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Before the House Committee on Agriculture
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Neutral Testimony
On House Bill 2531

Submitted by Leo Haynos, Chief Engineer, Utilities Division
On Behalf of
The Staff of the Kansas Corporation Commission

Chair Rahjes, Vice Chair Smith, Ranking Minority Member Carlin, and members of the committee, thank you for the opportunity to provide testimony to your committee today on behalf of the staff of the Kansas Corporation Commission (Commission).

The Commission Staff is taking a neutral position on HB 2531. Because the proposed bill will impact the right-of-way corridors typically used by public utilities to convey services to their customers, there may be some unintended consequences that I do not believe are addressed in the bill.

The main point of concern may be the ability of utilities, county road crews, and the agricultural pipeline to communicate in order to prevent damage during excavation. The Commission has jurisdiction over the Kansas Underground Utility Damage Prevention Act (KUUDPA), which is also known as the One Call law.¹ This law sets minimum rules requiring excavators and utility operators to communicate. At a high level, the law requires excavators to request utility locates and the utility to provide markings on where their facilities are buried.

In this case, underground facilities subject to KUUDPA include water and sanitary sewer lines as well as the conventional utilities such as gas, electric, and telecommunications. When KUUDPA was expanded to include potable water and sanitary sewers, it was directed toward conventional water and wastewater utilities serving municipalities or rural residential customers. It did not contemplate wastewater lines from other operations or pipelines carrying irrigation water. If paragraph (c) of the proposed bill included a requirement that any pipeline also be a member of the Notification Center as required in KUUDPA, the possibility of future damages by utilities using the same right-of-way would be minimized. Likewise, existing agricultural pipelines should participate in the Notification Center in order to be alerted to any excavation activity along their pipeline. Although paragraph (b) of the bill requires the county to accept an existing agricultural pipeline's use of road right-of-way, it does not require the existing pipelines to be members of Kansas 811.

With respect to pipelines in general, the Commission has jurisdiction over intrastate natural gas pipelines where gas is in transportation. This jurisdiction includes oversight of construction and maintenance of gas pipelines, and there are certain construction standards for some electric utilities

¹ K.S.A. 66-1801 et seq.

that are adopted by the Commission. Construction and maintenance requirements for any other utilities or underground pipelines are not within the Commission's jurisdiction. In my opinion, the bill presumes the county would establish minimum construction and maintenance requirements for an agricultural pipeline. Minimum requirements typically address such items as depth of burial, type of construction methods, type of material used for the pipeline, the need for casings under roadways, and signage to alert the public and emergency first responders of the presence of a buried pipeline. Additionally, I would recommend the county acquire a map of the existing facility for future reference.

In general, the Commission does not have jurisdiction over where utilities or buried pipelines are installed. Regardless of whether the Commission has jurisdiction, Staff often receives calls from various parties asking for assistance in resolving issues that can occur with a multiple of scenarios regarding burying utilities in areas with common access such as a road right-of-way or a utility easement. In many cases, the scenarios have occurred because the county or township did not establish construction and maintenance guidelines for entities using public right-of-way. Examples of these scenarios include pipelines being installed through road culverts, pipelines and telecommunication cables being uncovered due to erosion of the bar ditch alongside the road, and buried facilities being abandoned in the road right-of way with no means of determining the location of the facility.

Thank you for the opportunity to offer our perspective on the proposed bill and the opportunity to appear before your committee.