

**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 **Amino Brothers Co., Inc.**, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, *et seq.*, 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).) Docket No. 25-DPAX-280-PEN

ORDER APPROVING SETTLEMENT AGREEMENT

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. Amino Brothers Co., Inc. (Amino Brothers) is an excavator as defined in K.S.A. 66-1,1802.

8. On October 24, 2024, Staff investigated the activities and operations of Amino Brothers after damage to an Kansas Gas Service natural gas service line was discovered at 5812 Monrovia Street in Shawnee, Kansas.

9. On February 4, 2024, the Commission issued a Penalty Order to Amino Brothers in this docket assessing a \$500.00 civil penalty.

10. On February 11, 2024, Carrier requested a hearing before the Commission.

11. On February 20, 2025, Ken Ashmore, Utility Damage Prevention Coordinator for Amino Brothers, and Litigation Counsel for Staff, discussed the possibility of a settlement. During this and subsequent discussions, the parties were able to reach mutually agreeable terms in anticipated settlement of the issues. It was agreed that Staff would subsequently reduce the terms to writing and forward the draft to Amino Brothers for approval and signature.

12. On February 27, 2025, Staff filed a Joint Motion for Approval of Settlement Agreement. The Settlement Agreement is attached to this Order as Attachment A.

13. In the Settlement Agreement, Staff agreed to reduce the \$500.00 civil fine to \$250.00 based upon the specific circumstances of the alleged violation as well as the Amino Brothers's efforts to remediate the violation and attempts to ensure compliance. Amino Brothers agreed to withdraw its Request for Hearing before the Commission and pay the \$250.00 civil fine within thirty (30) days of Commission approval of this settlement agreement.

14. Amino Brothers also, when applicable, agreed to comply with Kansas law governing the Kansas Underground Utility Damage Prevention Act ("KUUDPA"), as provided in K.S.A. 66-1809(a), including the requirement to exercise reasonable care or use nonintrusive means to assure there was not a conflict between underground facilities and excavation activity in the tolerance zone

II. FINDINGS AND CONCLUSIONS

15. The Commission has reviewed the Settlement Agreement attached to the Joint Motion for Approval of Settlement Agreement 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 Agreement and concludes the Settlement Agreement should be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Joint Motion for Approval of Settlement Agreement entered into between Amino Brothers Co., Inc. and Staff is hereby granted.

B. Amino Brothers Co., Inc.'s Request for Hearing is withdrawn.

C. Commission Staff agreed to reduce the \$500.00 civil fine to \$250.00. Amino Brothers Co., Inc. agreed to pay the civil fine and shall submit payment to the Commission within thirty days of this order.

D. 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).¹

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/06/2025



Abigail D. Emery
Acting Secretary to the Commission

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¹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

In the Matter of the Investigation of **Amino**)
Brothers Co., Inc., Regarding Violation(s))
of the Kansas Underground Utility Damage) Docket No. 25-DPAX-280-PEN
Prevention Act (KUUDPA) (K.S.A. 66-)
1801, *et seq.*, 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).)

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), and Amino Brothers Co., Inc. (Amino Brothers). Its effective date will be the date the Commission enters an Order approving or amending the terms of the Agreement.

I. JURISDICTION

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, 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.

II. BACKGROUND

6. Amino Brothers Co., Inc. is an excavator as defined in K.S.A. 66-1,1802.

7. On October 24, 2024, Staff investigated the activities and operations of Amino Brothers after damage to an Kansas Gas Service natural gas service line was discovered at 5812 Monrovia Street in Shawnee, Kansas.

8. On February 4, 2025, the Commission issued a Penalty Order to Amino Brothers in this docket assessing a \$500.00 civil penalty.

9. On February 11, 2025, Carrier requested a hearing before the Commission.

10. On February 20, 2025, Ken Ashmore, Utility Damage Prevention Coordinator for Amino Brothers, and Litigation Counsel for Staff, discussed the possibility of a settlement. During this and subsequent discussions, the parties were able to reach mutually agreeable terms in

anticipated settlement of the issues. It was agreed that Staff would subsequently reduce the terms to writing and forward the draft to Carrier's counsel for approval and signature.

III. TERMS OF THE SETTLEMENT AGREEMENT

11. The parties agree that the Commission has jurisdiction and authority over this matter.

12. The parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the stipulations as set forth below.

13. Amino Brothers agrees to conduct any future excavation projects subject to the Commission's jurisdiction in a safe manner.

14. Staff recommends to the Commission that this Agreement be approved. Staff further agrees that upon approval by the Commission this Agreement shall constitute a final resolution of this matter.

15. Pursuant to K.S.A. 77-504, the Carrier waives all rights to a hearing on, or appeal of the Invoice, and withdraws its request for a hearing previously filed herein.

16. Pursuant to K.S.A. 77-526, the Commission expressly reserves and maintains the right and authority to enforce the terms of this Agreement.

17. Pursuant to the Kansas Judicial Review Act, K.S.A 77-601 *et seq.*, Carrier waives all rights to a hearing on, or appeal of, this Agreement.

IV. MODIFICATION OF PENALTY ORDER

18. Staff agrees to reduce the \$500.00 civil fine to \$250.00.

19. Staff's recommendation for reduction of this civil assessment is based upon the specific circumstances of the alleged violation as well as the Amino Brothers's efforts to remediate the violation and attempts to ensure compliance.

20. Amino Brothers agrees to withdraw its Request for Hearing before the Commission and pay the \$250.00 civil fine within thirty (30) days of Commission approval of this settlement agreement.

21. Amino Brothers shall, when applicable, comply with Kansas law governing the Kansas Underground Utility Damage Prevention Act (“KUUDPA”), as provided in K.S.A. 66-1809(a), including the requirement to exercise reasonable care or use nonintrusive means to assure there was not a conflict between underground facilities and excavation activity in the tolerance zone

VI. RESERVATIONS

22. This Agreement fully resolves issues specifically addressed between the parties. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

23. The terms and provisions of this Agreement have resulted from negotiations between the signatories and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any party has the option to terminate this Agreement and, if so terminated, none of the signatories hereto shall be bound by, prejudiced, or in any way affected by any of the terms or provisions hereof, unless otherwise provided herein.

24. Unless (and only to the extent) otherwise specified in this Agreement, the signatories to this Agreement shall not be prejudiced, bound by, or affected in any way by the terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, if the Commission decides not to approve this Agreement in total or in any way conditions its

approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either party fail to fulfill all terms and provisions.

25. Unless (and only to the extent) otherwise specified in this Agreement, this Agreement does not prejudice or waive any party's legal rights, positions, claims, assertions or arguments in any proceedings in this docket, or any other proceeding before the Commission or in any court. If the Commission approves this Agreement in its entirety and incorporates the same into a Final Order in this docket, the parties agree to be bound by its terms and the Commission's Order incorporating its terms as to all issues addressed herein and will not appeal the Commission's Order.

26. This Agreement shall be binding on all parties upon signing.

IN WITNESS WHERETO, Staff and Amino Brothers Co., Inc. hereby execute and approve this Settlement Agreement by subscribing their signatures below.

/s/ Ahsan Latif

/s/ Ken Ashmore

By: _____
Ahsan A. Latif, KS S. Ct. #24709
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1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone: 785-271-3118
Fax: 785-271-3167
Email: ahsan.latif@ks.gov
Attorney for Commission Staff

By: _____
Ken Ashmore
Utility Damage Prevention Coordinator
Amino Brothers Co., Inc.
P.O. Box 11277
Kansas City, Kansas 66111
Phone: 913-334-2330
Email: ken@aminobros.com
Representative for Amino Brothers Co., Inc.

CERTIFICATE OF SERVICE

25-DPAX-280-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 03/06/2025.

Ken Ashmore, UTILITY DAMAGE PREVENTION
COORDINATOR
Amino Brothers Co., Inc.
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/S/ KCC Docket Room
KCC Docket Room