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Before the Senate Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
February 8, 2006

Senate Bill 464

Thank you Mr. Chair and members of the Committee. I am Leo Haynos, Chief of Pipeline Safety for the Kansas Corporation Commission and I am appearing today on behalf of the KCC Staff.

We are here today to support SB 464 which gives authority to the Commission to promulgate regulations in support of the existing statute's directive to the Corporation Commission to administer and enforce the Kansas Underground Utility Damage Prevention Act, also known by the acronym KUUDPA.

Before I begin discussing the bill, I would like to give a brief overview of the Act and some of its history. In Kansas, if you don't count water and sewer facilities, there are roughly 160,000 miles of utility lines that are buried. Typically one thinks of gas lines as buried facilities. However they also include almost all phone lines, cable TV and fiber optic communication lines as well as electric service lines. In fact, most new housing developments place all of the utilities underground. Under KUUDPA, there are two groups that are affected by the law's requirements. They are excavators and operators of underground utilities. At the heart of underground utility damage prevention is the need for accurate and consistent communication

between excavators and operators. Typically, an excavator planning to dig has no knowledge of who may have buried facilities in the area where he will be working. He depends on the call center to notify all operators of buried facilities at his work site. The call center has electronic maps of the underground facilities of all its members. After being called by the excavator, the center sends a message or a “ticket” to the utility to alert them of possible digging near their facilities. In order to protect their facilities and to prevent accidents, the utilities respond by placing flags or paint marks on top of the ground that indicate the location of their facilities. In theory, this is a simple concept; however, as requests for locates increase and the underground becomes more congested, the communication link between excavators and operators begins to unravel. In 2005, the call center received 465,000 requests from excavators to locate buried facilities. Each call for locates generally produces 5 locate requests being sent to facility operators since there is usually more than one type of facility in the ground at any given place. In some cities, as many as 9 operators must respond for every request by an excavator. Last year, the call center informed utility operators 2.4 million times that an excavator was planning to dig near their facilities and that he needed locates.

Although the system works pretty well considering the volume of use, Kansas utilities still suffer approximately 4 million dollars of damage each year. The main concern however, is not the money lost because of damaged utilities. The main concern is safety and continuity of service. Safety of the excavator while digging is an immediate consideration along with safety of the public. The highest safety concerns would be those dealing with electric and gas utilities, but water contamination is also a potential risk as is phone line damage, particularly for 911 communications.

During the 2002 legislative session, the Commission Staff asked for the introduction of Senate Bill 490 which led to several minor revisions of KUUDPA. In my testimony before this committee at that time, I explained that it was our intent to prepare regulations to supplement the statute and provide specific instructions for day to day operations under the Act. In fact, the statutes were amended by SB 490 to allow the KCC to promulgate regulations dealing with marking utilities and requiring guidelines for trenchless excavations. Beginning in 2003, Staff worked with a group of utility operators and excavators to draft regulations and in late 2004 we began the approval process. The Department of Administration completed their review and modification of the submitted language in the summer of 2005, and the proposed regulations were sent to the office of the Attorney General for review as the next step of the process. In October of last year, the office of the attorney general stated the existing statute limits the KCC authority to promulgate regulations to the two areas specifically stated in the Act. Subsequently, the office of the attorney general ruled they could not approve a regulation without a statute that clearly authorizes adoption of the regulation.

Today, we are supporting SB 464 because we believe KUUDPA regulations will be a valuable tool in providing clear direction to the regulated community. For example, the proposed regulations, in addition to providing the requirements for marking and trenchless excavation guidelines, also define several terms used in the statute but not defined. The proposed regulations also provide clear instruction regarding what needs to be included in the excavator's notice of intent to excavate as well as including requirements for the utility operator to provide data to the KCC on the number and type of damages suffered each year. The underground

utilities industry is constantly evolving to include new techniques for repairing existing infrastructure or placing new facilities in service. Within the last 10 years, techniques such as vacuum excavation, trenchless excavation, and pipe bursting have developed into accepted and popular excavation techniques. As I stated earlier, the purpose of KUUDPA is to ensure appropriate communication between excavators and utility operators. Clarifying the authority of the Commission to promulgate regulations gives us the ability to modify and clarify the law's requirements within the constraints of the statute as the industry evolves. We believe this bill will allow the Commission to deliver more effective administration of the One Call law.

This concludes my testimony, and I will now stand for questions.