

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NICHOLS CONTRACTING LLC	)	
	)	
_____	)	CASE NO.
	)	2021-00268
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

ORDER

A hearing was held before the Kentucky Public Service Commission (Commission) on August 19, 2021, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Nichols Contracting LLC (Nichols Contracting) violated KRS 367.4911(1)(a) when, on February 19, 2020, at approximately 4:45 p.m. at the intersection of Williams Road and Sulfur Well Road in Nicholasville, Kentucky, it conducted excavation activities using mechanized equipment within the approximate location of an underground facility without first contacting the Kentucky Contact Center (811) to obtain information about the approximate location of underground facilities, and thereby caused damage to a 2-inch underground natural gas main line owned and operated by Delta Natural Gas Company, Inc. (Delta) to serve the public. No representative of Nichols Contracting appeared at the hearing. After a review of the evidence, it was determined that Nichols Contracting caused damage to a 2-inch natural gas main line owned and operated by Delta to serve the public.

## FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed in the record establish that:

1. Nichols Contracting, at the time the damage occurred on February 19, 2020, was an excavator as defined by KRS 367.4903(4) who caused damage to a natural gas main line by means of excavation as defined by KRS 367.4903(2) and (6). The natural gas main line was an underground facility owned and operated by Delta to serve the public.

2. The service line contained natural gas at the time it was damaged by Nichols Contracting, and eight customers lost service due to the damage.

3. Nichols Contracting failed to call 811 to request marking of the approximate location of all underground facilities not less than two nor more than ten full working days prior to commencing work as required by KRS 367.4911(1)(a).

4. Nichols Contracting'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.

5. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law. This violation is Nichols Contracting's first violation of KRS 367.4901 through KRS 367.4917.

## CONCLUSIONS OF LAW

1. Nichols Contracting violated KRS 367.4911(1)(a) in that it did not contact 811 to request marking of the location of any underground facilities within its area of

planned excavation at least two and not more than ten full working days prior to commencing excavation.

2. As a consequence, the approximate location of a 2-inch natural gas main line owned and operated by Delta was not marked, and Nichols Contracting struck and damaged it while engaging in excavation activity.

3. Nicholas Contracting is subject to a civil penalty in the amount of \$1,250 for this violation of KRS 367.4911(1)(a) by operation of KRS 367.4917(1) and KRS 367.4917(4).

IT IS THEREFORE ORDERED that:

1. Nichols Contracting is assessed a civil penalty of \$1,250 for violation of KRS 367.4911(1)(a).

2. Nichols Contracting shall pay \$1,250 within 30 days of service of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40602.

3. Record of payment of the civil penalty assessed by this Order shall be filed in the post-case correspondence file in this proceeding.

4. This case is closed and removed from the Commission's docket.

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.

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PUBLIC SERVICE COMMISSION

  
Chairman

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Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

\*Brandon Nichols  
Registered Agent  
Nichols Contracting LLC  
2200 Mackey Place  
Nicholasville, KENTUCKY 40356