

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

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

In the Matter of the Investigation of **Kansas**)
Gas Service, A Division of ONE Gas,)
Regarding Violation(s) of the Kansas)
Underground Utility Damage Prevention)
Act (KUUDPA) (K.S.A. 66-1801, *et seq.*,) Docket No. 24-DPAX-895-PEN
and K.A.R. 82-14-1, *et seq.*), and the)
Commission's Authority to Impose)
Penalties and/or Sanctions (K.S.A. 66-)
1,151).)

ORDER APPROVING COMPROMISE AND ALTERNATIVE TO CIVIL PENALTY

The above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and determination. Having examined its files and records, the Commission finds and concludes as follows:

I. JURISDICTION

1. The Commission has jurisdiction and authority to administer and enforce KUUDPA, as provided in K.S.A. 66-1801, *et seq.* Likewise, 66-1815 grants the Commission full power and authority to adopt all necessary rules and regulations for carrying out the provisions of K.S.A. 66-1801 through 66-1814, *et seq.*

2. In its enforcement of KUUDPA, pursuant to K.A.R. 82-14-6, as amended, the Commission may investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

3. The Commission shall impose civil penalties and injunctive actions against any person or entity subject to and found in violation of the provisions of KUUDPA, or any rule and regulation, or any order of the Commission. Each violation is subject to a civil penalty, not to exceed \$25,000, for each day that the violation persists, with a maximum civil penalty of \$1,000,000 for any related series of violations. See K.S.A. 66-1812, 66-1,151 and amendments thereto; and K.A.R. 82-14-6.

4. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

5. Pursuant to K.S.A. 66-1,152, a civil penalty may be compromised by the Commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance shall be considered.

6. The Commission concludes that settlements are favored by the law. *Bright v. LSI Corp.*, 254 Kan. 853, 869 P.2d 686 (1994). A settlement of issues, all or part, with or without unanimous agreement, will be entertained by the Commission.

II. BACKGROUND

7. Kansas Gas Service, A Division of ONE Gas (KGS) is an operator who owns or leases underground Tier 1 or Tier 2 facilities as defined in K.S.A. 66-1,1802.

8. Staff investigated the operations of KGS for the period of January 2023 to December 2023, finding that KGS failed to provide excavators with the location of the tolerance zone of buried facilities before excavation began on forth (40) separate occasions and on seven (7) occasions it provided innacurate marks.

9. On September 24, 2024, the Commission issued a Penalty Order to KGS in this docket assessing a \$47,000.00 civil penalty.

10. On October 9, 2024, KGS requested a hearing before the Commission.

11. On November 8, 2024, and continuing thereafter, KGS and Staff discussed the possibility of a settlement. During these discussions, the parties were able to reach mutually agreeable terms in anticipated settlement of the issues. It was agreed that the parties would subsequently reduce the terms to writing to be filed and approved by the Commission.

12. On April 29, 2025, Staff filed a Joint Motion for Approval of Compromise and Alternative to Civil Penalty.

13. Under the proposed Compromise and Alternative to Civil Penalty (C&A), KGS will fund \$47,000 in grants to educational institutions which offer heavy equipment operator training programs that include training on KUUDPA and are located inside KGS' territory.¹ The grants will be administered by Commission Staff using criteria specified in the C&A.² Attached to the C&A is a copy of a letter that will be sent to eligible institutions informing them of the grant process as well as a copy of the grant application.³

14. Under K.S.A. 66-1,152, the Commission may consider a compromise between the person charged and Commission Staff in lieu of or all or part of a civil penalty. This compromise requires the person charged to make payment for a project that is related to natural gas pipeline safety or underground utility damage prevention and benefits the industry or community as a whole. This C&A would fully address all KUUDPA-related civil penalties for KGS for calendar year 2023.

¹ C&A at 3-4.

² C&A at 4-5.

³ C&A, Exhibit A

II. FINDINGS AND CONCLUSIONS

15. The Commission has reviewed the C&A attached to the Joint Motion for Approval of Compromise and Alternative to Civil Penalty of the parties and concludes that the terms and provisions therein are an appropriate and reasonable disposition of this matter. The Commission therefore adopts and incorporates by reference the terms of the C&A and concludes the C&A should be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. The Joint Motion for Approval of Compromise and Alternative to Civil Penalty entered into between Kansas Gas Service, A Division of ONE Gas and Staff is hereby granted.
- B. Kansas Gas Service, A Division of ONE Gas's Request for Hearing is withdrawn.
- C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁴

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 05/13/2025



Celeste Chaney-Tucker
Executive Director

AAL

⁴ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

24-DPAX-895-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 05/13/2025.

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/S/ KCC Docket Room
KCC Docket Room