

KRWA Encourages Involvement in Kansas One Call

Kansas One Call (KOC) is experiencing some dramatic changes this year. New legislation that went into effect in 2009 mandates that “Each operator who has an underground facility shall become a member of the notification center.” [KSA 66-18049(a)] There is already a large influx of new KOC members and not nearly all water or wastewater systems are signed up yet! A list of KOC's membership can be found on their Web site at www.kansasonecall.com as well as the new legislation, reference materials, meeting schedules, newsletters up to Fall 2010 and contact information. If your utility's name isn't on the list, I suggest you contact KOC soon to get signed up. However, a city utility may have the option to charter out of the membership requirement. The League of Kansas Municipalities has interpreted the statute and determined that there is an issue with a no-uniform law and the Kansas constitution. The accuracy of this interpretation, however, has never been addressed by the KCC or by the courts.

The Kansas Corporation Commission (KCC) is the agency that oversees damage prevention in Kansas and per Statute 66-1812, “Any person... who violates any of the provisions contained in this act, shall be subject to civil penalties...as set out in K.S.A. 66-1151...” Those penalties are; a fine “not to exceed \$25,000 for each violation for each day that the violation persists.” ...that “shall not exceed \$1 million...” Leo Haynos, Chief of Pipeline Safety for KCC, stated in a training session at the 2010 KRWA conference that the KCC is politely contacting utilities to encourage their membership in One Call, but eventually those “reminders” are going to have some teeth to them. It would be devastating to a small water utility if after several attempts, the KCC were forced to impose a fine on that utility, just to make them sign up. I don't believe that the KCC wants to impose fines.

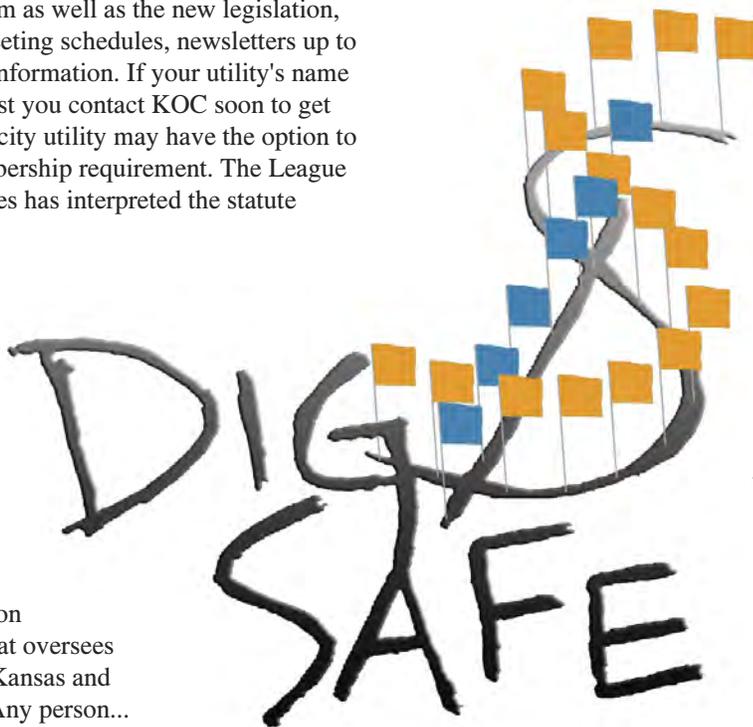
This influx of new members has redefined the makeup of KOC membership. In fact, it has completely turned it over! Previous categories were mostly Municipalities, Gas/Pipelines, Communication and Electric Utilities; now the higher percentage of membership is Municipalities and RWDs. And, the major utility in Municipalities and RWDs

is, of course, water! With this new demographic comes new leadership. Or one would think... However, according to KOC's website, the eleven member board of directors is still comprised of nine Gas, Electric, and Communication representatives, one RWD representative and one City utility representative.

Kansas One Call also has an Operating Committee that works in conjunction with the board of directors to govern Kansas One Call. Of the twenty-one members of the Operating Committee, only one, Autumn Chisholm of Marion RWD No. 1, is listed as a “Rural Water Affiliate”. It seems to me, that more appropriate

representation of the membership on the board of directors and the Operations Committee could better serve the needs of the membership. At the very least, a RWD operator would have more than one person in the organization to communicate with who would possibly have a better understanding of the operations and dynamics of a water utility.

This new demographic of membership and election of Board members is not a new concept. It is a classic example of the “Changing of the Guard”. It seems similar to when a privately-owned company goes public. No one is at fault for this situation. What an organization can learn by a different perspective is often invaluable. The key to recognizing



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I think this time of transition is a perfect time to find more appropriate member representation for the Kansas One Call board of directors. If the ratios of membership are any indication of “who should be on the board”, the eleven member board ought to have four “municipal” representatives, three “Rural Water/Sewer District” representatives, two “Communications” representatives, one “Gas Distribution and Pipeline” representative, one member representing Exploration/Production and Electric Companies and possibly two advisory members who represent the “Sustaining Members” of KOC. Those “Sustaining Members” include the Kansas Contractors Association, the Kansas Land Improvement Contractors Association, Kansas Rural Water Association, Northern Pipeline Construction, Rycom Instruments, Inc., SM&P Utility Resources, Inc. and others. It needs to be noted here, that pursuant to Kansas law, the notification center's board of directors shall include two members from Tier II facilities and one member from Tier III facilities. [K.S.A. 66-1805(m)] Thus, in order to be in compliance with the Kansas Underground Utility Damage Prevention Act, it seems that new members of the board need to be elected.

On April 25 and 26 and May 9 and 10, KRWA hosted GPS/Line locating classes in Tonganoxie, Independence, Marion and Manhattan. The sessions were very informative and well attended. Utility locating was an important topic at all four sessions. We were able to get online to look up answers to questions regarding the new One Call Law. KRWA Board President Sam Atherton was in attendance at Independence. After several questions and hypothetical situations were discussed, Sam suggested that I include the answers to some of those questions in this article. Here are those responses:

What are the new provisions to the Law that pertain to water utilities?

- ◆ According to Kansas law, all water and wastewater utilities are Tier II facilities. Any Tier II facility can elect to be a Tier I or a Tier II **member** of the Call Center. What’s the difference? A Tier I member is notified by One Call, has to locate its lines (or mark “all clear”) within two working days and is subject to an annual fee and a referral fee. A Tier II member provides a notification map to One Call and contact information. Contractors are asked to contact Tier II members to request a locate for their excavation location, however state law does not require contractors to do so.
- ◆ A utility can be a Tier III member if they serve more than 20,000 customers and are willing to operate their own call center. They must offer a Web site, a dedicated phone line, 24-hour service, and employ at least two persons for locating their facilities.
- ◆ The 24-inch tolerance zone is in effect unless the operator contacts the contractor to inform him of a 60-inch tolerance zone. If a Tier II operator cannot accurately mark the utility, he will mark the approximate location and shall provide additional guidance during the excavation.
- ◆ A Tier II operator is not required to mark the location of a utility that is at least two feet deeper than the excavator is planning to dig, but must make them aware of the utility's existence.

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- ◆ No person shall call for re-locates unless the request is due to “circumstances not reasonably within the control of such person”. A locate request shall not be called in for an area that can not reasonably be completed within a 15-day window.
- ◆ The person calling in the locate request is obligated to “white line” the excavation site at the request of the utility operator. After the area has been “white-lined”, the utility operator then has two days to locate lines.
- ◆ If an excavator requests a “meet on site”, the operator is obligated to meet with the excavator as part of the locating process.
- ◆ Tier II members must keep records of contacts with excavators, particularly when requesting a larger tolerance zone or informing an excavator that the water lines are greater than two feet below the planned depth of excavation. Records must be kept for two years.
- ◆ Tier II members are charged an annual fee of \$25.
- ◆ Tier II members are charged a referral fee of no more than 50 percent of the charge to Tier I members.
- ◆ If an excavator calls the Call Center to inform them that marks or flags have been removed, the utility operator shall make a reasonable effort to remark the area within one day.
- ◆ All facilities installed after July 1, 2008 shall be locatable.
- ◆ An “emergency locate” is defined as one that involves danger to life, health or property or which requires immediate correction in order to continue the operation of an industrial plant or to assure the continuity of public utility service.

- ◆ If an operator receives an emergency locate request, he shall make a reasonable effort to locate his facilities within two hours of the request or before excavation is scheduled to begin.
- ◆ Any person providing a misrepresentation of an emergency may be subject to civil penalties as described previously. (\$25,000 per occurrence per day, up to \$1 million maximum)
- ◆ If an excavator damages a utility, he is to inform the utility operator immediately. If dangerous gases or liquids are escaping from a line or if an electrical line is damaged, the excavator shall contact the emergency personnel in the municipality immediately and take any other reasonable action to protect people and property until emergency utility personnel are on scene.
- ◆ This act shall be administered and enforced by the state corporation commission of the state of Kansas.

What do I do if I have an issue with a contractor?

- ◆ Communication is the key. Being neighborly seemed to eliminate most of the issues that were brought up at the sessions. There were very few instances that were mentioned when something couldn't be worked out by “one fella calling up the other fella”. Utilities that are Tier II members hope contractors will call them concerning locate requests; contractors however are not required to do so. Some excavators may refer to the expectation of calling the utility as the “Two Call System”, which, albeit humorous, is pretty cheap insurance considering the potential costs associated with digging into a four-inch water line that could dump into someone's basement all because the contractor “didn't want to make a second call”.

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What if the contractor is obstinate and uncooperative?

- ◆ Contact the KCC. Leo Haynos has said at various sessions hosted by KRWA, that he is happy to help two parties find a resolution to differences. And, it seems only fitting that when two parties have a dispute, they go to the Sheriff. ...who, not only knows the Law, but also has the jurisdiction to enforce it. Leo is that “Sheriff”.
- ◆ The KCC website www.kcc.ks.gov has many resources available for use by utilities including the powerpoint presentation that Leo gave at the KRWA conference two years ago. It's very informative. The tabs on the left side of the home page include the “Underground Utility Damage Prevention” tab and will take you to the correct location.

What do I do if I have an issue with Kansas One Call?

- ◆ Contact them. KOC is member owned. Tom Shimon is the Executive Director and very responsive. KRWA has worked in concert with Tom for several years to resolve many issues. He and his staff are willing to listen to the comments from KOC members and do what is necessary to provide a safe environment for the public. They are bound by the policies that have been adopted by the board of directors and they do a very good job. The board is elected to represent the membership, and as such it is the members' obligation to communicate with them about any new policies or concerns.

How do I reduce the number of errant locate requests?

- ◆ Reduce the size of your notification polygon that is on file with KOC. For those members who have collected their utility location with GPS data, it is quite easy to create a buffer around your infrastructure and submit it to the call center. For those members that have reduced their notification polygon and are still receiving a great deal of “wild goose chase” tickets, contact Tom Shimon or Dawn Jester, General Manager, to ask about the reason for the errant tickets. Often, it is the negligence of the caller (excavator) that contributes to the generation of such requests. Those “locate the entire property” and re-locate requests are what eventually costs the small water utility the most in time and money. The only way to eliminate those types of practices is by educating the excavators

and requiring them to specify locations when calling in a locate request or by re-writing KOC policy to give call center operators the ability to reject a caller's request if not submitted properly. Either course will require a decision by the board which will be subject to a vote of the membership. The only way to bring it to a vote is for a member to introduce the changes.

I suggested that everyone in attendance who had a concern or comment should get involved in the process, instead of simply complaining and waiting for something to happen.

I was interested in raising awareness at the KRWA classes about One Call, what the state law is and the new provisions. I suggested that everyone in attendance who had a complaint or comment should get involved in the process versus complaining about it and then expecting someone else to correct it. Everyone was in agreement, but as one gentleman stated, “When do we have time?” Well, we all have to set priorities and create the time. Maybe, if everyone communicated about their needs and concerns, the time that seemed to be previously “wasted” could now be used for productive activities.

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