



Support of House Bill 2178 – relating to the definition of “operator” and duty to mark under the Kansas Underground Utility Damage Prevention Act (KUUDPA)

Before the Kansas House Judiciary Committee Feb. 12, 2019

Presented by Bruce W. Mueller, General Manager of Wheatland Electric Cooperative Inc.

Chairman Patton and members of the House Judiciary Committee, thank you for the opportunity to appear on behalf of Wheatland Electric Cooperative, Inc. (Wheatland), and in support of the Kansas Electric Cooperatives, Inc., (KEC) and its cooperative members and in support of HB 2178.

My name is Bruce W. Mueller. I am the General Manager of Wheatland, a member-owned Kansas electric cooperative serving more than 23,400 members located throughout nine western Kansas, six central Kansas, and two eastern Colorado counties. Our corporate office is located in Scott City, Kansas.

The Corporation Commission of the State of Kansas (KCC,) in the 17- GIME – 565 – GIV docket, ruled that under certain circumstances all electric public utilities are required to provide locate marks for underground facilities of privately-owned commercial underground electric facilities. The order stems from the KCC’s interpretation of who is an “operator” under KUUDPA.

This ruling has changed the historic relationship between electric utilities and its customers and puts the cost and burden of the administration of KUUDPA on the Kansas electric rate payer. The commercial industries that own and operate these electric underground facilities escape the costs and potential liability for their own property.

For generations Wheatland and its members had a contractual relationship that has grown into wide-spread public acceptance. Wheatland is responsible for its facilities up to the point of the meter. Wheatland accepts all liability and potential damages up to that point of demarcation. Wheatland has dedicated itself to providing the best service and goods under our contracts with our members. The member, on the other hand, has always been responsible beyond that point for their own property. For decades Wheatland’s Electric Service Agreement, its Membership agreement and its Member Rules and Regulations have codified this understanding.

The KCC ruling has changed this model and flipped the responsibility on the electric utility to be responsible for underground electric lines that the commercial customer has placed beyond the meter. Often, Wheatland does not know where the facilities are located. The burden to investigate, locate and administer these facilities are an additional and costly expense to the utility and will eventually be paid by the electric rate payer. The additional exposure for tort liability will also ultimately be borne by the electric rate payer.

Also, keep in mind, these are commercial underground facilities that are benefitting various business industries. It is common that these underground electric lines are installed by large electric commercial consumers. These commercial interests are benefitting greatly from these underground electric lines,

and the KCC's decision is pushing the administrative cost of KUUDPA onto the electric rate payer. It's Wheatland's position that the industry benefiting from these facilities should bare their own burden.

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