

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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Kansas Corporation
Commission

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<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ORDER
25-DPAX-300-PEN

April 29, 2025

Greg Clarkson
AT&T LLC
9615 N Rockwill
Oklahoma City, OK 73162

YOU HAVE BEEN ASSESSED A PENALTY: 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. You have been assessed a \$60,000 penalty. For a full description of the penalty please refer to the order attached to this notice.

IF YOU ACCEPT THE PENALTY: The assessed penalty is \$60,000. 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 (25-DPAX-300-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. 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/ Ahsan Latif
Ahsan Latif, S. Ct. No. 24709
Litigation Counsel
(785) 271-3118
ahsan.latif@ks.gov

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of AT&T)
LLC Regarding Violations of the Kansas)
Underground Utility Damage Prevention Act) Docket No. 25-DPAX-300-PEN
(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).)

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

1. The Commission has jurisdiction to administer and enforce the Kansas Underground Utility Damage Prevention Act ("KUUDPA"), as provided in K.S.A. 66-1801, et seq. The Commission has full power and authority to adopt all necessary rules and regulations for carrying out the provisions of the KUUDPA, including imposing civil penalties and injunctive relief against any person or entity subject to and found in violation of the KUUDPA, or any rule, regulation, or order of the Commission.

2. AT&T LLC ("AT&T") operates as a public utility pursuant to Commission-issued certificates of convenience and necessity.

3. AT&T 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 the KUUDPA, AT&T 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.

II. NONCOMPLIANCE

4. Between April 30, 2024, to May 30, 2024, Commission Staff (“Staff”) conducted multiple onsite investigations of the operations of AT&T, regarding providing timely locate marks on its underground facilities within the time allowed by the state damage prevention laws of two business days. On November 22, 2024, Staff submitted its Report and Recommendation (“R&R”) including attachments which is made a part hereof and incorporated by reference hererin as **Attachment A**.¹

5. Staff found during its investigations that between April 30, 2024 to May 30, 2024, AT&T failed to provide excavators with the location of the tolerance zone of the buried facilities within the time required on sixty (60) separate occasions. The table below lists specifics for all sixty violations, including the locate request number, the original due date for the locate to be completed, the date work was completed, the stated reason for the inability to meet the original due date, and Staff’s recommended penalty amount.

Violation No.	Locate Request No.	Original Due Date	Completed Date	Reason for Late	Penalty Amount
1	24245460	May 17, 2024	May 20, 2024	Capacity	\$1,000
2	24245453	May 17, 2024	May 20, 2024	Capacity	\$1,000
3	24254580	May 16, 2024	May 20, 2024	Project	\$1,000
4	24255022	May 16, 2024	May 20, 2024	Capacity	\$1,000
5	24248126	May 17, 2024	May 20, 2024	Capacity	\$1,000
6	24245566	May 17, 2024	May 20, 2024	Capacity	\$1,000
7	24244925	May 16, 2024	May 18, 2024	Capacity	\$1,000
8	24240811	May 16, 2024	May 20, 2024	Capacity	\$1,000
9	24248999	May 17, 2024	May 20, 2024	Capacity	\$1,000

¹ Report and Recommendation, Utilities Division, Docket No. 25-DPAX-300-PEN (Nov. 22, 2024) (“Staff’s R&R” or “R&R”).

10	24245421	May 17, 2024	May 23, 2024	Capacity	\$1,000
11	24244327	May 16, 2024	May 20, 2024	Capacity	\$1,000
12	24244344	May 16, 2024	May 20, 2024	Capacity	\$1,000
13	24245138	May 17, 2024	May 24, 2024	Capacity	\$1,000
14	24249194	May 17, 2024	May 20, 2024	Capacity	\$1,000
15	24247730	May 17, 2024	May 20, 2024	Fell Behind	\$1,000
16	24247219	May 17, 2024	May 21, 2024	Capacity	\$1,000
17	24247203	May 17, 2024	May 21, 2024	Project/Capacity	\$1,000
18	24248441	May 18, 2024	May 20, 2024	Capacity	\$1,000
19	24235210	May 13, 2024	May 29, 2024	Capacity	\$1,000
20	24248962	May 15, 2024	May 20, 2024	Capacity	\$1,000
21	24229323	May 8, 2024	May 9, 2024	Capacity	\$1,000
22	24209188	May 16, 2024	May 17, 2024	Capacity	\$1,000
23	24209188	April 29, 2024	May 17, 2024	Capacity	\$1,000
24	24248160	May 17, 2024	May 20, 2024	Capacity	\$1,000
25	24247226	May 17, 2024	May 20, 2024	Project	\$1,000
26	24247223	May 17, 2024	May 20, 2024	Project/Capacity	\$1,000
27	24232714	May 10, 2024	May 21, 2024	Capacity	\$1,000
28	24232696	May 11, 2024	May 21, 2024	Capacity	\$1,000
29	24241819	May 16, 2024	May 20, 2024	Project/Capacity	\$1,000
30	24243055	May 15, 2024	May 23, 2024	Project	\$1,000
31	24246726	May 16, 2024	May 20, 2024	Capacity	\$1,000
32	24244540	May 16, 2024	May 21, 2024	Capacity	\$1,000
33	24244552	May 16, 2024	June 3, 2024	Project/Capacity	\$1,000
34	24243387	May 15, 2024	May 20, 2024	Capacity	\$1,000
35	24248118	May 17, 2024	May 20, 2024	Capacity	\$1,000
36	24249446	May 17, 2024	May 29, 2024	Capacity	\$1,000
37	24240638	May 15, 2024	May 28, 2024	Capacity	\$1,000
38	24234672	May 13, 2024	May 20, 2024	Capacity	\$1,000
39	24240715	May 15, 2024	May 21, 2024	Capacity	\$1,000
40	24240638	May 15, 2024	May 21, 2024	Project/Capacity	\$1,000
41	24244503	May 16, 2024	May 20, 2024	Capacity	\$1,000
42	24249494	May 17, 2024	May 20, 2024	Capacity	\$1,000
43	24240637	May 16, 2024	May 20, 2024	Capacity	\$1,000
44	24243357	May 15, 2024	May 21, 2024	Capacity	\$1,000
45	24237988	May 14, 2024	May 19, 2024	Capacity	\$1,000
46	24248877	May 17, 2024	May 20, 2024	Capacity	\$1,000
47	24246895	May 16, 2024	May 21, 2024	Project/Capacity	\$1,000
48	24247174	May 17, 2024	May 20, 2024	Project/Capacity	\$1,000
49	24247154	May 17, 2024	May 20, 2024	Project/Capacity	\$1,000
50	24249929	May 15, 2024	May 17, 2024	Capacity	\$1,000
51	24241104	May 2, 2024	May 16, 2024	Project	\$1,000
52	24229505	May 17, 2024	May 20, 2024	Capacity	\$1,000
53	24248933	May 17, 2024	May 20, 2024	Capacity	\$1,000

54	24248916	May 17, 2024	May 20, 2024	Capacity	\$1,000
55	24242148	May 16, 2024	June 1, 2024	Capacity	\$1,000
56	24245861	May 16, 2024	May 18, 2024	Project	\$1,000
57	24245850	May 17, 2024	May 18, 2024	Project	\$1,000
58	24249118	May 18, 2024	June 8, 2024	Capacity	\$1,000
59	24241484	May 15, 2024	May 24, 2024	Capacity	\$1,000
60	24247183	May 17, 2024	May 20, 2024	Capacity	\$1,000
	TOTAL				\$60,000

6. Staff subsequently issued Notices of Probable Noncompliance (“PNCs”) to AT&T for each of the above-described instances, notifying AT&T of the results of Staff’s investigation, copies of which are attached hereto and incorporated by reference herein as **Attachment B**.

7. AT&T responded to all sixty PNCs as required by K.A.R. 82-14-6(c) and admitted that buried lines were not located before excavation began, attributing the delays to a lack of capacity to complete the request or falling behind on projects. A copy of the response is included in Attachment B to this order.

8. Staff’s R&R Staff recommended that the Commission find that AT&T was directly responsible for failing to provide accurate and timely locates of the tolerance zone of the buried facilities before excavation began as required by K.S.A. 66-1806(a) on sixty (60) separate occasions. Furthermore, Staff recommended that the Commission find that AT&T is responsible for ensuring its staff and contractors follow the required operations and maintenance procedures required by pipeline safety regulations, specifically K.S.A. 66-1806 and K.A.R. 82-14-6(c).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The Commission finds it has full power and authority under K.S.A. 66-1815(a) to adopt all necessary rules and regulations for carrying out the provisions of the KUUDPA.

10. The Commission finds that during the incidents at issue, AT&T was acting as an Operator of a Tier 1 facility, as defined in K.S.A. 66-1802(k) and (q).

11. The Commission finds that, pursuant to K.A.R. 82-14-6(a), Staff was authorized to serve a PNC after Staff investigated AT&T regarding damage to gas service lines and gas main lines.

12. The Commission finds that AT&T violated Kansas law governing underground utilities, including provisions of the KUUDPA, as described above, and is therefore subject to sanctions or fines imposed by the Commission. Specifically, the Commission finds that AT&T failed to comply with K.S.A. 66-1806(a) for the above-listed incidents.

13. The Commission finds that AT&T is responsible for ensuring its staff and contractors follow the required operations and maintenance procedures required by federal pipeline safety regulations, specifically K.S.A. 66-1806 and K.A.R. 82-14-6(c).

14. The Commission finds that the penalty amount recommended by Staff is necessary to correct AT&T's violations.

15. The Commission concludes that AT&T violated K.S.A. 66-1806(a), and that Staff's recommendation that AT&T be assessed a \$60,000 civil penalty is just and reasonable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. AT&T LLC is hereby assessed a \$60,000 civil penalty for sixty (60) violations 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), AT&T LLC 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 AT&T LLC'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 AT&T LLC 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 (25-DPAX-300-PEN) of this proceeding.

E. Unless a hearing is requested, failure to pay the \$60,000 civil penalty within twenty (20) days from the date of service of this Penalty Order will result in further enforcement actions against AT&T LLC, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 04/29/2025



Celeste Chaney-Tucker
Executive Director

AAL

ATTACHMENT “A”

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Suzanne Balandran, Public Service Administrator
Paul Owings, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: November 22, 2024

SUBJECT: Docket Number: 25-DPAX-300-PEN
In the Matter of the Investigation of AT&T LLC 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:

As a result of Staff's investigation in Case Number SB-24-UN-1001, Staff recommends a civil penalty in the amount of \$60,000 be assessed to AT&T LLC (AT&T) for violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA). From April 30, 2024, through May 30, 2024, AT&T failed to provide locates of its underground facilities within the time limits required by KUUDPA in Wichita, Burrton, Olathe, Overland Park, Kansas City and its surrounding metropolitan areas in Kansas on 60 occasions. Failure to inform the excavator of the tolerance zone within two working days is a violation of K.S.A. 66-1806. Staff issued a Notice of Probable Noncompliance (PNC) to AT&T on May 6 for each violation that occurred between May 10 and May 30, 2024. AT&T responded to the PNC on June 18, 2024, as required by K.A.R. 82-14-6(c).

ANALYSIS:

AT&T is an Operator of Tier 1 facilities as defined in K.S.A. 66-1802. Operators of Tier 1 facilities must inform excavators of the tolerance zone of the underground facilities by marking, flagging, or other acceptable method per K.S.A. 66-1806. Operators of Tier 1 facilities have two working days before the excavation scheduled start date assigned by the notification center to inform excavators of the location of their facilities per K.A.R. 82-14-3(f).

Staff performed an investigation of non-response tickets submitted from April 30, 2024, through May 18, 2024 for AT&T in given regions. Non-response tickets are initiated by excavators when

a member utility or operator fails to respond to a requested utility locate within the allotted time as specified above. Staff identified 81 non-response tickets and issued a PNC to AT&T on June 6, 2024. The PNC alleged that AT&T did not inform the excavator of the tolerance zone for its underground facilities within the required time frame which is a violation of KUUDPA.

AT&T responded to 80 of the alleged non-responses on July 8, 2024, refer to Attachment A. For 60 of the 80 responses, AT&T did not contest Staff's allegations of non-compliance. AT&T contested a portion of the violations arguing they either provided locates within the allotted time or cleared the excavator as there were no buried utilities within the locate area. Another portion of the alleged non-response ticket numbers were duplicates. Staff recommends the Commission penalize AT&T for each of the 60 violations which were not contested. The following provides the rationale for the penalty:

Rationale for Penalties:

A. Authority:

The Commission has authority to issue civil penalties and injunctive relief to any person who violates KUUDPA per K.S.A. 66-1812. The Commission is required to administer and enforce KUUDPA per K.S.A. 66-1813.

B. Supporting Documents:

Attachment A includes AT&T's response to the PNC issued by Staff. The response contains Staff's allegation that AT&T did not inform the excavator of the tolerance zone for its underground utilities and lists the respective tickets for each of the 60 allegations of noncompliance. Attachment A also includes AT&T's acknowledgement of the violation.

C. History of noncompliance:

Staff has issued 9 Notices of Probable Noncompliance for 57 violations of KUUDPA to AT&T in the past two years.

D. Response of operator regarding noncompliance(s):

AT&T agreed with Staff's findings on 60 locate tickets. AT&T acknowledged that the contract locator completed the locate requests after the due date of the locate ticket and upon receipt of the non-response ticket. A non-response ticket was requested by the excavator for each ticket that the operator has not completed the locate request by the ticket due date.

RECOMMENDATION:

Staff recommends a civil penalty of \$1,000 be assessed to AT&T for each of the 60 offenses that were acknowledged by AT&T. A total penalty in the amount of \$60,000 is recommended for violating K.S.A. 66-1806 and K.A.R. 82-14-6(c).

Attachments

ATTACHMENT “B”

[illegible]

CERTIFICATE OF SERVICE

25-DPAX-300-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 and electronic service on 04/29/2025.

Greg Clarkson, SR. ADMIN ENVIRON HEALTH & SAFETY
MANAGER
AT&T
9615 N Rockwell
Oklahoma City, OK 73162

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/S/ KCC Docket Room

KCC Docket Room