

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SCHROEDER CONSTRUCTION INCORPORATED)	
)	
_____)	CASE NO.
)	2021-00032
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on April 23, 2021 at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Schroeder Construction Incorporated (Schroeder Construction) violated KRS 367.4911(1)(a), (the Underground Facility Damage Prevention Act, hereinafter the "Act"), on August 21, 2019, at approximately 11:10 a.m., at 124 Ditto Lane, Vine Grove, Kentucky, when it damaged a natural gas pipeline while conducting excavation operations without making a line location request to the One Call Center not less than two nor more than ten full working days prior to commencing work. Schroeder Construction was served with process and notified of the hearing date, place, and time but failed to appear at the hearing to contest the allegations. Eric Tout, Division of Inspections, testified that he supervised and conducted an investigation which established that Schroeder Construction had not obtained a locate ticket number from 811 and that Schroeder Construction struck and damaged a Louisville Gas and Electric Company 2-inch natural gas service line while conducting excavation activities with mechanized equipment. Mr.

Tout testified that the service line contained natural gas at the time it was damaged. This violation of the Act was Schroeder's second offense.

FINDINGS OF FACT

The testimony presented at the hearing and the exhibits filed into the record stand un rebutted and establish that:

1. Schroeder Construction, at the time the damage occurred on August 21, 2019, was an excavator as defined by KRS 367.4903(4), which caused damage to a natural gas service line by means of excavation as defined by KRS 367.4903(2) and (6). The natural gas service line was an underground facility owned and operated by Louisville Gas and Electric Company to serve the public. The gas pipeline contained natural gas at the time it was damaged by Schroeder Construction.

2. Schroeder Construction failed to call the Kentucky Contact Center (One Call Center or Protection Notification Center) to obtain information about the approximate location of the damaged natural gas service line not less than two nor more than ten full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. Schroeder Construction's excavation work was not emergency work within the scope of KRS 367.4907 or the definition of "Emergency" as defined in KRS 367.4903(7), and no exception to the call requirement is applicable to this case.

4. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law. This violation is Schroeder Construction's second offense.

CONCLUSIONS OF LAW

1. Schroeder Construction violated the requirements of KRS 367.4911(1)(a) by failing to provide the operator of an underground facility serving the public with notification of its intended work and work schedule not less than two nor more than ten full working days prior to commencing work.

2. KRS 367.4917(1) provides that an excavator who fails to comply with any provision of KRS 367.4911, or an operator who fails to comply with any provision of KRS 367.4909, shall be guilty of endangering underground facilities and may be subject to a fine of \$250 for the first offense, no more than \$1,000 for the second offense within one year, and no more than \$3,000 for the third and any subsequent offense.

3. KRS 367.4917(4) provides that any provision of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed \$1,000 for each offense.

4. Schroeder Construction, by reason of its failure to comply with the applicable provisions of the Underground Facility Damage Prevention Act as hereinbefore set out, is subject to a maximum fine of \$2,000.

IT IS THEREFORE ORDERED that:

1. Schroeder Construction is assessed a fine of \$2,000 for violation of KRS 367.4917(1) for failure to provide the Louisville Gas and Electric Company, the operator of an underground facility serving the public, with notification of its intended work

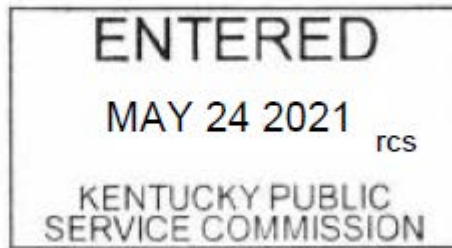
and work schedule not less than two nor more than ten full working days prior to commencing work and for violation of KRS 367.4917(4).

2. Schroeder Construction shall pay \$2,000 within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the offices of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40601.

THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

An application for a rehearing may be filed with the Commission within 20 days after service of this Order as provided by KRS 278.400. Any appeal of this Order must be filed with the Franklin Circuit Court within 30 days after service of this Order or within 20 days after an application for rehearing has been denied by failure of the Commission to act or within 20 days after service of the final Order, as set out in KRS 278.410.

By the Commission



ATTEST:


Executive Director

Schroeder Construction Inc. Judith Schroeder
128 Bewley Hollow Rd
Elizabethtown, KENTUCKY 42701

Schroeder Construction Inc.
589 Franklin Ln
Elizabethtown, KENTUCKY 42701