

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on January 21, 2009, in Room 446-N of the Capitol.

All members were present except
Senator Roger Reitz, excused

Committee staff present:
Ann McMorris, Administrative Assistant
Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Mike Corrigan, Office of the Revisor of Statutes
Melissa Doeblin, Office of the Revisor of Statutes

Conferees appearing before the committee:
Leo Haynos, KCC

Others attending:
See attached list.

Update on Current Issues on One Call

Leo Haynos, Kansas Corporation Commission, provided colored slides of his power point presentation to the committee and an explanation of the Kansas Underground Utility Damage Prevention Act (KUUDPA - known as the One Call Law) and the implementation of the provisions of **HB 2637**. (Attachment 1)

The next meeting is scheduled for January 22, 2009.

The meeting was adjourned at 2:15 p.m.

Respectfully submitted,

Ann McMorris, Committee Assistant

Attachments - 1

GUEST LIST
SENATE UTILITIES COMMITTEE
JANUARY 21, 2009

NAME

COMPANY

Leo Haynos	KCC
Tom Shimon	Kansas One Call
- Shirley Allen	KREI KRITC
- Lon Stanton	NORTHERN NATURAL GAS
Manit Hartst	CEP
- Joe Diet	KCBPU
- Dave Holtz	KEC
- Corey Mohr	Commerce
Dina Fish	Verizon
- Dorey Galloway	Embargo
Mike Murray	Embargo
- Scott Jones	KCP
- Kimberly Jones Svaty	KMU
- Mick Urban	Kansas Gas Serv
- Mark Schreiber	Westar Energy
- Tim Brantner	AT&T
Danci Meese	UnderOne
Toni Butler	Federico Consulting



*Kathleen Sebelius, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner*

**Before the Senate Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
January 21, 2009**

**Overview of the Kansas Underground Utility Damage Prevention Act and the
Implementation of the Provisions of HB2637**

Background

With the exception of electric and some cable television utilities, almost all utility delivery systems are underground. And all of the utilities are typically restricted to utility corridors less than 20 feet wide in which they compete for space. Other than signs and maps where available, it is not possible to visually locate a buried utility. The Kansas Underground Utility Damage Prevention Act, (KUUDPA), establishes the rules for communication between the excavators and utilities in order to prevent damage to buried infrastructure and to prevent accidents. It requires the excavator to notify the utility of his intent to dig, and it requires the utility to provide a visual indication of the where the utility is located in the easement. In Kansas, there are 20,000 professional excavators and at least 1400 utility operators with buried underground facilities. By the fact that the utilities are buried, the utility operators are also excavators. Any construction activity of a permanent structure requires excavating-from planting a tree to building a highway. When the new excavation conflicts with the existing buried infrastructure, damages can occur if the two parties are not communicating well. In fact, excavator damage is the leading cause of natural gas incidents in the United States

KUUDPA, which is also known as the One Call law, became law in Kansas in 1993. Before that, it was a voluntary practice where utilities established a call center that excavators could contact in order to get utilities located before they began to dig. The law codified the existing structure and process for communication between the parties.

It established a centralized call center where all utilities were required to list the geographic locations where they wanted to be notified of excavating activity. The utilities required to be members of One Call are all gas and oil pipelines, all buried electric and all telecommunications

Senate Utilities Committee
January 21, 2009
Attachment 1-1

which includes phone and cable TV. Excavators are required to notify the call center of planned excavations with enough lead time that the utilities can mark the location of the buried facilities. In the industry, this practice is known as a "locate". Because there are a great variety of methods for excavating and installing underground utilities, the KUUDPA also established various rules dealing with the logistics of getting the work done and how an excavator is expected to work around buried facilities.

Kansas Exemptions

In Kansas, not all utilities or excavators are required to participate in KUUDPA. Excavation related to oil and gas production, agriculture tilling, and excavation by homeowners are not required to call for locates. Although the exemptions are in place, it is my opinion that most excavators voluntarily call for locates. It's a free service to the excavator and not worth the liability of a strike occurring.

Exempt utilities include water and sewer until July 2009, and any buried production or gathering lines for gas and oil production if the piping is outside a city limits. Also, property owners with facilities located on their own property are not required to belong to One Call. An example of this would be factories or state complexes such as the Capitol grounds. Many of the exempt utilities have voluntarily joined One Call in order to protect their infrastructure from damage.

The excavator requirements can be summed up by three steps: Call before you dig; wait the required time; and dig with care when digging over existing facilities. Operators are required to list their facilities with the Call Center and accurately locate the facilities within two days of receiving the request. As I mentioned earlier, the locate request is a free service to the excavator. The utility, (and its ratepayers), must pay for the cost of operating the call center, (\$1.14/request), and the cost of performing the locate (estimated at \$16/ per request).

In 2008, there were 470,000 times that an excavator notified the call center of a planned excavation. Because utilities share a common easement, on average 5 utilities respond to each excavation site. In areas of high population and building activity such as Johnson County, as

many as nine operators respond to each locate request. There were 2.4 million locate requests in 2008.

Over the last 8 years, Kansas has been proactive in updating KUUDPA to reflect the needs of Kansans, and it appears to be working fairly well. In order to evaluate our progress, the Commission promulgated regulations in 2007 that required the utility operators to report information on each damage that occurred. This requirement was only placed on those utilities receiving more than 2000 requests per year. Although this only includes 15% of the members of Kansas One Call, it accounts for 91% of the locate volume. For the first half of 2008, there were 553 damages to natural gas lines and 1023 damages to telephone and cable television lines. We estimate the total cost of these damages to be \$1.1 million. Damages also cost the excavator downtime and revenue. The total cost to excavators is unknown but indications are it is significantly more than the cost of the utility damage. Although repairs of utility damages from line strikes are costly, the main reason for KUUDPA is safety--of the excavator and utility crews as well as the public. For 2008, we expect to see 3.4 damages for every 1,000 excavation requests. When compared to earlier surveys we have done, this represents a 70% decrease in damages within the state since 1996.

Implementation of HB 2637

In the 2008 legislative session, HB 2637 amended KUUDPA to include water and sanitary sewer in the definition of utilities required to provide locates upon request. However, the bill established Water and wastewater as a special group of underground utilities defined as a "Tier 2" utility. The bill provides three significant options to Tier 2 facilities that are not allowed the other utilities. They are as follows:

1. While Tier 2 utilities must register with Call Center, they may elect to have the call center refer the excavator to place another call directly to them. If this option is chosen, the Tier 2 utility will operate its own call center;

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2. The Tier 2 utility may elect to not provide locates if they notify the excavator that the water or sewer utility will be at least 2 feet deeper than the deepest depth of the planned excavation; and

3. Because water and sewer lines may be difficult to locate, the Tier 2 utility is granted the flexibility of providing locates that are less accurate than those provided by other utilities. Provided the Tier 2 operator notifies the excavator, the Tier 2 facility is allowed to use a 60-inch tolerance zone rather than the standard 24-inch tolerance zone. The tolerance zone is the area adjacent to the buried facility where the excavator must use special care when digging in that area.

Water and wastewater lines historically have been difficult to locate because of poor maintenance of maps and no means of electronically tracing the pipe from the surface. In some cases, the operator is only able to provide the excavator with a general sense of where the line may be. In those cases, the HB2637 requires the operator to assist the excavator in finding the line and to be available should the line be cut. HB2637 also includes the requirement that all Tier 2 facilities installed after July 1, 2008 be locatable. That is, the utility must be able to locate the buried facility with a 2 foot accuracy.

The bill recognizes a special subcategory of Tier 2 facility which is designated as a "Tier 3 member of the Call Center" This type of water or wastewater utility must be a large operator with at least 20,000 customers, and they must currently operate a call center for taking locate requests on a 24-hour basis. If a Tier 2 facility can meet these prerequisites, they are provided a deep discount in the amount that the Call Center can charge them. The bill caps their charges at \$500 per year where the other Tier 2 facilities have charges capped at 50% of the conventional ticket price.

KCC Regulations

Because HB2637 prescribed significant changes to the statutes, the Commission Staff is in the process of amending the One Call regulations found in K.A.R. 82-14-1 through 82-14-5. This process began in June of 2008 with Staff inviting all affected stakeholders to provide input into

possible regulatory changes. Three meetings, attended by 20-30 stakeholders, were held to provide input to the changes. For the most part, the regulatory changes address the recordkeeping requirements for Tier 2 or Tier 3 operators that wish to operate call centers independent of Kansas One Call. Because excavators will need to make more than one call, the regulations also define how that process will affect the excavation start date. Currently, the regulations have been sent to the Department of Administration for review. We anticipate the date of implementation will coincide with the effective date of HB2637, which is July 1, 2009.

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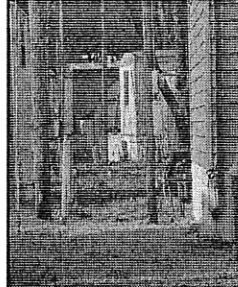


Kansas Underground Utility Damage Prevention Act (KUUDPA)

K.S.A. 66-1801 to 66-1814

Leo Haynos
Chief of Gas Operations & Pipeline Safety
Kansas Corporation Commission

KUUDPA Jurisdiction



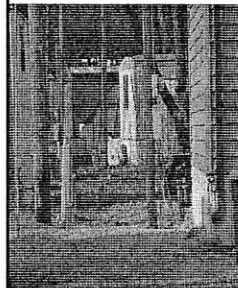
- **Excavators.**
- **Utility operators.**
 - Telephone
 - Cable TV
 - Electric
 - Gas
 - Hazardous Liquids

KUUDPA Exempt Excavators



- **Excavation related to oil & gas production.**
- **Excavation related to agriculture.**
- **Excavation by Homeowners.**

KUUDPA Exempt Operators



- **Water Utilities.**
- **Sewer Utilities.**
- **Homeowners.**
- **Oil&Gas production and gathering piping (outside city limits).**

Excavator Requirements



- **Call Before You Dig.**
- **Wait the Required Time.**
- **Dig with Care.**

Operator Requirements

- **Participate in Call Center.**
- **Locate Facilities Within Allotted Time.**
- **Locate Facilities Accurately.**

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One Call 2008 Statistics

- 470,000 Excavation Events.
- 2.41 Million Requests for Locates.
 - (5.2 utilities at every excavation site).

Damage Statistics

- K.A.R. 82-14-3(m): Requires reporting of damages for utilities receiving more than 2000 locate requests.
- Approximately 100 utilities.
- 91% of the request volume.

Damage Statistics

January-June 2008

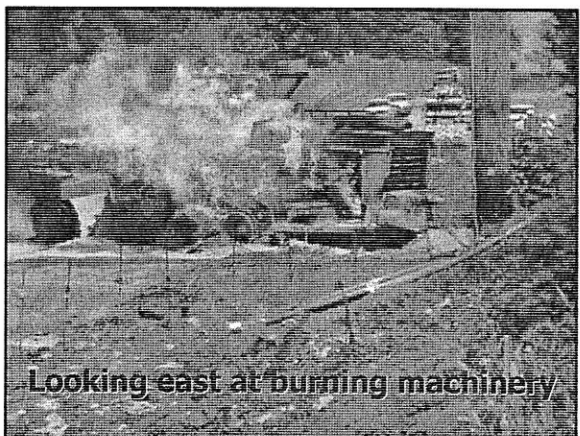
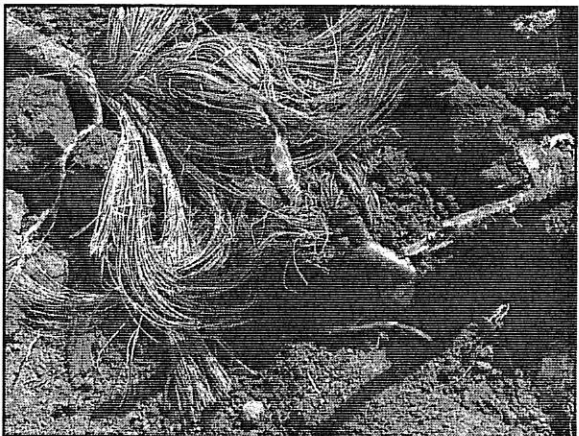
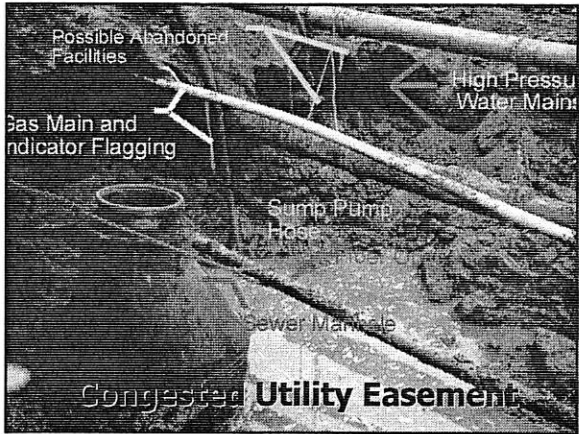
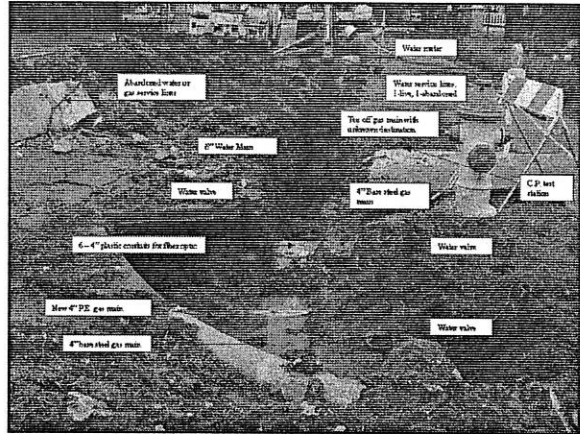
- 553 Natural Gas Damages.
- 1023 Phone and Cable Damages.
- Estimated Damage costs: \$1.1 Million for Six Months.
- Excavator Downtime Costs: Unknown.

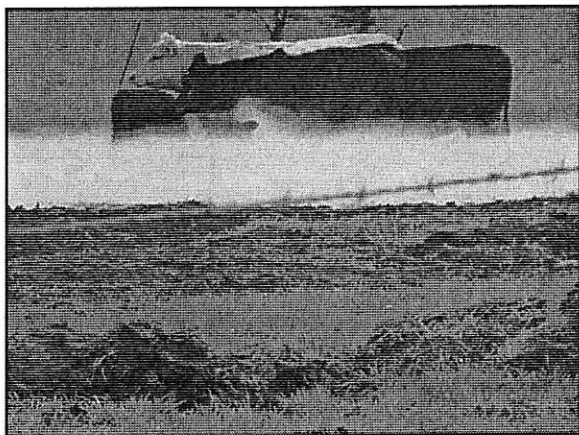
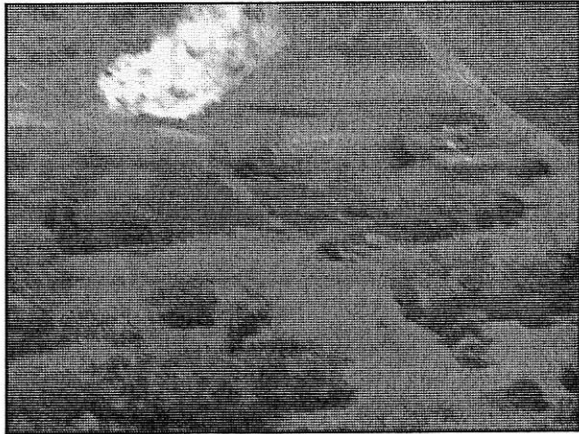
Damage Statistics

January-June 2008

- 3.4 Damages for Every 1000 Excavation Events.
- 6,800 Damages Reported in 1996.
- Estimated 2,100 Damages in 2008.







HB 2637

- **Water & Wastewater utilities are now Tier 2 facilities.**
- **Becomes effective July 1, 2009.**
- **Special Rules apply to Tier 2:**
 - Partial participation in KOC.
 - Can request larger tolerance zone.
 - If w/w operator can't find facility, remain on site until excavator is clear.
 - Any operator can request whitelining at any time.

HB 2637

- **Effective July 1, 2008, all newly constructed W/W utilities must be locatable to ± 24 inches.**

Tier 2 and the Call Center

- **Can't charge more than 50% of a Tier 1 charge.**
- **KOC to provide "name and contact information".**
- **Two Tier 2 members placed on KOC board.**
- **Tier 2's keep their own records of excavator calls.**

Tier 2 and the Excavator

- Don't have to locate if their facilities are at least 2 feet deeper than planned excavation.
- 10 foot tolerance zone PROVIDED excavator is notified.
- Must stay on site and offer guidance if line can't be found within 10' accuracy.
- Must record all information if excavator calls directly.
- Can request whitelining at any time.

Tier 3 Prerequisites

- At least 20,000 customers.
- Website and call center with 24/7 capabilities.
- At least 2 locators on staff.
- Dedicated phone number for locates.
- Provide contact information to KOC.

Tier 3 and the Call Center

- Provide contact information.
- One KOC board member.
- Pay dues of \$500 per year.

Examples of Tier 3 Ticket Volumes

2008 Voluntary Members of KOC	Ticket Volume
Johnson County Waste Water	78,359
Wichita Water	70,835
Topeka	16,854
Lawrence	7,759

Kansas One Call, Inc. as a Public Agency

- Open records act, (except for information supplied by operators).
- Subject to open meetings/records acts.
- Annual audit by independent CPA.
- Bid operation of center at least every 5 years.
- Conduct cost of service audit at least every 5 years.

KCC Stakeholders Meetings

- Purpose: To Develop Regulations for Implementing HB 2637.
- Three Meetings June through October.
- Attended by 20-30 Stakeholders.
- All groups were represented.

HB2637 Tier 2 and the Excavator

- Don't have to locate if their facilities are at least 2 feet deeper than planned excavation.
- 10 foot tolerance zone PROVIDED excavator is notified.
- Must stay on site and offer guidance if line can't be found within 10' accuracy.
- Must record all information if excavator calls directly.
- Can request whitelining at any time.

KCC Stakeholders Meetings Issues

- Recordkeeping for Tier 2-3 members that operate separate call centers.
- Recordkeeping if Tier2 decides not to locate.
- When can excavator start digging?

KCC Stakeholders Meetings

- **Regulations Current Status:**
To be sent to the Department of Administration by January 23, 2009.
- **Anticipated Implementation:**
July 1, 2009.

Contact Information

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Kansas Corporation Commission
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