

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a General Investigation)
Regarding Whether Electric Utilities Should be)
Considered an "Operator" of Private Underground)
Lines Under the Provisions of the Kansas)
Underground Utility Damage Prevention Act.)
Docket No. 17-GIME-565-GIV

RESPONSES OF THE EMPIRE DISTRICT ELECTRIC COMPANY

The Empire District Electric Company, a Liberty Utilities Company, submits the following responses to the Kansas Corporation Commission's ("Commission") questions A-G contained in the Commission's order issued in this docket on July 27, 2017.

A. Regarding underground electric service lines, how should the Commission interpret the term "operator" at K.S.A. 66-18020)?

RESPONSE: The term "operator" shall be interpreted to mean the entity that owns or maintains the underground facilities.

B. Should the utility service provider be required to provide locates for residential underground electric service up to the location of the customer meter or the building wall of the residence, whichever is further downstream?

RESPONSE: The utility service provider should be required to locate the underground facilities it owns. For residential customers this could mean locating the underground facilities up to the meter where the meter is placed on the residence or up to the customer's meter pole where the meter is placed on that pole.

a. What is the risk to the customer of not providing locates under this scenario?

RESPONSE: If a customer who owns underground facilities located on his or her private

property does not notify the excavator of the location of the customer-owned underground facilities at the time that customer provides the excavator permission to enter onto the customer's private property, then the customer runs the risk that the excavator may damage the customer-owned underground facilities.

b. What is the risk/cost to the utility of being required to provide locates under this scenario?

RESPONSE: If the utility is required to provide locating services for customer-owned underground facilities, it would seem to inherently assume some level of risk. The risk to the utility being required to locate customer-owned underground facilities is at least four-fold: (1) the utility does not know for certain the location of the customer-owned underground facilities since the utility did not install such facilities and does not maintain those facilities, making it difficult to locate those facilities with the amount of certainty necessary to avoid damage to those underground facilities; (2) the utility may not have access to the customer's private property where the customer-owned underground facilities may be located making it impossible to find and locate those facilities; (3) the utility may incur the risk of having to pay for any damage to underground facilities caused by an excavator because it was unable to locate and mark the customer-owned facilities with the amount of certainty necessary to avoid such damage; and (4) the additional risk could result in the increase in what the utility pays for insurance premiums.

The cost to locate customer-owned underground facilities for the utility

and its customers would depend on the amount of privately owned facilities and the difficulty in locating those facilities. Since the utility did not install and does not maintain customer-owned underground facilities, it will not know the location of those facilities and therefore would incur the additional cost to determine the location of those facilities. There could also be cost associated with having to pay for customer-owned underground facilities damaged by an excavator and an increase in what the utility pays for insurance premiums.

- C. For commercial customers, should the utility service provider be required to provide locates up to the building wall, the current transformer cabinet, or the customer meter, whichever is further downstream?

RESPONSE: The utility should be required to locate the underground facilities it owns. For commercial customers this could mean locating the underground facilities up to the meter where the meter is placed on the physical building or up to the customer's meter pole where the meter is placed on that pole.

- a. What is the risk to the customer of not providing locates under this scenario?

RESPONSE: If a customer who owns underground facilities located on his or her private property does not notify the excavator of the location of the customer-owned underground facilities at the time that customer provides the excavator permission to enter onto the customer's private property, then the customer runs the risk that the excavator may damage the customer-owned underground facilities.

- b. What is the risk/cost to the utility of being required to provide locates under this scenario?

RESPONSE: See the response to B.b. above.

- D. If it is required to locate customer-owned facilities, should the utility service provider only be required to locate those facilities to the boundaries of the common utility easement?

RESPONSE: To be clear it is Empire's position the utility should only be required to locate the underground facilities it owns; however, as stated above if the requirement was to go beyond the easement then physical access issues to private property would impair the utility's ability to accurately locate privately owned underground facilities.

- E. What is the liability of an operator in providing locates for customer installed/ owned facilities?

RESPONSE: If the question is what liability is inherited by the utility if they are required to locate customer or privately owned underground facilities, then the utility will be obligated to attempt to locate facilities that they do not own, did not install, and have not maintained. As stated previously, physical access issues to private property and private equipment, and the unfamiliarity of these privately owned facilities would impair the utility's ability to accurately locate them. In addition, the frustration of the customer/property owners with their utility because the customer doesn't understand the obligation imposed on a utility to verify that no customer underground facilities exists or locate those that do.

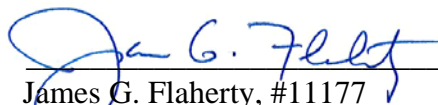
- F. If an operator is not required to provide locates of customer installed/owned facilities, should the operator be required to alert the customer to the fact that locating customer-owned facilities is the customer's obligation?

RESPONSE: The utility, or a contractor working on behalf of the utility, should alert the

apparent customer that they are responsible for locating their privately owned underground facilities at the time of locating utility owned facilities, whenever possible.

- G. What are the best practices that may be employed by an excavator to avoid damaging customer-owned facilities when no locate marks are present or the provided locate marks are of questionable accuracy?

RESPONSE: The excavator should alert the customer that they have privately owned underground facilities that have not been located. In cases where utility owned underground facilities have been marked but are questionable, the excavator should alert the utility and/or the person or persons who performed the locating on behalf of the utility. In both scenarios the excavator should not perform any excavation prior to communicating with the customer and/or the utility or locator.

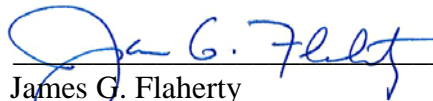


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VERIFICATION

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, states that he is attorney for The Empire District Electric Company; that he has read the above and foregoing Responses of The Empire District Electric Company, and the statements contained therein are true.



James G. Flaherty

SUBSCRIBED AND SWORN to before me this 12th day of October, 2017.





Notary Public

Appointment/Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via U.S. Mail, postage prepaid, hand-delivery, or electronically, this 12th day of October, 2017, addressed to:

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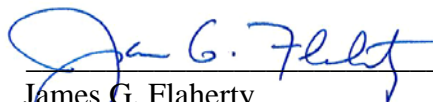
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