

NOTICE OF PENALTY ORDER
25-DPAX-312-PEN

March 11, 2025

Ward Slocum
Black Hills Energy
601 North Iowa Street
Lawrence, Kansas 66044

This is a notice of a penalty assessment against Black Hills Energy Corporation (“Black Hills”) for a violation of the Kansas Underground Utility Damage Prevention Act (“KUUDPA”) and pipeline safety regulations adopted by the Kansas Corporation Commission. Black Hills has been assessed a civil penalty in the amount of \$4,000. For a full description of the penalty please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY: You have twenty (20) days from the date of service of the Penalty Order to pay the penalty. Payments shall be made payable to the Kansas Corporation Commission and mailed to the Fiscal Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas, 66604 and shall include a reference to Docket Number 25-DPAX-312-PEN.

IF YOU CONTEST THE PENALTY: You have the right to request a hearing to challenge the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. You or an authorized representative of Black Hills may electronically file its request for hearing within fifteen (15) days from the date of service of the Penalty Order. A copy of the request for hearing must be provided to the Litigation Counsel listed below.

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

Respectfully,
/s/ Madisen K. Hane
Madisen K. Hane, S. Ct. No. 30292
Litigation Counsel
(785) 271-3288
Madisen.Hane@ks.gov

**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 Black Hills)
Energy Regarding Violations of the Kansas)
Underground Utility Damage Prevention Act)
("KUUDPA") (K.S.A. 66-1801, et seq., and) Docket No. 25-DPAX-312-PEN
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") for consideration and determination. Having examined its files and records, the Commission finds and concludes:

I. JURISDICTION

1. The Commission has jurisdiction to administer and enforce the Kansas Underground Utility Damage Prevention Act ("KUUDPA"), as provided in K.S.A. 66-1801, *et seq.*¹ The Commission has full power and authority to adopt all necessary rules and regulations for carrying out the provisions of the KUUDPA, including imposing civil penalties and injunctive relief against any person or entity subject to and found in violation of the KUUDPA, or any rule, regulation, or order of the Commission.²

2. Black Hills Energy Corporation ("Black Hills") operates as a natural gas public utility pursuant to Commission-issued certificates of convenience and necessity.³

¹ See K.S.A. 66-1813.

² See K.S.A. 66-1812 and K.S.A. 66-1815.

³ See K.S.A. 66-1,200.

3. Black Hills is a statutorily defined Operator who owns or leases underground Tier 1 facilities, as defined in K.S.A. 66-1802(k) and (q).⁴ Pursuant to K.S.A. 66-1813, which authorizes the Commission to administer and enforce the KUUDPA, Black Hills is subject to the Commission's jurisdiction regarding compliance with the KUUDPA's obligations (*e.g.*, K.S.A. 66-1806), and may be subject to penalties and injunctive relief issued pursuant to K.S.A. 66-1812.

II. NONCOMPLIANCE

4. Between February 2024 and December 2024, Commission Staff ("Staff") conducted multiple onsite investigations of the excavation operations of Black Hills in Finney and Douglas Counties in Kansas. Four (4) instances of damage were discovered in total: one on August 12, 2024, one on August 21, 2024, one on February 1, 2024, and one on December 16, 2024.

5. Staff subsequently issued Notices of Probable Noncompliance ("PNCs") to Black Hills for each of the above-described instances, notifying Black Hills of the results of Staff's investigation, copies of which are attached hereto and incorporated by reference herein as **Attachment B**.

6. Black Hills responded to all four PNCs as required by K.A.R. 82-14-6(c) which are also included in Attachment B to this order. Black Hills' responses admitted that the buried gas service and main lines were not located before excavation began.

7. On March 3, 2025, Staff submitted a Report and Recommendation ("R&R") including attachments which is made a part hereof and incorporated by reference herein as **Attachment A**.⁵ Staff recommended that the Commission find that Black Hills was directly

⁴ K.S.A. 66-1802(k) defines "operator" as "any person who owns or leases underground tier 1 or tier 2 facility..."; K.S.A. 66-1802(q) defines "Tier 1 facility" as "an underground facility used for transporting, gathering, storing, conveying, transmitting, or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products, or hazardous liquids."

⁵ Report and Recommendation, Utilities Division, Docket No. 25-DPAX-312-PEN (March 3, 2025) ("Staff's R&R" or "R&R").

responsible for failing to provide accurate and timely locates of the tolerance zone of the buried facilities before excavation began as required by K.S.A. 66-1806(a) on four (4) separate occasions.⁶ Furthermore, Staff recommended that the Commission find that Black Hills is responsible for ensuring its staff and contractors follow the required operations and maintenance procedures required by pipeline safety regulations, specifically 49 C.F.R. 192.605(a) and 49 C.F.R. 192.614(a), as adopted in Kansas by K.A.R. 88-11-4.⁷

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. The Commission finds it has full power and authority under K.S.A. 66-1815(a) to adopt all necessary rules and regulations for carrying out the provisions of the KUUDPA.

9. The Commission finds that during the incidents at issue, Black Hills was acting as an Operator of a Tier 1 facility, as defined in K.S.A. 66-1802(k) and (q).

10. The Commission finds that, pursuant to K.A.R. 82-14-6(a), Staff was authorized to serve a PNC after Staff investigated Black Hills regarding damage to gas service lines and gas main lines.

11. The Commission finds that Black Hills violated Kansas law governing underground utilities, including provisions of the 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 that Black Hills failed to comply with K.S.A. 66-1806(a) for the above-listed incidents.

12. The Commission finds that Black Hills is responsible for ensuring its staff and contractors follow the required operations and maintenance procedures required by federal

⁶ *Id.* at p. 1; K.S.A. 66-1802(t) defines "tolerance zone" as "the area not more than 24 inches of the outside dimensions in all horizontal directions of an underground facility...".

⁷ Staff's R&R, p. 3.

pipeline safety regulations, specifically 49 C.F.R. 192. 605(a) and 49 C.F.R. 192.614(a), as adopted in Kansas by K.A.R. 88-11-4.

13. The Commission finds that the penalty amount recommended by Staff is necessary to correct Black Hills' violations.

14. The Commission concludes that Black Hills violated K.S.A. 66-1806(a), and that Staff's recommendation that Black Hills be assessed a \$4,000 civil penalty is just and reasonable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Black Hills Energy Corporation is hereby assessed a \$4,000 civil penalty for four (4) violations of the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801, *et seq.*

B. Pursuant to K.A.R. 82-14-6(j), Black Hills may request a hearing by electronically filing its request for hearing within fifteen (15) days from the date of service of this Penalty Order, and emailing or mailing a copy of the request for hearing to the 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 noncompliance allegations contained herein and result in a waiver of Black Hills' 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. *See* K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

D. Pursuant to K.A.R. 82-14-6, if Black Hills does not request a hearing, the payment of the civil penalty is due in twenty (20) days from the date of service of this 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 (25-DPAX-312-PEN) of this proceeding.

E. Unless a hearing is requested, failure to pay the \$4,000 civil penalty within twenty (20) days from the date of service of this Penalty Order will result in further enforcement actions against Black Hills, including all sanctions, requirements, and penalties described above being enforceable without further action by the Commission.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/11/2025



Abigail D. Emery
Acting Secretary to the Commission

MKH

ATTACHMENT “A”

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairperson Andrew J. French
Commissioner Dwight D. Keen
Commissioner Annie Kuether

FROM: Suzanne Balandran, Public Service Administrator
Paul Owings, Chief of Pipeline Safety
Jeff McClanahan, Director of Utilities

DATE: March 3, 2025

SUBJECT: Docket Number: 25-DPAX-312-PEN
In the Matter of the Investigation of Black Hills Energy 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 Black Hills Energy (BHE) in the amount of \$4,000 for four (4) violations of the Kansas Underground Damage Prevention Act (KUUDPA) and Kansas pipeline safety regulation that occurred between February and December 2024. The penalty is based on results of Staff investigations following four (4) damages to BHE natural gas lines in Finney and Douglas counties 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 the KUUDPA statute, K.S.A. 66-1806(a). Failure to follow a written procedure as required by pipeline safety regulations is a violation of Federal Pipeline Safety regulations, specifically 49 C.F.R. 192.614 and 49 C.F.R. 192.605(a), as adopted in Kansas by K.A.R. 82-11-4. For natural gas utilities, failure to comply with K.S.A. 66-1806 is also a violation of Kansas Pipeline Safety Regulations. Staff recommends enforcement of violations of the Pipeline Safety Regulations and KUUDPA to encourage natural gas operators to improve the effectiveness of existing safety procedures and minimize future damages to Kansas pipelines.

BACKGROUND:

BHE's failure to provide timely locates when requested resulted in damages to its natural gas facilities, lost work time for the excavators who had to wait for locates, and lost work time for the excavators that damaged the lines. No injuries or property damage occurred as a result of failure to provide locates. The table provides the date of the pipeline damage, the type of facility damaged, the city where the damage occurred, and Staff's assertion of the cause of the violation.

Upon completing investigations into the damages, Staff issued Notices of Probable Noncompliance (PNC) to BHE for each of the above listed violations. BHE has responded to all four PNCs as required by K.A.R. 82-14-6(c). BHE does not dispute Staff's allegations as to the violation of KUUDPA, and the violations of 49 C.F.R. 192.614 as adopted by K.A.R. 82-11-4. A summary description of Staff's findings, BHE's response for each PNC, and the actions purportedly taken by BHE in response to prevent reoccurrence of the violation are included as Attachment 1.

Case #	Date of Damage	Type of Facility	City Damage Occurred	Root Cause	Code Violated	Penalty Amt.
AR-24-OC-1067	8/12/2024	Service	Lawrence	Not Marked - Locator Error	192.614(a)	\$1,000
AR-24-OC-1075	8/21/2024	Main	Lawrence	Not Marked - Locator Error	192.614(a)	\$1,000
CK-24-OC-1014	2/1/2024	Service	Lawrence	Not Marked - Locator Error	192.614(a)	\$1,000
JW-24-OC-1129	12/16/2024	Main	Garden City	Not Marked - Locator Error	192.614(a)	\$1,000
	TOTAL					\$4,000

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, BHE admitted the buried gas service and main lines were not located. Attachment 1 summarizes the nature of each violation and cross references the attachment with BHE's specific response. BHE Damage Prevention and Public Education procedure provides direction for BHE to receive and handle line locate tickets, locating practices to be followed, and direction for locate performance monitoring. The relevant BHE procedures are attached hereto as Attachment 2.

Based on the evidence, Staff determines that the failure by BHE to provide timely and accurate locates demonstrates a failure of BHE to follow its Damage Prevention and Public Education procedure, Procedure No. 7, which directs BHE to locate its gas facilities within two full working days after being notified on an intent to excavate.

B. Culpability:

BHE is directly responsible for its actions in failing to provide accurate and timely locates as required in K.S.A. 66-1806(a). Furthermore, BHE is responsible for ensuring its staff and contractors follow the required BHE operations and maintenance procedures required by pipeline safety regulations, specifically 49 C.F.R. 192.605(a) and 49 C.F.R. 192.614(a), as adopted in Kansas by K.A.R. 88-11-4.

C. History of noncompliance:

Staff has issued a total of 30 KUUDPA penalties to BHE in the years 2021, 2022 and to the present. These violations were for failure to locate or providing inaccurate locates.

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

BHE responded to each of the PNCs as required by K.A.R. 82-14-6(c) and agreed with Staff's allegations as to the causes of the damages. BHE contract locators failed to follow the procedures provided by the excavator and BHE, which resulted in the facilities not being located. BHE has reviewed each PNC and agrees with Staff's assessment of the cause of the damage.

E. Aggravating/Mitigating Circumstances:

Staff has not determined any circumstances that would cause modification of the recommended penalty amount of \$4,000.

RECOMMENDATION:

Staff recommends a civil penalty be issued to Black Hills Energy in the amount of \$4,000 for four violations of K.S.A. 66-1806(a), which also resulted in violations of 49 C.F.R. 192.605(a) and 49 C.F.R. 192.614, as adopted in Kansas by K.A.R. 82-11-4.

Attachment

ATTACHMENT “B”

PROBABLE NONCOMPLIANCE

Investigation: AR-24-OC-1067

Company: Black Hills Energy

Division: One Call

Regulation:**192.614 Damage prevention program.**

(a) 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 purpose 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.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 08/12/2024, RC Underground Utilities, LLC damaged a Black Hills Energy 1.25" PE natural gas service line at 3311 Calvin Drive in Lawrence, Kansas. One Call ticket #24397403 had a work to begin date of 08/07/2024. The Black Hills Energy natural gas service line was not marked prior to the damage. BHE did not follow the procedure BHE OM07 7.8.2 which directs BHE when an excavation notice is received from the One-Call notification center, the horizontal location of the facilities shall be located and marked within 48 hours, excluding Saturdays, Sundays, and legal holidays. Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)*Please see attached.*

Operator's Authorized Signature: _____

Wendy Starn

Date: _____

*8/29/2024***PIPELINE SAFETY USE ONLY:**

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 08/12/2024

Inspected By: AR

Kansas Corporation Commission Probable Noncompliance

KCC Investigation #: AR-24-0C-1067

Location: 3312 Calvin DR. Lawrence, KS

Black Hills Energy Response

Scenario: On 8/12/2024 RC Underground Utilities damaged a Black Hills 1.25" PE natural gas service line at 3312 Calvin Dr. in Lawrence, The Black Hills Energy facilities were not marked prior to the damage. There was a valid one call ticket #24397403.

BHE Comments: RC Underground Utilities was boring in a fiber optic line and damaged a Black Hills 1.25" PE natural gas service line. Service line was not located and marked. Gas meter was not in a visible location. USIC did not check to see where gas service ran to the building. USIC needs to check all the buildings for gas services in the requested area called in.

A BHE representative spent time educating the USIC locator on the importance of observing all utilities and being aware of potential conflicts in their requested work scope. The BHE representative advised USIC locator to mark the entire area of the locate request and document any changes.

USIC Comments: It was unmarked gas service that went to a building. USIC brought the locator over and went over the scope of the locate with him. Locator thought it went out to Kasold St., but it went out to Calvin Dr. Meter was on the east side of the building.

Investigation Overview Findings: USIC locator is required to utilize all resources available to accurately locate all BHE's assets.

BHE provides USIC with multiple ways to locate BHE assets with, but not limited to, measurement cards, electronic mapping, etc. BHE makes continuous updates to electronic mapping regularly to help ensure proper locating practices are completed with USIC.

USIC will also work on sending all completed investigations on BHE properties to us in a timely manner. This will help with tracking at-fault locators for additional training. Black Hills reviews the hit line with USIC management at monthly BHE/USIC meeting. Expectations are restated for USIC management, and the locator involved that included following procedures and referencing system mapping.

PROBABLE NONCOMPLIANCE

Investigation: AR-24-OC-1075

Company: Black Hills Energy

Division: One Call

Regulation:**192.614 Damage prevention program.**

(a) 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 purpose 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.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 08/21/2024, Pleasant and Sons Construction damaged a Black Hills Energy 2" PE natural gas main line while installing conduit for Midco near the intersection of Wakarusa Drive and Stoneback Drive in Lawrence, Kansas. Pleasant and Sons Construction had a valid One Call ticket #24401541 with a work to begin date of 08/08/2024. The Black Hills Energy natural gas main line was not marked prior to the damage. BHE did not follow the procedure BHE OM07 7.8.2 which directs BHE when an excavation notice is received from the One-Call notification center, the horizontal location of the facilities shall be located and marked within 48 hours, excluding Saturdays, Sundays, and legal holidays. Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____

Date: _____

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 08/23/2024

Inspected By: AR

Kansas Corporation Commission Probable Noncompliance

KCC Investigation #: AR-24-OC-1075

Location: Intersection of Wakarusa Dr. and 24th St. Lawrence, KS

Black Hills Energy Response

Scenario: On 08/21/2024, Pleasant and Sons Construction was installing conduit on valid ticket request #24401541. A BHE 2" PE natural gas main was damaged.

BHE Comments: Pleasant and Sons was installing conduit for MIDCO at the intersection of Wakarusa and w. 24th St. in Lawrence KS. and damaged a BHE 2" PE natural gas main. Contractor had valid ticket request, but USIC failed to mark the gas main or fiber in the area. BHE spoke with the contractor and informed him if he doesn't see flags or paint, he should call to verify. BHE spoke to USIC about the importance of reading the ticket thoroughly and to call if they are unsure.

USIC Comments: USIC stated they misunderstood the white lines that the contractor painted on the ground for them.

Investigation Overview Findings: USIC locator is required to utilize all resources available to accurately locate all BHE's assets.

BHE provides USIC with multiple ways to locate BHE assets with, but not limited to, measurement cards, electronic mapping, etc. BHE makes continuous updates to electronic mapping regularly to help ensure proper locating practices are completed with USIC.

USIC will also work on sending all completed investigations on BHE properties to us in a timely manner. This will help with tracking at-fault locators for additional training. Black Hills reviews the hit line with USIC management at monthly BHE/USIC meeting. Expectations are restated for USIC management, and the locator involved that included following procedures and referencing system mapping.

Company: Black Hills Energy

Division: One Call

Regulation:

192.614 Damage prevention program.

(a) 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 purpose 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.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 2/1/2024, KCC Staff was notified of excavation work resulting in a damage that occurred to a BHE gas line located around the area of 1215 W 6th St in Lawrence, Kansas. BHE alleges RD Johnson Excavating Company LLC was excavating while repairing a storm service repair and damaged a BHE 1-1/4" PE gas service line. There was a valid One-Call ticket #24029206 with a due date of 1/27/2024. Locate marks were present and this service line was not marked. BHE did not follow their written procedure BHE OM07 7.8.2 and is in violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

See attached -Operator's Authorized Signature: Wendy SlocumDate: 2/23/2024

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 02/02/2024

Inspected By: CK

Kansas Corporation Commission Probable Noncompliance

KCC Investigation #: CK-24-OC-1014

Location: 1215 W 6th Lawrence, KS

Black Hills Energy Response

Scenario: On 02/1/2024, RD Johnson Excavating was excavating near the area of 1215 W 6th St in Lawrence, KS on valid ticket request #24029206. A BHE 1-1/4" PE natural gas service line was damaged.

BHE Comments: RD Johnson was excavating while repairing a storm service repair and damaged the BHE 1-1/4" PE gas service line. RD Johnson had a valid ticket request, but USIC failed to mark the requested area.

USIC Comments: USIC failed to read the electronic mapping and did not mark the requested area. USIC visually scanned the area and did not find the BHE meter.

Investigation Overview Findings: USIC assumed that there was no BHE gas at the location. USIC did not walk around the building to identify that the gas meter was at the back corner of the building. The gas meter was not visible from the road. The gas service did have tracer wire and was locatable.

BHE provides USIC with multiple ways to locate BHE assets with, but not limited to, measurement cards, electronic mapping, etc. BHE makes continuous updates to electronic mapping regularly to help ensure proper locating practices are completed with USIC.

USIC will also work on sending all completed investigations on BHE properties to us in a timely manner. This will help with tracking at-fault locators for additional training. Black Hills reviews the hit line with USIC management at monthly BHE/USIC meeting. Expectations are restated for USIC management, and the locator involved that included following procedures and referencing system mapping.

Company: Black Hills Energy

Division: One Call

Regulation:**192.614 Damage prevention program.**

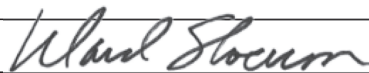
(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes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

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 12/16/2024, J&S Underground damaged a BHE 2" PE natural gas main line at 702 N 4th St. in Garden City, Kansas. One Call ticket #24628613 had a work to begin date of 12/10/2024. The BHE facilities were not marked according to the requested area. BHE did not follow the procedure BHE OM07 7.8.2 which directs BHE when an excavation notice is received from the One-Call notification center, the horizontal location of the facilities shall be located and marked within 48 hours, excluding Saturdays, Sundays, and legal holidays. Failure to follow the written procedure is a violation of 49 CFR 192.614 as adopted by K.A.R. 82-11-4.

OPERATOR'S RESPONSE: (Attach verification if needed)

Operator's Authorized Signature: _____



Date: January 10, 2025

PIPELINE SAFETY USE ONLY:

Date reviewed: _____

Date reviewed: _____

Chief: _____

Inspector: _____

Inspection Type: One Call Inquiry/Complaint

Date Inspected: 12/17/2024

Inspected By: JW

Kansas Corporation Commission Probable Noncompliance

KCC Investigation #: JW-24-OC-1129

Location: 702 N. 4th St. Garden City, Ks

Black Hills Energy Response

Scenario: On 12/16/2024, J&J Underground was excavating at 702 N. 4TH St. in Garden City, Ks on a valid locate ticket request #24628613. A BHE 2"PE natural gas service line was damaged.

BHE Comments: J&J Underground was boring in fiber conduit and damaged a 2" BHE PE gas service line servicing the hospital utility building. USIC failed to locate the gas service to this address causing damage.

USIC Comments: The at fault USIC locator was from out of town and not familiar with the area. The USIC locator failed to perform a sufficient visual scan of the area to confirm. We review with all locators to always assume all buildings/structures have gas serviced to them unless proven otherwise.

Investigation Overview Findings: The BHE gas service line was locatable prior to the damage. USIC must look at the full scope of the locate ticket and make sure everything is located per the request.

BHE provides USIC with multiple ways to locate BHE assets with, but not limited to, measurement cards, electronic mapping, etc. BHE makes continuous updates to electronic mapping regularly to help ensure proper locating practices are completed with USIC.

USIC will also work on sending all completed investigations on BHE properties to us in a timely manner. This will help with tracking at-fault locators for additional training. Black Hills reviews the hit line with USIC management at monthly BHE/USIC meeting. Expectations are restated for USIC management, and the locator involved that included following procedures and referencing system mapping.

CERTIFICATE OF SERVICE

25-DPAX-312-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 and electronic service on 03/11/2025.

MADISEN HANE, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
madisen.hane@ks.gov

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
ahsan.latif@ks.gov

WARD SLOCUM, GENERAL MANAGER
BLACK HILLS/KANSAS GAS UTILITY COMPANY, LLC
D/B/A BLACK HILLS ENERGY
2330 N HOOVER
WICHITA, KS 67205
ward.slocum@blackhillscorp.com

/S/ KCC Docket Room
KCC Docket Room