



KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR
BRIAN J. MOLINE, CHAIR
ROBERT E. KREHBIEL, COMMISSIONER
MICHAEL C. MOFFET, COMMISSIONER

**Before the Senate Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
January 18, 2007**

Senate Bill 20

Thank you Mr. Chair and members of the Committee. I am Leo Haynos, Chief of Gas Operations and Pipeline Safety for the Kansas Corporation Commission. I am appearing today on behalf of the KCC Staff in support of SB 20 which will require operators of potable water systems and sanitary sewers to participate in the Kansas Underground Utility Damage Prevention Act. This act is also known by the acronym KUUDPA or as the One Call law. Currently under KUUDPA, water and sewer facilities are not considered to be underground utilities. Therefore, the operators of these types of facilities are not required to participate in the call center or to perform utility locates. By the same token, excavators are not required to notify these operators of a pending excavation. In Kansas, most water and sewer utilities are municipally owned and operated. To aid in the protection of their facilities, at least 105 cities with water utilities have voluntarily joined One Call. According to available records, there are 251 cities with a water utility and 53 rural water districts that are members of One Call. Those that have not joined rely on the knowledge and good will of the excavators to request locates directly from the water or sewer operator. While the voluntary membership is noteworthy, there are still 50% of the cities with water utilities and 82% of the rural water districts that are not members of One Call. On every locate request, the call center warns excavators that other non-member utilities may be present at their excavation site, and excavators typically will make as many calls as necessary if they know who to call. Unfortunately, excavators have no easy source of contact information for utilities that do not

participate in One Call. Even when phone numbers are available, the utility operator usually does not have the 24-hour phone coverage offered by the One Call center. Without knowledge of the location of non-participating facilities, excavators have a higher risk of damaging them, and unless a leak brings fluids to the surface, the excavator and operator would have no indication that a damage occurred. Damaged sewer lines may go undetected for years before expensive repairs are required. There are known cases where gas lines were installed through sewer facilities where neither the operator nor the excavator had any knowledge of damage. When the sewer lines were eventually cleaned, sometimes years later, there have been tragic accidents from the ruptured gas lines. Although water and sewer line breaks do not usually cause an immediate safety hazard to the excavator, they have the potential for serious impacts on the safety and environment of a community. These impacts can range from flooding and road damage to contamination of drinking water supplies.

In the United States, only three states, Kansas, West Virginia, and Vermont do not require water and sewer facilities to provide any type of locate service to excavators. Last year, there were 481,000 notices of excavation that were processed through the call center operated by Kansas One Call. It is unknown how many of these required 2nd or 3rd calls by the excavator to notify non-participating utilities. Information provided by Water One of Johnson County, indicates only 8% of the excavators make a second call.¹ I believe it is a fair assumption to state that an excavator will attempt to make as many calls as necessary to notify non-participating utilities in order to avoid damage to the facility, equipment downtime waiting on repairs, and potential safety concerns for employees. The low percentage of 2nd calls made indicates the excavator just

¹ Testimony presented to Special Committee on Utilities, Sept. 15, 2006 states WaterOne expected to receive 7500 notifications of excavation. Johnson County Wastewater, a voluntary member of One Call, received 91,178 notifications. Assuming WaterOne would receive the same number of locates as JCW, the data indicates only 8% of excavators made a 2nd call.

does not know who to call or assumes there are no water or sewer facilities in conflict with its excavation.

Water and sewer facility operators that do not participate in KUUDPA indicate they are not suffering damages as a result of not performing locates. It appears that the depth of water and sewer facilities, (which are at least 3 feet deep), may be responsible for minimizing damage from excavation activity. Based on data from voluntary members of One Call, an excavator is 10 times more likely to hit a gas or telecommunications line than he is a water or sewer line.² Although damages to exempt facilities may be rare when compared to other utility sectors, we contend the fact that excavators have no way of knowing who to call in a given area and no means of requiring this information to be available is problematic for the excavation industry in Kansas and needs to be addressed.

There is a significant cost associated with providing locates. Although the statute is silent on what a utility may charge an excavator for performing locates, the industry practice is to provide the service free of charge to the excavator. The utility operator pays a \$25 annual membership fee to Kansas One Call, and it is charged \$1.14 by the call center for each request sent to them. Additionally, the utility must provide the manpower and associated costs of performing the locate. Providing an accurate locate is estimated to cost approximately \$15 for a total cost of \$16.50 per locate. In 2005, municipal utility operators that are members of One Call received an average of 200 requests for each 1000 residents while small towns located in high growth areas received as many as 2000 requests for each 1000 residents. Using the average number and the costs listed above, mandatory participation could result in an additional charge of \$3.30 per year

² Testimony presented by Leo Haynos to Special Committee on Utilities, September 15, 2006.

for each resident of a town with municipal operated exempt utilities. No data is available to the KCC staff for the costs of providing locate service for rural water systems. I would expect the costs to be slightly higher than municipal operators because of the distance and time involved in providing locates on rural systems.

As I mentioned earlier, the cost of \$16.50/locate is based on the manpower necessary to provide locates with a ± 2 foot accuracy as required under KUUDPA. Unfortunately, most water and sanitary sewer facilities are unable to use conventional methods to identify the location of the line from above ground level. When remote detection fails, the operator must rely on his maps of the facility. Water and sanitary sewer facilities have no requirement to develop or maintain maps of their facilities, and in fact, there are cases where maps do not exist. Most maps that do exist were prepared at the time of facility construction and usually reference landmarks that were available at that time. Any change in surface features such as the center of a street, will render a map useless unless it is maintained to reflect changing surface features. Exempt facility operators that have non-conductive facilities, no tracer wire, and inaccurate maps have expressed a concern that they will become liable for damages if they are required to provide accurate locates. Senate Bill 20 addresses this concern by requiring the KCC to develop regulations that define the tolerance zone for this type of facility. Upon passage of SB20, I would propose to develop regulations that will accommodate the operator's difficulty in providing accurate locates while preserving the right of the excavator to be made aware that a potential conflict exists. Hopefully, this would minimize the liability of both parties when digging near a line of unknown location.

In summary, KCC Staff supports the passage of SB 20 which requires operators of potable water and sanitary sewer facilities to meet the same obligations as other utility sectors with buried infrastructure. That is, to inform excavators of the location of its buried facilities upon request. Although utilities currently not participating in One Call will incur some costs when providing the required locating service, we believe the information provided to the excavator ultimately will reduce damages and result in a more efficient communications link between excavators and underground utility operators.

This concludes my testimony, and I would be happy to answer any questions you may have.