

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on January 18, 2007 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present

Raney Gilliland, Kansas Legislative Research Department
Tatiana Lin, KSU Legislative Fellow
Mike Corrigan, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee: George Melling, Kansas Gas Service
Leo Haynos, Kansas Corporation Commission
Mark Schreiber, Westar
Bob Totten, Kansas Contractors Association
Katy Steinbacher, BRB Contractor, Topeka
Darci Meese, Johnson County Water District #1

Others in attendance: See attached list

Chairman Emler opened the hearing on:
S.B. 20 - Kansas Underground Utility Damage Prevention Act

Proponents:

George Melling, Manager-Claims and Risk, Kansas Gas Service, spoke in favor of efforts to improve public safety by strengthening the Underground Damage Prevention Act by including sanitary sewer and potable water system operators. (Attachment 1)

Leo Haynos, chief of Gas Operations and Pipeline Safety for the Kansas Corporation Commission, cited the areas of potential trouble for excavators due to lack of information on the location of underground utilities. He noted the advantages of having One Call service. He reviewed the actions the KCC would take in regard to minimizing the liability of both parties when digging near a line of unknown location if **SB 20** were passed. KCC 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. (Attachment 2)

Mark Schreiber, director of Government Affairs for Westar Energy, noted **SB 20** provides the KCC rule and regulation authority to establish appropriate tolerance zones and a protocol for handling hard to locate facilities. This would cover three problem issues; (1) contacting the operator; (2) timeliness; and (3) accuracy. (Attachment 3)

Bob Totten, public affairs director for the Kansas Contractors Association, spoke of the concerns of their members who agree that all facility exemptions contained in the One Call program should be addressed and that all underground operators should be part of the Kansas Underground Utility Damage Prevention Act. (Attachment 4)

Katy Steinbacher, Director of Business Development for BRB Contractors, Topeka, brought the views from experience of a contractor specializing in the construction of utilities in water and wastewater treatment facilities. She noted that technology to provide for comprehensive locates is readily available and affordable. Unlocated underground utilities can result in environmental catastrophes, wasted resources, decreased worker safety and contingent liability that will adversely affect the future development of Kansas. (Attachment 5)

Opponents:

Darci Meese, Governmental Affairs Coordinator, Johnson County Water District No. 1, presented their opposition to **SB 20** and noted that underground water facilities do not present the same health and safety issues posed by other underground utilities. A mandate requiring water utilities to participate in the One Call Center will result in a substantial unnecessary expense to the utility's ratepayers without providing any benefit or enhanced service. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on January 18, 2006 in Room 526-S of the Capitol.

Following each presentation, the committee asked for further confirmation, questioned areas of safety, cost factors involved, liability determination, location of lines outside their territory, time response on a water break report and number of States with One Call programs. Senator Apple requested information from KCC on the number of customers in the Wichita water district. Senator Lee requested a copy of the letter sent by the League of Municipalities to their membership.

Due to the lack of time, the hearing on **SB 20** was scheduled to continue of Tuesday, January 23. The remainder of the proponents and opponents who were on the schedule to testify will be heard at that time.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 6

SENATE UTILITIES COMMITTEE
GUEST LIST

DATE: JANUARY 18, 2007

Name	Representing
Leo Haynos	KCC
Matt Toure	KCC
ELMER KONNEBAUM	Ks Rural Water Assoc.
DAN RAMLOW	KS CONTRACTORS ASSN
George Mellinger	KANSAS GAS SERVICE
BRIAN TRUSKET	AGC / YCF
JOE LEVENS	AGC OF KANSAS
DAVID BRIES	CITY OF OLATHE
Tim Dannerberg	City of Olathe
Don Burke	City of Olathe
Jeff Carey	Lockton
Joe Pryor	Lockton
Dan [Signature]	EB7 CONST.
Michael Brown	AGC / YCF
BILL HANSLIP	KCC

SENATE UTILITIES COMMITTEE
GUEST LIST

DATE: JANUARY 18, 2007

Name	Representing
Wanda Lee Smith	KMHA
Jon Stanton	NORTHERN NATURAL GAS
Paul Sinder	KCPD
Mark Schreiber	Westar Energy
Jim BARTWILL	ATMOS ENERGY
MIKE DEARMOND	ATMOS ENERGY
Mark Tomb	LKM
Kim Winn	LKM
Nike Reecht	ATMOS Energy
DARCI MEESE	Water One
Whitney Daman	RS Gas Service
Tom Grackaer	AT&T



KANSAS GAS SERVICE

A DIVISION OF ONEOK, INC.

**Before the Senate Committee on Utilities
Senate Bill 20
Testimony of George R. Melling, Manager – Claims and Risk
Kansas Gas Service, a Division of ONEOK, Inc.
7421 W 129th Street, Overland Park, Kansas
913-319-8627
January 18, 2007**

Chairman Emler and members of the Committee:

I appreciate the opportunity to testify before you regarding this important issue. Kansas Gas Service is supportive of efforts by the legislature to enhance public safety including the reduction of damages and therefore exposure to risk arising from damage to underground facilities. Kansas Gas Service has long been a supporter of the Kansas One Call system as a means for all utility operators to make a joint effort to achieve these goals. During 2005 Kansas Gas Service recorded 1220 damages to our underground facilities. In 2006 this number rose to 1260. In each of these instances Company personnel had to control the escaping gas flow as quickly as possible in order to minimize risk to the public and themselves.

As outlined by Mr. Haynos the current Underground Damage Prevention Act excludes operators of sanitary sewer and potable water systems. These exclusions tend to undermine the intent of the law given the fact that in many areas of the State an excavator must make multiple calls to obtain information regarding the location of all buried facilities. As a result some excavators simply do not make the additional calls. This lack of information sometimes results in damage to underground facilities in addition to the potential risk and service interruptions to the public, the very ones the law is intended to protect.

In addition to operating our Distribution and Transmission systems, Kansas Gas Service is a major excavator in the State of Kansas, which means that our personnel are required to make additional calls every day attempting to insure all underground facilities have been located prior to beginning our work.

In summation Kansas Gas Service endorses efforts to improve public safety by strengthening the Underground Damage Prevention Act by including sanitary sewer and potable water system operators.

I am willing to take any questions you may have.

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

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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.

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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.

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Testimony on SB 20 before the Senate Utilities Committee
By
Westar Energy
January 18, 2007

Chairman Emler and members of the Committee. I am Mark Schreiber, Director Government Affairs for Westar Energy.

We support SB 20. SB 20 would require water and sanitary sewer utilities to be part of Kansas One Call. The bill provides a compliance date of January 1, 2008 before any new facilities must be locatable. It also provides the KCC rule and regulatory authority to establish appropriate tolerance zones and a protocol for handling hard to locate facilities.

We have discovered several instances where our workflow and productivity have been impacted by issues surrounding the current exemption of water and sewer utility operators from the One-Call Law. These instances fall into three distinct categories:

Contacting the Operator

When we initiate a Kansas One-Call ticket, we will also make a determination if the local water/sewer utilities in the area are also One-Call members, and if not, contact them. If it is within a city, we can usually contact the right person by phone or fax relatively quickly. However, if our excavation site is outside of a city, we have to review our maps and records for information about the operators in the area. We are not always informed of changes to the operator contact or facility information. This is time consuming for both us and the other operator, as sometimes we may be calling the wrong one if, for example, our excavation site is close to the boundary between two different water districts. If we have a contractor performing our work, they may also face this same issue.

Contacting the operator during emergencies also causes several problems. One would think that contacting the operator for an emergency locate after hours would be the most problematic, but usually the converse is true. After hours or on weekends, we can usually find the right person, usually at the listed home number. Emergency locates during the weekday are the most troublesome. It is harder to contact the right people during the weekday for some of the rural water districts, probably due to most being a small organization. Many of these districts may have only a few people to handle locates, water main installation and emergencies of their own.

Timeliness

Timeliness of the locates is the second problem we face when requesting locates from utilities not participating in One-Call. With some of the utilities, locates will take longer than the 2 working-day window provided for in the statute. Follow-up calls then become necessary, and at that point, we face the same issues cited above with the problems of contacting the right people.

Sometimes utilities that do participate in One-Call have to be called a second time. However, the process is less cumbersome to remedy. In these instances, we call in a 'Non-Response' locate request to One-Call which initiates another locate request ticket for the tardy utility.

Accuracy

The accuracy of the locates is our third area of concern. The frequency of this issue is relatively low but the consequences are significant. Granted, excavating into a water main may not be as dangerous as a gas main or an underground electric line, but the value of lost productivity to both the excavator and the operator, time processing damage claims and the disruption of utility services to the residents and businesses can add up.

We provide electric service to several cities that are not members of Kansas One-Call. Cities like Lawrence and Salina strive to provide the same timely and accurate underground locating services as a One-Call member. We do have to place a call ourselves, but in these cases, their hot-line number remains staffed 24/7 and always gets us to the right person, regardless of day, night, weekends or holidays.

Thank you for the opportunity to present this testimony. I will be glad to answer questions at the appropriate time.

Testimony

By the Kansas Contractors Association before the Senate Committee on
Utilities regarding the Kansas Underground Utility Prevention Act and
the Inclusion of Water Facilities Under One Call—SB 20

January 18, 2007

Mr. Chairman and members of the Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization represents over 400 companies who are involved in the construction of highways and water treatment facilities and utilities in Kansas and the Midwest.

Today, I come to you in support of Senate Bill 20. Our members wholeheartedly agree that all facility exemptions contained in the One Call program should be addressed and that all underground operators should be part of the Kansas Underground Utility Damage Prevention Act.

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We strongly believe the safety of our employees should be paramount and knowing where a line is buried only adds to their safety. In addition, there are costs involved when a line is dug into. Those costs sometimes are not defined very well but trust me not only the contractor suffers down time when a line is incorrectly marked but in some cases lives could be at stake if a line is disrupted for any length of time.

Many of our members work in other states and they have for years groused to me about why the Kansas One Call Program doesn't include everyone. In Kansas it really isn't one call. It is 2 calls or 3 calls or maybe 4 calls in addition to the main call to the Kansas One Call Program. Those extra calls are costly and those costs are passed on to the customer when a project is bid and could be changed if the system were actually a one call system.

If this measure were approved, all sanitary sewer facilities and or potable water facilities would become part of the one call program as it pertains to facilities put in the ground after January of 2008. That is a step in the right direction however it is unfortunate that this legislation doesn't address all the water lines and sewer lines already in the ground.

Our members are constantly on the alert when they move dirt worrying about whether a line is buried beneath the ground that they are not aware of. They are concerned they might disrupt a gas line, a water line or a communication line.

They are concerned about hitting a gas line primarily but water lines can also be lethal. Each time a water line is hit, it effects service...and although most water lines are small...some are a foot in diameter and some can be up to 4 feet in diameter. Would you like to be digging and hit a 4 foot water line? Such an incident could take out an intersection and flood all the businesses in the area.. It is not only a danger to the excavator who digs into the line but it can also be costly to those whose houses are flooded or businesses damaged.

And what about a line that is damaged. An 8-inch line taken out by a contractor can empty a large water tank...at least that is what a water board member in Manhattan told me last fall. What happens if a fire occurs and there is no water in the line. I think sometimes we don't look at the big picture because such a mishap happens on a rare occasion but when it does happen the mishap is in the baby white spot light for a long time. It just could happen.

I have heard many stories from various contractors about digging into an unknown line. Trust me, ask a contractor about a time he/she dug into a line and they can take 20 minutes to explain what happened. It is usually a big mess.

I also want to take a moment and talk about how the downtime of a contractor who hits a line and how that effects you. If a line is hit by a contractor because it was not marked correctly, there is a delay in the project. The contractor usually has to help clean up the mess and spend more time on the job than what she had planned. Our contractors don't appreciate having to be on a job longer than planned. As a community, We never take into consideration who should pay for the contractor who has been held up because a line was not marked correctly causing a delay in his work.

I would suspect you will hear from various groups that it is too expensive for them to have their lines marked or located...but who pays the bill when a line not marked correctly holds up the contractors or hurts someone.

In essence you or the next customer does. Because it costs more for the contractor to do this job and the contractor will figure that cost in his next bid. So to think that we should allow utilities not to mark their lines because it costs the utility money...let's remember who the contractor is working for....you would soon realize the owner of the project ends up paying for allowing one group not to be paying for the service.

One last thing, the unit of government who gave the utility the approval to use the easement to put in the water line in . It is not a right to have the utility line there...it is a privilege and so in our opinion, the utility should be required to know where its facility are located....as a public safety issue. ...and to streamline this effort...be part of the One Call system like the rest of the utilities in the state.

Thank you once again for the time you have made for our concerns to be heard. I have brought a real live contractor with me today to discuss this issue further and although I will be glad to answer any questions, I think she might be a little more knowledgeable about it than I am...and with the indulgence of the chairman, I would like to introduce to Katy Steinbacher of BRB Contractors here in Topeka. She is a professional engineer and has worked out in the trenches so listen up.

<http://www.kslegislature.org/legsrv-legisportal/index.do>

Testimony before Kansas State Senate

**Katherin Steinbacher, P.E.
Director, Business Development, BRB Contractors, Inc.**

January 18, 2007

Re: Senate Bill 20

My name is Katherin Steinbacher and I am Director of Business Development for BRB Contractors. We are a large heavy contractor specializing in the construction of utilities and in water and wastewater treatment facilities. We work within Kansas and throughout the United States and are headquartered in Topeka, Kansas. I am also a Licensed Professional Engineer and worked for many years as a consulting engineer in eastern Kansas. I come before you today to speak in support of requiring participation by all operators of underground facilities, including municipalities and rural water districts, in the Kansas Underground Utility Damage Prevention Act, or the Kansas "One Call Law".

I have worked in the field of civil engineering and construction for almost fifteen (15) years. I have worked in many different states, including Kansas. Kansas is one of only three states within this country that do not require water and sewer operators to provide location information regarding underground pipelines. Municipalities and other operators say that they want continued exemption from the One Call Law because they do not have the monetary resources to map or locate their facilities. I would submit to you today, that it is because of their refusal to provide these necessary locates that these owners and operators in Kansas find their funding more limited than those in other states. They are indirectly paying an exorbitant, and often unknown, price for their refusal to provide necessary information.

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locations affects a construction company's business practices as well as the local and state economies. When we bid projects in Kansas, we are forced to include contingencies for costs related to the encounter of unknown, unmarked underground utilities. Our insurance brokers and bonding agents insist on greater protection for projects within Kansas. These costs are eventually passed on to the tax-payer, and contribute to decreasing local and state revenues, as well as causing a chilling effect on development and construction of infrastructure within the community. The bottom line is that by forcing this amount of unreasonable risk onto the contractor, or excavator, the owner pays a premium for all construction activities occurring in their domain, resulting in the construction of fewer projects for the same cost. Only through more educated and more comprehensive risk allocation can these communities stop wasting large amounts of revenue for nothing. The Kansas Corporation Commission's proposal to expand the Kansas One Call Law is the first step in this improved risk allocation process.

Contractors and engineers, as a group, are labeled most often as problem solvers. We enjoy finding new and effective ways of meeting challenges. Our industry is very aware that the KCC is currently unable to exercise control over municipalities and pseudo-municipalities in relation to the One Call Law. But, just because we don't waste our time complaining about it does not mean that there is not a problem.

The technology needed to provide for comprehensive locates is readily available and affordable. Many towns and cities in Kansas already utilize some sort of GIS, or Geographic Information System, that could easily be expanded to include accurate underground utility information,

Allow me to offer a specific example, one of countless stories that I and my colleagues in the field could share with you. A few years ago, I was the design and construction inspection engineer for a street rehabilitation project within an eastern Kansas town. The contractor that was awarded the project completed all necessary due diligence in relation to locating existing underground utilities. He made the one call, then the second call, then the third, as he had previously worked in the area and knew the affected operators that were exempt from the One Call Law. During the course of the project, an out of state private utility contractor performed duly permitted directional boring work within the limits of this project. As they had not previously worked in the area, they naturally assumed that their "One Call" was sufficient to locate all underground utilities in the vicinity. They realized that this was not the case when they bored through a large water transmission main. The owner of this line, a municipality, was exempt from the One Call Law, and had chosen not to spend the estimated \$16.50 as they had no legal responsibility for location. The breach of this water pipeline caused significant flooding and delay to the ongoing road project as well as flooding to several adjacent homes and private properties. In the end, this municipality had not only spent the \$16.50 they saved by not joining Kansas One Call, but they were responsible for over \$500,000 in legal costs, damages and repair costs, the completion of their new street was delayed by almost three months, the water supply to several neighborhoods was disrupted and their insurance rates raised significantly. How much money did this municipality really save by choosing not to locate their underground utilities?

As a contractor that works in Kansas as well as throughout the U.S., I also have the responsibility to explain to you how Kansas' refusal to provide for comprehensive underground utility

including vertical elevation and the use of tracer wire and transponders has become common practice in underground utility placement.

In closing, un-located underground utilities can result in environmental catastrophes, wasted resources, decreased worker safety and contingent liability that will continue to adversely affect the future development of our state. I strongly support requiring participation by all operators of underground facilities in the Kansas "One Call Law".

Thank you, ladies and gentlemen, for your consideration, and I now stand for any questions you may have.

**Senate Utilities Committee
January 18th, 2007**

**Testimony presented on behalf of:
Water District No.1 of Johnson County, Kansas
Opponent of Senate Bill 20**

On behalf of Water District No. 1 of Johnson County, Kansas, (“WaterOne”), I would like to thank you for consideration of our opposition to Senate Bill 20, an amendment to the Kansas Underground Utility Damage Prevention Act (KUUDPA) that would require water utilities membership in the Kansas One Call Center. The current exclusion of water supply facilities from the provisions of KUUDPA exists, in part, because underground water facilities do not present the same health and safety issues posed by other underground utilities. A mandate requiring water utilities to participate in the One Call Center will result in a substantial unnecessary expense to the utility’s ratepayers, without providing any benefit or enhanced service.

WaterOne successfully operates its own in-house locate department consisting of one administrative employee and four field employees. The locate department performed about 7500 locates in 2006. Excavators in Johnson County contact WaterOne directly to request locates of our facilities and our own field employees are then dispatched to the area to perform the locate. WaterOne follows KUUDPA with regards to the timing of field locates under normal and emergency circumstances. We do require a wider tolerance zone for our facilities than required by KUUDPA—36 inches for ductile iron or cast iron mains that are 12-inches or smaller and 60-inches for ductile or cast iron, pvc, ac, or concrete mains larger than 12-inches. The wider tolerance zone is required due to the fact that materials used in the water industry are not nearly as traceable as electric, gas, phone or cable.

It has been our experience that excavators in the Johnson County area are well informed of the fact that they are required to contact not only the KUUDPA call center, but also WaterOne directly. Our mains are damaged from time to time. Most interference with WaterOne facilities that occurs is the result of professional excavation. Our water lines are generally located within the public right of way or adjacent thereto and are buried at a depth of at least 42-inches, minimizing the chances of a resident coming in contact with a main during routine lawn maintenance. The damage that we experience is usually due to excavator error or a discrepancy in the location of the water main. These human error causes of damage would not be eliminated if water utilities were required to become members of the One Call Center, in fact, we believe that it may be likely utilities would incur more damage to facilities if forced to participate because of the necessity of

outsourcing the locating work.

Over the summer an interim legislative committee was formed to examine the impact of requiring water and sewer utilities to join the Kansas One Call Center. The Kansas Corporation Commission (KCC) presented testimony that in 2005 municipal utility operators participating in the One Call Center received an average of 200 requests for each 1000 residents and in high growth areas there were as many as 2000 requests for each 1000 residents. The KCC estimates the cost to a utility to perform a locate is around \$15.00 in addition to the One Call Center charge \$1.14 per locate request. Assuming WaterOne's service area in Johnson County is among the highest growth areas in the State, based on the KCC figures, if we were required to participate in the One Call Center we would be looking at, on the low end, 80,000 locate requests per year, and on the high end, about 800,000 requests a year. This equates to an unbudgeted expenditure of 1 million to 12 million dollars for our utility which would have to be covered by an increase in water rates.

In the early 90's WaterOne did voluntarily join the Kansas One Call Center on a trial basis but was forced to withdraw after a short period of time due to the high volume of calls—an increase from about 25 a day to 500 a day after joining the One Call Center. Our experience during the period of voluntary participation was that only about 10% of the locate request we received actually required a field locate. The remainder involved locations such as the side or back yards of residences where there was no chance of interference with the water main. We believe the rate of locate requests we now receive, last year about 7500, is a more realistic reflection of the real need for water main locates. The professional excavators that truly require locates of water mains are contacting our locate center and their requests are being appropriately screened because we are not bogged down with irrelevant requests. When a field locate is required, our locate staff responds promptly and according to the time frames set forth in KUUDPA without posing undue delay to excavators. During our voluntary participation, the Kansas One Call Center did not have the necessary information about our system to perform the same screening function as our in house employees, the result being, an inundation of irrelevant locate requests, forcing us to abandon the pilot program.

Prior to the 2001 Legislative Session, a task force was formed to study the impact of adding water utilities to the One Call Center. One of the recommendations of the task force was the One Call Center would inform excavators of the need to contact their local water utility directly for facility locates. It was our understanding the Call Center was going to deliver this message, which would alleviate the problem of excavators not knowing who or how to contact water utilities. However, to our knowledge excavators are not receiving this information today.

Based on our experience in the early 90's with the pilot program and the numbers provided by the KCC, it is clear the current WaterOne locate department staffing would not be adequate for even the low end estimate of 80,000 locate requests per year. We would likely have to outsource the locating work which poses several disadvantages. An outside contractor will not have the same level of knowledge and experience regarding the location of water mains as possessed by the utility's own in-house field employees.

Security issues are a concern because the utility would be required to provide an outside contractor with maps detailing the location of water mains, which is contradictory to the fact that since 9/11 most water utilities have been mandated to protect the water supply system from potential risks, including contamination of the water supply through the distribution system.

Senate Bill 20 does not present a new issue to the Legislature. Requiring water and sewer utilities to become members of One Call was thoroughly considered in the years 2000 and 2001. In both instances the decision was ultimately made not to bring water utilities into the provisions of the Act. The KCC reported that it received 438 complaints from excavators in 2005 about not receiving locates or being charged for damages. None of the 438 complaints were about water or sewer utilities failing to locate facilities. It appears that Senate Bill 20 is a solution where there is no problem. It would be very difficult to justify to a customer an increase in water rates to cover mandated membership in the Kansas One Call Center, when the current system in place has proven sufficient, at a lower cost to the public.

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