2020, SB Wyatt Contracting Inc. damaged an Atmos Energy PE gas line while installing water main at N. Douglas St. and E. Main St. in Sedan, Kansas. There was a valid One-Call ticket #20162831 with a due date of 04/20/2020. During the course of the investigation, SB Wyatt alleged Atmos did not provide locate marks for the gas line.

Operators Response:

This letter is in response to a PNC issued because of an excavation damage that occurred near the intersection of East Main and South Douglas in Sedan, Kansas, on 4/20/2020. The damaged facility was a 1-1/4 plastic main. The reason for the damage was determined to be an error in the electronic mapping system. An update that occurred in 2009 incorrectly posted the main as abandoned and the line was not located. Once the main was repaired, actions were taken to physically abandon the line. A small portion had to be left active, and now locates. Map corrections have been posted. Also, a root cause analysis meeting was conducted on 5/12/2020.

CK-20-OC-1104

KCC Description:

On 5/6/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas service line around the area of 1129 E. 1500 Rd in Lawrence, Kansas. Atmos alleges Flint Hills Underground, LLC, damaged an Atmos 1/2" CTS gas service line while replacing fiber main. There was a valid One-Call ticket #20185960. There were no locates present for this service line. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-20-OC-1104. After an internal investigation we determined that our online mapping did not identify this service line, which led to the technician missing it during the locate request. The technician knew that the property was vacant for some time and assumed a riser near the property line was that of the vacant property. He did not drive up to the building to verify or call for verification that there was no active service to the building. The technician has been coached and will physically verify or call for verification in the future. This line will also be added to our online mapping to ensure it is not missed in the future.

CK-20-OC-1143

KCC Description:

On 6/15/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas road crossing around the area of W. 84th Terr. & Primrose St. in De Soto, Kansas.

KCC alleges G.O. Technologies LLC damaged an Atmos 1" PE gas road crossing while replacing fiber main. There was a valid One-Call ticket #20258275. There were no locates present on this crossing. Atmos electronic maps did not show this street crossing. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-20-OC-1143. After an internal investigation, we determined that our technician did not locate the service line that was within the scope of the locate ticket. The technician looked at the online mapping and assumed that the service line ran to the front of the lot as it traditionally does. However, this service was ran to the side/rear of the lot and tied into a crossing that was not identified on our electronic mapping. The technician has been coached to always double check the path of a service line prior to clearing the area. We have also had this service line added to our electronic mapping to prevent this same situation from occurring in the future. Additionally, we have also discussed locate accuracy with our entire Service Department to reinforce the importance of it.

CK-20-OC-1147

KCC Description:

On 6/15/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas long-side service around the area of 27060 W. 102nd St. in Olathe, Kansas. KCC alleges Linaweaver Construction Inc. damaged an Atmos 3/4" PE gas service line during a street improvement project. There was a valid One-Call ticket #20272715 with a due date of 6/12/2020. There were no locates present on this long-side service. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-20-OC-1147. After an internal investigation we determined that our technician did not locate the service line that was within the scope of the locate ticket. The technician looked at the online mapping and assumed that the service line crossed S. Shadow Circle and was not in conflict with the work being done on W.102nd St., since the service riser was on the east side of the house and was not identified on the electronic mapping. The technician has been coached to never assume and always hook up to verify the path of the line. We have also had this service line added to our electronic mapping.

CK-20-OC-1149

KCC Description:

On 6/16/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas line around the area of 10201 Theden Cir. in Lenexa, Kansas. KCC alleges Heartland Midwest damaged an Atmos 2" PE gas main line while installing fiber main. There

was a valid One-Call ticket #20266263 with a due date of 6/10/2020. There were no locates present on this main. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-20-OC-1149. After an internal investigation, we determined that our technician did not locate a main that was within the scope of the ticket. The technician met the crew on site and spoke about their running line and did not look at the map in its entirety prior to completing the locate. The locator has been coached to always double check the map.

CK-20-OC-1187

KCC Description:

On 8/5/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos road crossing around the area of 435 S. Cherry St. in Olathe, Kansas. KCC alleges City of Olathe-Water damaged an Atmos 3/4" PE gas road crossing during a water line replacement project. There was a valid One-Call ticket #20364519 with a due date of 8/1/2020. There were no locates present on this crossing. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

Operators Response:

This letter is in response to the probable noncompliance violation CK-20-OC-1187. After an internal investigation we determined that the technician who located this project for the original locate request overlooked this crossing when he completed the locate. While toning out the system, he thought his tone led him to a crossing, south of where the damaged crossing was at, resulting in this oversight. Our electronic mapping showed an additional crossing that did not exist along this stretch causing some confusion for the original technician. The second technician who received the update locate for this project did not verify that everything in the scope of the ticket was located previously resulting in damage. Both technicians were coached on site to verify that all facilities are located accurately within the scope of a locate request by electronically toning the system, as well as looking at as-built mapping if needed. The Supervisor also addressed this with the entire locate team. A correction has been sent to our mapping department to remove the additional crossing and update our electronic mapping in this area.

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



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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

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

October 08, 2019

KCC Investigation #: CK-19-OC-1154

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 September 18, 2019, 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-19-OC-1154

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 9/18/2019, Rylie Equipment Contracting damaged a natural gas service line in the vicinity of 10933 Kaw Dr in Edwardsville, Kansas. One Call ticket #19432345 had a work to begin date of 9/17/2019. The Atmos facilities were not marked according to the requested area. The ticket indicated as being marked. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: Raym Masters Date: 10/29/19

PIPELINE SAFETY USE ONLY:
Date reviewed: _____ Date reviewed: _____
Chief: _____ Inspector: _____

Inspection Type: One Call Inquiry/Complaint
Date Inspected: 09/18/2019
Inspected By: CK

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



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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

April 09, 2020

KCC Investigation #: CK-20-OC-1034

Subject: Pipeline Investigation

Dear James Burgess:

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 March 12, 2020, 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-20-OC-1034

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.


"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 3/12/2019, Alfra Communication LLC damaged a natural gas road crossing line in the vicinity of 23242 W 126th St in Olathe, Kansas. One Call ticket #20095584 had a work to begin date of 3/12/2020. The Atmos facilities were not marked according to the requested area. The ticket indicated as being marked. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____



Date: _____

4/20/20

PIPELINE SAFETY USE ONLY:

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

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 03/12/2020

Inspected By: CK

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



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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

May 14, 2020

KCC Investigation #: CK-20-OC-1104

Subject: Pipeline Investigation

Dear James Burgess:

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 7, 2020, 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-20-OC-1104

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 5/6/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas service line around the area of 1129 E 1500 Rd in Lawrence, Kansas. Atmos alleges Flint Hills Underground, LLC damaged an Atmos 1/2" CTS gas service line while replacing fiber main. There was a valid One-Call ticket #20185960. There were no locates present on this service line. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____

Date: 05/26/20

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 05/07/2020

Inspected By: CK

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



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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

June 17, 2020

KCC Investigation #: CK-20-OC-1143

Subject: Pipeline Investigation

Dear James Burgess:

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 15, 2020, 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-20-OC-1143

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

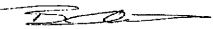
"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 6/15/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas road crossing around the area of W 84th Ter & Primrose St in De Soto, Kansas. KCC alleges G.O. Technologies LLC damaged an Atmos 1" PE gas road crossing while replacing fiber main. There was a valid One-Call ticket #20258275. There were no locates present on this crossing. Atmos electronic maps did not show this street crossing. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____



Date: 06/29/20

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 06/15/2020

Inspected By: CK



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

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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

June 17, 2020

KCC Investigation #: CK-20-OC-1147

Subject: Pipeline Investigation

Dear James Burgess:

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 15, 2020, 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-20-OC-1147

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 6/15/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas long-side service around the area of 27060 W 102nd St in Olathe, Kansas. KCC alleges Linaweaver Construction Inc damaged an Atmos 3/4" PE gas service line during a street improvement project. There was a valid One-Call ticket #20272715 with a due date of 6/12/2020. There were no locates present on this long-side service. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____ Date: 06/23/20

PIPELINE SAFETY USE ONLY:
 Date reviewed: _____ Date reviewed: _____
 Chief: _____ Inspector: _____

Inspection Type: One Call Inquiry/Complaint
 Date Inspected: 06/15/2020
 Inspected By: CK

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



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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

June 17, 2020

KCC Investigation #: CK-20-OC-1149

Subject: Pipeline Investigation

Dear James Burgess:

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 16, 2020, 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-20-OC-1149

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 6/16/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas line around the area of 10201 Theden Cir in Lenexa, Kansas. KCC alleges Heartland Midwest damaged an Atmos 2" PE gas main line while installing fiber main. There was a valid One-Call ticket #20266263 with a due date of 6/10/2020. There were no locates present on this main. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____ Date: 06/23/20

PIPELINE SAFETY USE ONLY:

Date reviewed: _____ Date reviewed: _____

Chief: _____ Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 06/16/2020

Inspected By: CK



1500 SW Arrowhead Road
Topeka, KS 66604-4027

Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

August 07, 2020

KCC Investigation #: CK-20-OC-1187

Subject: Pipeline Investigation

Dear James Burgess:

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 August 5, 2020, 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-20-OC-1187

Company: Atmos Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

"(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 8/5/2020, KCC Staff was notified of excavation work resulting in a damage that occurred to an Atmos gas road crossing around the area of 435 S Cherry St in Olathe, Kansas. KCC alleges City of Olathe-Water damaged an Atmos 3/4" PE gas road crossing during a water line replacement project. There was a valid One-Call ticket #20364519 with a due date of 8/1/2020. There were no locates present on this crossing. Atmos did not follow the procedure Atmos O&M 3.4.1 which directs Atmos to locate its gas facilities within the time allowed by the state damage prevention laws (2 full business days). Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____

Date: 08/17/20

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 08/05/2020

Inspected By: CK

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



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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

James Burgess
Atmos Energy
25010 West 110th Terrace
Olathe, KS 66061

May 05, 2020

KCC Investigation #: JW-20-OC-1065

Subject: Pipeline Investigation

Dear James Burgess:

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, 2020, 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**

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 04/20/2020, SB Wyatt Contracting Inc damaged a Atmos Energy PE gas line while installing water main at N Douglas St. and E Main St. in Sedan, Kansas. There was a valid One-Call ticket #20162831 with a due date of 04/20/2020. During the course of the investigation, SB Wyatt alleged Atmos did not provide locate marks for the gas line.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____ Date: 6/2/2020

PIPELINE SAFETY USE ONLY:	
Date reviewed: _____	Date reviewed: _____
Chief: _____	Inspector: _____

Inspection Type: One Call Inquiry/Complaint
 Date Inspected: 04/20/2020
 Inspected By: JW

CERTIFICATE OF SERVICE

21-DPAX-208-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail/hand delivered on 12/22/2020.

BARTON W. ARMSTRONG, VICE PRESIDENT,
OPERATIONS
ATMOS ENERGY CORPORATION
25090 W 110TH TERR
OLATHE, KS 66061
bart.armstrong@atmosenergy.com

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

/S/ DeeAnn Shupe

DeeAnn Shupe