Kansas Corporation Commission
Commission Meeting
November 17, 2020
10:00 a.m. 1st floor hearing room
KCC Offices, 1500 Arrowhead, Topeka, Kansas

MINUTES

The Commission convened the regularly scheduled open meeting of the Commission at 10:00 a.m. on November 17, 2020, in the 1st floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

Present: Chair Duffy, Commissioner Keen and Commissioner French. The following were considered by the Commission:

1. **Consent Agenda**: Commissioner French moved for approval of the Items on the Consent Agenda dated November 17, 2020, containing pages one through five and are attached to these Minutes. Commissioner Keen seconded the motion.

   The motion was approved.

2. **Noticed Item:**
   Docket No. 21-KGSG-094-TAR
   In the Matter of the Application of Kansas Gas Service, a Division of ONE Gas, Inc. for a Gas System Reliability Surcharge per K.S.A. 66-2201 through 66-2204.

   Commissioner Keen moved for approval of order #20-2121 – Order Approving Gas Reliability Surcharge. Commissioner French seconded the motion.

   The order is approved.

3. **Discussion Item:**
   Suzanne Gonzales, Assistant Supervisor of Pipeline Safety, and Leo Haynos, Pipeline Safety Chief Engineer, updated the Commission regarding the 2020 Pipeline and Hazardous Materials Safety Administration (PHMSA) Evaluation of the Activities of the Kansas Corporation Commission. Discussed documents are attached to these Minutes.

There being no further matters before the Commission, Commissioner French moved for adjournment of the Commission meeting. Commissioner Keen seconded the motion. The motion was approved. The Commission adjourned the November 17, 2020, Commission Meeting at 10:23 a.m.

Respectfully submitted,

Lynn M. Retz, Executive Director

Susan K. Duffy, Chair

Andrew J. French, Commissioner

Dwight D. Keen, Commissioner

1500 SW Arrowhead Road
Topeka, KS 66604-4027

Kansas
Corporation Commission

Phone: 785-271-3100
Fax: 785-271-3354
http://kcc.ks.gov/

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

October 21, 2020

Zach Barrett
Director, State Programs
Pipeline and Hazardous Materials Safety Administration
3700 S. MacArthur Blvd., Suite B
Oklahoma City, OK 73179-7612

Dear Mr. Barrett:

Thank you for the letter dated September 3, 2020, regarding the 2020 PHMSA evaluation of the activities carried out by the Kansas Corporation Commission's Pipeline Safety Program in calendar year 2019. The evaluation found the KCC met the federal certification requirements as per the agreement established under USC Section 60105(a). As per your request, I am responding to the areas of concern:

The KCC score for the 2019 Progress Report was 32 out of 50 possible points.

1. Four points were deducted by PHMSA due to the Kansas Corporation Commission not having jurisdiction for gathering systems and only partial jurisdiction over intrastate transmission systems.

   Response: Since 1970, operators of gas gathering pipelines were omitted from the State's jurisdiction and certain types of transmission pipeline operators were exempted from State oversight. Commission Staff are reviewing options to address this issue.

2. Four points were deducted for the KCC inspection staff qualifications not being in the highest percentage categories I and II as outlined under Section 4.6 of the PHMSA State Program Guidelines.

   Response: The Commission's pipeline safety program has struggled with personnel retention and hiring of staff who are experienced in pipeline safety operations and/or have education in engineering or a related technical field. Though the pipeline safety program is fully staffed, Kansas currently has only three inspectors that have completed the core PHMSA-TQ classes. Of those inspectors, only two have more than five years' experience in pipeline safety. One inspector will complete the core TQ courses in 2021 and a newly hired inspector has only completed one core class

due to the TQ scheduling of the required courses. Though the KCC Staff are not in the highest percentage categories, requirements for inspection days have consistently been met. Commission Staff has developed a documented on-the-job training program for new inspectors that evaluates their progress as they gain inspection experience. This approach has allowed us to provide inspection services for the more elementary types of inspections while waiting on TQ course availability. It also provides valuable experience to the newly hired inspector.

3. Two points were deducted due to the KCC not adopting the maximum civil penalty amounts required by PHMSA of $213,268 per day up to a maximum of $2,132,679 for a related series of violations.

   Response: The Kansas maximum daily penalty amount of $25,000 per violation per day has served as an effective deterrent to violations. If an operator continually fails to take corrective action to address a violation or a series of violations, the maximum amount of $1,000,000 would provide a sufficient incentive to address a serious violation in a timely manner. Commission Staff are reviewing options to address this issue.

4. Eight points were deducted for not adopting all amendments to Parts 192 through 199 of the Code of Federal Regulations. Additional points were deducted this year due to not adopting rule amendments within 36 months of effective dates.

   Response: Commission Staff has started the process of adopting all of Part 192 amendments through September 2018. The Commission has opened Docket 19-GIMP- 431-GIP to track the adoption process. Commission Staff expects to begin a new round of regulation adoptions in 2021 to incorporate any federal rulemaking through 2020 into Kansas regulations.

The Kansas Corporation Commission looks forward to another year of working with PHMSA to provide safe and cost effective natural gas service to the residents of our State.

Please feel free to contact me, or one of the KCC's pipeline safety staff, if we may be of assistance to PHMSA in its responsibilities for interstate and intrastate pipelines in Kansas.

Sincerely,

Susan K. Duffy
Chair, Kansas Corporation Commission

Cc: Jeff McClanahan, Director of Utilities, Kansas Corporation Commission
Leo Haynos, Chief of Pipeline Safety, Kansas Corporation Commission
Dave Lykken, State Liaison, PHP-50, PHMSA State Programs

U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

September 3, 2020

Via Email

Ms. Susan K. Duffy
Chair
Kansas Corporation Commission
1500 Southwest Arrowhead Road
Topeka, KS 66604-4027

Dear Chair Duffy:

On August 24-27, 2020, the Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the pipeline safety program activities carried out by the Kansas Corporation Commission (KSCC) in Calendar Year (CY) 2019. This evaluation included a review of annual Progress Report documents and pipeline program procedures and records, as well as observation of an on-site pipeline operator inspection by KSCC staff.

PHMSA conducted our evaluation pursuant to Sections 60105(e) and 60106(d) of Title 49 of the United States Code, which authorizes PHMSA to monitor State pipeline safety programs. This annual evaluation is designed to ensure compliance with the Pipeline Safety Act requirements and to provide information that will allow PHMSA to determine the State's total pipeline safety grant score for the upcoming year.

PHMSA assesses the overall performance of a State's pipeline safety program by scoring information contained in the pipeline safety program Progress Report and by conducting a Program Evaluation. Detailed results are below:

I. Progress Report Review

For CY 2019, the KSCC Gas Pipeline Safety Program scored 32 out of a possible 50 points.

1. Four points were deducted for not having safety jurisdiction over gas gathering pipelines and only having partial jurisdiction over certain gas transmission pipelines.

2. Four points were deducted for KSCC inspection staff qualifications not being in the highest percentage categories I and II as outlined under Section 4.6 of the PHMSA State Program Guidelines.

3. Two points were deducted for KSCC not adopting a maximum civil penalty amount of at least $100,000 per day up to $1,000,000 for violation of the pipeline safety regulations. This item has been mentioned several times in previous letters. The failure to not increase the civil penalty amounts to the abovementioned levels continues to result in a loss of points and grant funds for the KSCC Pipeline Safety Program. PHMSA currently has maximum penalties of $213,268 per day up to a maximum of $2,132,679 for a related series of violations.

4. Eight points were deducted for not adopting all amendments to Parts 192 through 199 of the Code of Federal Regulations. Additional points were deducted this year for not adopting rule amendments within 36 months of effective dates. Action must be taken to assure timely adoption of the federal regulations into state law.

II. Program Evaluation Review

For CY 2019, the KSCC Gas Safety Program scored 94 out of a possible 94 points

As you may be aware, PHMSA and the National Association of Pipeline Safety Representatives developed a set of performance metrics that are available to the public on PHMSA' s stakeholder communication website, http://primis.phmsa.dot.gov/comm/states.htm. These metrics relate to the State's leak management, incident investigations, and damage prevention program, as well as its inspector qualification, inspection, and enforcement activities. PHMSA expects each State pipeline safety program to review these metrics and take action, as necessary, to continuously improve performance trends, thereby supporting enhanced pipeline safety.

Please provide your response regarding the numbered items 1-4 above within 60 days of your receipt of this letter to avoid losing performance points on next year's evaluation.

The response should be addressed to me at 3700 S. MacArthur Blvd., Suite B, Oklahoma City, Oklahoma 73179-7612. Additionally, please email a PDF of your signed response to zach.barrett@dot.gov and don.martin@dot.gov. Thank you for your continued support of pipeline safety.

Sincerely,

Zach Barrett
Director, State Programs

CC: Mr. Leo Haynos, Chief Engineer, KSCC
Mr. Allan Beshore, PHMSA Central Region Director
Mr. David Lykken, Transportation Specialist, PHMSA State Programs

Kansas
Corporation Commission

ITEMS OF
Consent Agenda

Approval Date: Tuesday, November 17, 2020

NOTICE TO THE PUBLIC: There will be no separate discussion of Consent Agenda items as they are considered to be routine by the Kansas Corporation Commission. Unless removed from the website's Consent Agenda, the orders appearing on the Consent Agenda will become the Order of the full Commission at the Commission's regularly scheduled Business Meeting. If Commission staff or a Commissioner requests an item be removed from the Consent Agenda, the affected item may be considered seperately or placed on the earliest possible Business Meeting agenda for discussion.

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
1	In the Matter of the Complaint Against Evergy by Richard S. & Barbara R. Brooks ***Order Designating Presiding Officer and Granting Motion for Extension of Time***	20-EKCE-414-COM	
2	In the Matter of the Application of The Empire District Electric Company for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility (Transmission Rights Only) in Portions of Neosho County, Kansas ***Order Granting Application***	20-EPDE-503-COC	
3	In the Matter of the Audit of Telrite Corporation by the Kansas Universal Service Fund (KUSF) Administrator Pursuant to K.S.A. 66-2010(b) for KUSF Operating Year 23, Fiscal Year March 2019-February 2020. ***Order Adopting Audit Report and Closing the Docket***	21-RITC-066-KSF	
4	In the Matter of the Application of Evergy Kansas Central, Inc. for Authority to Transact the Business of an Electric Public Utility Specifically, in a Portion of Section 22, Township 04 South, Range 06 East, Marshall County, Kansas ***Order Granting Application***	21-EKCE-148-COC	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
5	In the Matter of the Application of the City of Waterville, KS for Permission to Cease Operating as an Electric Public Utility, Specifically, in a Portion of Section 22, Township 4 South, Range 06 East, Marshall County, Kansas ***Order Granting Application***	21-WVKE-156-CCS	
6	In the Matter of Gorham Telephone Filing Tariff Revisions to Introduce a New Optional Customer Service. ***Order Nunc Pro Tunc***	21-GRHT-172-TAR	
7	In the Matter of CenturyLink Communications, LLC Kansas Tariff No. 2, Competitive Access Service, Adds the Assumed Corporate Name "Lumen Technologies Group" and Updates theList of Service Marks and Trade Names Owned by CenturyLink, Inc. Which May be Used by the Company with Permission. ***Order Closing Docket***	21-QWCT-174-TAR	
8	In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Time Warner Cable Information Services (Kansas), LLC. ***Order Assessing Costs***	21-SWBT-176-IAT	
9	In the Matter of the Application of FreeState Electric Cooperative for a Certificate of Convenience and Authority to Transact the Business of a(n) Electric Public Utility in the State of Kansas. Section 32 Township 12 South Range 19 East ***Order Assessing Costs***	21-FSEE-179-COC	
10	In the Matter of the Application of Atmos Energy for Approval of the Commission for Gas System Reliability Surcharge per K.S.A. 66-2201 through 66-2204 ***Order Assessing Costs***	21-ATMG-180-TAR	
11	In the of the Application of McPherson Board of Public Utilities for a Certificate of Convenience and Authority to Transact the Business of a(n) Electric Public Utility in the State of Kansas. Section 11, T20S-R2W, McPherson County, Kansas. ***Order Assessing Costs***	21-MPBE-181-COC	
12	In the Matter of the Application of Fusion Cloud Services, LLC for a Certificate of Convenience and Authority to Provide Local Exchange and Exchange Access Service, Inter-exchange and/or Toll and Operator Services Within the State of Kansas. (CLEC) ***Order Assessing Costs***	21-FCST-185-COC	
13	In the Matter of the Application of Fusion Cloud Services, LLC for a Certificate of Convenience and Authority to Provide Local Exchange and Exchange Access Service, Inter-exchange and/or Toll and Operator Services Within the State of Kansas. (IXC) ***Order Assessing Costs***	21-FCST-186-COC	
14	In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Elkhart Telephone Company, Inc. ***Order Assessing Costs***	21-SWBT-188-IAT	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
15	In the matter of a Compliance Agreement between Gateway Resources U.S.A. Inc. and Commission Staff regarding bringing the 75 wells in Montgomery County into compliance with K.A.R. 82-3-111. ***Order Granting Motion to Approve Updated Compliance Agreement***	17-CONS-3474-CMSC	
16	In the matter of the failure of Thoroughbred Associates L.L.C. (Operator) to comply with K.A.R. 82-3-407 at the Studer A #2 in Thomas County, Kansas. ***Order Approving Settlement Agreement***	21-CONS-3047-CPEN	
17	In the matter of the failure of LB Exploration, Inc.. (Operator) to comply with K.A.R. 82-3-111 at the Hiss #2, Geerdes 19 #1 and Herbel #11B-24-933 in Barton and Thomas County, Kansas. ***Order Designating Presiding Officer and Setting Prehearing Conference***	21-CONS-3072-CPEN	
18	In the matter of the failure of Novy Oil & Gas, Inc. (Operator) to comply with K.A.R. 82 3 111 at the Bolack B #1, Bolack B #3-A and Bolack B #4 in Cowley County, Kansas. ***Penalty Order - Novy Oil & Gas, Inc.***	21-CONS-3099-CPEN	
19	In the matter of the failure of Viva International, Inc. (Operator) to comply with K.A.R. 82-3-407 at the Carlson #D-4 in Wilson County, Kansas. ***Penalty Order - Viva International, Inc.***	21-CONS-3100-CPEN	
20	In the matter of the failure of EGO Operating LLC (Operator) to comply with K.A.R. 82 3 111 at the Schweitzer #3 and Schweitzer #5 in Graham County, Kansas. ***Penalty Order - EGO Operating LLC***	21-CONS-3101-CPEN	
21	In the matter of the failure of Arcadian Resources, LLC (Operator) to comply with K.A.R. 82 3 111 at the Becker #3, Becker A #2, Walz #1, William Walz #2, Mindrup #2 OWWO and Mindrup #7 OWWO in Rooks, Trego and Norton Counties, Kansas. ***Penalty Order - Arcadian Resources, LLC***	21-CONS-3102-CPEN	
22	In the matter of the failure of Little Chief Energy Corporation (Operator) to comply with K.A.R. 82 3 111 at the Kaegi A #6, Shaw L D #1 and Shaw L D #4 in McPherson County, Kansas. ***Penalty Order - Little Chief Energy Corporation***	21-CONS-3103-CPEN	
23	In the Matter of the Investigation of Carlos E. Ramon-Barzola, d/b/a CRT of Garden City, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. ***Order Reinstating Intrastate Motor Carrier Operations***	15-TRAM-496-PEN	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
24	In the Matter of the Investigation of Santos Zamora, d/b/a Santos Fence Building of Healy, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). ***Penalty Order***	21-DPAX-177-PEN	
25	In the Matter of the Investigation of Todd Walker, d/b/a TW Rolloffs of Arlington, Kansas, Regarding the Violation(s) of the Kansas Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. ***Order Suspending Intrastate Motor Carrier Operations***	20-TRAM-510-PEN	
26	In the Matter of the Investigation of Sands Construction LLC of Leavenworth, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). ***Penalty Order***	21-DPAX-178-PEN	
27	In the Matter of the Investigation of 21st Century Transportation Alliance LLC of Sharon Springs, Kansas, Regarding the Violation(s) of the Kansas Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. ***Penalty Order***	21-TRAM-175-PEN	
28	In the Matter of the Investigation of One Source KC LLC of Benton, Missouri, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). ***Penalty Order***	21-DPAX-184-PEN	
29	In the Matter of the Joint Application of Sunflower Electric Power Corporation, Prairie Land Electric Cooperative, Inc., The Victory Electric Cooperative Association, Inc., and Western Cooperative Electric Association, Inc., for Approval of Continuation of 34.5 kV Formula-Based Rates and Updated 34.5 kV Loss Factors ***Order Designating Presiding Officer and Setting Procedural Schedule***	21-SEPE-049-TAR	
30	In the Matter of the Investigation of Eumelio Varela, d/b/a E Varela Trucking of Garden City, Kansas, Regarding the Violation(s) of the Kansas Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. ***Order Reinstating Intrastate Motor Carrier Operations***	20-TRAM-428-PEN	
31	Transportation orders to be approved by the Commission on the Consent Agenda. ***Transportation Economic Orders***	21-TRAM-5032-TRA	

The above-captioned matter(s) were approved by the Commission, unless noted as removed.

For the Commission :

Susan K. Duffy, Chair

Dwight D. Keen, Commissioner

Andrew J. French, Commissioner

Attest:

Lynn M. Retz
Executive Director

1500 SW Arrowhead Road
Topeka, KS 66604-4027

Kansas
Corporation Commission

Phone: 785-271-3100
Fax: 785-271-3354
http://kcc.ks.gov/

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

Transportation Orders By Docket Number
21-TRAM-5032-TRA

Order Number	Description	Removed
20201103085910	*In the Matter of the Application of RICHARD L JONES of CONCORDIA KS for Authority for a Certificate of Public Service.* USDOT #3494044 RICHARD L JONES of CONCORDIA KS - Order Granting Application for Certificate of Public Service	
20201103085913	*In the Matter of the Application of RICHARD L JONES of CONCORDIA KS for a Private Carrier Permit.* USDOT #3494044 RICHARD L JONES of CONCORDIA KS - Order Granting Application for a Private Carrier Permit	
20201104150702	*In the Matter of the Application of WESTERMAN & SONS TRUCKING LLC of ISABEL KS for Authority for a Certificate of Public Service.* USDOT #3502639 WESTERMAN & SONS TRUCKING LLC of ISABEL KS - Order Granting Application for Certificate of Public Service	
20201104151219	*In the Matter of the Application of BENDERS TRUCKING LLC of CLARK WY for Authority for a Certificate of Public Service.* USDOT #3500982 BENDERS TRUCKING LLC of CLARK WY - Order Granting Application for Certificate of Public Service	
20201105102831	*In the Matter of the Application of BC MOTORS of HERINGTON KS for Authority for a Certificate of Public Service.* USDOT #1834601 BC MOTORS of HERINGTON KS - Order Granting Application for Certificate of Public Service	
20201105165030	*In the Matter of the Application of WILLIE E BRANTLEY JR of KANSAS CITY KS for a Private Carrier Permit.* USDOT #3489184 WILLIE E BRANTLEY JR of KANSAS CITY KS - Order Granting Application for a Private Carrier Permit	
20201105165143	*In the Matter of the Application of FLINT HILLS EXCAVATING LLC of WESTMORELAND KS for Authority for a Certificate of Public Service.* USDOT #3512716 FLINT HILLS EXCAVATING LLC of WESTMORELAND KS - Order Granting Application for Certificate of Public Service	

Transportation Orders By Docket Number
21-TRAM-5032-TRA

Order Number	Description	Removed
20201105165145	*In the Matter of the Application of FLINT HILLS EXCAVATING LLC of WESTMORELAND KS for a Private Carrier Permit.* USDOT #3512716 FLINT HILLS EXCAVATING LLC of WESTMORELAND KS - Order Granting Application for a Private Carrier Permit	
20201105165437	*In the Matter of the Application of HOWARD W DUNNEGAN of WICHITA KS for Authority for a Certificate of Convenience and Necessity.* USDOT #2104271 HOWARD W DUNNEGAN of WICHITA KS - Order Granting Application for Certificate of Convenience and Necessity	
20201105165537	*In the Matter of the Application of PAINTED RIVER TRANSPORT INC of MULVANE KS for Authority for a Certificate of Public Service.* USDOT #1232281 PAINTED RIVER TRANSPORT INC of MULVANE KS - Order Granting Application for Certificate of Public Service	
20201109130232	*In the Matter of the Application of RAUL CASTILLO-OCHOA of LEOTI KS for Authority for a Certificate of Public Service.* USDOT #3247272 RAUL CASTILLO-OCHOA of LEOTI KS - Order Granting Application for Certificate of Public Service	
20201112140851	*In the Matter of the Application of MORRIS SERVICES LLC of ANDOVER KS for Authority for a Certificate of Public Service.* USDOT #3505023 MORRIS SERVICES LLC of ANDOVER KS - Order Granting Application for Certificate of Public Service	
20201112140853	*In the Matter of the Application of MORRIS SERVICES LLC of ANDOVER KS for a Private Carrier Permit.* USDOT #3505023 MORRIS SERVICES LLC of ANDOVER KS - Order Granting Application for a Private Carrier Permit	
20201112143613	*In the Matter of the Application of CLAWSON TRUCKING LLC of HUMBOLDT KS for Authority for a Certificate of Public Service.* USDOT #3502705 CLAWSON TRUCKING LLC of HUMBOLDT KS - Order Granting Application for Certificate of Public Service	
20201112151357	*In the Matter of the Application of CHRISELLE R THOMSON of GARDEN CITY KS for Authority for a Certificate of Public Service.* USDOT #3459050 CHRISELLE R THOMSON of GARDEN CITY KS - Order Granting Application for Certificate of Public Service	

Total # of Orders: 15

End of Report