

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBBIE PUCKETT)	
)	
_____)	CASE NO.
)	2021-00164
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on June 18, 2021, at 9 a.m. at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Robbie Puckett violated KRS 367.4911(1)(a), (the Underground Facility Damage Prevention Act, hereafter the “Act”), on April 18, 2020, at approximately 5:30 p.m. at 190 Old Wallaceton Road in Berea, Kentucky, when he 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. Mr. Puckett was served with process and notified of the hearing date and time but failed to appear at the hearing to contest the allegations. Eric Tout, an investigator for the Division of Inspections, testified that he conducted an investigation that established that Mr. Puckett had not obtained a locate ticket number from 811 and that Mr. Puckett, while operating a mini excavator, struck and severed a 2” natural gas main in the process of conducting excavation activities. The gas main was owned and operated by Delta Natural Gas Company, Inc. for the benefit of the public and contained natural gas at the time of the damage. The Commission’s Division

of Inspections assessed a \$500 dollar penalty for the alleged violation in accordance with its established internal policy of limiting a violation by a homeowner on his own property to \$500 for a first offense. Mr. Puckett was offered the opportunity to reduce this penalty to \$100 by attending a damage prevention training course to be held at the Commission's offices in Frankfort, but he declined the offer. This incident was Mr. Puckett's' first violation of the Act.

FINDINGS OF FACT

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

1. Robbie Puckett, at the time the damage occurred on April 18, 2020, was an excavator as defined by KRS 367.4903(4) who caused damage to a natural gas main by means of excavation as defined by KRS 367.4903(2) and (6). The natural gas main was an underground facility owned and operated by Delta Natural Gas Company, Inc. to serve the public. The gas pipeline contained natural gas at the time it was damaged by Mr. Puckett.

2. Mr. Puckett 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 main not less than two nor more than ten full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. This 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. Aside from the fact that Mr. Puckett, as a homeowner, damaged the gas main while excavating on his own property, there are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law.

5. Mr. Puckett was offered the opportunity to reduce the penalty assessment to \$100 by attending a damage prevention training course but declined to do so.

6. This violation is a first offense.

CONCLUSIONS OF LAW

1. Robbie Puckett 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 his 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 shall be guilty of endangering underground facilities and may be subject to a fine of \$250 for the first offense.

3. KRS 367.4917(4) provides that any person who violates any provision of the Act 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. Robbie Puckett, by reason of his failure to comply with the applicable provisions of the Underground Facility Damage Prevention Act as hereinbefore set out, is potentially liable to a maximum fine of \$1,250 subject to a reduction of \$750 dollars as a homeowner whose violation of the Act occurred on his own premises.

IT IS THEREFORE ORDERED that:

1. Robbie Puckett is assessed a fine of \$500 for violation of KRS 367.4911(1)(a) for failure to provide Delta Natural Gas Company Inc., the operator of an underground facility serving the public, with notification of his 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. Robbie Puckett shall pay \$500 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

Robbie Puckett
190 Old Wallaceton Rd.
Berea, KENTUCKY 40403