

STATE OF KANSAS



CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

**NOTICE OF PENALTY ORDER**

19-DPAX-160-PEN

October 30, 2018

Bryan Maskus  
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) discovered during investigations conducted during the third quarter of 2018, 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 \$1,500 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 Commission's Secretary 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*

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

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Investigation of <b>Atmos</b>	)	
<b>Energy Corporation of Olathe, Kansas,</b>	)	
Regarding Violation(s) of the Kansas	)	
Underground Utility Damage Prevention Act	)	Docket No. 19-DPAX-160-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, on VARIOUS Commission Staff (Staff) investigated the activity and operations of Atmos Energy Corporation (Respondent). *See* Report and Recommendation of Staff dated October 11, 2018, a copy of which is attached hereto and hereby incorporated by reference. As a result of this investigation, Staff reports the following:

- a. On July 11, 2018, Staff performed an onsite inspection at College Boulevard and Hauser Street in Overland Park, Kansas. Staff's investigation discovered accurate locates were not provided by Respondent after being requested. Because Respondent did not provide accurate locates, damage to a 1-1/4" diameter plastic natural gas main line occurred at the aforementioned address. No injuries or additional property damage occurred. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on July 17, 2018, 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.

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. On August 7, 2018, Respondent responded to the Notice of Probable Noncompliance. Respondent stated the locate was completed by measurements and the map did not identify a deviation in the pipe going around a storm sewer. They installed a line marker and locate ball at that location. See documents attached hereto as Attachment "A". Staff recommends a fine of \$500.

- b. On July 17, 2018, Staff performed an onsite inspection at 913 E Elm Street in Olathe, Kansas. Staff's investigation discovered accurate locates were not provided by Respondent after being requested. Because Respondent did not provide accurate locates, damage to a plastic natural gas main line occurred at the aforementioned address. No injuries or additional property damage occurred. Respondent was notified by a

Notice of Probable Noncompliance issued by Staff on July 20, 2018, 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.

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. On August 10, 2018, Respondent responded to the Notice of Probable Noncompliance. Respondent stated the locator did not follow Atmos Energy's locate procedure and is facing disciplinary action. See documents attached hereto as Attachment "B". Staff recommends a fine of \$500.

- c. On September 13, 2018, Staff performed an onsite inspection at 8530 Waverly Road, De Soto, Kansas. Staff's investigation discovered accurate locates were not provided by Respondent after being requested. Because

Respondent did not provide accurate locates, damage to a 2" diameter plastic natural gas main line occurred at the aforementioned address. No injuries or additional property damage occurred. Respondent was notified by a Notice of Probable Noncompliance issued by Staff on September 14, 2018, 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.

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. On October 4, 2018, Respondent responded to the Notice of Probable Noncompliance. Respondent stated the electronic mapping did not reflect an off-set where the main transitioned from steel to plastic. The hard copy mapping did reflect this off-set and out electronic mapping has been

updated. See documents attached hereto as Attachment "C". Staff recommends a fine of \$500.

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 \$1,500 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 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. 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 \$1,500 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. Atmos Energy Corporation, is hereby assessed a \$1,500 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 Secretary for Commission 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 \$1,500 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 \$1,500 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.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/30/2018



---

Lynn M. Retz  
Secretary to the Commission

CRM/vj

# STATE OF KANSAS



CORPORATION COMMISSION  
UTILITIES DIVISION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3220  
FAX: 785-271-3357  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.  
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Dwight D. Keen

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

**DATE:** October 11, 2018

**SUBJECT:** Docket Number: 19-DPAx-1160-PEN  
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).

### EXECUTIVE SUMMARY:

Staff is recommending a civil penalty be issued to Atmos Energy (Atmos) in the amount of \$1,500 for three violations of KUUDPA that occurred between July 1 and September 30, 2018. The penalty is based on results of Staff investigations following three damages to Atmos natural gas service and main lines in Johnson 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:

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 each pipeline damage; the type of facility damaged; the 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
7/11/2018	1-1/4" Diameter Plastic Natural Gas Main	Colloge Blvd & Hauser St, Overland Park	Inaccurate Locate	\$500
7/17/2018	Plastic Natural Gas Road Crossing	913 E Elm St, Olathe	Not Marked	\$500
9/13/2018	2" Diameter Plastic Natural Gas Main	8530 Waverly Rd, De Soto	Not Marked	\$500
<b>TOTAL</b>				<b>\$1,500</b>

Notices of Probable Noncompliance (PNC) were issued to Atmos on July 17, 2018; July 20, 2018; and September 14, 2018. Atmos has responded to all PNCs as required by K.A.R. 82-14-6(c) and agrees with Staff's allegations as to the cause of each damage. Atmos' 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". Regarding these PNCs, Atmos has stated the buried gas services that were damaged were either not located or mis-located due to operator error or inaccurate maps.

#### **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 PNCs to Atmos since 2016. These violations were for similar no locate or inaccurate locate issues.

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

Atmos agreed with Staff's findings described in the PNCs. The gas lines in question were not correctly marked due either to oversights by the locators or to mapping issues. In response to Staff's Notices of Probable Noncompliance, Atmos has re-trained its locating personnel on how to read facility maps and how to use a tracer wire, if it is available. Atmos has also updated their maps with new measurements to assist in locating these facilities in the future

E. Aggravating/Mitigating Circumstances:

Staff has not determined any circumstances that would cause us to modify the recommended penalty amount of \$1,500.

**RECOMMENDATION:**

Staff recommends a civil penalty be issued to Atmos Energy, Olathe, in the amount of \$1,500 for violation(s) of KUUDPA K.S.A. 66-1806.

Attachment

## **Attachment I**

### **CK-18-OC-1092 NOPV Response**

#### **KCC Description:**

On 7/11/2018, Atmos did not correctly mark their facilities at College Blvd. & Hauser St. in Overland Park, Kansas. RLM Underground LLC damaged an Atmos 1-1/4" PE gas main with a backhoe while installing conduit for the Verizon project. There was a valid One-Call ticket #18301990 with a due date of 7/06/2018. There were locate marks on this main, however, the marks were approximately 12 ft from the damaged pipe and marked by measurement.

#### **Operator Response received 08/07/18:**

Atmos "determined that this locate was completed by measurements, the map did not identify a deviation in the pipe going around a storm sewer. After repairs were completed, a line marker and locate ball were installed, and our mapping was updated as well."

### **CK-18-OC-1095 NOPV Response**

#### **KCC Description:**

On 7/17/2018, Atmos did not mark their facilities at 913 E. Elm St. in Olathe, Kansas. Kansas Heavy Construction, LLC damaged an Atmos 3/4" PE gas service with a trackhoe during a road reconstruction project. There was a valid One-Call ticket #18297479 with a due date of 7/04/2018. There were no locate marks on this service and personnel onsite indicated map confusion.

#### **Operator Response receive 8/10/18:**

Atmos "determined that our technician failed to follow Atmos Energy's locate procedure. The technician did not attempt to tone out this service line as he assumed it did not cross the street and is facing disciplinary action at this time."

### **CK-18-OC-1131 NOPV Response**

#### **KCC Description:**

On 9/13/2018, Atmos did not mark their facilities at 8530 Waverly Rd. in De Soto, Kansas. Westar damaged an Atmos 2" PE gas main line with an auger while installing power poles. There was a valid One-Call ticket #18418633 with a due date of 9/11/2018. There were no locate marks on this main and personnel onsite indicated map confusion.

Operator Response receive 10/4/18:

Atmos “determined that our electronic mapping did not reflect an off-set where the main transitioned from steel to plastic. The hard copy mapping in our mapping room did reflect this off-set, and the electronic mapping has since been corrected.”



## **ATTACHMENT “A”**



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



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

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

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

**July 17, 2018**

**KCC Investigation #: CK-18-OC-1092**

**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 July 11, 2018, 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](mailto: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](mailto:l.haynos@kcc.ks.gov)**

**PROBABLE NONCOMPLIANCE**

Investigation: CK-18-OC-1092

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 7/11/2018, Atmos did not correctly mark their facilities at College Blvd & Hauser St in Overland Park, Kansas. RLM Underground LLC damaged an Atmos 1-1/4" PE gas main with a backhoe while installing conduit for the Verizon project. There was a valid One-Call ticket #18301990 with a due date of 7/06/2018. There were locate marks on this main, however, the marks were approximately 12 ft from the damaged pipe and marked by measurement.

**OPERATOR'S RESPONSE: (Attach verification if needed)**

Operator's Authorized Signature: \_\_\_\_\_

*Raym Masters*

Date: 8/06/18

**PIPELINE SAFETY USE ONLY:**

Date reviewed: \_\_\_\_\_

Date reviewed: \_\_\_\_\_

Chief: \_\_\_\_\_

Inspector: \_\_\_\_\_

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 07/11/2018

Inspected By: CK

**From:** Kidd, Crystal L  
**To:** [SafetyResponse](#)  
**Cc:** [Barrios, Jerry](#); [Maskus, Bryan](#); [Shatas, Douglas L.](#)  
**Subject:** PNC Response  
**Date:** Tuesday, August 07, 2018 11:10:38 AM  
**Attachments:** [CK-18-OC-1092.doc](#)

---

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

---

Leo,

Here is our response to the above PNC.

Crystal Kidd  
Damage Prevention Specialist  
Atmos Energy Corporation  
Olathe, Kansas  
913-208-7738



Leo Haynos  
Chief of Pipeline Safety  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-OC-1092. After an internal investigation was completed we determined that this locate was completed by measurements, the map did not identify a deviation in in the pipe going around a storm sewer. After repairs were completed a line marker and locate ball were installed, and our mapping was updated as well.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,  
Operations Supervisor

## **ATTACHMENT “B”**

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



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

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

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

**July 20, 2018**

**KCC Investigation #: CK-18-OC-1095**

**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 July 17, 2018, 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](mailto: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](mailto:l.haynos@kcc.ks.gov)**

**PROBABLE NONCOMPLIANCE**

Investigation: CK-18-OC-1095

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 7/17/2018, Atmos did not mark their facilities at 913 E Elm St in Olathe, Kansas. Kansas Heavy Construction, LLC damaged an Atmos 3/4" PE gas service with a trackhoe during a road reconstruction project. There was a valid One-Call ticket #18297479 with a due date of 7/04/2018. There were no locate marks on this service and personnel onsite indicated map confusion.

**OPERATOR'S RESPONSE: (Attach verification if needed)**

Operator's Authorized Signature: \_\_\_\_\_

*Ryan Masters*

Date: 8/06/18

**PIPELINE SAFETY USE ONLY:**

Date reviewed: \_\_\_\_\_

Date reviewed: \_\_\_\_\_

Chief: \_\_\_\_\_

Inspector: \_\_\_\_\_

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 07/17/2018

Inspected By: CK

**From:** Kidd, Crystal L  
**To:** [SafetyResponse](#)  
**Cc:** [Barrios, Jerry](#); [Maskus, Bryan](#); [Shatas, Douglas L.](#)  
**Subject:** PNC response  
**Date:** Friday, August 10, 2018 3:03:41 PM  
**Attachments:** [CK-18-OC-1095.doc](#)

---

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

---

Leo,

Here is our response to PNC CK-18-OC-1095

Crystal Kidd  
Damage Prevention Specialist  
Atmos Energy Corporation  
Olathe, Kansas  
913-208-7738





Leo Haynos  
Chief of Pipeline Safety  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-OC-1095. After an internal investigation was completed we determined that our technician failed to follow Atmos Energy's locate procedure. The technician did not attempt to tone out this service line as he assumed it did not cross the street and is facing disciplinary action at this time.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,  
Operations Supervisor

## **ATTACHMENT “C”**

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



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

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Dwight D. Keen, Commissioner

Jeff Colyer, M.D., Governor

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

**September 14, 2018**

**KCC Investigation #: CK-18-OC-1131**

**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 13, 2018, 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](mailto: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](mailto:l.haynos@kcc.ks.gov)**

PROBABLE NONCOMPLIANCE

Investigation: CK-18-OC-1131

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 9/13/2018, Atmos did not mark their facilities at 8530 Waverly Rd in De Soto, Kansas. Westar damaged an Atmos 2" PE gas main line with an auger while installing power poles. There was a valid One-Call ticket #18418633 with a due date of 9/11/2018. There were no locate marks on this main and personnel onsite indicated map confusion.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: \_\_\_\_\_

*Ryan Masters*

Date: 10/01/18

PIPELINE SAFETY USE ONLY:

Date reviewed: \_\_\_\_\_

Date reviewed: \_\_\_\_\_

Chief: \_\_\_\_\_

Inspector: \_\_\_\_\_

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 09/13/2018

Inspected By: CK

**From:** [Kidd, Crystal L](#)  
**To:** [SafetyResponse](#)  
**Cc:** [Barrios, Jerry](#); [Maskus, Bryan](#)  
**Subject:** PNC Response  
**Date:** Thursday, October 04, 2018 2:56:03 PM  
**Attachments:** [CK-18-OC-1131.doc](#)

---

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

---

Leo,

Here is our response to PNC CK-18-OC-1131. Please let me know if you need anything further.

Crystal Kidd  
Damage Prevention Specialist  
Atmos Energy Corporation  
Olathe, Kansas  
913-208-7738



Leo Haynos  
Chief of Pipeline Safety  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604

Dear Leo,

This letter is in response to the probable noncompliance violation CK-18-OC-1131. After an internal investigation was completed we determined that our electronic mapping did not reflect an off-set where the main transitioned from steel to plastic. The hard copy mapping in our mapping room did reflect this off-set, and the electronic mapping has since been corrected.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Maskus".

Bryan Maskus,  
Operations Supervisor

## **CERTIFICATE OF SERVICE**

19-DPAX-160-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 10/31/2018.

BRYAN MASKUS  
ATMOS ENERGY  
25090 W 110TH TERR  
OLATHE, KS 66061

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