

Approved _____

415/84
Date

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Rep. David J. Heinemann at _____
Chairperson

3:30 ~~xxx~~ p.m. on March 1, _____, 1984 in room 519-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Ramon Powers, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
Pam Somerville, Committee Secretary

Conferees appearing before the committee:

Austin Stedham, Kansas Power and Light Company
John Wynkoop, Water Pollution Control
Don Low, Kansas Corporation Commission

Hearing on HB 3069 - An act requiring notice prior to commencement of excavation or the use of explosives; providing penalties for failure to give such notice.

The first conferee, Austin Stedham, Vice President of the Kansas Power and Light Company, spoke in favor of HB 3069 stating the legislation embodied in the bill would provide penalties against a contractor who damages underground facilities without prior notice of excavation to an owner/operator of those facilities. Mr. Stedham stated KP&L had taken precautions to identify the location of underground facilities through the use of marker signs, and have developed an underground damage prevention program by identifying known excavators and advising them of their locating service. There were 69 incidents in 1983 where gas lines were damaged severely enough to interrupt service to customers. There were approximately 43 incidents with electric facilities (See Attachment 1).

Mr. John Wynkoop, Director of the Department of Water and Water Pollution Control, appeared in support of HB 3069. Mr. Wynkoop appeared on behalf of the Kansas One-Call System, Inc., a non-profit corporation, for the purpose of operating a statewide one-call damage prevention program. Kansas One-Call supports the concepts contained in HB 3069 and feels that it is the first step in a truly meaningful damage prevention program (See Attachment 2).

Mr. Don Low, Kansas Corporation Commission, appeared in support of HB 3069 and stated it would give statutory responsibility to prevent service interruptions. A brief question and answer period followed each presentation.

There being no further business before the committee, the meeting was adjourned at 4:10 p.m.

The next meeting of the Energy and Natural Resources Committee will be held March 2, 1984 at 8:00 a.m. in Room 522-S for final action on bills in committee.



David J. Heinemann, Chairman

MR. CHAIRMAN, COMMITTEE MEMBERS:

I am Austin Stedham, Vice President of The Kansas Power and Light Company to speak in favor of House Bill 3069. KPL is the owner and operator of nearly 5,000 miles of gas lines and 400 miles of underground electric lines in the State of Kansas. I am also speaking for Gas Service Company who provides natural gas service to about 400,000 customers in Kansas. We strongly favor enactment of legislation to require notice before excavation takes place for any reason in the vicinity of our underground facilities. To be effective, any damage prevention system implemented must contain substantial penalties for non-compliance which House Bill 3069 provides for.

This legislation provides substantial penalties against a contractor who damages underground facilities without prior notice of excavation to an owner/operator of those facilities. Therefore, the excavator must be able to ascertain the owner-operators of the facilities in the area of his proposed work. While we personally believe an association formed for the express purpose of receiving and giving notice is best for all concerned, provisions have been made for the excavator who chooses not to utilize the system.

While we have taken precautions to identify the location of underground facilities through the use of marker signs, and have developed an underground damage prevention program by

Attachment 1
HB 3069
3-1-84

identifying known excavators and advising them of our locating service, we are aware of 69 incidents in 1983 where our gas lines were damaged severely enough to interrupt service to 159 customers. There were approximately 43 dig-ins on our electric facilities, causing interruptions of service to approximately 250 customers. Not only does this damage cause interruptions of utility service, it can often cause or create a hazardous situation such as natural gas escaping immediately or at some later date due to weakening of the pipe to the general public, or to the excavator, himself. I can equate this to a ticking time bomb. Usually damage to electric facilities causes an immediate interruption of service but not always. Insulation may be damaged that can result in an arc or flash sometime after the actual damage.

By enactment of this proposed legislation, an excavator must give notice in advance of his actual work to each operator of buried facilities. The operator can on a scheduled basis mark the location of those facilities utilizing standard identification and alleviating the possibility of accidental contact with those facilities. This service is presently available to excavators at no cost when we are made aware of the planned work. In some cases, we receive notice just before work is to commence which means we must pull a crew off its scheduled work to locate facilities. In too many instances, the notice comes after our facilities have already been damaged.

I am most concerned about those cases where our facilities may have been damaged--the damage is not immediately apparent and no notice at all that it has occurred.

About 30 states either have or are considering similar legislation. A number of organizations including the American Public Works Association, the Utility Location and Coordination Council, the American Society of Mechanical Engineers and many contractor organizations support the concept of requiring adequate notice before excavation activities commence to prevent damage to underground systems and to protect the general public and their employees.

KPL and most owner/operators of underground facilities are also excavators and will also need to comply with this proposed legislation. Therefore, it places the same obligation on us as it does on other contractors. A history of cooperation exists between owners and operators and most reputable excavation contractors and the proposed legislation should not place a hardship on anyone. It only requires prudent planning which in contemplation of the possible consequences surely is not extreme or burdensome.

I have a ~~substantial suggestion~~ to include in Section 1--on Line 23 immediately following the word, "located", add the phrase, "within 180 days following the effective date of this legislation and amended whenever a new facility is added or an old facility removed within 90 days following completion." The reason for this suggestion is to assure up-to-date records being available for review by any contractor.

Technical Suggestions to Clairfy House Bill 3069:

- Line 0017 - after "an Act", add "to prevent damage to underground facilities by".
- Line 0024 - change the word "giving" to "receiving", and the word "to" to "from".
- Line 0029 - add a comma between "electric" and "telephone".
- Line 0037 - change the last "of" to "or".
- Line 0047 - change the period to a comma and add "unless otherwise agreed to between the parties".
- Line 0049 - strike the second "or".

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS JOHN WYNKOOP. I AM DIRECTOR OF THE DEPARTMENT OF WATER AND WATER POLLUTION CONTROL FOR THE CITY OF WICHITA. I APPEAR HERE BEFORE YOU AS A MEMBER OF THE BOARD OF DIRECTORS OF THE KANSAS ONE-CALL SYSTEM, INC., IN SUPPORT OF H. B. 3069.

THE KANSAS ONE-CALL SYSTEM, INC., WAS CHARTERED AS A NON-PROFIT CORPORATION IN OCTOBER 1983, FOR THE PURPOSE OF IMPLEMENTING AND OPERATING A STATEWIDE ONE-CALL DAMAGE PREVENTION PROGRAM.

KANSAS ONE-CALL HAD ITS BEGINNING IN 1982 WHEN THE KANSAS CORPORATION COMMISSION CALLED A MEETING OF PUBLIC UTILITIES TO EXPLORE THE ESTABLISHMENT OF A STATEWIDE SYSTEM AS A MEANS OF COMPLYING WITH FEDERAL LEGISLATION THAT MANDATED THE ESTABLISHMENT OF A DAMAGE PREVENTION PROGRAM FOR NATURAL GAS PIPELINE OPERATORS AND DISTRIBUTORS. SINCE A SUCCESSFUL LOCAL ONE-CALL SYSTEM HAS BEEN IN OPERATION IN WICHITA FOR SEVERAL YEARS, THE CHAIRMAN OF THAT ORGANIZATION WAS ASKED TO HEAD UP A STEERING COMMITTEE TO EXPLORE THE POSSIBILITY OF ESTABLISHING A SIMILAR SYSTEM, STATEWIDE. THAT COMMITTEE EFFORT RESULTED IN THE PRESENT KANSAS ONE-CALL SYSTEM, INC.

ALTHOUGH JUST NEW, KANSAS ONE-CALL HAS OVER 40 MEMBERS WHO OPERATE EVERY TYPE OF PIPELINE IMAGINABLE, FROM PETROLEUM PRODUCTS TO CABLE TELEVISION.

KANSAS ONE-CALL PLANS TO BE IN OPERATION SOMETIME THIS YEAR. ALREADY WE HAVE CONTRACTED WITH AN OPERATING COMPANY TO ESTABLISH AN OFFICE

Attachment 2
3-1-84

IN WICHITA. WE'VE ACQUIRED A TOLL FREE NUMBER WHICH WILL BE 1-800-DIG-SAFE AND WE HAVE DEVELOPED A FEE STRUCTURE WHICH WILL MAKE THE SYSTEM ECONOMICALLY SOUND BUT AT A COST OF MEMBERSHIP THAT IS AFFORDABLE TO ALL.

STATE ONE-CALL SYSTEMS ARE NOT NEW. AS OF 1981, THERE WERE 106 ONE-CALL NOTIFICATION CENTERS OPERATING IN SOME 40 STATES. SEVENTEEN OPERATE ON A STATE WIDE BASIS. THE OTHER 89 OPERATE WITHIN A GIVEN AREA OF A STATE. SOME 23 STATES OF THE 40 WITH ONE-CALL SYSTEMS HAVE ENACTED LEGISLATION REQUIRING NOTIFICATION PRIOR TO EXCAVATION. STATES THAT HAVE ONE-CALL SYSTEMS HAVE EXPERIENCED REDUCTIONS IN PROPERTY DAMAGE FROM 20% TO 60%.

WE APPRECIATE THE INTRODUCTION OF H. B. 3069. WE SEE IT AS A FIRST STEP IN A TRULY MEANINGFUL DAMAGE PREVENTION PROGRAM. WE BELIEVE, HOWEVER, THAT THE PROPOSED BILL, AS INTRODUCED, IS TOO GENERAL AND NEEDS FURTHER DEFINITION AND CLARIFICATION.

FOR EXAMPLE, WE BELIEVE THERE SHOULD BE NO TAX DOLLARS INVOLVED IN THIS BILL, AND THAT EACH COUNTY CLERK SHOULD RECEIVE JUST COMPENSATION FOR THE ADDITIONAL WORK REQUIRED BY THE ONE-CALL PROGRAM.

WE ALSO FEEL THAT THE WORD "EXCAVATOR" NEEDS TO BE DEFINED, AS WELL AS OTHER TERMS, AND THAT THE PENALTIES OF NON-COMPLIANCE MAY BE TOO HARSH FOR A FIRST OFFENDER.

IT IS LATE IN THE LEGISLATIVE SESSION, TIME IS LIMITED AND YOU HAVE MANY BILLS TO DEAL WITH.

WE BELIEVE A BILL AS IMPORTANT AS THIS NEEDS THE TIME NECESSARY TO INTRODUCE ALL THE FACTS.

WE BELIEVE THE KANSAS CORPORATION COMMISSION, WHICH WE HAVE KEPT INFORMED ABOUT THE PROGRESS OF KANSAS ONE-CALL, SHOULD BE A CONTRIBUTOR TO ANY PROPOSED LEGISLATION.

WE, THE KANSAS ONE-CALL OFFER OUR EXPERTISE TO ASSIST THE COMMITTEE IN THE DEVELOPMENT OF A STRONG BILL AND RECOMMEND THAT IT BE GIVEN TO AN INTERIM SUMMER COMMITTEE FOR REVIEW AND DEVELOPMENT.

THANK YOU FOR THE OPPORTUNITY TO SPEAK TO YOU TODAY.

I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.