

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

Jay Scott Emler, Chairman  
Shari Feist Albrecht, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

VIA CERTIFIED MAIL

**NOTICE OF PENALTY ORDER**  
16-DPAX-484-PEN

May 5, 2016

Bill Haislip  
Kansas Gas Service, A Division of ONE Gas  
200 E First Ave  
Topeka KS 66603

This is a notice of penalty assessment for violation of the Kansas Underground Utility Damage Prevention Act (KUUDPA) discovered during an investigations conducted between September 29, 2015 and March 11, 2016, by Kansas Corporation Commission Staff. For a full description of the violation and penalty please refer to the Order that is attached to this notice.

**IF YOU ACCEPT THE PENALTY:**

You have been assessed an \$8,500 penalty. You have twenty (20) days from service of the Penalty Order to pay the fine amount. Checks or Money Orders should be payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604, and shall include a reference to the docket number of this proceeding. Credit card payments may be made by calling the Fiscal Office at 785-271-3113.

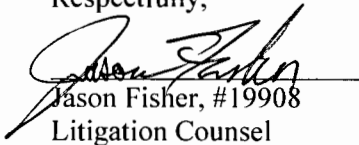
**IF YOU CONTEST THE PENALTY:**

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 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 Notice of Probable Noncompliance and Proposed Penalty Order.

**IF YOU FAIL TO ACT:**

Pursuant to K.A.R. 82-14-6(j), failure to pay or provide a written request for a hearing within fifteen (15) days or in the alternative, to pay the civil assessment in twenty (20) days, will be considered an admission of noncompliance and result in the Penalty Order becoming a final order.

Respectfully,

  
Jason Fisher, #19908  
Litigation Counsel  
(785)271-3186

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

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

In the Matter of the Investigation of **Kansas**            )  
**Gas Service, A Division of ONE Gas of**            )  
**Topeka, Kansas,** Regarding Violation(s) of            )     Docket No. 16-DPAX-484-PEN  
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).            )

**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, Kansas law grants the Commission full power and authority to do all things necessary and convenient in its exercise of its authority and jurisdiction pursuant to K.S.A. 2015 Supp. 66-1815 and amendments thereto.

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 \$500,000 for any related series of violations. 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 September 29, 2015 through March 11, 2016 Commission Staff (Staff) investigated the activities and operations of Kansas Gas Service, A Division of ONE Gas. (Respondent). See Report and Recommendation of Staff dated April 25, 2016, a copy attached hereto as Attachment "A". As a result of this investigation, Staff reports the following:

- a. On September 29, 2015 through March 11, 2016, Staff performed onsite inspections at locations in Overland Park, Kansas, as described in the attached Report and Recommendation, following complaints from an excavator that locates were not being provided by Respondent. In these instances, KGS stated the buried gas service and main lines were either not located or mis-located due to operator error or inaccurate maps.
- b. KUUDPA requires all operators to inform the excavator of the location of its underground facilities at a given excavation site within a 25-inch tolerance zone. An accurate 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 accurate locates for excavators can result in costly downtime and scheduling problems, including but not limited to, cancelation of contracts.

- c. On October 15, 2015, November 16, 2015, December 15, 2015, February 15, 2016 and March 15, 2016, Staff mailed a Notices of Probable Noncompliance notifying Respondent of the investigation results. The letters instructed Respondent to respond within thirty (30) days and to indicate whether Respondent accepted or disagreed with the findings of Staff's investigation. The notices also requested Respondent to provide written explanation of the actions taken by Respondent to prevent future KUUDPA violations. In the alternative, the Respondent could provide documentation explaining why Respondent disagreed with the findings to include identification of any errors in the Notice of Probable Noncompliance. The violation cited is as follows:

- i. 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 accurate tolerance zone of the underground facilities of the

operator in the area of the planned excavation by marking, flagging or other acceptable method. This failure is a violation of K.S.A. 2015 Supp. 66-1806.

d. Staff received written responses from Respondent to the Notice of Probable Noncompliance. In its responses, Respondent agreed with the information contained in the Notices of Probable Noncompliance and as a result, also agreed with Staff's finding of fault.

5. Staff recommends the Commission issue a civil penalty of \$8,500 for the violation of the Kansas Underground Utility Damage Prevention Act as alleged.

### **III. CONCLUSIONS OF LAW**

6. The Commission finds it has jurisdiction over Kansas Gas Service, A Division of ONE Gas (Respondent) 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.

7. The Commission finds Respondent violated Kansas law governing underground utilities, including various provisions of the Kansas Underground Utility Damage Prevention Act, and is therefore subject to sanctions or fines imposed by the Commission.

8. Respondent is hereby assessed an \$8,500 penalty for violation of the Kansas Underground Utility Damage Prevention Act.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Kansas Gas Service, A Division of ONE Gas, is hereby assessed an \$8,500 civil penalty for the violation of the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et. seq.*

B. Pursuant to K.S.A. 2015 Supp. 77-529, K.S.A. 66-118b, K.A.R. 82-1-215 and amendments thereto, any party may request a hearing on the above issues by submitting a written request, consisting of an original and seven (7) copies, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. *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 \$8,500 civil penalty against Respondent.

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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

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 date of service 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 S.W. 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.

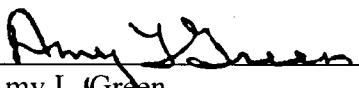
E. Failure to pay the \$8,500 civil penalty within twenty (20) days of the issuance of this Penalty Order will result in enforcement action against Respondent, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

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.**

Emler, Chairman; Albrecht, Commissioner; Apple Commissioner

Dated:           **MAY 05 2016**          

  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

JF/vj

**Order Mailed Date**

**MAY 06 2016**

**ATTACHMENT "A"**



**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chairman Jay Scott Emler  
Commissioner Shari Feist Albrecht  
Commissioner Pat Apple

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

**DATE:** April 25, 2016

**SUBJECT: Docket Number:** 16-DPAX-484-PEN  
In the Matter of the Investigation of Kansas Gas Service, A Division of ONE Gas, 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 Kansas Gas Service, A Division of ONE Gas (KGS), in the amount of \$8,500 for 17 violations of KUUDPA that have occurred over the past seven months. The penalty is based on results of Staff investigations following 17 damages to KGS natural gas service and main lines in Johnson County in 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:**

KGS'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
9/29/2015	Plastic Natural Gas Service	8513 Bridle Dale St, Lenexa	Mis-Located off by 15 ft	\$500
10/5/2015	Plastic Natural Gas Service	6839 Granada Ln, Prairie Village	Inaccurate Maps Off by 12 feet	\$500
10/14/2015	Plastic Natural Gas Service	15300 Broadmoor St, Overland Park	Not Marked	\$500
10/28/2015	Plastic Natural Gas Service	6500 Overhill Rd, Mission Hills	Inaccurate Maps off by 21 ft	\$500
10/28/2015	Plastic Natural Gas Service	13706 West 76th Circle, Lenexa	Not Marked	\$500
11/2/2015	2" Diameter Plastic Natural Gas Main	8500 Mission Rd, Prairie Village	Mis-Located off by 45 ft	\$500
11/9/2015	Plastic Natural Gas Service	6005 Earnshaw St, Shawnee	Not Marked	\$500
11/10/2015	4" Diameter Plastic Natural Gas Main	24095 West 71st St, Shawnee	Mis-Located off by 12 ft	\$500
12/7/2015	Plastic Natural Gas Service	21201 Bittersweet Dr, Lenexa	Inaccurate Maps off by 30 ft	\$500
12/10/2015	Plastic Natural Gas Service	13400 West 94th Ter, Lenexa	Mis-Located off by 12 ft	\$500
12/11/2015	2" Diameter Plastic Natural Gas Main	8215 Juniper Ln, Prairie Village	Mis-Located off by 21 ft	\$500
1/2/2016	Plastic Natural Gas Service	6305 Aberdeen Rd, Mission Hills	Inaccurate Maps off by 18 ft	\$500
1/28/2016	2" Diameter Plastic Natural Gas Main	5407 W 155th Ter, Overland Park	Mis-Located off by 27 ft	\$500
1/28/2016	Plastic Natural Gas Service	9429 Gillette St, Lenexa	Mis-Located off by 54 ft	\$500
2/22/2016	2" Diameter Plastic Natural Gas Main	West 150th St & Antioch Rd, Overland Park	Not Marked	\$500
3/10/2016	Plastic Natural Gas Service	4648 West 72nd Ter, Prairie Village	Not Marked	\$500
3/11/2016	1-14" Diameter Plastic Natural Gas Main	8705 West 113th St, Overland Park	Not Marked	\$500
<b>TOTAL</b>				<b>\$8,500</b>

Notices of Probable Noncompliance (PNC) were issued to KGS on October 15, 2015, November 16, 2015, December 15, 2015, February 15, 2016, and March 15, 2016. KGS has responded to all of these 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. KGS'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 within 24 inches of either side of the position of the buried facility. This 48 inch corridor is defined as the "tolerance zone". Failure in providing accurate locate marks depicting the tolerance zone is a high-risk activity with the potential for significant consequences to public safety. Inaccurate locates further serve to give the excavator a false sense of security by indicating the buried facilities are not in the vicinity of the excavation. This effect may result in the excavator causing even greater damage to the utility because of the speed and force with which excavation normally is performed in areas clear of underground obstacles. In these instances, KGS has stated the

buried gas service and main lines were either not located or mis-located due to operator error or inaccurate maps. Because providing proper and accurate markings for the excavators is the most fundamental measure a facility owner takes to prevent damage to its buried facilities, the fact that KGS failed to comply with this requirement of the law warrants the assessment of a civil penalty.

B. Culpability:

KGS 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 112 KUUDPA PNCs to KGS in the past two years. These alleged violations were for similar issues regarding failure to provide timely and accurate locates.

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

KGS agreed with Staff's findings described in the PNCs. Four of the gas lines in question were marked using inaccurate maps for reference and seven were marked inaccurately due to oversights by the locators. For the remaining six gas lines in question, KGS personnel failed to provide locates requested by the excavator. In response to Staff's PNCs regarding inaccurate maps, KGS has created new service cards with updated measurements which will allow accurate locates of these facilities in the future. KGS has also counseled its locating personnel on how to read its maps and reminded the locator to use the tracer wire or curb etchings if they are available.

E. Aggravating/Mitigating Circumstances:

In the last two years, KGS has received 112 PNCs from Staff alleging failure to provide accurate and/or timely locates upon request. Staff recognizes that some of the inaccurate locates may be due to the increased work load placed on KGS locators by the ongoing aggressive build-out of underground telecommunications infrastructure in the Johnson County area. Therefore, Staff is recommending civil penalties only be applied to the most egregious violations of inaccurate locates. For the remainder, Staff is willing to accept KGS's documented remedial action as a satisfactory response to the PNCs. Given this accommodation for the abnormal work load, Staff has not determined any circumstances that would cause us to modify the recommended penalty amount of \$8,500.

**RECOMMENDATION:**

Staff recommends a civil penalty be issued to Kansas Gas Service, a Division of One Gas, in the amount of \$8,500 for violation(s) of KUUDPA:

- Failure of a facility owner to properly identify location of facilities is a violation of K.S.A. 66-1806, Identification of location of facilities; duties of operator; liability for damages.

Attachments

## ATTACHMENT I

### Notice of Probable Noncompliance – KCC #7227

*On 9/29/2015, Foosco damaged a KGS 7/8" PE gas service line while directional drilling conduit for the Google Fiber Project at 8513 Bridle Dale St. in Lenexa, Kansas. There was a valid One-Call ticket #15463800 with a due date of 9/24/2015. Locate marks were present and unclear if it was marked by measurements. When measurements were applied which were 195 foot South of Center Line of Deer Run; they did measure out correctly to the damaged pipe. The locate marks were off by approximately 15 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 8513 Bridle Dale St., Lenexa, KS.

The locate tech did not apply the measurements correctly. The tech was returned to the site and correct application of measurements and reading of maps were reviewed. The measurements were accurate.

Notice of Probable Noncompliance – KCC #7231

*On 10/5/2015, Hettinger Excavating damaged a KGS ¼" PE gas service line with a mini Excavator while repairing a sewer service line at 6839 Granada Ln. in Prairie Village, Kansas. There was a valid Emergency One-Call ticket #15494674 with a due date of 10/5/2015. Locate marks were present with no tracer wire. It is unknown if this service was marked by measurements. Locates were off the damaged pipe approximately 12 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 6839 Granada Ln., Prairie Village, KS.

This service was marked by measurements. The original service card did not indicate an offset. The locate tech marked the service as shown on the service card using the existing measurements. Because the offset didn't show, the result was locates inaccurate by about 12 ft. A new service card showing the offset and accurate measurements has been generated and is available to locate techs so accurate future locates can be made.

Notice of Probable Noncompliance – KCC #7239

*On 10/14/2015, Water District No. 1 of Johnson County damaged a KGS ½" PE gas service line with a backhoe while relocating a water main at 15300 Broadmoor St. in Overland Park, Kansas. There was a valid One-Call ticket #15506442 with a due date of 10/14/2015. There were no locate marks present at the time of the damage and no tracer wire present on this service. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 15300 Broadmoor St., Overland Park, KS.

The locate tech was behind and this locate request was still in open status in his tickets. The locate was not done prior to the damage occurring. The tech was instructed on the proper procedure to follow when not getting to a ticket by the due date. This service was accurately locatable when using the locate wire that was present.

Notice of Probable Noncompliance – KCC #7242

*On 10/28/2015, Grabill Plumbing, Inc. damaged a KGS ¾" PE gas service line with a backhoe while installing a new water service at 6500 Overhill Rd. in Mission Hills, Kansas. There was a valid One-Call ticket #15526294 with a due date of 10/23/2015. Locate marks were present and indicated as being marked by measurements. Tracer wire was present at the damage site. The locate marks were off the pipe approximately 21 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 6500 Overhill Rd., Mission Hills, KS.

The service line that was hit was a stub off the main which was live and capped. The measurements available to the locator were incorrect. This stub-out has been mapped with measurements obtained and documented. There is a new house being constructed at this address and the gas will be completed to the house before the end of December 2015. At that time, locate wire will be extended and brought above ground making this service locatable by tone.

Notice of Probable Noncompliance – KCC #7245

*On 10/28/2015, Republic Telecom Services damaged a KGS ¾" PE gas service with a backhoe during the ATT Light Project at 13706 W. 76<sup>th</sup> Cir. in Lenexa, Kansas. There was a valid One-Call ticket #15508747 with a due date of 10/15/2015. Locate marks were present, however, this service was not marked. Tracer wire was present at the damage site. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 13706 W. 76<sup>th</sup> Cir., Lenexa, KS.

The locate tech misread the prints resulting in this damage. The service had a wire that was checked and the service located accurately using the wire. The locator was instructed on the proper method of reading the maps and to always verify that all facilities in the described excavation area have been located before closing the ticket.

Notice of Probable Noncompliance – KCC #7247

*On 11/2/2015, Madovis Communications damaged a KGS 2" PE gas main while directional drilling conduit for the Google Fiber Project at 8500 Mission Rd. in Prairie Village, Kansas. There was a valid One-Call ticket #15520039 with a due date of 10/20/2015. Locate marks were present and indicated as being marked by measurements. Tracer wire was present at the damage site. Locate marks were off the pipe by approximately 45 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 8500 Mission Rd., Prairie Village, KS.

This damage actually went to a 2" service line that had served an old school. The wire located this service accurately. The locate tech failed to hook to the wire and did not get a good signal but completed the locate using the bad signal. The locate tech was given instructions on how to properly hook to the wire including the removal of some of the insulation to make a solid connection. Additionally, this service was removed back to the main since it was no longer in use.

Notice of Probable Noncompliance – KCC #7253

*On 11/9/2015, Black & McDonald damaged a KGS ¾" PE gas service line with a shovel while spotting utilities installing street lights at 6005 Earnshaw St. in Shawnee, Kansas. There was a One-Call ticket #15553329 with a due date of 11/7/2015. Locate marks were present on the main, however, there were no marks on this longside service to 6008 Earnshaw St. Tracer wire was present and did tone. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 6005 Earnshaw St., Shawnee, KS.

The locate tech marked the main but not the service line. The tech was returned to the site and given refresher training on map reading and instructed to verify all facilities in the requested locate area were marked prior to completing the ticket and leaving the site.

Notice of Probable Noncompliance – KCC #7255

*On 11/10/2015, JDK General Contractor LLC damaged a KGS 4" PE gas main while directional drilling conduit for the Google Fiber Project at 24095 W. 71<sup>st</sup> St. in Shawnee, Kansas. There was a valid One-Call ticket #15546209 with a due date of 11/4/2015. Locate marks were present and marked by toning. Marks were off the pipe approximately 12 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 24095 W. 71st St., Shawnee, KS.

After the damage, the locate wire signal was being verified. It actually went to an old steel main about 12 feet away. To correct this problem a new test station was installed allowing the new PE main to be located accurately.

Notice of Probable Noncompliance – KCC #7270

*On 12/7/2015, an audit was performed during a damage to a KGS 5/8" PE gas service line on ticket #15578700 at 21021 Bittersweet Dr in Lenexa, Kansas. This ticket was indicated as being marked by measurements and the marks were off the pipe by approximately 30 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 21201 Bittersweet Dr., Lenexa, KS.

It was found that there was no wire with this service with measurements being used by the locate tech. The measurements were not accurate. New measurements were obtained and a new service card was made. This service card is available for the locate tech to access to perform accurate locates during future locates.



### Notice of Probable Noncompliance – KCC #7276

*On 12/10/2015, All About Plumbing damaged a KGS ¾" PE gas service line with a mini excavator while repairing a sanitary sewer service line at 13400 W 94<sup>th</sup> Ter in Lenexa, Kansas. There was a valid One-Call ticket #15612256 with a due date of 12/10/2015. Locate marks were present and off approximately 12 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 13400 W 94<sup>th</sup> Ter., Lenexa, KS.

The locate tech did not recognize this was a PE service. He tried to tone it out by hooking to the pipe. When he did not get good tone, it appeared he straight-lined the service line straight to the main.

The locate tech was brought back to the site and instructed on how to identify that a service is PE and to then look for a locate wire.

### Notice of Probable Noncompliance – KCC #7278

*On 12/11/2015, Corner Cable damaged a KGS 2" PE gas main while directional drilling conduit for the Google fiber Project at 8213 Juniper Ln in Prairie Village, Kansas. There was a valid One-Call ticket #15599459 with a due date of 12/5/2015. Locate marks were present and indicated as being marked by measurement. There was tracer wire present at the damage site. The maps show a dog leg but the marks present did not indicate this. Locate marks were off the pipe approximately 21 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 8213 Juniper Ln., Prairie Village, KS.

The locate tech had to use measurements to locate this service. He did not look at the map well enough to see there was a dogleg showing for this service and marked going straight out according based on one of the measurements on the map. The damage occurred on the dogleg of the service. The locate tech was instructed on the importance of carefully reviewing the map to verify any variances of facility routing that might exist.

### Notice of Probable Noncompliance – KCC #7290

*On 1/22/2016, Water District No 1 of Johnson County damaged a KGS 5/8" PE gas service with a backhoe while making an emergency repair on a water main at 6305 Aberdeen Rd in Mission Hills, Kansas. There was a valid One-Call emergency ticket #16027810 with a due date of 1/22/2016. Locate marks were present and indicated as being marked by measurements. Marks were off the pipe approximately 18 feet. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 6305 Aberdeen Rd, Mission Hills, KS.

The measurements that were available were inaccurate. New measurements were obtained and put on the maps to enable future accurate locates. In addition to new measurements and mapping, a marker ball was placed.

### Notice of Probable Noncompliance – KCC #7294

*On 1/28/2016, Veltor Underground damaged a KGS 2" PE gas main while directional drilling conduit for the Google Fiber Project at 5407 W 155<sup>th</sup> Ter in Overland Park, Kansas. There was a valid One-Call ticket #16014685 with a due date of 1/15/2016. Locate marks were present and indicated this was a dead end main approximately 27 ft from where the damage actually occurred. There was tracer wire present on the exposed main. Etching in the curb showed where the main should have been marked but was not used. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 5407 W 155<sup>th</sup> Ter., Overland Park, KS.

The USIC locate Tech did not locate far enough to encompass the intended excavation area. There were also curb marks identify the exact location of the main termination point which were not used to verify the marks. Using the available tracer wire after the damage, it was determined that this main was accurately locatable prior to and after the damage.

Notice of Probable Noncompliance – KCC #7295

*On 1/28/2016, Rodriguez Mechanical damaged a KGS ¾" PE gas service line with a trackhoe while installing sanitary sewer main at 9429 Gillette St in Lenexa, Kansas. There was a valid One-Call ticket #16015234 with a due date of 1/16/2016. Locate marks were present and approximately 54 ft from where the damage occurred. There was a tracer wire at the damage site and at the meter. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 9429 Gillette St., Lenexa, KS.

There was a wire available at the meter for performing this locate. After the damage was repaired, using the existing wire, this service toned out accurately. The USIC Locate Tech used the wire to locate. The signal bled off on a nearby water line. Measurements were accurate and had they been used, the locate would have been accurate.

The locate tech was brought to the damage site a review of the locate was completed. The tech was given training on the importance of marking the proper signal and utilizing measurements to double check paint left on the ground.

### Notice of Probable Noncompliance – KCC #7312

*On 2/22/2016, Navarros LLC damaged a KGS 2" PE gas main line while directional drilling conduit for the Google Fiber Project at W 150th St & Antioch Rd in Overland Park, Kansas. There was a valid One-Call ticket #16067210 with a due date of 2/19/2016. Locate marks were present; however, there were no marks to indicate this main crossed Antioch Rd. Tracer wire was present at the damage site and was able to be toned. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at W. 150<sup>th</sup> St. & Antioch Rd. in Overland Park, KS.

This damage stemmed from the locate tech not read the map correctly where it showed the damaged main actually crossed an 8" main and did not tie into the 8" main. The tech did not mark the 2" main completely. This was a new tech and they have now separated from USIC.

USIC has been using this damage as a discussion during crew meetings as a tool for refreshing locate techs in the necessity of reviewing all prints and verifying the entire scope of the locate ticket has been marked.

### Notice of Probable Noncompliance – KCC #7319

*On 3/10/2016, Johnson County Waste Water damaged a KGS 7/8" PE gas service line with a mini excavator while repairing a sanitary sewer main at 4648 W 72nd Ter in Prairie Village, Kansas. There was a valid One-Call ticket #16099920 with a due date of 3/8/2016. There were no marks present for neither this service nor the main both of which were within the scope of the ticket request. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 4648 W. 72<sup>nd</sup> Ter., Prairie Village, KS.

The USIC investigator determined the locate tech had failed to mark the service due to the tech making an assumption that the service was out of the requested locate area.

The locate tech (a new employee) was brought back to the site. The USIC investigator took this opportunity to retrain the tech on how to properly determine if a facility is out of the dig area by hooking up to the service and toning it out or using measurements to identify the location of the service.

Notice of Probable Noncompliance – KCC #7322

*On 3/11/2016, OCD damaged a KGS 1-1/4" PE gas main line with a mole while drilling conduit for the Google Fiber Project at 8705 W 113th St in Overland Park, Kansas. There was a valid One-Call ticket #16104338 with a due date of 3/10/2016. There were no marks present for this main both to indicate it carried further past the service for the above address. There was a curb etching showing exactly where this main dead ended. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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.*

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 8705 W. 113<sup>th</sup> St., Overland Park, KS.

The locate tech did not reference the maps of this area prior to beginning the locate. The map showed the t-bar associated with this damage. The tech marked the service up to the t-bar but did not mark the t-bar that was damaged.

The investigator discussed the necessity to reference the map for verification of all facilities in the locate request area. The tech has also been discussing this damage during crew meetings and conference calls.

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



Phone: 785-271-3165  
Fax: 785-271-3357  
<http://kcc.ks.gov/>

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

## FILE COPY

Bill Haislip  
Kansas Gas Service  
200 E First Ave  
Topeka, KS 66603

May 4, 2015

Subject: No Locates- Operator Investigation

KCC Investigation #: 7119

Dear Bill Haislip:

Pursuant to K.S.A. 66-1801 *et. seq.*, (and amendments thereto) the Kansas Corporation Commission has jurisdiction and authority to investigate and to issue civil penalties for all violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA).

On 4/30/2015, the Kansas Corporation Commission's Pipeline Safety staff (Staff) conducted an investigation into excavation activities as allowed by KUUDPA. As a result of our investigation, Staff has identified probable noncompliance(s) with KUUDPA committed by your company. The description of the probable noncompliance(s) is on the attached form(s).

Kansas law requires a written response to any Notice of Probable Noncompliance (K.A.R. 82-14-6(c)). After you have reviewed our findings, please respond in at least one of the following ways:

- 1.) Submit written explanations, a statement of general denial, or other materials contesting the allegations;
- 2.) Submit a signed acknowledgment 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.

Please feel free to include any supporting documentation with your responses and return the signed and dated evaluation form(s) with the requested information within thirty (30) days of receipt of this report to:

Kansas Corporation Commission, Attn. Pipeline Safety  
1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027  
Fax: (785) 271-3357

Pursuant to K.A.R 82-14-6(e), failure to respond within 30 days to the 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.*

If you have any questions, please call me at the number listed below.

Sincerely,

Leo M. Haynos  
Chief of Pipeline Safety  
(785) 271-3278

**PROBABLE NONCOMPLIANCE**

KCC Investigation#: 7119

COMPANY: Kansas Gas Service

DIVISION: Overland Park

**REGULATION:**

**66-1806 Identification of location of facilities; duties of operator; liability for damages.**

(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.

(b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

(d) If the operator of a tier 1 facility has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.

KANSAS CORPORATION COMMISSION

JUN 11 2015

UTILITIES DIVISION

**PROBABLE NONCOMPLIANCE DESCRIPTION:**

On 4/30/2015, KCC staff performed an audit on the following Non-Response tickets within Johnson County: #15190515, #15190531, #15190536, #15190541, #15190546, #15190550, #15190692, #15190705, #15190722, #15190730, #15190736, #15190738, #15190925, #15190937, and #15190973. It was observed that each of these tickets audited were either not marked, in the process of being marked or the locator was just arriving to mark. Each of these tickets were late in being marked, thus warranting the Probable Noncompliance. This is a violation of the Statute K.S.A. 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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; (b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation; and (d) If the operator of a tier 1 facility has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.

OPERATOR'S RESPONSE: ( Attach verification if needed )

SEE ATTACHED

Operator's authorized signature:

*Will Haislip*

Date:

6/5/2015

**PIPELINE SAFETY USE ONLY**

Date Reviewed: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_  
Supervisor: \_\_\_\_\_ Inspector: \_\_\_\_\_

Inspected by: Knight

Date inspected: 4/30/2015

Inspection type: No Locates- Operator



**Kansas  
Gas Service**

A Division of ONE Gas

7421 West 129th Street  
Overland Park, KS 66213  
kansasgasservice.com

KANSAS CORPORATION COMMISSION

JUN 11 2015

UTILITIES DIVISION

May 22, 2015

Mr. Leo Haynos  
Chief of Pipeline Safety  
Kansas Corporation Commission  
1500 SW Arrowhead Rd  
Topeka, Kansas 66604-0427

**RE: Operator Response – KCC Notice of Probable Noncompliance  
KCC #7119, 15 Non-Response Ticket Audits-Johnson County**

Dear Mr. Haynos,

Please find attached the Operator Response for KCC Notice of Probable Noncompliance Investigation Notice #7119 in Johnson County (KC Metro Area).

If you have any questions, please contact me at (785) 431-4272

Sincerely,

A handwritten signature in cursive script that reads "Bill Haislip".

Bill Haislip  
Kansas Gas Service

Encl: (2) Operator Response – KCC #7119



## Notice of Probable Noncompliance – KCC #7119

*On 4/30/2015, KCC staff performed an audit on the following Non-Response tickets within Johnson County: #15190515, #15190531, #15190536, #15190541, #15190546, #15190550, #15190692, #15190705, #15190722, #15190730, #15190736, #15190738, #15190925, #15190937, #15190973. It was observed that each of these tickets audited were either not marked, in the process of being marked or the locator was just arriving to mark. Each of these tickets were late in being marked, thus warranting the Probable Noncompliance. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator; liability for damages. (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. (b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation. (c) The operator of tier 2 facilities shall not be required to provide notification of the tolerance zone for facilities which are at a depth at least two feet deeper than the excavator plans to excavate but does have to notify the excavator of their existence. (d) If the operator of a tier 1 facility has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.*

Because of the large volume of locates being generated in the Johnson County area by the AT&T Giga Power and Google Fiber overbuild projects, a few locate tickets were processed after the two full working day time limit. Notes made by locators indicate calls were made to the excavators involved informing them that the tickets would be completed after the scheduled work-to-begin date in order to apprise them of the situation and to obtain their assent. The locators responded to all non-response tickets listed on the day they were assigned to the locator by a phone call to the person identified on the ticket.

USIC has added 60 Technicians to the area this year versus last year to deal with the added work load. USIC has approximately 30 more technicians in training for the Johnson County area at the present time to assist in dealing with the added work load. In addition, USIC is actively recruiting a new hire class to begin on 6/1/2015. Current local USIC crews are working over the weekends. Outside assistance is also being brought in when available to assist over weekends.

The activity level has created an overload and is not being helped by both projects speeding up their installations. Information originally giving work due dates as August are now being accelerated to due dates in May and June. This situation has exacerbated already hectic work schedules as both projects are ramping up the volume of due dates by increasing the number of installation crews almost overnight and showing no concern that facility operators cannot maintain locate levels in the current abnormal environment. With the unpredictability of the acceleration of these projects it is impossible to expect operators to maintain staff numbers to keep up with these highly variable locate loads. By the time an operator can react and increase the number of locate techs, the work level may increase even more or precipitously drop off.

**CERTIFICATE OF SERVICE**

16-DPAX-484-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     **MAY 05 2016**    .

JAKE FISHER, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
j.fisher@kcc.ks.gov

BILL HAISLIP  
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.  
200 E FIRST AVE  
TOPEKA, KS 66603  
Fax: 913-319-8622

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe

**Order Mailed Date**

**MAY 06 2016**