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

Laura Kelly, Governor

**NOTICE OF PENALTY ORDER**  
20-DPAX-274-PEN

March 18, 2020

Judy Hitchye Jenkins  
Kansas Gas Service, a Division of ONE Gas, Inc.  
7421 W 129th Street  
Overland Park, Kansas 66213

You are being assessed a penalty for violating the Kansas Underground Utility Damage Prevention Act and pipeline safety regulations adopted by the Kansas Corporation Commission (Commission). For a full description of the penalty please refer to the order attached to this notice.

**IF YOU ACCEPT THE PENALTY:**

You have been assessed a \$24,000 penalty. You have twenty (20) days from the date of service of the Penalty Order to pay the fine amount. Checks shall be made payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and shall include a reference to the docket number (20-DPAX-274-PEN) of this proceeding.

**IF YOU CONTEST THE PENALTY:**

**You have the right to request a hearing.** A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. You, or an authorized representative from your company, may electronically file a request for hearing within fifteen (15) days from the date of service of the Penalty Order. If you or your company does not have access to the internet, you may request a hearing by submitting one original and seven copies of the request for hearing to the Commission's Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of the Penalty Order. A copy of the hearing request must be provided to the Litigation Counsel, listed below.

**IF YOU FAIL TO ACT:**

Pursuant to K.A.R. 82-14-6(i) and (j), failure to submit a written request for a hearing within fifteen (15) days or, in the alternative, to pay the civil assessment within twenty (20) days from the date of service of the Penalty Order, will be considered an admission of noncompliance. **Failing to request a hearing or pay the civil assessment may result in further penalties.**

Respectfully,

Robert Elliott Vincent, S. Ct. No. 26028  
Senior Litigation Counsel  
(785) 271-3273  
[r.vincent@kcc.ks.gov](mailto:r.vincent@kcc.ks.gov)

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

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

In the Matter of the Investigation of Kansas )  
Gas Service, a Division of ONE Gas, Inc., )  
Regarding Violations of the Kansas ) Docket No. 20-DPAX-274-PEN  
Underground Utility Damage Prevention Act )  
and the Commission's Regulations Pertaining )  
to Natural Gas Pipeline Safety. )

**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. REGULATORY FRAMEWORK**

1. The Commission is authorized to enforce multiple frameworks regarding underground utility damage and natural gas pipeline safety.

**A. Kansas Underground Utility Damage Prevention Act**

2. 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.* 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 K.S.A. 66-1814.

3. Pursuant to K.A.R. 82-14-6, 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.

4. The Commission is authorized to impose civil penalties and injunctive actions against any person or entity subject to and found in violation of KUUDPA, or any rule and

regulation, or any order of the Commission. Each violation is subject to a civil 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.<sup>1</sup>

### **B. Natural Gas Pipeline Safety**

5. Pursuant to K.S.A. 66-1,150 *et seq.*, the Commission is authorized to adopt rules and regulations as may be necessary to conform with the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 60101 *et seq.*), as amended. The Commission has adopted such regulations.<sup>2</sup> These rules and regulations are applicable to:

(1) All public utilities and all municipal corporations or quasi-municipal corporations transporting natural gas or rendering gas utility service; (2) all operators of master meter systems, as defined by 49 C.F.R. § 191.3; (3) all operators of privately or publicly owned pipelines providing natural gas service or transportation directly to the ultimate consumer for the purpose of manufacturing goods or generating power; and (4) providers of rural gas service under the provisions of K.S.A. 66-2101 through 66-2106, and amendments thereto.<sup>3</sup>

6. Pursuant to K.S.A. 66-1,151, the Commission is authorized to impose civil penalties for violations of gas pipeline safety rules and regulations. Each violation is subject to a civil 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.<sup>4</sup>

7. Pursuant to K.A.R. 82-1-237, the Commission has the authority to investigate a party under its jurisdiction and order a hearing on its own motion when the Commission believes the party is in violation of the law or any order of the Commission. K.A.R. 82-11-6(e) provides a show cause hearing may be held by the Commission when all other reasonable measures have

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<sup>1</sup> See K.S.A. 66-1812, K.S.A. 66-1,151 and amendments thereto; and, K.A.R. 82-14-6.

<sup>2</sup> For reference, the Commission's adoption of Natural Gas Pipeline Safety regulations may be found at K.A.R. 82-11-1 through K.A.R. 82-11-11. The Commission's Kansas Underground Utility Damage Prevention Act regulations may be found at K.A.R. 82-14-1 through K.A.R. 82-14-6.

<sup>3</sup> K.S.A. 66-1,150(a).

<sup>4</sup> K.S.A. 66-1,151.

failed to produce operator compliance, or when non-compliance presents an imminent danger to persons or property.

## II. JURISDICTION OVER RESPONDENT

8. Kansas Gas Service, a Division of ONE Gas, Inc. (Respondent) operates as a natural gas public utility pursuant to Commission-issued certificates of convenience and necessity, and serves approximately 636,000 customers in over 360 communities in Kansas.<sup>5</sup>

9. Respondent is a statutorily-defined Operator who owns or leases underground Tier 1 or Tier 2 facilities, as defined in K.S.A. 66-1802(k), (q), and (r). respectively. Pursuant to K.S.A. 66-1813, which authorizes the Commission to administer and enforce KUUDPA, Respondent is subject to the Commission's jurisdiction regarding compliance with KUUDPA's obligations (e.g., K.S.A. 66-1806), and may be subject to penalties issued pursuant to K.S.A. 66-1812.

10. Pursuant to K.S.A. 66-1,150 *et seq.* and K.A.R. 82-11-1 *et seq.*, Respondent's operation as a natural gas public utility renders it subject to the Commission's natural gas pipeline safety regulations

## III. ALLEGATIONS OF NONCOMPLIANCE

11. Commission Staff (Staff) investigated the activities and operations of Respondent regarding providing locate marks.<sup>6</sup> As a result of this investigation, Staff found Respondent failed to provide accurate and timely locates when requested, resulting in damage to Respondents natural gas facilities and lost work time for the excavators that damaged the lines.<sup>7</sup> A description of incidents is contained within Staff's Report and Recommendation attached to this Penalty Order.

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<sup>5</sup> See Application, Docket No. 18-KGSG-580-RTS, p. 1 (Jun. 29, 2018).

<sup>6</sup> See Report and Recommendation of Staff dated February 13, 2020, a copy of which is attached hereto as Attachment "A" and is hereby incorporated by reference.

<sup>7</sup> See Report and Recommendation, p. 1 (Feb. 13, 2020) (Report and Recommendation).

Case #	Date of Damage	Type of Facility Affected	City Damage Occurred	Root Cause	Code Violated	Penalty Amt.
CK-19-OC-1076	5/17/2019	Service	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1096	6/17/2019	Service	Overland Park	Inaccurate Maps	66-1806	\$1,000
CK-19-OC-1099	6/17/2019	Main	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1100	6/20/2019	Service	Mission Hills	Inaccurate Maps	66-1806	\$1,000
JW-19-OC-1129	6/21/2019	Service	Hutchinson	Mis Marked	66-1806	\$1,000
CK-19-OC-1104	6/27/2019	Main	Prairie Village	Inaccurate Maps	66-1806	\$1,000
WS-19-OC-1003	7/11/2019	Service	Topeka	Mis Marked	192.614	\$1,000
JW-19-OC-1151	7/12/2019	Service	Haysville	Not Marked	192.614	\$1,000
WS-19-OC-1005	7/18/2019	Main	Topeka	Not Marked	192.614	\$1,000
CK-19-OC-1113	7/22/2019	Plastic Main	Stilwell	Not Marked	192.614	\$1,000
JW-19-OC-1166	7/31/2019	Service	Wichita	Not Marked	66-1806	\$1,000
JW-19-OC-1167	8/1/2019	Service	Wichita	Not Marked	66-1806	\$1,000
CK-19-OC-1128	8/15/2019	Main	Kansas City	Not Marked	192.614	\$1,000
JW-19-OC-1179	8/19/2019	Main	Wichita	Not Marked	192.614	\$1,000
CK-19-OC-1130	8/19/2019	Plastic Main	Stilwell	Not Marked	66-1806	\$1,000
JW-19-OC-1181	8/20/2019	Service	Wichita	Not Marked	192.614	\$1,000
CK-19-OC-1132	8/22/2019	Main	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1144	9/6/2019	Service	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1149	9/17/2019	Main	Prairie Village	Not Marked	192.614	\$1,000
CK-19-UN-1204	9/13/2019	Plastic Main	Lenexa	Not Marked	192.614	\$1,000
WS-19-OC-1007	9/23/2019	Service	Topeka	Not Marked	192.614	\$1,000
JW-19-OC-1206	9/26/2019	Service	Wichita	Not Marked	192.614	\$1,000
CK-19-OC-1161	9/27/2019	Main	Overland Park	Not Marked	192.614	\$1,000
CK-19-OC-1164	10/7/2019	Service	Lenexa	Late Locate	192.614	\$1,000
	<b>TOTAL</b>					<b>\$24,000</b>

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12. For purposes of this Penalty Order, the Commission will refer to the inspections in sequential "Counts" as follows:

- a. Inspection CK-19-OC-1076: Count 1;
- b. Inspection CK-19-OC-1096: Count 2;
- c. Inspection CK-19-OC-1099: Count 3;
- d. Inspection CK-19-OC-1100: Count 4;
- e. Inspection JW-19-OC-1129: Count 5;
- f. Inspection CK-19-OC-1104: Count 6;
- g. Inspection WS-19-OC-1003: Count 7;
- h. Inspection JW-19-OC-1151: Count 8;
- i. Inspection WS-19-OC-1005: Count 9;
- j. Inspection CK-19-OC-1113: Count 10;
- k. Inspection JW-19-OC-1166: Count 11;
- l. Inspection JW-19-OC-1167: Count 12;
- m. Inspection CK-19-OC-1128: Count 13;
- n. Inspection JW-19-OC-1179: Count 14;

<sup>8</sup> See Report and Recommendation, pp. 3-4.

- o. Inspection CK-19-OC-1130: Count 15;
- p. Inspection JW-19-OC-1181: Count 16;
- q. Inspection CK-19-OC-1132: Count 17;
- r. Inspection CK-19-OC-1144: Count 18;
- s. Inspection CK-19-OC-1149: Count 19;
- t. Inspection CK-19-OC-1204: Count 20;
- u. Inspection WS-19-OC-1007: Count 21;
- v. Inspection JW-19-OC-1206: Count 22;
- w. Inspection CK-19-OC-1161: Count 23; and
- x. Inspection CK-19-OC-1164: Count 24.

13. Staff issued Respondent Notices of Probable Noncompliance for incidents occurring between May 2019 to October 2019, regarding the alleged Counts of KUUDPA and pipeline safety violations.

14. Specifically, Counts 2, 4, 5, 6, 11, 12, and 15 referenced K.S.A. 66-1806(a) which states:

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.

15. Counts 1, 3, 7, 8, 9, 10, 13, 14, and 16 through 24 referenced 49 C.F.R. 192.614(a) which states:

Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purposes of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

16. Respondent timely responded to the Notices of Probable Noncompliance.<sup>9</sup> Respondent stated it either agreed with the information contained in the Notices of Probable Noncompliance, or did not dispute the allegations contained therein.<sup>10</sup>

#### IV. DISCUSSION OF ALLEGATIONS OF NONCOMPLIANCE

##### A. KUUDPA

17. KUUDPA requires operators (i.e., public utilities) to provide excavators a “tolerance zone” of the operator’s underground facilities in the planned excavation area by marking, flagging or other acceptable method.<sup>11</sup> For natural gas public utilities, the “tolerance zone” is an area not less than 24 inches of the outside dimensions in all horizontal directions of an underground facility.<sup>12</sup> Within two working days, beginning after the day on which the excavator provided notice of its intent to excavate, an operator must inform an excavator of the tolerance zone.<sup>13</sup> If an operator has no facilities in the area of proposed excavation, the operator must notify the excavator no facilities are present before the excavation start date.<sup>14</sup>

18. Regarding Counts 2, 4, 5, 6, 11, 12, and 15, Respondent failed to provide the location of the tolerance zone as required by K.S.A. 66-1806(a). Staff’s investigations determined Respondent did not provided locates or had provided inaccurate locates. In each of these instances, Staff’s investigation determined Respondent’s failure to provide the location of the tolerance zone required by K.S.A. 66-1806(a) resulted in damage to Respondent’s underground facilities.<sup>15</sup>

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<sup>9</sup> See Report and Recommendation, p. 3-4.

<sup>10</sup> See Report and Recommendation, p. 4. Note: In Investigation CK-19-OC-1149, Respondent argued the contractor violated K.S.A. 66-1809 by failing to maintain clearance. See Report and Recommendation, pp. 13-14.

<sup>11</sup> See K.S.A. 66-1806(a).

<sup>12</sup> See K.S.A. 66-1802(t).

<sup>13</sup> See K.S.A. 66-1806(a).

<sup>14</sup> See K.S.A. 66-1806(d)(1).

<sup>15</sup> See Report and Recommendation, pp. 1-2, 5.

19. The Commission agrees with Staff's findings. Failing to provide the location of the tolerance zone is a violation of K.S.A. 66-1806(a). As such, the Commission concludes Respondent violated its obligations under KUUDPA as set forth in K.S.A. 66-1806(a).

### **B. Natural Gas Pipeline Safety**

20. 49 C.F.R. 192.614, as adopted by K.A.R. 82-11-4, requires operators to carry out a written program to prevent damage to pipelines from excavation activities. Respondent's operations manual, specifically OGSops1.1404R, requires Respondent locate its gas facilities within two full working days after being notified of an intent to excavate.

21. Regarding Counts 1, 3, 7, 8, 9, 10, 13, 14, and 16 through 24, Respondent failed to provide the location of its underground facilities. Failure to follow a written procedure as required by pipeline safety regulations is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4. Staff's investigations determined Respondent had not accurately provided the location of its facilities as required by Respondent's written damage prevention program. In each of these instances Staff's investigation determined Respondent's failure to follow a written procedure, as required by the Commission's pipeline safety regulations, resulted in damage to Respondent's underground facilities.<sup>16</sup>

22. The Commission agrees with Staff's findings. Failure to follow a written procedure as required by pipeline safety regulations is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

### **C. Recommended Penalty**

23. Staff's Report and Recommendation discussed Staff's rationale for recommending a penalty against Respondent. While KUUDPA allows an excavator to dig without locates if the

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<sup>16</sup> See Report and Recommendation, pp. 1-2, 5.



required marking time has expired, most excavators will wait rather than risk damaging underground utilities or endangering life and property. Postponing excavation because of a failure to complete locates can result in costly downtime and scheduling problems including cancellation of contracts. Failing to provide accurate or timely locate marks has the potential for significant consequences to public safety. Inaccurate, incomplete, or missing locate marks may give an excavator a false sense of security. Believing no underground utility facilities are present, the speed and force an excavator utilizes may result in greater damage. Staff's Report and Recommendation further details Respondent's culpability, history of noncompliance, and aggravating or mitigating circumstances.<sup>17</sup> Ultimately, Staff recommended the Commission issue a civil penalty of \$24,000 against Respondent for violating KUUDPA and the Commission's pipeline safety regulations.<sup>18</sup>

24. The Commission agrees with Staff's recommendation. Providing timely and accurate locates of underground utility facilities is a critical obligation imposed on public utilities in Kansas. The failure of a public utility to meet this obligation warrants the assessment of a civil penalty. Therefore, the Commission adopts the recommendation of Staff.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

25. As discussed in paragraphs 8 through 10, above, the Commission finds and concludes it has jurisdiction over Respondent. Specifically, the Commission finds Respondent to be acting as an Operator who operates Tier 1 facilities as defined in K.S.A. 66-1802. Further, the Commission finds Respondent's operation as a natural gas public utility renders it subject to the Commission's natural gas pipeline safety regulations pursuant to K.S.A. 66-1,150 *et seq.* and K.A.R. 82-11-1 *et seq.*

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<sup>17</sup> See Report and Recommendation, pp. 3-5.

<sup>18</sup> See Report and Recommendation, p. 5.

26. The Commission finds Respondent violated Kansas law governing underground utilities, including provisions of KUUDPA and the Commission's pipeline safety regulations, as described above, and is therefore subject to sanctions or fines imposed by the Commission. Specifically, the Commission finds Respondent failed to comply with:

- a. K.S.A. 66-1806(a) for Counts 2, 4, 5, 6, 11, 12, and 15; and
- b. 49 C.F.R. 192.614 adopted by K.A.R. 82-11-4 for Counts 1, 3, 7, 8, 9, 10, 13, 14, and 16 through 24.

27. The Commission finds a civil penalty is warranted due to Respondent's violation of KUUDPA and the Commission's pipeline safety regulations. Specifically, the Commission finds Respondent shall be assessed a \$1000 civil penalty for each violation as contained within Counts 1 through 24. Pursuant to K.S.A. 66-1812 and K.S.A. 66-1,151, the Commission concludes Respondent shall be assessed a \$24,000 penalty, in total, for such violations.

28. The Commission finds and concludes Respondent shall be afforded an opportunity to request a hearing on the assessment of this civil penalty. Because the Commission is authorized to impose civil penalties and injunctive actions against any person or entity subject to and found in violation of KUUDPA, or any rule and regulation, or any order of the Commission, the Commission finds the hearing procedure adopted in the Commission's KUUDPA and procedural regulations shall control any subsequent hearings in this matter. Specifically, 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. A request for hearing must comply with the provisions of K.A.R. 82-1-232(b). Hearings shall be conducted in accordance with K.A.R. 82-1-230.

29. 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 in the alternative request a hearing within 15 days from the date of service of this Penalty Order, shall be considered an admission of the noncompliance allegations contained herein.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Kansas Gas Service, a Division of ONE Gas, Inc. is hereby assessed a \$24,000 civil penalty for violating the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et seq.* and the Commission's natural gas pipeline safety regulations adopted pursuant to K.S.A. 66-1,150 *et seq.*

B. Pursuant to K.A.R. 82-14-6(j), Respondent may request a hearing by electronically filing its request within fifteen (15) days from the date of service of this Penalty Order, and e-mailing or mailing a copy of the request for hearing to the Litigation Counsel listed on the Notice of Penalty Assessment. If Respondent does not have access to the internet, Respondent must submit an original and seven copies of the request for hearing to the Commission's Executive Director at 1500 S.W. 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 listed on the Notice of Penalty Assessment. Hearings will be scheduled only upon written request. Failure to timely request a hearing shall be considered an admission of the noncompliance allegations contained herein and result in a waiver of Respondent's right to a hearing. A request for hearing must comply with the provisions of K.A.R. 82-1-232(b). Hearings shall be conducted in accordance with K.A.R. 82-1-230.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a

corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.<sup>19</sup>

D. Pursuant to K.A.R. 82-14-6(i), if Respondent does not request a hearing, the payment of the civil penalty is due within twenty (20) days from the date of service of this Penalty Order. Checks shall be made payable to the Kansas Corporation Commission. Payments shall be mailed to the Fiscal Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. The payment shall include a reference to the docket number (20-DPAX-274-PEN) of this proceeding.

E. Unless a hearing is requested, failure to pay the \$24,000 civil penalty within twenty (20) days from the date of service of this Penalty Order will result in enforcement action against Respondent, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

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

**BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 03/19/2020



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Lynn M. Retz  
Executive Director

REV

<sup>19</sup> See K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

**ATTACHMENT "A"**



1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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

Laura Kelly, Governor

## REPORT AND RECOMMENDATION UTILITIES DIVISION

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

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

**DATE:** February 13, 2020

**SUBJECT: Docket Number: 20-DPAX-274-PEN**  
In the Matter of the Investigation of Kansas Gas Service, a Division of ONE Gas, Inc., Regarding Violations of the Kansas Underground Utility Damage Prevention Act and the Commission's Regulations Pertaining to Natural Gas Pipeline Safety.

### **EXECUTIVE SUMMARY:**

Staff recommends the Commission issue a civil penalty to Kansas Gas Service, a Division of ONE Gas, Inc. (KGS) for \$24,000. This recommendation stems from KGS's seven violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA) and 17 violations of Kansas' pipeline safety regulations occurring between May 2019 and October 2019. These incidents involved damage to KGS natural gas service and main lines in the Kansas City, Wichita, Topeka, and Hutchinson metropolitan areas.

For natural gas utilities, failure to properly locate facilities is a violation of KUUDPA, (i.e., K.S.A. 66-1806) and is also a violation of Kansas' Pipeline Safety Regulations. Over the last eight months, Staff has begun to prosecute alleged violations associated with natural gas utility locating under both legal frameworks and theories. By focusing on violations of pipeline safety regulations in enforcement proceedings, Staff hopes to influence natural gas operators to modify or enforce existing procedures to be more effective and, thereby, minimize future pipeline damages.

Failure to provide an excavator with the location of the tolerance zone of a buried facility before excavation begins is a violation of KUUDPA, specifically K.S.A. 66-1806(a). Failure to follow a written procedure as required by pipeline safety regulations is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4. Staff asserts KGS's failure to provide timely and accurate locates demonstrates a failure of KGS to follow its procedure OGSops1.1404R § 3.1.2.1 that directs KGS to locate its gas facilities within two full working days after being notified of an intent to excavate.

Staff further asserts KGS's failure to provide accurate locates demonstrates a failure of KGS to follow OGSops1.1404R § 4.1.4.1.

Although each of the 24 violations listed below could be viewed as a KUUDPA violation *and* a pipeline safety violation, Staff has elected to recommend a penalty for only one violation at each investigation site.

Staff recommends a penalty amount of \$1,000 per violation. For the time period of January of 2017 to the present, Staff has recommended a penalty for 128 (48%) of the 264 Notices of Probable Noncompliance (PNCs) issued to KGS. KGS continues to have repeat violations of K.S.A. 66-1806(a), as well as 49 CFR 192.614, as adopted by K.A.R. 82-11-4.

**BACKGROUND:**

KGS's failure to provide accurate and timely locates when requested resulted in damage to its natural gas facilities and lost work time for the excavators that damaged the lines. No additional injuries or damage to adjacent property occurred as a result of these incidents. The following table provides the date of the pipeline damage, the type of facility damaged, the city where the damage occurred, and Staff's determination of the cause of the damage.

[This space intentionally left blank. Table begins on next page.]

CK-19-OC-1099	6/17/2019	Main	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1100	6/20/2019	Service	Mission Hills	Inaccurate Maps	66-1806	\$1,000
JW-19-OC-1129	6/21/2019	Service	Hutchinson	Not Marked	66-1806	\$1,000
CK-19-OC-1104	6/27/2019	Main	Prairie Village	Inaccurate Maps	66-1806	\$1,000
WS-19-OC-1003	7/11/2019	Service	Topeka	Mis Marked	192.614	\$1,000
JW-19-OC-1151	7/12/2019	Service	Haysville	Not Marked	192.614	\$1,000
WS-19-OC-1005	7/18/2019	Main	Topeka	Not Marked	192.614	\$1,000
CK-19-OC-1113	7/22/2019	Plastic Main	Stilwell	Not Marked	192.614	\$1,000
JW-19-OC-1166	7/31/2019	Service	Wichita	Not Marked	66-1806	\$1,000
JW-19-OC-1167	8/1/2019	Service	Wichita	Not Marked	66-1806	\$1,000
CK-19-OC-1128	8/15/2019	Main	Kansas City	Not Marked	192.614	\$1,000
JW-19-OC-1179	8/19/2019	Main	Wichita	Not Marked	192.614	\$1,000
CK-19-OC-1130	8/19/2019	Plastic Main	Stilwell	Not Marked	66-1806	\$1,000
JW-19-OC-1181	8/20/2019	Service	Wichita	Not Marked	192.614	\$1,000
CK-19-OC-1132	8/22/2019	Main	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1144	9/6/2019	Service	Leawood	Not Marked	192.614	\$1,000
CK-19-OC-1149	9/17/2019	Main	Prairie Village	Not Marked	192.614	\$1,000
CK-19-UN-1204	9/13/2019	Service	Lenexa	Not Marked	192.614	\$1,000
WS-19-OC-1007	9/23/2019	Service	Topeka	Not Marked	192.614	\$1,000
JW-19-OC-1206	9/26/2019	Service	Wichita	Not Marked	192.614	\$1,000
CK-19-OC-1161	9/27/2019	Service	Overland Park	Not Marked	192.614	\$1,000
CK-19-OC-1164	10/7/2019	Service	Lenexa	Late Locate	192.614	\$1,000
	<b>TOTAL</b>					<b>\$24,000</b>

KGS has responded to all listed PNCs as required by K.A.R. 82-14-6(c).

**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 area is called the tolerance zone. In response to the above listed PNCs, KGS stated the buried gas service and main lines were either not located or were mis-located. KGS procedure, OGSops1.1404R, directs how KGS will receive and handle line locate tickets, provides locating practices to be followed, and provides direction for locate performance monitoring. KGS's Operation and Maintenance (O&M) procedures also allow for utilizing locate contractors to complete line locate requests. Staff asserts KGS's procedures were not being followed for each of these incidents. KGS failed to accurately locate the tolerance zone per KUUDPAs and failed to follow written procedures per pipeline safety regulations.

**B. Culpability:**

KGS is directly responsible for its actions in failing to provide timely and accurate locates as Kansas law requires.



C. History of noncompliance:

Staff has issued a total of 264 KUUDPA PNCs to KGS from 2017 through the present. These alleged violations were for similar issues regarding failure to provide timely and accurate locates. Out of the 264 PNCs, the Commission issued 104 penalties to KGS (totaling \$59,000) for failing to provide timely and accurate locates. Attachment I is included to show the history of penalties issued since January 1, 2017. Although KGS responded to each PNC with a description of action taken to correct the issue that led to the inaccurate locate, Staff contends the repeat number of PNCs demonstrates KGS is not effectively addressing conduct that gave rise to KGS violating KUUDPA. According to KGS's responses, the primary method for improving locate accuracy is to coach the personnel that incorrectly or did not identify utility facilities. For the 104 penalties issued by the Commission, the categories of responses from KGS are listed as follows:

- Nine locate technicians received disciplinary action, including one termination;
- Four locate technicians “will have work performance audited;”
- 64 locate technicians were returned to the site and coached, had work reviewed, or were retrained;
- 24 incidents did not require KGS addressing the damage with the contract locator. Resulting damages were due to various reasons KGS addressed (e.g., no tracer wire, bad test station, inaccurate maps/records); and
- One incident KGS acknowledged as a locating issue, but provided no specific action to be taken.

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

Regarding the 24 PNCs included in this Report and Recommendation, KGS responded as required and, generally, agreed with Staff's findings. KGS stated its personnel failed to provide accurate locates for the tolerance zone as requested by the excavator before the scheduled excavation start date. A summarized description of Staff's findings and KGS's response for each PNC, including corrective action taken, is included in this Report and Recommendation as Attachment II. To address violations of KUUDPA, in Docket 20-DPAX-080-PEN, KGS formally presented to Staff modifications KGS was making to its line locating and damage prevention program.<sup>1</sup> Staff and KGS have agreed to make efforts to meet on a more frequent basis to review results from this new program.

E. Aggravating/Mitigating Circumstances:

In most investigations of KUUDPA violations, Staff has considered actions taken by the violator to prevent reoccurrence of events leading to the violation as an adequate response to resolve the PNC. Staff has only recommended civil penalties for what it considers to be the more egregious violations of KUUDPA.

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<sup>1</sup> See Joint Motion to Close Docket, Docket No. 20-DPAX-080-PEN (Nov. 22, 2019)

In this Docket, Staff is recommending penalties for 24 violations of pipeline safety regulations or KUUDPA violations. As noted above, KGS continues to provide similar responses to PNCs with no evidence compliance with KUUDPA is improving. Although KGS's latest initiative to improve its damage prevention program is relatively new, Staff contends the initiative has not resulted in any noticeable improvement at this time. Staff is recommending the penalty amount per violation of KUUDPA or pipeline safety regulations remain at \$1,000.00 per violation.

**RECOMMENDATION:**

Staff recommends a civil penalty be issued to Kansas Gas Service, a Division of ONE Gas, Inc., in the amount of \$24,000, for violations of K.S.A. 66-1806(a) and 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

Attachments

**Attachment I**  
**Summary of Penalties Issued to KGS Since 2017**

<b>Docket #</b>	<b># Violations</b>	<b>Penalty Amount</b>
I 8-DPAX-087-PEN	9	\$ 4,500.00
I 8-DPAX-166-PEN	3	\$ 1,500.00
I 8-DPAX-250-PEN	5	\$ 2,500.00
I 8-DPAX-277-PEN	10	\$ 5,000.00
I 8-DPAX-295-PEN	1	\$ 500.00
I 8-DPAX-341-PEN	6	\$ 3,000.00
I 8-DPAX-459-PEN	7	\$ 3,500.00
I 9-DPAX-040-PEN	10	\$ 5,000.00
I 9-DPAX-155-PEN	17	\$ 8,500.00
I 9-DPAX-269-PEN	11	\$ 5,500.00
I 9-DPAX-433-PEN	11	\$ 5,500.00
20-DPAX-080-PEN	14	\$ 14,000.00
<b>TOTAL</b>	<b>104</b>	<b>\$ 59,000.00</b>

**Attachment II**  
**Staff's Summary of Notices of Potential Violation and the Responses of Kansas Gas Service**

**CK-19-OC-1076**

**KCC NOPV Description:**

On 5/10/2019, Chad R. Allen Excavating notified Kansas One-Call of intent to excavate at 11705 Mohawk Ln. in Leawood, Kansas. One-Call ticket #19200100 had a work to begin date of 5/15/2019. On 5/17/2019, Chad R. Allen damaged a KGS ¾ inch PE gas service line. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614, as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days. The KGS facilities were not marked.

**Kansas Gas Service Response:**

KGS and USIC investigated the damage. This was the 28th time this ticket was updated to excavate a basement and grade the property. The USIC technician closed the locate ticket believing the work to be complete without confirming with the contractor. The technician was coached on making proper communication to confirm work is complete.

**CK-19-OC-1096**

**KCC NOPV Description:**

On 6/17/2019, 4 Points Excavation & Underground damaged a KGS 7/8 inch PE gas service line while directional drilling conduit for Verizon. KGS did not mark their facilities correctly at 4915 W. 103rd St. in Overland Park, Kansas. There was a valid One-Call ticket #19259141 with a due date of 6/14/2019. There were locate marks at this location, however, the markings were based on measurements and were off by approximately 78 feet. Tracer wire was present at the damage site. The maps did not indicate an existing offset.

**Kansas Gas Service Response:**

KGS and USIC investigated the damage. It was discovered that there were conflicting measurements provided. The measurements applied were the incorrect measurements. KGS corrected the records and USIC was reminded to reach out to KGS when necessary for confirmation.

**CK-19-OC-1099**

**KCC NOPV Description:**

On 6/17/2019, Capital Electric Line Builders damaged a KGS 2 inch PE gas main line. On 6/10/2019, Capital Electric Line Builders notified Kansas One-Call of intent to excavate at 2800 W. 143rd St. in Leawood, Kansas. One-Call ticket #19253152 had a work to begin date of 6/13/2019. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614, as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days. The

KGS facilities were not marked. Additionally, a ticket indicated this request as being "clear with no conflict."

**Kansas Gas Service Response:**

KGS and USIC investigated the issue. This ticket was linked to a large utility and street relocation project with multiple locate requests. The facilities were located by the requested date but the markings had been destroyed due to several of the contractors working in the area.

**CK-19-OC-1100**

**KCC NOPV Description:**

On 6/20/2019, KGS did not mark their facilities correctly at 6320 Norwood St. in Mission Hills, Kansas. Water District No. 1 of Johnson County damaged a KGS 7/8 inch PE gas service line with a trackhoe while making an emergency repair to a fire hydrant. There was a valid One-Call ticket #19248306 with a due date of 6/6/2019. KGS did provide locate marks. However, the markings were based on measurements and the locate marks were off from the damaged pipe by approximately 14 feet.

**Kansas Gas Service Response:**

KGS and USIC investigated the damage and determined that the technician failed to call for assistance during the locating process. The USIC technician was coached on calling KGS when additional information or assistance is needed. The measurements were also updated for this service.

**JW-19-OC-1129**

**KCC NOPV Description:**

On 06/21/2019, KGS did not correctly mark their facilities at 30<sup>th</sup> and Apple Ln. in Hutchinson, KS. RND Underground damaged a KGS ¾" PE gas service line while installing telecommunication by trenchless excavation. There was a valid One-Call ticket #19248743 with a due date of 6/11/19. There were no visible locate marks for this service line.

**Kansas Gas Service Response:**

KGS & USIC investigated the damage. It was discovered USIC relied solely on the locate tone of two services which were only inches apart. Tap measurement information provided by KGS maps indicated a difference of 100'. Additionally, it was discovered KGS's maps did not indicate a branch service on the property. KGS will update the KGS mapping system to indicate branch service. As for USIC, training will be held advising locators that in the event they locate two separate gas service lines in what appears to be in the same ditch, it will be necessary to contact KGS for clarification and to also verify locates by tap measurements.

**CK-19-OC-1104**

**KCC NOPV Description:**

On 6/27/2019, Water One damaged a KGS 2 inch PE gas main line with an excavator during a water main install. KGS did not mark their facilities correctly at 7405 Belinder in Prairie Village,

Kansas. There was a valid One-Call ticket #19269523 with a due date of 6/20/2019. There were locate marks present. However, an old test station was used to provide locate marks and was attached to an abandoned line. The active line was approximately 15 feet from the abandoned marks.

**Kansas Gas Service Response:**

KGS and USIC investigated the damage. It was confirmed there was an old test station left in error. The old test station was removed.

**WS-19-OC-1003**

**KCC NOPV Description:**

On 7/11/2019, Moore Plumbing damaged a service line in front of a house at 3524 S.W. MacVicar. The area appeared to have locate markings approximately 16 feet to the south of the service line. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614, as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs locators to be familiar with facilities on site so all facilities will be properly marked. The KGS facilities were marked incorrectly. As a result, a ½ inch PE service was damaged by Moore Plumbing.

**Kansas Gas Service Response:**

Kansas Gas Service investigated the damaged service line at 3524 S.W. MacVicar and determined the service line was installed in 1977 without a tracer wire. On this occasion, the technician used measurements to complete the locate. The original measurements were incorrect by approximately 12 feet resulting in damage to the line. KGS has corrected the measurements and installed marker balls to facilitate proper locating in the future.

**JW-19-OC-1151**

**KCC NOPV Description:**

On 07/12/2019, Wichita Excavation notified Kansas One-Call of intent to excavate at 621 W. Anita Dr. in Haysville, Kansas. One-Call Emergency ticket #19316609 had a work to begin date of 07/12/2019. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614, as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days or within two hours of receiving notification. The KGS facilities were not marked and the One-Call ticket indicated KGS was "clear with no conflict."

**Kansas Gas Service Response:**

After review, it was determined that USIC had located the facility to the structure but had failed to locate the line from the meter to point of entry behind the building. Upon investigation, the tracer wire was found to be broken below ground and was repaired by KGS. KGS advised USIC to contact KGS anytime they are not able to locate a facility and report their findings.

### WS-19-OC-1005

**KCC NOPV Description:**

On 07/18/2019, Westar Energy damaged a service line in front of a house at 1301 S.E. Illinois in Topeka KS. The area appeared to have markings for the 2-inch main but no locate markings for the 4-inch main that was inside the description of the excavation site specified in One-Call ticket #19299104.

KGS did not follow its locating procedure found in OGSops1.1404R, which directs locators to be familiar with facilities on site so that all facilities will be properly marked. As a result of not following its procedures, the KGS facilities were marked incorrectly and a 4-inch PE main was damaged by Westar Energy.

**Kansas Gas Service Response:**

Kansas Gas Service and USIC have investigated and determined the technician failed to properly verify available maps resulting in the failure to locate the 4-inch PE gas main. The technician was coached and given a verbal warning.

### CK-19-OC-1113

**KCC NOPV Description:**

On 7/22/2019, SCC LLC damaged a KGS 1-1/4 inch gas main line. On 7/12/2019, SCC, LLC notified Kansas One-Call of intent to excavate at 18565 Lamar Ave. in Stilwell, Kansas. One-Call ticket #19317925 had a work to begin date of 7/17/2019. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days. The KGS facilities were not marked.

**Kansas Gas Service Response:**

KGS and USIC investigated the issue and confirmed that the locate technician only located and marked a portion of the KGS facilities existing in the area of the locate request. USIC has confirmed that the technician was coached on reviewing the records and maps and ensuring all facilities are located before finishing the ticket.

### JW-19-OC-1166

**KCC NOPV Description:**

On 07/31/2019, Dutton Construction damaged a KGS PE gas line while installing a sewer main at 3168 S. Davidson St. in Wichita, Kansas. There was a valid One-Call ticket #19338290 with a due date of 07/26/2019. During the course of the investigation, Dutton Construction alleged KGS did not provide locate marks for the gas line.

**Kansas Gas Service Response:**

Upon investigation by Kansas Gas Service, it was determined that the service at the referenced address was tied to a main line that was outside the scope of the ticket, but was nevertheless locatable and missed by the locator. KGS met with the contractor and reviewed the incident and

confirmed the facility was locatable. KGS instructed the locator on how to properly utilize their mapping system.

**JW-19-OC-1167**

**KCC NOPV Description:**

On 08/01/2019, The City of Wichita damaged a KGS PE gas service while installing a new water service at 5530 N. Sedgwick St. in Wichita, Kansas. There was a valid One-Call ticket #19353012 with a due date of 7/31/2019. During the course of the investigation, The City of Wichita alleged KGS did not provide locate marks for the service line.

**Kansas Gas Service Response:**

Upon Investigation, KGS determined that its contract locator (USIC) failed to locate the service line. This service did not have a tracer wire, but the measurements were accurate. KGS replaced the entire service line with tracer wire to remediate the concern.

**CK-19-OC-1128**

**KCC NOPV Description:**

On 8/15/2019, JD Excavating damaged a natural gas main in the vicinity of N. 20th St & Tauomee Ave in Kansas City, Kansas. One-Call ticket #19350341 had a work to begin date of 8/2/2019. The KGS facilities were not marked before the work to begin date. KGS did not follow its procedure OGSops1.1404R which directs KGS to locate its gas facilities within two full working days after being notified on an intent to excavate. Failure to follow the written procedure is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

**Kansas Gas Service Response:**

KGS and USIC investigated the issue and determined the USIC technician failed to read all of the instructions on the ticket before closing it and therefore did not mark KGS facilities. The ticket was reviewed and the USIC technician was coached on the requirement to closely read the entire ticket before completing the ticket.

**JW-19-OC-1179**

**KCC NOPV Description:**

On 08/19/2019, Allen Trenching damaged a KGS 2 inch PE gas main. On 8/6/2019, Allen Trenching notified Kansas One-Call of intent to excavate at 2076 N. 127th Ct. E in Wichita, Kansas. One-Call ticket #19364328 had a work to begin date of 08/09/2019. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its facilities within two full working days. The KGS facilities were not marked.

**Kansas Gas Service Response:**

Upon investigation, USIC and KGS determined that the locator did not locate the entire scope of the ticket. Because the USIC locate employee has not previously had any concerns, USIC and KGS agreed it is appropriate to conduct follow up with multiple locate audits to ensure the locator is following the entire marking instructions.



### CK-19-OC-1130

**KCC NOPV Description:**

On 8/19/2019, KGS did not mark their facilities correctly at W. 191st St. & Metcalf Ave. in Stilwell, Kansas. Riden Plumbing damaged a KGS 1-1/4 inch PE gas main line with a mini excavator while excavating for a water stop. There was valid One-Call ticket #19372996 with a due date of 8/15/2019. There were locate marks present. However, there were no marks present on the gas main. Tracer wire was present at the damage site and the locator indicated the area as being clear with no conflict.

**Kansas Gas Service Response:**

KGS and USIC investigated the issue and determined the USIC technician failed to look at all the maps correctly. The records were reviewed and technician was coached on the importance of reviewing the service records and verifying the identification of all facilities before determining an area is clear.

### JW-19-OC-1181

**KCC NOPV Description:**

On 08/20/2019, Henry Dick Digging damaged a KGS 3/4 inch PE gas service line. On 8/14/2019, Henry Dick Digging notified Kansas One-Call of intent to excavate at 3600 W Esthner Ave. in Wichita, Kansas. One-Call ticket #19378387 had a work to begin date of 8/17/2019. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days. The KGS facilities were not marked, and ticket indicated as being "clear with no conflict."

**Kansas Gas Service Response:**

Upon investigation, KGS determined the locator had not located the area and had marked the ticket as clear. KGS has confirmed the service measurements on record were accurate; and, following the damage, the KGS has scheduled to install a new service line with tracer wire for this damaged service. The USIC locator was disqualified and brought in for additional training and re-qualification. The Company will conduct locate audits on this locator to make sure he is performing a full visual scan of the locate area and checking all prints and documentation available.

### CK-19-OC-1132

**KCC NOPV Description:**

On 8/22/2019, Miller Excavating damaged a natural gas main in the vicinity of 9409 Manor R.d in Leawood, Kansas. One-Call ticket #19384940 had a work to begin date of 8/22/2019. The KGS facilities were not marked before the work to begin date. KGS did not follow its procedure OGSops1.1404R which directs KGS to locate its gas facilities within two full working days after being notified of an intent to excavate. Failure to follow the written procedure is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

**Kansas Gas Service Response:**

KGS and USIC investigated the issue and determined the USIC technician failed to notify the excavator that the ticket would not be completed by the work to begin date.

**CK-19-OC-1144**

**KCC NOPV Description:**

On 9/6/2019, Kissick Construction damaged a natural gas service line in the vicinity of 4700 W. 119th St. in Leawood, Kansas. One-Call ticket #19415200 had a work to begin date of 9/7/2019. Only the front of the property had been located and the ticket indicated marking was complete. The facilities were not entirely marked according to the request to mark the entire property. KGS did not follow its procedure OGSops1.1404R which directs KGS to locate its gas facilities within two full working days after being notified on an intent to excavate. Failure to follow the written procedure is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

**Kansas Gas Service Response:**

KGS has investigated the issue and does not dispute this allegation. During discussions with USIC, the Company learned that it is USIC's position that this area was properly marked prior to excavation; however, the locator is unable to produce sufficient records to support this position. KGS and USIC have discussed the importance of obtaining photo documentation where reasonable to support the accuracy of the locations and markings.

**CK-19-OC-1149**

**KCC NOPV Description:**

On 9/17/2019, O'Donnell & Sons Construction, Inc., damaged a natural gas service line in the vicinity of 8815 Linden Dr. in Prairie Village, Kansas. One-Call ticket #19415215 had a work to begin date of 9/7/2019. The KGS facilities were not marked in the requested area and the ticket indicated the area to be clear with no conflict. KGS did not follow its procedure OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days after being notified an intent to excavate. Failure to follow the written procedure is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

**Kansas Gas Service Response:**

The damage to the 2 inch steel main serving 8815 Linden Dr, Prairie Village was investigated by KGS and USIC. The locate request was a refresh ticket (#19415215). The original locate ticket (#19390844) was completed on 8/29/19. Prior to locating the refresh ticket, the excavator verbally asked that a different area of the project be marked. However, the USIC technician failed to make a meet sheet to document this action. At the time of damage, although the contractor had the pipe exposed, the contractor failed to maintain clearance and struck the main which KGS argues violates KSA 66-1809. Upon arrival, KGS found the struck pipe bent, but not releasing gas. KGS also observed new gravel covering pipe that was previously exposed for the purpose of driving over the pipe. USIC has confirmed that it has coached the locator on the importance of meet sheets and correct documentation.

**CK-19-UN-1204**

**KCC NOPV Description:**

On 9/13/2019, KCC staff performed a field audit during a damage investigation for ticket #19402071, with a due date of 8/30/2019, at 8622 Acuff Ln. in Lenexa, Kansas. Staff observed the service of 8622 Acuff Ln. as being within the scope of the requested area and not marked. Tracer wire was present at the meter and did tone. Locator performed the locate while staff was present.

**Kansas Gas Service Response:**

In response to KGS's investigation, USIC informed KGS that its locate technician attempted to notify the excavator that USIC would not be able to respond to the locate request within the allotted time period. KGS has recently met with USIC Supervision and reinforced the requirement of timely locates or the documentation of alternative arrangements. KGS has also put in place a locate ticket management system that will assist the Company in its efforts to identify and address lagging tickets. The Company has been in the process of uploading data and testing this system which is anticipated to be operating in Kansas in mid-November 2019. Although the Company anticipates time is necessary for internal staffing adjustments and adequate training of personnel to take place before the system is fully operational, the Company anticipates this system will have a positive impact on this specific concern.

**WS-19-OC-1007**

**KCC NOPV Description:**

On 9/23/2019, Consolidated Rural Water District 4 damaged the gas service line running to 4650 N.W. 50th Ct. in Topeka Kansas. The One-Call ticket #19443768 requested all utilities to be marked for the entire front of the property of 4645 N.W. 50th Ct. Staff observed locate marks for the service line running to 4645 N.W. 50th Ct., however, the service to 4650 N.W. 50th Ct., which runs along the front of the requested property, was not marked. KGS did not follow its locating procedure found in OGSops1.1404R, which directs locators to be familiar with facilities on site so that all facilities will be properly marked. As a result of not following its procedures, all of the KGS facilities were not marked.

**Kansas Gas Service Response:**

KGS conducted an investigation and agrees it would have been reasonable for the service line serving 4650 N.W. 50th Ct., to have been located and marked as it was near the locate request. However, the marking instructions for 4645 N.W. 50th Ct., were to mark the entire front of the property up to the center line of N.W. 50th Ct. The service line for 4645 N.W. 50th Ct., was located correctly, so was the main. The service to 4650 N.W. 50th Ct, runs parallel to the property line of 4645 N.W. 50th Ct. which was not in the scope of the ticket. In this area, the lots are a pie shaped and where the service connects to the main, the tap is close to the property line of 4645 N.W. 50th Ct. Despite the nuances involved in this locate request, the USIC technician was coached to mark all lines in proximity of the request.

## **JW-19-OC-1206**

### **KCC NOPV Description:**

On 09/26/2019, Utility Solutions of Kansas damaged a KGS ¾ inch PE gas service line. On 9/20/2019, Utility Solutions of Kansas notified Kansas One-Call of intent to excavate at 2625 S. West St. in Wichita, Kansas. One-Call ticket #19448961 had a work to begin date of 9/25/2019. KGS failed to carry out its damage prevention program as required per 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4, by not adhering to the ONE Gas O&M plan's procedure, OGSops1.1404R, which directs KGS to locate its gas facilities within two full working days. The service line was not marked.

### **Kansas Gas Service Response:**

Upon investigation, KGS determined that USIC, their locate contractor, had not located and marked the line. KGS and USIC management discussed this concern and KGS reinforced the importance of complying with the requirements of completing locate requests within the two-day period allowed.

## **CK-19-OC-1161**

### **KCC NOPV Description:**

On 9/27/2019, Hamm Construction damaged a natural gas service line in the vicinity of 16200 Metcalf Ave. One-Call ticket #19449552 had a work to begin date of 9/25/2019. The KGS facilities were not marked as requested and the ticket indicated the area had been marked. KGS did not follow the procedure OGSops1.1404R which directs KGS to locate its gas facilities within two full working days after being notified on an intent to excavate. Failure to follow the written procedure is a violation of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4.

### **Kansas Gas Service Response:**

KGS and USIC investigated the damage and discovered the construction project associated with this locate ticket has been an ongoing project for the majority of the year. The USIC technician failed to communicate with the excavator and erroneously assumed the work in the area subject to remarking was completed and therefore, did not re-mark the area. Following this damage, the USIC technician was suspended and has since been re-qualified and retested. USIC has advised that USIC supervision is conducting follow up audits on this technician to monitor and improve quality.

## **CK-19-OC-1164**

### **KCC NOPV Description:**

On 10/7/2019, KCC staff performed a field audit for ticket #19472539, two days after the excavation start date of 10/5/2019 at 8651 Greenway Ln. in Lenexa, Kansas. Staff talked with the locator onsite who indicated they were there to locate a Non-Response. This late locate resulted in a damage to a KGS 7/8 inch PE gas service line on 10/7/19. Prior to the excavation start date, the Operator failed to provide locates for underground facilities or to notify the excavator that no facilities were present in the area of proposed excavation.

**Kansas Gas Service Response:**

KGS does not dispute Staff's findings. KGS continues to work with its locator, USIC to address this concern and has reinforced the requirement of timely locates or the documentation of alternative arrangements.

**CERTIFICATE OF SERVICE**

20-DPAX-274-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail/hand delivered on 03/20/2020.

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