



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

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

Laura Kelly, Governor

NOTICE OF PENALTY ORDER
20-DPAX-113-PEN

September 17, 2019

Jerry Watkins
Black Hills Energy Corporation
2330 N Hoover
Wichita, Kansas 67205

This is a notice of penalty assessment for violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) discovered during investigations conducted on July 15, 2019 and August 12, 2019, by Kansas Corporation Commission Staff. For a full description of the violation(s) and penalty please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$1,000 penalty. You have twenty (20) days from the date of service of the Penalty Order to pay the fine amount. Checks should be payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and shall include a reference to the docket number of this proceeding.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. Requests for hearings must be made in writing, setting forth the specific grounds upon which relief is sought. The company may electronically file its request for hearing within fifteen (15) days from the date of service of this Penalty Order, and e-mail or mail a copy of the request for hearing to the Litigation Counsel listed below. If the company does not have access to the internet, it must submit an 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, and provide a copy to the Litigation Counsel listed below.

IF YOU FAIL TO ACT:

Pursuant to K.A.R. 82-14-6(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 and result in this Penalty Order becoming a Final Order where after the Commission may order further sanctions.

Respectfully,

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

In the Matter of the Investigation of Black)	
Hills Energy Corporation of Wichita,)	
Kansas, Regarding Violation(s) of the Kansas)	
Underground Utility Damage Prevention Act)	Docket No. 20-DPAX-113-PEN
(KUUDPA) (K.S.A. 66-1801, <i>et seq.</i> , and)	
K.A.R. 82-14-1, <i>et seq.</i>), and the)	
Commission's Authority to Impose Penalties)	
and/or Sanctions (K.S.A. 66-1,151).)	

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. JURISDICTION AND BACKGROUND

1. 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.* Likewise, 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, *et seq.*

2. In its enforcement of KUUDPA, pursuant to K.A.R. 82-14-6, as amended, 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.

3. The Commission shall impose civil penalties and injunctive actions against any person or entity subject to and found in violation of the provisions of KUUDPA, or any rule and regulation, or any order of the Commission. Each violation is subject to a 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. *See* K.S.A. 66-1812, 66-1,151 and amendments thereto; and, K.A.R. 82-14-6.

II. ALLEGATIONS OF NONCOMPLIANCE

4. Pursuant to the above authority, Commission Staff (Staff) investigated the activities and operations of Black Hills Energy Corporation (Respondent). *See* Report and Recommendation of Staff dated August 30, 2019, a copy of which is attached hereto as Attachment “A” and is hereby incorporated by reference. As a result of this investigation, Staff reports the following:

- a. On July 15, 2019, Staff performed an onsite inspection at various 3642 N Ridge Road in Wichita, Kansas. Staff’s investigation discovered locates were not provided by Respondent after being requested. Because Respondent did not provide locates, the excavator damaged a Black Hills Energy Corporation 1” PE service line at the aforementioned address occurred. No injuries or additional property damage occurred.
- b. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on July 19, 2019, citing the violation of K.S.A. 66-1806(a) as follows:

(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.

- c. Staff's Notice of Probable Noncompliance notified Respondent of the investigation results. The letter instructed Respondent to respond within thirty (30) days and to indicate whether it accepted or disagreed with the findings of Staff's investigation. The notice also requested Respondent to provide written explanation of the actions taken by it to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why it disagreed with the findings, including identification of any errors in the Notice of Probable Noncompliance.
- d. On July 25, 2019, Respondent responded to the Notice of Probable Noncompliance. Respondent stated it agreed with the information contained in the Notice of Probable Noncompliance and as a result, also agreed with Staff's finding of fault. Staff recommends a fine of \$500 for this violation.
- e. On August 12, 2019, Staff performed an onsite inspection at 5618 W 21st Street N in Wichita, Kansas. Staff's investigation discovered locates were not provided by Respondent after being requested. Because Respondent did not provide locates, the excavator damaged a Black Hills Energy Corporation ¾" PE service line at the aforementioned address occurred. No injuries or additional property damage occurred.

- f. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on August 14, 2019, citing the violation of K.S.A. 66-1806(a) as follows:

(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.

- g. Staff's Notice of Probable Noncompliance notified Respondent of the investigation results. The letter instructed Respondent to respond within thirty (30) days and to indicate whether it accepted or disagreed with the findings of Staff's investigation. The notice also requested Respondent to provide written explanation of the actions taken by it to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why it disagreed with the findings, including identification of any errors in the Notice of Probable Noncompliance.
- h. On August 19, 2019, Respondent responded to the Notice of Probable Noncompliance. Respondent stated it agreed with the information contained in the Notice of Probable Noncompliance and as a result, also agreed with Staff's finding of fault. Staff recommends a fine of \$500 for this violation.

5. KUUDPA requires all utilities to inform the excavator of the location of the utilities' underground facilities at a given excavation site within a 48-inch tolerance zone. A

locate is required to be completed within two working days after the day on which the excavator provided notice of its intent to excavate. Although KUUDPA allows an excavator to dig without locates being completed if the required marking time has expired, most excavators will wait for locates rather than take the risk of damaging underground facilities or endangering life and property. Postponing excavation because of the failure of utilities to complete locates for excavators can result in costly downtime and scheduling problems, including but not limited to, cancellation of contracts.

6. Staff recommends the Commission issue a total civil penalty of \$1,000 for the above-described violation(s) of the Kansas Underground Utility Damage Prevention Act as alleged.

III. CONCLUSIONS OF LAW

7. The Commission finds it has jurisdiction over Black Hills 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. Specifically, the Commission finds Respondent to be acting as an operator who operates Tier 1 facilities as defined in K.S.A. 66-1802.

8. The Commission finds Respondent violated Kansas law governing underground utilities, including various provisions of the Kansas Underground Utility Damage Prevention Act, as described above, and is therefore subject to sanctions or fines imposed by the Commission. Specifically, the Commission finds Respondent failed to comply with K.S.A. 66-1806(a) for the above listed incident(s).

9. The Commission finds a civil penalty is warranted due to Respondent's violation(s) of the Kansas Underground Utility Damage Prevention Act. Accordingly, pursuant

to K.S.A. 66-1812 and K.S.A. 66-1,151, the Commission concludes the Respondent shall be assessed a \$1,000 penalty for violation(s) of the Kansas Underground Utility Damage Prevention Act.

10. The Commission finds and concludes Respondent shall be afforded an opportunity to request a hearing on the assessment of this civil penalty. Pursuant to K.A.R. 82-14-6(j), the Commission finds and concludes Respondent shall have 15 days from the date of service of this Penalty Order to request a hearing on the matter. Pursuant to K.A.R. 82-14-6(i), and (j), the Commission finds and concludes Respondent's failure to pay the assessed civil penalty within 20 days or request a hearing within 15 days from the date of service of this Penalty Order shall be considered an admission of noncompliance. To ensure uniformity and consistency among Commission proceedings, the Commission finds and concludes any hearing on this matter before the Commission shall be conducted in a manner consistent with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

THE COMMISSION THEREFORE ORDERS THAT:

A. Black Hills Energy Corporation, is hereby assessed a \$1,000 civil penalty for the violation(s) of the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et. seq.*

B. Pursuant to K.A.R. 82-14-6(j) and amendments thereto, any party 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-mail or mail a copy of the request for hearing to the Litigation Counsel listed on the Notice of Penalty Assessment. If the company does not have access to the internet, it must submit an 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, and provide a copy to Litigation Counsel.

Hearings will be scheduled only upon written request. Failure to timely request a hearing shall be considered an admission of noncompliance and result in a waiver of Respondent's right to a hearing. Furthermore, this Penalty Order will become a Final Order assessing a \$1,000 civil penalty against Respondent. Any hearing on this matter before the Commission shall be conducted in a manner consistent with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

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 you do not request a hearing, the payment of the civil penalty is due in twenty (20) days from the date of service of this Order. A check shall be made payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. The payment shall include a reference to the docket number of this proceeding.

E. Unless a hearing is requested, failure to pay the \$1,000 civil penalty within twenty (20) days from the date of service of this Penalty Order will result in enforcement action against Respondent, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

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

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 09/17/2019

A handwritten signature in cursive script, reading "Lynn M. Retz".

Lynn M. Retz
Executive Director

CRM/vj

ATTACHMENT “A”

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

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

DATE: August 30, 2019

SUBJECT: **Docket Number:** 20-DPAX-113-PEN
In the Matter of the Investigation of Black Hills 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).

EXECUTIVE SUMMARY:

Staff is recommending a civil penalty be issued to Black Hills Energy (BHE) in the amount of \$1,000 for two violations of KUUDPA that have occurred in the past two months. The penalty is based on results of Staff investigations following two damages to BHE natural gas service lines in Sedgwick County, Kansas. Failure to provide the excavator with the location of the tolerance zone of the buried facility before excavation begins is a violation of K.S.A. 66-1806 (a).

BACKGROUND:

BHE's 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; address where the damage occurred; and Staff's assertion of the cause of the damage along with Staff's recommended penalty amount for each of the damages.

Date of Damage	Type of Facility Affected	Address Damage Occurred	Root Cause	Amount of Fine
07/15/2019	1" PE Service Line	3642 N. Ridge Rd., Wichita, Kansas	Not Marked	\$500
08/12/2019	3/4" PE Service Line	5618 W. 21 st St. N., Wichita, Kansas	Not Marked	\$500
TOTAL				\$1,000

Notices of Probable Noncompliance (PNC) were issued to BHE on July 19, 2019, and August 14, 2019. BHE has responded to both PNC's as required by K.A.R. 82-14-6(c) and agrees with Staff's allegations as to the cause of the damage. BHE's response for each PNC is included in this memorandum 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, BHE has stated the buried gas services that were damaged were not located.

B. Culpability:

BHE 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 16 KUUDPA PNCs to BHE in the years 2017, 2018 and to the present. These violations were for similar no locating or inaccurate locating issues.

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

BHE responded to the PNCs as required by K.A.R. 82-14-6(c) and agreed with Staff's allegations as to the cause of the damage. BHE personnel failed to provide locates

requested by the excavator. BHE has reviewed these damages and restated expectations for locator management and personnel to include: following locating procedures and referencing system mapping. For each of these damages, Staff research of the One-Call database confirmed the excavator had requested locates prior to excavating. From Staff's onsite visit and pictures provided, no locate marks were noted.

E. Aggravating/Mitigating Circumstances:

Staff has not determined any circumstances that would cause modification of the recommended penalty amount of \$1,000.

RECOMMENDATION:

Staff recommends a civil penalty be issued to Black Hills Energy in the amount of \$1,000 for violation(s) of KUUDPA K.S.A. 66-1806.

Attachment

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

Jerry Watkins
Black Hills Energy
2330 N. Hoover Road
Wichita, KS 67205

July 19, 2019

KCC Investigation #: JW-19-OC-1153

Subject: Pipeline Investigation

Dear Jerry Watkins:

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 July 17, 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 Black Hills 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

Attachment 1

PROBABLE NONCOMPLIANCE

Investigation: JW-19-OC-1153

Company: Black Hills 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 whittled 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 07/15/2019, Fremar Corporation damaged a BHE PE 1 inch gas service while improving a parking lot at 3642 N Ridge Rd. Wichita, KS 67205. There was a valid One-Call ticket #19305397 with a due date of 07/11/2019. During the course of the investigation, Fremar Corporation alleged BHE did not provide locate marks for the service line.

OPERATOR'S RESPONSE: (Attach verification if needed)

Please see attached document -

Operator's Authorized Signature: _____

Date: 7/25/19

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 07/17/2019

Inspected By: JW

Facts related to KCC Probably Noncompliance

Investigation #: JW-19-OC-1153

Location: 3642 N Ridge Rd., Wichita, KS

Scenario: Contract locate company employee failed to locate 1" PE service line correctly as required.

Follow up: Black Hills met with its contract locate company (USIC) supervisor and their locator on site to investigate why the gas line had not been located correctly within the dig area as requested by the Kansas One Call ticket.

It was discovered during this investigation at the property address of 3642 N Ridge Rd., where locate ticket #19305397 was active, that the contact locator failed to properly update a prior locate ticket due to a misunderstanding that the work in the parking lot had already been completed.

- As part of the review with USIC management and staff, we reiterated the importance of properly communicating with the company that calls in for the locate ticket and that you can never assume they are completed with their work.
- The expectation is to always locate the area requested and to call and confirm any questions throughout the process.

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

Jerry Watkins
Black Hills Energy
2330 N. Hoover Road
Wichita, KS 67205

August 13, 2019

KCC Investigation #: JW-19-OC-1173

Subject: Pipeline Investigation

Dear Jerry Watkins:

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 12, 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 Black Hills 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: JW-19-OC-1173

Company: Black Hills 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.

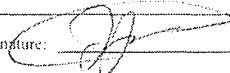
PROBABLE NONCOMPLIANCE DESCRIPTION:

On 08/12/2019, BHE did not properly mark their facilities at 5618 W 21st St. N. Wichita, KS 67205. Betzen Trenching damaged a BHE 3/4 inch PE gas service line while installing secondary electric service. There was a valid One-Call ticket #19356121 with a due date of 08/06/2019. The gas service line was not located.

OPERATOR'S RESPONSE: (Attach verification if needed)

Please see attachment

Operator's Authorized Signature:



Date:

8/19/19

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 08/12/2019

Inspected By: JW

Facts related to KCC Probable Noncompliance

Investigation #: CK-19-OC-1173

Location: 5618 W. 21st St. N. Wichita, Ks.

Scenario: Betzen Trenching was installing a secondary electric service at 5618 W. 21st St. N. in the process hit a 1" PE service with a backhoe. The line was not marked. The contractor had a legal locate request #19356121 with a due date of 8.6.2019.

Follow up: Main and service was locatable per Mark Henson (BHE investigator). The line was shut off and repaired by USC.

The issues found during this investigation at the property address of 5618 W. 21 St. N. where locate ticket #19356121 was active, that we believe were significant contributors to the incident:

- USIC comments were: Johnnie Sparks, the USIC locator that located this site stated the contractor told him that he would not be working in that area so he didn't need locate it. The locate request was for the entire property.

Black Hills reviewed the hit line with USIC management at our monthly meeting. Expectations were restated for USIC management and the locator involved that included; following procedures and referencing system mapping.

CERTIFICATE OF SERVICE

20-DPAX-113-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 09/18/2019.

JERRY A WATKINS, GENERAL MANAGER
BLACK HILLS/KANSAS GAS UTILITY COMPANY, LLC
D/B/A BLACK HILLS ENERGY
2330 N HOOVER
WICHITA, KS 67205
Fax: 316-772-2656
jerry.watkins@blackhillscorp.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