

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

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

In the Matter of the Investigation of Kansas)
Gas Service, A Division of ONE Gas of)
Overland Park, Kansas, Regarding)
Violation(s) of the Kansas Underground)
Utility Damage Prevention Act (KUUDPA)) Docket No. 16-DPAX-070-PEN
(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))

ORDER ON RECONSIDERATION AND ASSESSING CIVIL PENALTY

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, and being duly advised in the premises, the Commission makes the following findings and conclusions:

1. On August 20, 2015, the Commission issued a Penalty Order against Kansas Gas Service, A Division of ONE Gas (KGS) related to fifteen occasions of violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA), K.S.A. 66-1801 *et seq.*, and assessed fines totaling \$7,500.00, or \$500.00 per violation.

2. On September 4, 2015, KGS submitted a Petition For Review and Consideration of Issues Not Resolved in This Docket or Reconsideration For The Purpose of Further Review (Petition for Reconsideration). KGS' Petition for Reconsideration set forth the extenuating circumstances related to the proliferation of locale activity brought on by unusually high

construction activity related to fiber network expansion in Johnson and Wyandotte Counties, Kansas.

3. On October 1, 2015, the Commission issued an Order Granting Reconsideration and Staying Effectiveness of Civil Penalty during the pendency of the Commission's reconsideration.

4. K.S.A. 66-1813 charges the Commission with the administration and enforcement of KUUDPA. K.S.A. 66-1812 states that any person who violates any provision of KUUDPA shall be subject to civil penalties as set out in K.S.A. 66-1,151. K.S.A. 66-1,151 describes monetary civil penalties against any person who violates KUUDPA. Specifically, these fines may total up to \$25,000 for each violation for each day such violation exists. The maximum civil penalty for a series of related violations is \$1,000,000. K.S.A. 66-1,152 allows the Commission to compromise on a penalty imposed for a violation of KUUDPA.

5. Pursuant to the explanation provided by KGS in their Petition for Reconsideration, the Commission is inclined to compromise and grant leniency to KGS reducing the penalty imposed to \$250 per violation, or totaling \$3,750.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. KGS shall pay penalty in the amount of \$3,750 for violation of the Kansas Underground Utility Damage Prevention Act (KUUDPA), K.S.A. 66-1801 *et seq.*

B. Pursuant to K.S.A. 82-14-6, payment is due within twenty (20) days of the date of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American

Express), account number and expiration date. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604. Credit card payments can be made by calling the Fiscal Office at 785-271-3351. The payment shall include a reference to the docket number of this proceeding.

C. Failure to pay the civil penalty within twenty (20) days of the issuance 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.

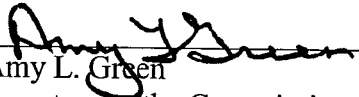
D. This Order constitutes final agency action pursuant to K.S.A. 77-607(b)(1). The proper party to receive service of a petition for judicial review on behalf of the agency is Amy L. Green, Secretary to the Commission, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604-4027. (K.S.A. 77-613(e)).

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: OCT 15 2015



Amy L. Green
Secretary to the Commission

DLK/sc

ORDER MAILED OCT 16 2015

CERTIFICATE OF SERVICE

16-DPAX-070-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on **OCT 15 2015**.

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/S/ DeeAnn Shupe
DeeAnn Shupe

ORDER MAILED OCT 16 2015